Preparing for BEPS implementation

Issues and considerations

Introduction

In a historic agreement on 1 July 2021, 132 jurisdictions approved a statement providing a framework for reform of existing international tax rules. These countries are members of the OECD/G20 Inclusive Framework on BEPS (IF), comprising 139 countries.

01

Pillar One of the agreement is a significant departure from the standard international tax rules of the last 100 years and moves away from the idea that taxation largely requires a physical presence in a country before that country has a right to tax.

Pillar One will apply to multinational groups that have more than EUR20 billion of global turnover, and profitability above 10% (measured as profits before tax, divided by revenue). Over 100 global groups are likely in scope.

02

Pillar Two rules subject thousands of multinational groups around the world to a global minimum tax of at least 15% (final rate to be agreed in October).

Critically, every jurisdiction in which the group has operations will be looked at separately to see if their effective tax rate falls under 15%. If so, then top-up tax will need to be calculated and paid. Additionally, specified intra-group payments made to related parties (located in low taxed jurisdictions) may be subject to new withholding taxes.

Pillar Two will apply to multinational groups if they have revenues over EUR750 million.

US multinational groups may also need to comply with proposed modifications to existing global intangible low-taxed income (“GILTI”) rules. For domestic reasons, the timeline for compliance with these proposed changes by US multinationals may well be much shorter than those proposed by the OECD/G20 statement for non-US multinationals.

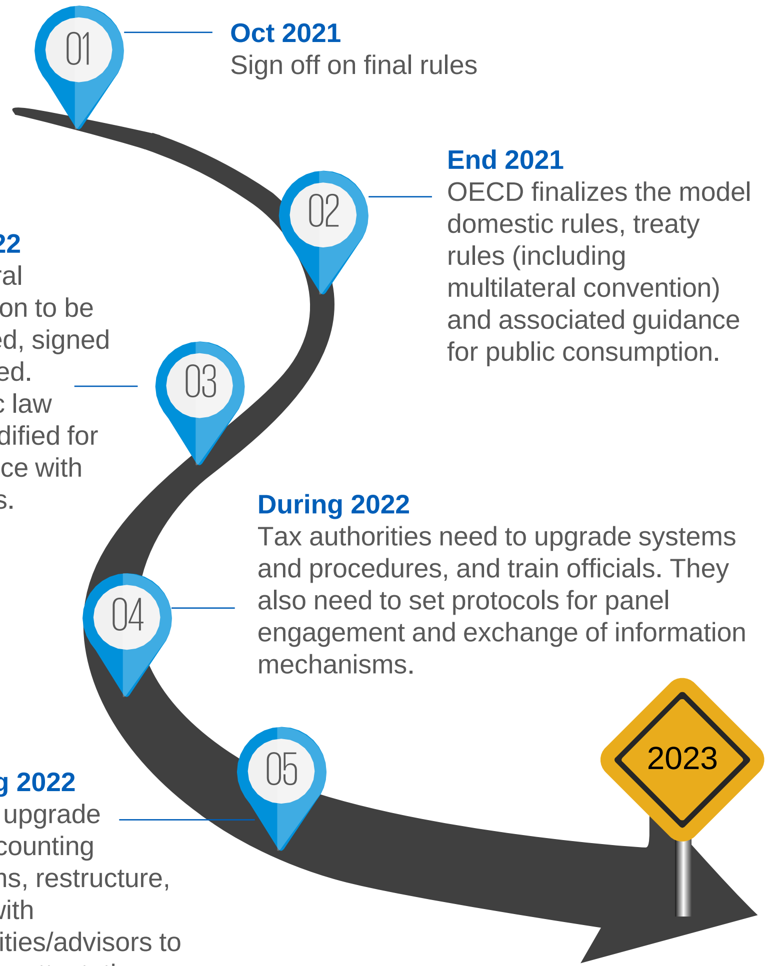
Now is the time to prepare for implementation

As a direct result of the agreement, multinational groups will be faced with many different implementation challenges. The range of issues and considerations that need to be addressed will depend on a range of internal and external factors. Understanding how these rules apply to you, as well as developing and implementing new policies, procedures and systems, will be critical to your success.

KPMG firms have been heavily engaged with policymakers at national and international levels on the issues arising from the evolution and design of these rules. From this work, KPMG firms have established a core team of specialists who each bring a different skillset to the interlocking challenges arising from the roll-out of these new rules. This team is well placed to help you navigate through the many complex issues that will arise as these new rules take effect.

Implementation Timeline

The statement indicates that the rules will commence at the beginning of 2023, which sets a very challenging timeline for governments, tax authorities and multinational groups to be ready to comply with these new obligations.



