

# Harmonizing Taxation in the ASEAN Economic Community

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# Outline

- The regional taxation maze – a snapshot of some differences
- What are the economic implications of the regional taxation maze?
- How can the ASEAN Economic Community (AEC) help?
- What are the obstacles to greater tax coordination harmonization in ASEAN?



# The Regional Tax Maze: A snapshot of differences across ASEAN

# Differences in Tax Rates

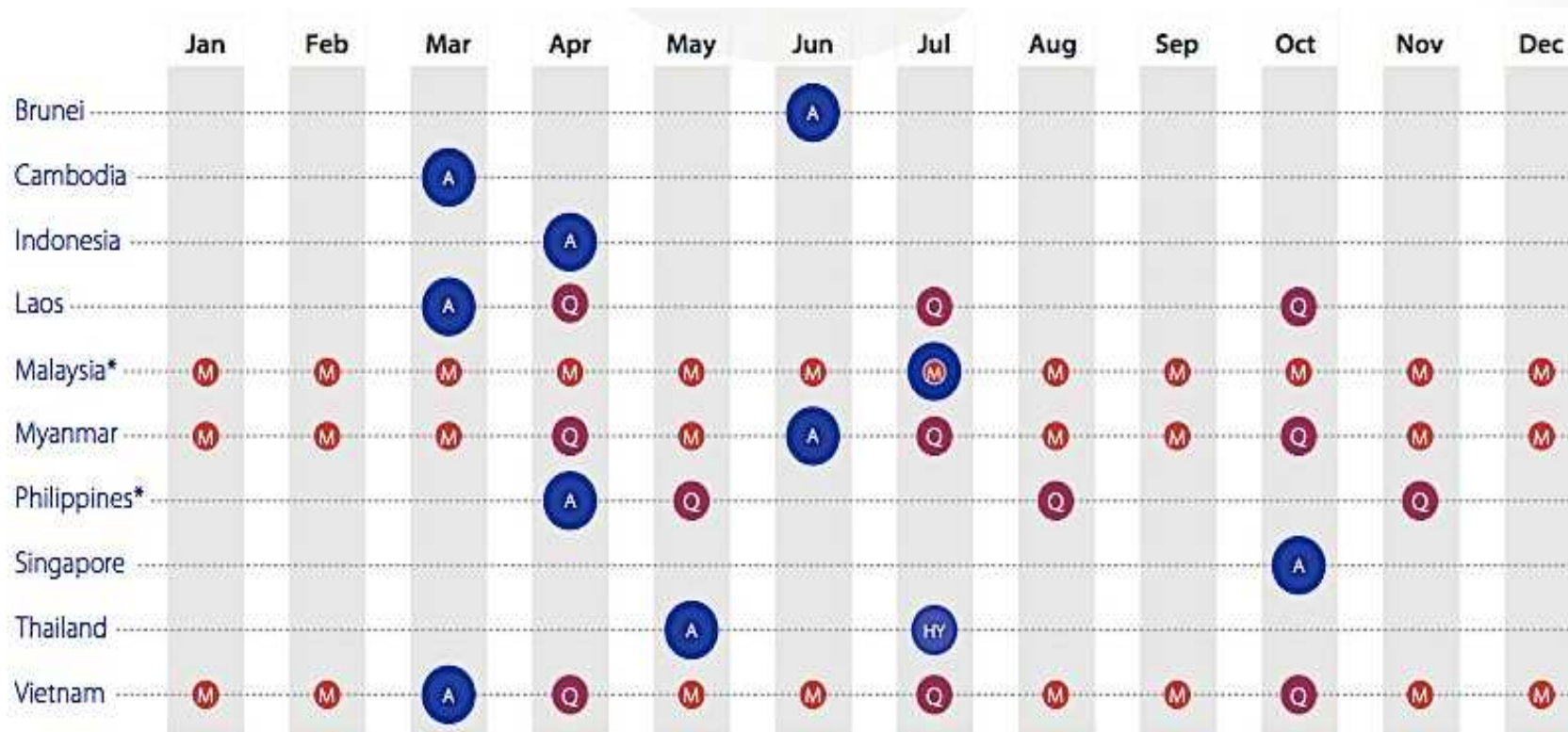
Country	Corporate Tax (%)	Withholding Tax (%) for non-residents			VAT/GST (%)
		Dividends	Interest	Royalties	
<b>Brunei</b>	20	0	15	10	0
<b>Cambodia</b>	20	14	14	14	10
<b>Indonesia</b>	25	20	20	20	10
<b>Lao PDR</b>	24	10	10	5	10
<b>Malaysia</b>	25	0	15	10	6
<b>Myanmar</b>	25 for company 35 for branch	0	15	20	No standard rate
<b>Philippines</b>	30	30	30	30	12
<b>Singapore</b>	17	0	15	10	7
<b>Thailand</b>	20	10	15	15	7
<b>Viet Nam</b>	20	0 for corp. investors, 5 for individuals	5	10	10

