OECD BEPS & U.S. International Tax Summary

1. **Overview**
2. The OECD’s Base Erosion and Profit Shifting (“BEPS”) project was started at the request of the February 2013 G20 Summit, due to concerns that substantial tax revenue is being lost because of corporate planning aimed at eroding the taxable base in countries with less favorable tax treatment.
3. **Timeline**
4. June 2012- Project announced; July 2013- Release of Action Plan; July 2013-2015- Stakeholder input requested; October 5, 2015- Completion of Action Plan reports; October 8, 2015 and November 15, 2015- Presentation of Action Plan reports to G20
5. **BEPS Action Items**
6. Action 1- Digital Economy
7. Addressed through recommendations under other actions; supplementary report released by 2020
8. Action 2- Hybrid Mismatch Arrangements
9. Linking rules aimed at neutralizing mismatches in tax outcomes
10. Action 3- Strengthening CFC Rules
11. Recommendations made up of six building blocks for the design of effective CFC rules
12. Action 4- Interest Deductions
13. Limit net interest deductions to a fixed percentage of EBITDA
14. Action 5- Harmful Tax Competition
15. Nexus approach and improved transparency to determine if tax regimes are harmful
16. Action 6- Treaty Abuse
17. Anti-abuse provisions, clarification of treaty purpose, and tax policy considerations
18. Action 7- Permanent Establishment Status
19. Prevent foreign enterprises from operating in a country without creating a permanent establishment; split-up contracts under general anti-avoidance
20. Action 8 (Transfer Pricing for Intangibles), Action 9 (Risks & Capital), and Action 10 (High-Risk Transactions)
21. Action 8- new guidelines on hard-to-value intangibles; Action 9- new guidance on commodity transactions; Action 10- Amended guidance on identification of actual transaction undertaken
22. Action 11 (Collecting & Analyzing Data on BEPS) and Action 12 (Mandatory Disclosure)
23. Action 11-Estimate the size of BEPS ($100-240 USD billion annually); Action 12- design recommendations, but not a minimum standard
24. Action 13- Country-by-Country Reporting
25. Reporting required for MNC’s with revenue of Euro 750 Million or more; implemented for fiscal years beginning on or after January 1, 2016
26. Action 14 (Dispute Resolution) and Action 15 (Multilateral Instrument)
27. Action 14-Strengthen effectiveness of mutual agreement procedure; Action 15- Group of 90 countries to begin negotiations
28. **Other U.S. International Tax Updates**
29. Foreign Account Tax Compliance Act (“FATCA”) Overview
30. Ensure that U.S. persons with overseas assets pay U.S. tax on worldwide income; requires foreign financial institutions to disclose identities of U.S. persons holding accounts with such institutions
31. Tax Extenders
32. Luxembourg-U.S. Branch Structures
33. July 2015- U.S. pressure on Luxembourg because Luxembourg-U.S. branch structure allows for double non-taxation; October 2015- Luxembourg tax authorities asked to find a solution