

**Just as we started to understand
BEPS...what is the potential impact of
COVID-19?**

EMEA Transfer Pricing | 26 May 2020



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Agenda



INTRODUCTION



RECENT TRENDS



COVID-19 IMPACT



THEORY AND PRACTICE

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Recent Trends

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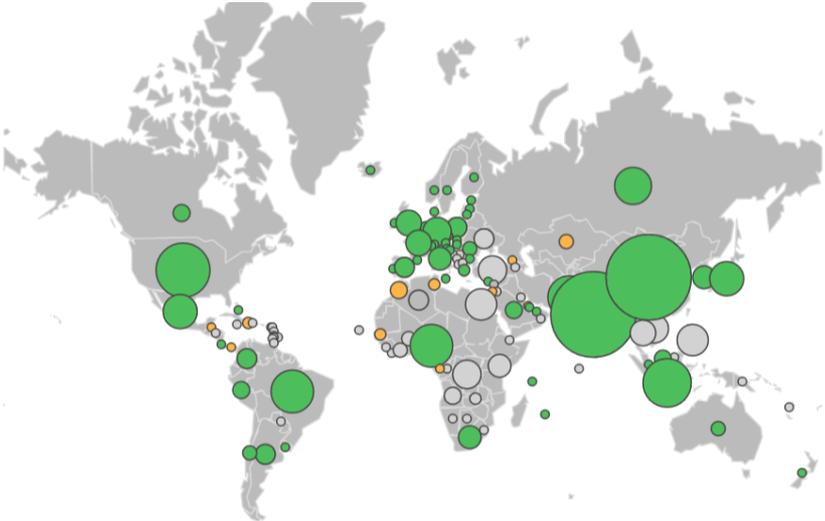
Recent Trends

New or revised recent guidance on transfer pricing - OECD

- A wide range of recent initiatives from the OECD including:
 - Harmful Tax Practices - 2018 Progress Report on Preferential Regimes, approved by the OECD/G20 Inclusive Framework on BEPS, January 2019
 - Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy, May 2019
 - Transfer Pricing Guidance on Financial Transactions, February 2020
 - Inclusive Framework exploring option of developing new transfer pricing guidance in relation to COVID-19, with input from stakeholders, May 2020

Recent Trends

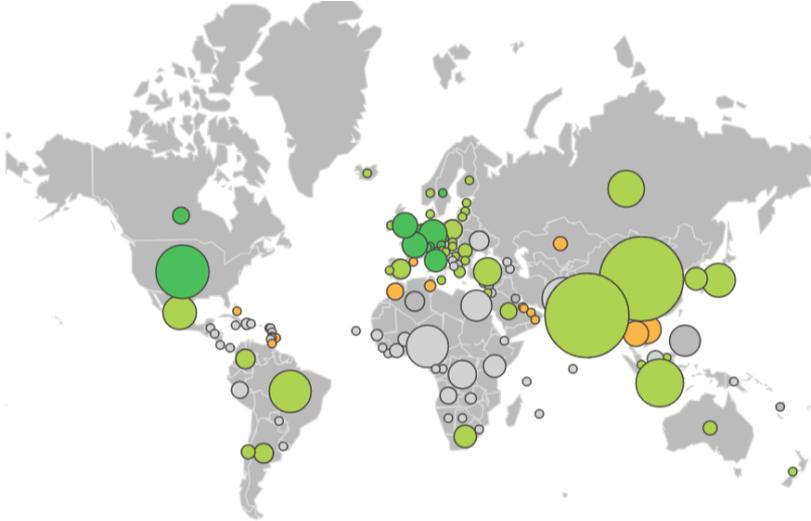
New or revised guidance on transfer pricing - OECD



CbC – Information exchange network (Action 13) ⓘ

- = activated
- = not activated
- = CbC MCAA not signed

Click on a jurisdiction to access a detailed summary.



