Chapter 7

OECD Action Plan in Base Erosion and Profit Shifting in Taxation and the Situation of Turkey

Elvan Cenikli
T. C. Muğla Sıtkı Koçman University, Turkey

ABSTRACT

The BEPS Action Plan, which was prepared by OECD upon the call of G20 countries in order to overcome this problem, was announced on 19 July 2013, and it was approved in the G20 Leader’s Summit that was held in Saint Petersburg in September 2013. This chapter discusses the mentioned action plan and the probable effects of this plan to Turkey. In this respect, evaluation of the mentioned action plan will be made from the Turkey perspective by focusing on the most important actions of the OECD Action Plan that it put forward for ensuring the international tax equity.

INTRODUCTION

Tax avoidance refers to the fact that the action which cause the taxation is not caused, except for the tax burden. Because the tax laws refer to the birth of a tax debt as a result of the occurrence of a tax-causing event. When the taxpayers avoid this action, tax debt also disappears, which in the end allows them to avoid the tax payment without acting contrary to the law (Akdoğan, 2002: 160). Tax avoidance is a fact that has legal grounds as different from tax evasion. Taxpayers try to minimize their tax burdens through tax planning without acting in contravention of laws. Minimization of financial liabilities within a legal framework requires a systematic tax planning. The taxpayer can choose to reduce tax burdens by taking advantage of the gaps in national and international law and tax laws through good tax planning. We see that especially today, transnational corporations display the behavior of tax avoidance by eroding their bases through tax planning. In the international tax literature, this phenomenon is called Base Erosion and Profit Shifting-BEPS).

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As a tax avoidance strategy, BEPS is an important tax problem for both international companies and countries. BEPS is defined as a tax planning strategy by the OECD countries, which stipulates countries to reduce their profits using deficiencies in taxation rules and disputes by shifting profits to the places of which economic activity or the tax burden is low (OECD, 2016: 1). BEPS causes states to lose corporate tax revenues considerably, largely due to the fact that their profits are being shifted by transnational corporations from the countries in which they operate to the countries that provide more tax advantages. The struggle against BEPS as an international tax problem has caused the countries to seek common global rules of tax laws instead of seeking solutions on its own. For this purpose, a 15-item “Action Plan” has been prepared by the OECD with the request of the G20 countries (Erdem, 2018: 73). The “Action Plan on Base Erosion and Profit Shifting”, announced by the OECD in July 2013, summarizes 15 actions in three main chapters (Bicer and Erginay, 2015: 55). Compliance of corporate tax at international level; within the framework of this plan that consists of coordination of the taxation and the principle of substance over from, and administration of transparency supported by predictability and certainty in taxation, a strategy has been developed that includes 15 actions to reduce and neutralize BEPS opportunities.

MAJOR PROBLEMS IN BEPS ACTION PLAN, SOLUTION SUGGESTIONS AND THE SITUATION OF TURKEY

The 15-point BEPS Action Plan, which is an important example of global tax policy, focuses on certain global tax issues. The taxation of the digital economy, harmonization of hybrid financial instruments, strengthening of the rules of foreign controlled corporations’ profits, prevention of base erosion through interest discount, making the transparency and the principle of substance over form a taxation principle, the prevention of abuse of double taxation agreements, prevention of avoiding from status of being a permanent establishment through artificial ways, ensuring compliance with transfer pricing rules and providing international coordination in fighting with BEPS and to develop joint mechanisms are the major issues that BEPS Action Plan has focused on.

Taxation of Digital Economy in Struggle With BEPS

To tax digital companies, an international standard and the cooperation of countries are required to tax the digital companies. The most important organization in this regard is the OECD and its initiatives are supported by the G20. The difficulties caused by the digital economy in implementing the existing international rules have been addressed in the action plan titled “Taxation of the Digital Economy”, Action Plan No. 1. First of all, there are some proposals for the determination of these difficulties with a comprehensive approach and by taking into consideration both direct and indirect taxation and the development of proposals for important solutions (Birinci and Eser, 2017: 453). In the BEPS Action Plan, the following three important issues are discussed in the taxation of electronic commerce and digital economy (Bicer, 2018; Ferhatoğlu, 2018: 223).
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