Chapter 11

Base Erosion and Profit Shifting (BEPS) in International Taxation System:

The Case of Mauritius in the Light of OECD/G20 Initiatives

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ABSTRACT

The aftermath of the 2008 global financial crisis has led to the emergence of the OECD/G20 Base Erosion and Profit Shifting (BEPS) initiative developed in 2013. This project provides several actions plans to establish coherence and transparency and also to prevent malpractices in the international taxation system. Being a member of the OECD, Mauritius joined the inclusive framework on BEPS in 2016. This research assesses the adoption of the BEPS standards by Mauritius on Controlled Foreign Corporations (CFCs), transfer pricing, and on country-by-country (CbC) reporting. The purpose of this study is to identify any convergence and divergence between BEPS standards and the corresponding implementation measures in Mauritius. To achieve this research objective, the study has adopted the black letter approach by analyzing existing laws. A critical analysis is conducted about the implementation measures by Mauritius and assessing their implications on the domestic and the international taxation systems.

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INTRODUCTION

Emerging trends in free trade and globalization have rendered the international taxation system obsolete which was designed a century ago. This is mainly because these rules enabled base erosion and profit shifting (BEPS)[1] opportunities. This has reduced the confidence of governments and the public in the international taxation frameworks.

In 2013, the OECD member countries and the G20 leaders discussed the means and ways to tackle BEPS issues at the international level. This was the first serious attempt to enhance trust in the international taxation system by streamlining cross-border transactions and new trading methods. In this regard, a comprehensive package comprised of 15 action plans on BEPS was designed. The purpose was to implement recommendations locally and through international agreements in a harmonized manner to ensure the formation of an appropriate monitoring and transparency framework. In addition to attributing taxing rights to countries where economic activities take place, the BEPS action plans aim to (1) facilitate the information sharing process across countries and revenue authorities, (2) minimize the incidence of double taxation (3) suggest dispute resolution procedures that are more efficient in terms of time and cost, and (4) set up mechanisms to monitor the BEPS action plans implementation process.

Xu (2018) has classified the 15 BEPS action plans into five main categories which are:

Category 1:

- Taxation rules for the digitalized economy (Action 1)

Category 2:

- Rules to prevent double taxation namely recommendations on hybrid mismatch agreements (Action 2)
- Controlled Foreign Corporation (CFC)[2] rules (Action 3)
- Policies on interest deductions (Action 4)
- Minimizing harmful tax practices (Action 5) and
- Prevention of treaty abuses (Action 6)

Category 3:

- Suggestions to align economic value creation to taxation which includes rules on the permanent establishment (Action 7)
- Recommendations on transfer pricing[3] of intangibles, risks and capital and high-risk transactions (Actions 8, 9 and 10),

Category 4:

- Rules for information sharing and dispute resolution namely BEPS data analysis (Action 11)
- Compulsory disclosures (Action 12)
- Country-by-Country (CbC) reporting[4] (Action 13) and
- Mutual agreement procedure (Action 14) and

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