

Fiscal Affairs Department

International Taxation: Dialogue with Business Community



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Context

- What are issues (problems) for MNEs in complying with tax laws in the region? How are MNEs addressing the issues?
- Has tax competition lead to stricter tax enforcement?
- What are issues (problems) for tax authorities in the region in dealing with MNEs? How are they addressing the issues?
- How will the BEPS project change the landscape?

Issues/Problems for MNEs in complying with tax laws

Transfer pricing

- **Presumptive profit margin**
Rebuttable? Loss reporting companies for years
- **Location saving**
Intangibles?
- **Comparables**
Scarce public data; arbitrary selection?
- **Royalties**
Forex restriction; not deductible for low profits

Issues/Problems for MNEs in complying with tax laws

Permanent Establishment(PE)

- Independent agent
- Representative office

Tax Refund

- Tax audit
- Lengthy process
- No interest?

Procedures to claim tax treaty benefits

Issues/Problems for MNEs in complying with tax laws

Dispute Resolution

- **Mutual agreement procedures**
 - Tax treaties do not guarantee functioning MAP**
- **Administrative appeal**
 - Predetermined conclusion?**
 - Deposit payment requirement**
- **Litigation**
 - No tax court**
 - Lengthy and expensive procedures**

Issues/Problems for Tax Authorities in dealing with MNEs

- Asymmetric information
- Difficulty in understanding the whole structure of MNEs
- Lack of capacity (technical skill/expertise)
- Upper handed tax advisors
- Outdated tax laws
- Lack of publicly available data (transfer pricing)

How tax authorities are addressing the issues/problems

- Utilize Country by Country report
- Strengthen a Large Taxpayer Office
- Capacity building by technical assistance
- Modernize tax laws
- Strengthen information disclosure requirements
- Subscribe commercial database
- Cooperative approach

How tax authorities are addressing the issues/problems that MNEs face

- Introduce APA, advance ruling, and arbitration
- Expand the tax treaty network
- Improve taxpayer service using IT
- Expedite dispute resolution
- Issue detailed guidance on transfer pricing
- Modernize tax laws
- Enhance transparency in tax procedures

How BEPS will change the landscape

Transfer Pricing

- Location saving \neq intangibles but a factor in analyzing comparability
- Intra-group service \Rightarrow simplified approach
- Intangibles - Who created value?

Permanent Establishment

- Narrower scope for the artificial avoidance of PE status

MAP

- More reliable and efficient measure to resolve disputes, but arbitration is optional