

УДК 34 4414

**ТРАНСГРАНИЧНОЕ НАЛОГОВОЕ ПЛАНИРОВАНИЕ И
РЕГУЛЯТОРНОЕ СООТВЕТСТВИЕ: ВЫЗОВЫ ДЛЯ
ТРАНСНАЦИОНАЛЬНЫХ КОРПОРАЦИЙ В ЭПОХУ ПОСЛЕ BEPS**

Натия Мандзалашвили

Юрист

Член Коллегии адвокатов Грузии,

Тбилиси, Грузия

***Аннотация:** Статья посвящена анализу основных проблем, с которыми сталкиваются транснациональные корпорации в сфере международного налогового планирования и соблюдения требований законодательства в условиях пост-BEPS. Рассматриваются такие аспекты, как утрата традиционных инструментов налоговой оптимизации, усиление требований к экономическому присутствию, усложнение отчетности и повышение прозрачности. На основе инициатив ОЭСР/«большой двадцатки», а также реформ в США и ЕС, автор предлагает практические стратегии адаптации. Сравнительный анализ и примеры из практики подчеркивают переход от агрессивного планирования к ответственному налоговому управлению.*

***Ключевые слова:** BEPS, международное налоговое право, трансграничное налоговое планирование, транснациональные корпорации, регуляторное соответствие, ОЭСР, глобальный минимальный налог, трансфертное ценообразование, DAC6, GILTI*

CROSS-BORDER TAX PLANNING AND REGULATORY COMPLIANCE: CHALLENGES FOR MULTINATIONAL CORPORATIONS IN THE POST-BEPS ERA

Natia Mandzulashvili

Lawyer

Admitted to the Georgian Bar Association,

Georgia, Tbilisi

Abstract: *This article analyzes the key challenges multinational enterprises (MNEs) face in the context of international tax planning and compliance in the post-BEPS era. It examines the erosion of traditional tax strategies, the shift toward substance requirements, and the complexity of reporting obligations under global tax transparency standards. Drawing on OECD/G20 initiatives and regional reforms such as the U.S. TCJA and the EU DAC6, the article outlines practical strategies that legal and tax professionals can use to navigate the evolving tax landscape. Comparative insights and case examples illustrate the global shift from aggressive tax minimization to responsible and transparent tax governance.*

Key words: *BEPS, international tax law, cross-border tax planning, multinational enterprises, compliance, OECD, global minimum tax, transfer pricing, DAC6, GILTI*

Introduction

In recent decades, the global economy has witnessed an unprecedented rise in cross-border business activities. Multinational enterprises (MNEs) have increasingly structured their operations across jurisdictions, often leveraging

differences in national tax systems to reduce their effective tax burden. However, concerns about aggressive tax planning and base erosion led to the launch of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project in 2013. The BEPS initiative aimed to close the loopholes that allowed profits to “disappear” or be artificially shifted to low- or no-tax jurisdictions.

The adoption of the BEPS Action Plan marked a turning point in international tax law, setting the stage for significant regulatory reform. As a result, MNEs are now required to operate within a rapidly evolving framework that prioritizes transparency, substance, and fair tax allocation.

This article explores the main challenges multinational corporations face in the post-BEPS era, focusing on the erosion of traditional tax planning strategies, the increasing complexity of compliance obligations, and the new standards imposed by global tax governance. Furthermore, it outlines practical strategies for legal and tax professionals to support their corporate clients in adapting to this transformed environment.

Overview of BEPS and the Global Tax Reform Landscape

The Base Erosion and Profit Shifting (BEPS) Project was initiated by the Organisation for Economic Co-operation and Development (OECD) and endorsed by the G20 in response to growing public and political concerns that multinational corporations were not paying their fair share of taxes. The final BEPS package, released in 2015, consists of **15 Action Points** designed to equip governments with domestic and international tools to combat tax avoidance, enhance transparency, and ensure that profits are taxed where economic activities take place and value is created.

Among the most impactful BEPS Actions are:

- **Action 1:** Addressing the tax challenges of the digital economy
- **Action 5:** Countering harmful tax practices
- **Action 6:** Preventing treaty abuse
- **Action 13:** Country-by-Country (CbC) reporting for large MNEs
- **Action 15:** Development of a Multilateral Instrument (MLI) to quickly amend bilateral tax treaties [1].

