

Acknowledgement of Country

I would like to begin by acknowledging the Traditional Owners of the land on which we meet today. I would also like to pay my respects to Elders past and present.

International Tax Webinar Series

BASE EROSION AND PROFIT SHIFTING

Overview and current status of implementation of BEPS measures in Australia

Presented by Kristie Schubert, Partner and Jacqueline McGrath,
Special Counsel

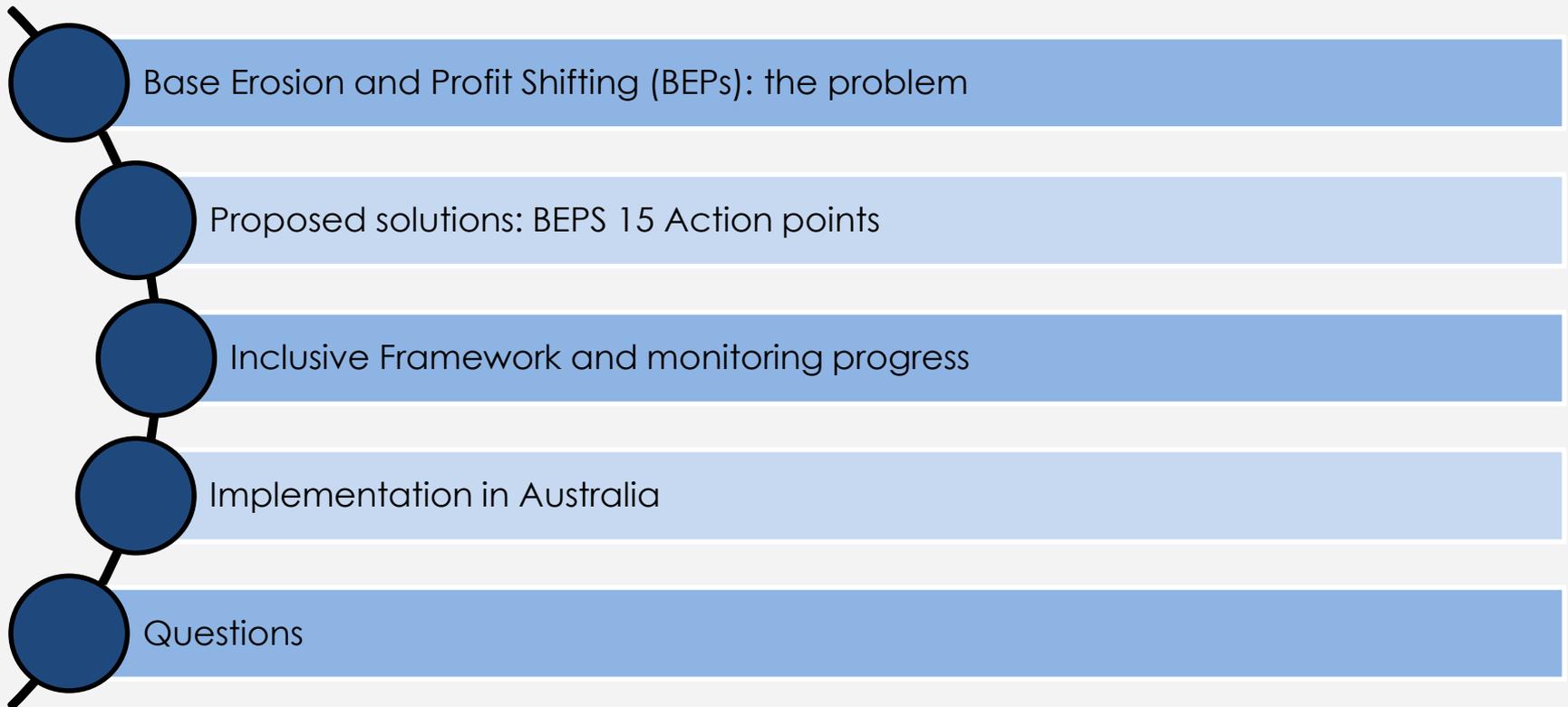
Wednesday, 6 October 2021

International Tax Webinar Series

- **Session 1 - Base Erosion and Profit Shifting: Overview and current status of implementation of BEPS measures in Australia (Thursday, 7 October 2021)**
- Session 2 - Taxing the Digital Economy: Pillars One and Two (Thursday, 21 October 2021)
- Session 3 - International tax disputes (Thursday, 4 November 2021)
- Session 4 - Interpretation of Double Taxation Agreements (Thursday, 18 November 2021)
- Session 5 - Evidentiary issues and processes in international tax and transfer pricing matters (Thursday, 2 December 2021)