Oct 2021
Sign off on final rules

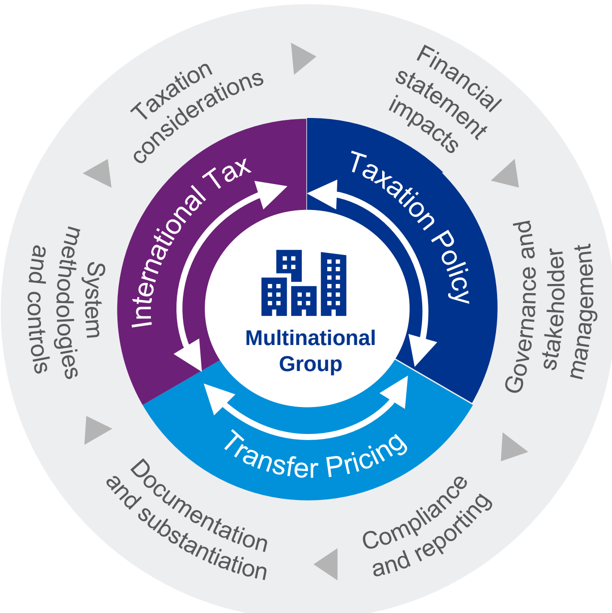
End 2021
OECD finalizes the model domestic rules, treaty rules (including multilateral convention) and associated guidance for public consumption.

During 2022
1. Multilateral Convention to be negotiated, signed and ratified.
2. Domestic law to be modified for compliance with new rules.

During 2022
Tax authorities need to upgrade systems and procedures, and train officials. They also need to set protocols for panel engagement and exchange of information mechanisms.

During 2022
MNEs upgrade tax/accounting systems, restructure, work with authorities/advisors to develop attestations.

Issues and considerations



Planning for change can only occur once the rules are known, understood and their impacts identified and assessed. Multinational groups should consider how these rules will impact them and, in particular, what changes to need to be made now or in the short term.

Some of the likely issues to be addressed are highlighted here. This is not an exhaustive list of issues, but merely some common themes that will likely arise for most multinational groups within the scope of these rules. KPMG can help you identify impacts and make recommendations to prepare for these new rules.

01 Tax compliance obligations (Pillar One and Pillar Two have created different obligations)

02 Tax payment obligations with associated cash flow considerations

03 Tax incentives and whether any existing taxation benefits will offset by a ‘top-up’ tax

04 Impact on domestic unilateral measures (including India’s Equalization Levy)

05 Withholding and deductibility in respect of related party payments

06 Documentation collection and retention processes

07 Transfer pricing policies, specifically compatibility of existing policies with new source-based taxation methodologies

What should multinational groups do now?

1 Confirm the application of Pillar One and/or Pillar Two based on thresholds, exclusions and other relevant factors

KPMG can:

— provide advice on thresholds, in scope and out-of-scope activities (as well as allocations) and likely implementation timelines
— provide advice and insights into how the rules are intended to apply in a range of different facts and circumstances
— represent your concerns to relevant policymakers, regulators and taxation authorities as well as provide other associated policy support services

2 Identify cashflow and financial statement impacts:

KPMG can:

— provide a range of modeling and other tools to conduct risk assessments and detailed exposure quantification
— model taxation outcomes, effective tax rate (jurisdictionally blended), GILTI and other rules with your financial statement data to identify and highlight likely financial outcomes

3 Consider the impact on group holding structures, supply chains and sales locations:

KPMG can:

— help identify possible likely modifications to existing commercial arrangements and group structures to reduce adverse impacts for consideration.
— assess the compatibility of existing transfer pricing policies with these new rules and discuss potential modifications.

4 Consider the impact on internal systems, as well as data collection, retention and new disclosure obligations:

KPMG can:

— help identify system modifications as well as assist with the development of new systems to accommodate new obligations and requirements such as the source of sales activities based on customer locations for B2B and B2C transactions
— help identify and develop new data processing, retention and disclosure obligations to facilitate accurate, reliable and auditable foreign tax reporting and payment obligations from 2023

5 Consider the impact of new taxation compliance, reporting and payment obligations:

KPMG can

— assist internal tax functions to identify and develop tax compliance obligations
— help to provide safe harbor documentation to support tax reporting positions

KPMG firms are available to discuss these impacts and provide directional guidance on many other issues that will arise for multinational group under these new rules.

If you would like any assistance, please reach out to your local KPMG contact, or please feel free to reach out to any of our experts.

KPMG tools

KPMG has a range of proprietary modeling and calculation tools that can help taxpayers identify likely taxation, financial statement and system impacts. These tools include:

- BEPS Pillar One and Pillar Two Modeling
- Effective Tax Rate Tool – to facilitate high level jurisdiction by jurisdiction ETR calculations
- GILTI Modeling (with or without BEPS impacts)
- Detailed jurisdictionally blended ETR calculators that allow multinational groups to zero in on specific jurisdictions and identify financial consequences.

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