The BEPS framework laid the foundation for a **new era of global tax cooperation**, culminating in the **OECD/G20 Inclusive Framework**, which now includes over 140 jurisdictions. As part of the ongoing reform, the **Two-Pillar Solution** was introduced:

- **Pillar One** reallocates taxing rights to market jurisdictions, particularly targeting digital companies that operate without physical presence.
- **Pillar Two** establishes a **global minimum tax rate of 15%**, aimed at preventing a “race to the bottom” among tax jurisdictions [2].

Together, these reforms are redefining the international tax architecture and placing new burdens on MNEs, which must now navigate a more coordinated but also more complex and enforcement-driven global tax regime.

Key Challenges for Multinational Corporations

The post-BEPS environment presents a radically altered landscape for multinational enterprises (MNEs), requiring them to reevaluate long-standing tax planning strategies. One of the most significant transformations has been the erosion of traditional tax arbitrage tools. Techniques such as hybrid mismatch arrangements, treaty shopping, and aggressive transfer pricing have been heavily curtailed by the OECD/G20 reforms. Instruments like the Principal Purpose Test (PPT), anti-hybrid rules, and strengthened transfer pricing

guidelines have removed many of the legal pathways previously used to reduce tax burdens across jurisdictions.

In parallel, the global shift toward a substance-over-form doctrine demands that corporate structures demonstrate real economic presence rather than merely formal legal compliance. Tax authorities now look beyond shell entities and holding companies to assess whether there is genuine commercial activity, local employment, and operational infrastructure behind a company's claimed tax residency or deduction. Jurisdictions known for lenient corporate regimes have been compelled to introduce substance requirements, while international blacklists pressure tax havens to align with new global norms.

Compliance burdens have also escalated dramatically. The proliferation of disclosure and transparency regimes, such as Country-by-Country Reporting (CbCR), the EU's DAC6 mandatory disclosure rules, FATCA in the United States, and the OECD's Common Reporting Standard (CRS), has transformed tax compliance into a data-driven, resource-intensive undertaking. MNEs are required to maintain detailed documentation, reconcile conflicting jurisdictional requirements, and prepare for audits across multiple tax regimes simultaneously. Failure to comply can result in significant financial penalties and reputational damage.

Moreover, the introduction of principles-based standards—such as the requirement to align profits with value creation—has increased legal uncertainty. Unlike rules-based systems that offer clearer boundaries, these principles can be interpreted differently by tax authorities in different countries. As a result, MNEs face overlapping or even contradictory expectations, complicating their efforts to plan and implement efficient global tax strategies.

Compliance Strategies in the Post-BEPS Era

In response to the challenges imposed by the post-BEPS tax environment, multinational corporations are adopting a range of compliance strategies designed to align their operations with evolving global standards while maintaining tax efficiency and minimizing risk. These strategies require a multidimensional approach that integrates legal structuring, operational realignment, and advanced technology.

A primary focus for many MNEs is the **restructuring of corporate entities** to ensure they reflect genuine economic substance. This includes relocating key decision-making functions, establishing meaningful local operations, and employing staff with real responsibilities in jurisdictions where profits are reported. Substance is no longer a formality—it is a critical defense against regulatory scrutiny. By investing in local infrastructure and talent, companies can demonstrate a legitimate commercial presence and mitigate risks related to tax audits or profit reallocation.

Another important strategy is the **implementation of robust internal governance mechanisms** to manage and document compliance efforts. Tax departments are now expected to maintain real-time transparency over intercompany transactions, transfer pricing policies, and permanent establishment risks. Many corporations have integrated **automated compliance systems**, such as tax data management platforms and risk assessment tools, to ensure accuracy in reporting and reduce manual errors. These systems are especially vital for meeting complex obligations like Country-by-Country Reporting and DAC6 disclosures.

Engaging proactively with tax authorities has also emerged as a best practice. Multinational corporations are increasingly seeking **Advance Pricing Agreements (APAs)** and utilizing **Mutual Agreement Procedures (MAPs)** to clarify tax treatment across jurisdictions and avoid costly disputes. This type of

engagement signals good faith and enhances legal certainty for both businesses and regulators.

Moreover, tax compliance is no longer viewed as a siloed legal function. Forward-thinking MNEs now integrate tax risk assessments into their broader corporate governance and strategic planning. Cross-functional teams—comprising legal, finance, and operational experts—collaborate to assess the implications of international transactions and ensure alignment with the company's ethical and reputational standards.

Ultimately, the post-BEPS compliance landscape rewards companies that adopt a transparent, risk-aware, and technology-enabled approach. Legal professionals must take an active role in advising corporate clients not only on what is permissible under the law but also on how to structure global operations in a manner that is sustainable, defensible, and aligned with the spirit of international tax reform.

