

Base erosion & profit shifting (BEPS) analysis for captives

Meeting the OECD's BEPS action plan

International tax issues have never been subject to as much public or political attention as in recent years. High profile cases of international profit shifting to lower tax jurisdictions involving well known global corporations and a number of controversial 'leaks', including the recent "Panama Papers", has further increased sensitivity to these issues.

In response to this, the G20 and the Organisation for Economic Co-operation and Development (OECD) jointly developed the **BEPS action plan** which aims to renovate the global taxation rules and in particular the areas which could potentially lead to unfair tax practices and treatments.

Captive insurance companies are specifically referenced by the OECD as an instrument through which profit shifting could be achieved. For this reason captives will be a distinct area of focus and as such it is incumbent upon captive owners to prepare and ensure that they have a comprehensive response to BEPS scrutiny.

Captive insurance companies need to prepare for BEPS scrutiny

BEPS implications for captives

The anti BEPS measures introduced as part of the OECD's 15 point action plan are wide ranging and could potentially target a captive in multiple ways.

The OECD's BEPS action plan covers the following:

1. Digital economy
2. Hybrid mismatch arrangements
3. Strengthening CFC rules
4. Interest deductibility
5. Harmful tax practices
6. Treaty abuse
7. Permanent establishment status
8. Transfer pricing: Intangibles
9. Transfer pricing: Risks/capital
10. Transfer pricing: Other high-risk transactions
11. BEPS data collection and analysis
12. Disclosure of aggressive tax planning
13. Transfer pricing documentation
14. Dispute resolution
15. Multilateral instruments

Particular areas under scrutiny in relation to captives:

- Financial situation of the captive
- Commercial benefits of the captive
- Alternatives available to the captive owner
- Substance in the captive
- Pricing of premiums and transfer pricing
- Location of the captive

Are you prepared?

Willis Towers Watson can help. We are working with captive owners to assist in their preparation for the various anti BEPS measures and investigation of their captive arrangements. Some examples of the analysis we can provide to help you prepare include:

Analysis	Output	Responds to
BEPS sensitivity analysis	Identification of key areas susceptible to BEPS scrutiny	Which areas of the captive's arrangements are in scope for BEPS scrutiny?
Captive 'value creation' analysis	Identification and quantified measurement of the ways the captive creates value for the parent organisation	How do I quantify and articulate the benefits of the captive?
Company substance assessment	Assessment of current structure and practices to identify improvements	What areas should be focused upon and what measures are available to strengthen the substance of the captive?
Pricing of premiums and transfer pricing analysis	Actuarial assessment of suitability of premium pricing and capital allocation	Are premiums adequate? Is the capital in the captive appropriate for the risk?
Location analysis	Assessment of current captive location and rationale for the domicile of choice	How do I articulate the rationale behind current captive location?
Improvement actions	Outline of key improvement actions suggested based on review	What can I do to improve current arrangements?

Our analysis provides insight to the OECD BEPS action plan and helps you prepare answers to many of the risk factors addressed in relation to BEPS and captives. Our approach is structured to your specific needs and will help you gain:

- A greater understanding of the OECD BEPS action plan measures, timelines and impact on captives
- Formal documentation of the justification of the captive usage as a basis for BEPS scrutiny
- Identification of options to strengthen the captives position regarding BEPS compliance
- Greater understanding of the long term implications of BEPS on the parent organisation's risk and insurance strategy

Contacts

Speak to one of our senior captive consultants to arrange an appointment to understand how our BEPS analysis can help your business.

Ciarán Healy

Director of Consulting & Development
Global Captive Practice
Phone: +353 86 8175 958
ciarán.healy@willistowerswatson.com

David Lewis

Director of Development-International
Global Captive Practice
Phone: +44 7415 860347
david.lewis@willistowerswatson.com

About Willis Towers Watson

Willis Towers Watson (NASDAQ: WLTW) is a leading global advisory, broking and solutions company that helps clients around the world turn risk into a path for growth. With roots dating to 1828, Willis Towers Watson has 39,000 employees in more than 120 countries. We design and deliver solutions that manage risk, optimize benefits, cultivate talent, and expand the power of capital to protect and strengthen institutions and individuals. Our unique perspective allows us to see the critical intersections between talent, assets and ideas — the dynamic formula that drives business performance. Together, we unlock potential. Learn more at willistowerswatson.com.

Willis Towers Watson Global Captive Practice, Willis Towers Watson PLC and all affiliates, subsidiaries and member companies thereof (collectively "Willis Towers Watson") does not provide legal or tax advice. This communication is provided for informational purposes only. It does not constitute legal or tax advice and should not be construed or relied upon as such. The reader is advised to consult legal, tax or other professional advisors of its choice in connection with the legal, tax and other matters discussed herein. Willis Towers Watson shall owe no duty of care to you and shall not be liable to you in any way for any loss or damage, in any form or amount and based on any legal theory, which you may incur if you choose to take any action in reliance on this communication.