

The Organization for Economic Co-operation and Development's (OECD) Base Erosion and Profit Shifting (BEPS) Project – A UK update (Part I)

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Background

As part of the 2014 **UK Budget**, **HM Treasury and HM Revenue and Customs** published a position paper on the **Organisation for Economic Co-operation and Development's (OECD) Base Erosion and Profit Shifting (BEPS)** project. The position paper summarizes the UK's current stance toward the BEPS project and sets forth the UK government's intended approach to implementing any recommendations that may come out of last year's BEPS Action Plan.

Overview of the Position Paper

The UK's basic stance toward the BEPS project has always been that it supports the work of the OECD. The position paper does not represent a departure from that broad proposition (indeed it notes that the UK has contributed around £500k to supporting the work of the OECD in this space), but it does seem to disclose a softening of the UK's approach.

In particular, the strong theme that comes through from the position paper is that the UK will only implement OECD recommendations if it believes they will be in its interest and will not prejudice its stated aim to have the most competitive tax system in the G20. On a related note, the paper emphasises that recommendations coming out of the BEPS project must not be costly for the government to implement and must "favour fair tax competition on a global level between jurisdictions."

The paper also makes it clear that the BEPS project could lead to a range of possible policy options and that the UK will need keep in mind its international obligations when considering whether or not to effect proposed reforms. No doubt the UK's obligations under EU law weigh heavily on the government's mind in this regard, with the specter of European court challenges to the UK's domestic legislation always looming.

Finally, the paper seems to advocate an increased focus on the 'core' issues in the BEPS paper – such as transfer pricing, country-by-country reporting and information exchange – rather than on what it describes as the 'backstop' measures like controlled foreign company rules (which it is more

difficult to ensure are applied in a uniform manner across different jurisdictions).

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National Law Review, Volume IV, Number 94

Source URL: <https://natlawreview.com/article/organization-economic-co-operation-and-development-s-oecd-base-erosion-and-profit>