Case Examples and Comparative Insights

To better understand how multinational enterprises (MNEs) are adapting to the post-BEPS regulatory framework, it is useful to examine both individual corporate responses and the evolving strategies of jurisdictions around the world. These examples illustrate the diversity of approaches to cross-border tax planning in the new global environment.

One illustrative case involves a European-based technology company that historically utilized an Irish-Dutch tax structure to shift intellectual property income to a low-tax jurisdiction. In response to BEPS Action 5 (on harmful tax practices) and the global movement toward substance requirements, the company undertook a significant restructuring. It repatriated intellectual property to its home country, centralized research and development functions,

and registered local entities in its major markets with operational staff. While this led to an increased effective tax rate in the short term, the company reduced its legal risk exposure and improved its reputation with both regulators and the public.

From a jurisdictional perspective, countries have responded to BEPS implementation in diverse ways. The **United States**, while not formally adopting the BEPS package in full, has introduced its own complementary measures through the **Tax Cuts and Jobs Act (TCJA)**, including the **Global Intangible Low-Taxed Income (GILTI)** and **Base Erosion and Anti-Abuse Tax (BEAT)** provisions. These measures target similar objectives: discouraging profit shifting and ensuring minimum taxation on foreign earnings [3].

In contrast, the **European Union** has adopted a more unified and aggressive stance, implementing mandatory disclosure regimes (such as DAC6), enforcing economic substance requirements, and promoting coordinated action on digital taxation. At the same time, **low-tax jurisdictions** such as the Cayman Islands, Bermuda, and the British Virgin Islands have introduced substance-based reporting obligations in response to international pressure and blacklisting threats from the EU [4].

These examples underscore a critical trend: multinationals can no longer rely on a single jurisdiction's lenient laws to minimize tax liability. Instead, compliance must be achieved through globally coordinated efforts and risk-informed decisions that respect the legal and ethical expectations of the international community.

Conclusion

The post-BEPS era has ushered in a new paradigm for international tax planning and regulatory compliance. Multinational corporations are now

operating in a global environment that prioritizes transparency, economic substance, and fair taxation over aggressive profit-shifting techniques. The tools and strategies that once enabled corporations to exploit jurisdictional mismatches have largely been neutralized by coordinated international efforts, led by the OECD and G20 through the Inclusive Framework.

In this context, legal and tax professionals must adopt a proactive and strategic approach to advising multinational clients. Success no longer depends solely on technical knowledge of tax treaties or transfer pricing rules, but also on the ability to integrate tax considerations into the broader framework of corporate governance, ethical business practices, and long-term operational sustainability.

Key compliance strategies include restructuring corporate entities to reflect real substance, investing in automation and real-time reporting tools, and engaging constructively with tax authorities through cooperative mechanisms such as APAs and MAPs. Multinationals must also navigate jurisdictional variations—such as the U.S. implementation of GILTI and BEAT, or the EU's robust transparency initiatives—by building globally coordinated tax governance systems.

Ultimately, the reforms introduced through BEPS and its ongoing extensions mark not just a shift in rules, but a transformation in the philosophy of international taxation. Multinational enterprises that embrace this new framework with integrity, technological adaptation, and legal diligence will be best positioned to succeed in a world where tax planning is no longer about minimizing liability at all costs, but about achieving compliance and resilience in a rapidly changing global landscape.

References

1. OECD. Final BEPS Package for Reform of the International Tax System to Tackle Tax Avoidance [Electronic resource]. – Paris: Organisation for Economic Co-operation and Development, 2015. – Access mode: <https://www.oecd.org/tax/beps/> – Date of access: 18.06.2025.
2. OECD/G20 Inclusive Framework on BEPS. Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy [Electronic resource]. – Paris: OECD Publishing, 2021. – Access mode: <https://www.oecd.org/tax/beps/brochure-two-pillar-solution-july-2021.pdf> – Date of access: 18.06.2025.
3. U.S. Department of the Treasury. Tax Cuts and Jobs Act: Explanation of Provisions [Electronic resource]. – Washington, D.C., 2017. – Access mode: <https://home.treasury.gov/policy-issues/tax-policy> – Date of access: 18.06.2025.
4. European Commission. Tax Transparency – DAC6: Reporting Cross-Border Arrangements [Electronic resource]. – Brussels, 2020. – Access mode: https://ec.europa.eu/taxation_customs/business/company-tax/mandatory-disclosure-rules-dac6_en – Date of access: 18.06.2025.