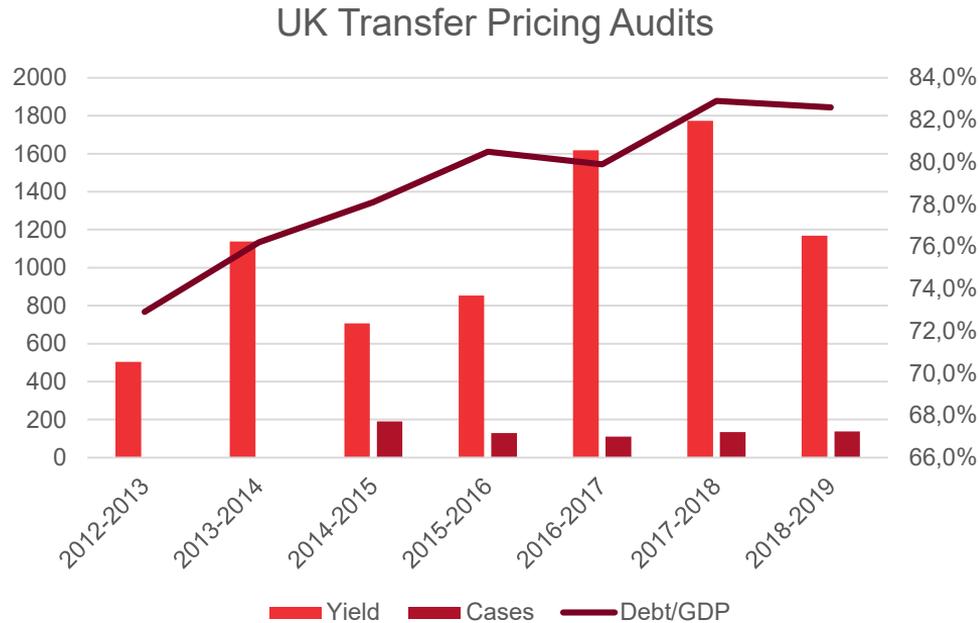
Effective dispute resolution (Action 14) ⓘ

- = stage 2 reviewed & recommendations made
- = review scheduled
- = stage 1 reviewed & recommendations made
- = review to be scheduled/deferred

Click on a jurisdiction to access a detailed summary.

Recent Trends – UK

Statistics on transfer pricing audits



- Sources: HMRC website, <https://www.gov.uk/government/publications/transfer-pricing-and-diverted-profits-tax-statistics-to-2018-to-2019/transfer-pricing-and-diverted-profits-tax-statistics-2018-to-2019#transfer-pricing>; <https://tradingeconomics.com/united-kingdom/government-debt-to-gdp>

Recent Trends – UK

Statistics on transfer pricing audits

	Pre-BEPS	Post-BEPS
Distribution	 Return on sales IQR: 1.5%-2%	Return on sales/ profit split IQR: 3%-4% (domestic)
Marketing	 Cost plus markup IQR: 5%-7.5%	Return on sales/ profit split IQR: 2.5%-4.5% (domestic)
R&D	 Cost plus markup IQR: 4%-8%	Cost plus markup/ profit split IQR: 9%-15%
Management	 Cost plus markup IQR: 5%-7.5%	Return on sales/ profit split IQR: 0.2-0.8% (regional)

■ Sources: Baker McKenzie database of UK audits, 76 cases, 2015-present

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COVID-19 Impact

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COVID-19 Impact

Transfer pricing

- COVID-19 potentially has an impact on all intercompany arrangements (manufacturing, sales, services, financing etc.) as it fundamentally changes the surrounding economic circumstances
- Audit settlements are approximately 1.5-2.5x higher than pre-BEPS as a result of greater pressure on tax authorities
 - Fiscal stimulus adds to the national debt burden of a number of governments which will increase the pressure on tax authorities further – we model that this could mean audit settlements are another 0.5-1x higher
 - Audit settlements will be made when supply chain profit in a number of industries will significantly reduce.

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Q&A

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Q&A

Panellists

- What impact do you expect COVID-19 will have, on compliance, ongoing tax audits and on APAs?
- What are the "new" driving factors which might make a MNE more willing to consider a business restructuring?
- What are your views on the impact of COVID-19 on the work of the OECD on the BEPS 2.0 initiatives? Will COVID-19 and the ensuing economic recession give a mortal wound to BEPS 2.0, or conversely, will it hasten progress?

Baker McKenzie.

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