To hear more about our upcoming sessions, or to register to attend, please email Katarina Szivek, BD Specialist (kszivek@hwle.com.au)

Outline



BEPS: The problem

- **Exploitation** of **gaps** and **differences** between tax rules of different jurisdictions internationally.
- Artificially **shifting profits** to low or no-tax jurisdictions where there is little or no economic activity.
- Disproportionate impact on **developing countries**.

The result?

- Tax is not being paid in the jurisdiction where economic activity occurs.
- **Erosion** of revenue bases of countries*.
- Undermining the fairness and integrity of their tax systems.
- Businesses that use BEPS strategies gain a **competitive advantage** over others that operate at a domestic level.

The proposed solution

- 139 countries and jurisdictions.
- Addressing BEPS issues in a **coordinated** and **comprehensive** manner.
- Release of the OECD **BEPS 15 Action points** in mid-2013.

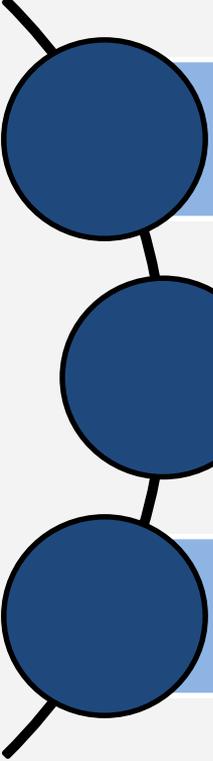
BEPS - 15 Action points

- Action 1: Address the tax challenges of the digital economy
- Action 2: Neutralise the effects of hybrid mismatch arrangements
- Action 3: Strengthen controlled foreign company (CFC) rules
- Action 4: Limit base erosion involving interest deductions and other financial payments
- **Action 5: Counter harmful tax practices more effectively, taking into account transparency and substance**
- **Action 6: Prevent treaty abuse**
- Action 7: Prevent the artificial avoidance of the permanent establishment status
- Actions 8–10: Assure that transfer pricing outcomes are in line with value creation
- Action 11: Establish methodologies to collect and analyse data on BEPS and the actions to address it
- Action 12: Require taxpayers to disclose their aggressive tax planning arrangements
- **Action 13: Re-examine transfer pricing documentation**
- **Action 14: Make dispute resolution mechanisms more effective**
- Action 15: Develop a multilateral instrument to modify bilateral tax treaties

Inclusive Framework

- The OECD established the inclusive framework on BEPS implementation in December 2015.
- Australia is one of around 130 members of the inclusive framework.
- Aims of the inclusive framework include monitoring implementation of BEPS measures, in particular the **minimum standard recommendations for Actions 5, 6, 13 and 14.**

Current status in Australia

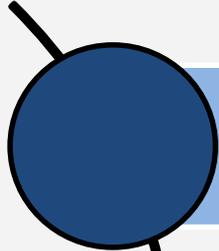


Action 2: Hybrid mismatch rules

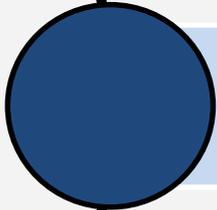
Action 5: Automatic exchange of information

Action 8-10: Transfer pricing simplification for low value adding intra-group services

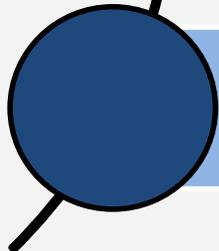
Current status in Australia



Action 13: Country by Country reporting



Action 14: Updated MAP guidance



Action 15: Multi Lateral Instrument

Questions?

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The logo for HwL Ebsworth Lawyers is centered on a dark blue background with a pattern of glowing, overlapping lines that create a sense of depth and movement. The text is white and consists of three parts: 'HWL' in a large, bold, sans-serif font; 'EBSWORTH' in a slightly smaller, bold, sans-serif font directly below it; and 'LAWYERS' in a smaller, all-caps, sans-serif font to the right of the 'EBSWORTH' text.

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