# Differences in Rules (1): Definition of Corporate Tax Residency

Country	Tax Residency Treatment
<b>Brunei</b>	Exercising management and control
<b>Cambodia</b>	Exercising management and control
<b>Indonesia</b>	Incorporation
<b>Lao PDR</b>	Conducting Business
<b>Malaysia</b>	Exercising management and control
<b>Myanmar</b>	Incorporation
<b>Philippines</b>	Conducting Business
<b>Singapore</b>	Exercising management and control
<b>Thailand</b>	Conducting Business
<b>Viet Nam</b>	Conducting Business

Source: The 2016/17 ASEAN Tax Comparator. ASEAN Briefing, Issue 3, May and June 2016.

# Differences in Rules (2): Tax Filing Calendar



\*Filing deadlines are based on the fiscal calendar and may differ depending on the company in question.

M Monthly payment    
 Q Quarterly Filing Deadline    
 HY Half Year Filing Deadline    
 A Annual Filing Deadline

Source: The 2016/17 ASEAN Tax Comparator. ASEAN Briefing, Issue 3, May and June 2016.

# Differences in Rules (3): Incentives to encourage FDI

Country	Tax holiday/exemption	Max tax holiday years	Reduced tax rate	Investment allowance/tax credit	R&D initiatives	Super deductions	SEZ	Discretionary
Cambodia	x	9	x	x			x	x
Indonesia	x	20		x			x	x
Lao PDR	x	10	x		x		x	x
Malaysia	x	10	x	x	x	x	x	x
Myanmar	x	5	x	x	x		x	x
Philippines	x	6	x	x	x		x	
Singapore	x	negotiable	x	x	x	x	x	x
Thailand	x	11	x	x	x	x	x	x
Viet Nam	x	4	x	x	x		x	x

Source: World Bank *East Asia-Pacific Economic Update*, October 2015: Staying the Course.

# Differences in Ease of Paying Taxes

Country	Rank (n-189)	Distance to Frontier	Payments (number per year)	Time (hours per year)
Singapore	5	96.56	6	83.5
Brunei	16	89.61	18	89
Malaysia	31	84.31	13	118
Thailand	70	77.7	22	264
Myanmar	84	74.8	31	188
Cambodia	95	73.06	40	173
Philippines	126	66.23	36	193
Lao PDR	127	66.1	35	362
Indonesia	148	60.46	54	234
Viet Nam	168	45.41	30	770

An economy's distance to frontier is reflected on a scale from 0 to 100, where 0 represents the lowest performance and 100 represents the frontier.

Source: World Bank *Doing Business 2016*



# Differences in fiscal outcomes

Country	Tax Revenue as % of GDP	Fiscal Balance as % of GDP
Brunei	...	-0.7
Cambodia	13.4	-1.4
Indonesia	10.9	-2.1
Lao PDR	15.5	-2.4
Malaysia	14.8	-3.4
Myanmar	9.2	-3.9
Philippines	13.6	-0.6
Singapore	...	...
Thailand	15.3	-2.3
Viet Nam	18.2	-4.4

Data as of 2014. Viet Nam data includes local government taxes.  
Source: ADB Key Indicators for Asia and the Pacific 2015

# What are the economic implications of the regional taxation maze? (1)

- Cross-border business activities face higher compliance costs and potential double- or over-taxation.
- More opportunities for taxpayers to exploit differing tax systems and engage in base erosion and profit shifting (BEPS).
- Tax competition could induce a race to the bottom.

# What are the economic implications of the regional taxation maze? (2)

- BEPS and harmful tax competition will hurt governments, small businesses, and ordinary citizens:
  - Governments face revenue losses and higher costs for ensuring compliance.
  - Small businesses are unable to compete with bigger companies that are able to lower their taxes through BEPS.
  - Ordinary citizens face cuts in public investments, as well a shift in the tax burden towards immobile tax bases such as personal income tax or indirect taxes.

# How can regional cooperation on taxation help?

- In the past, cross-border taxation issues were addressed through bilateral tax treaties and domestic legislation. But these may no longer be sufficient:
  - Not all ASEAN members have tax treaties with each other, and most of the treaties that exist are old and require modernization.
  - Not all ASEAN countries address BEPS in their domestic legislation or tax regulations.
  - Growing integration and globalization requires commonly accepted rules to govern acceptable and unacceptable tax practices.

# Tax cooperation in ASEAN (1)

- 2015 AEC Blueprint only had a few provisions related to taxation:
  - Completion of the network of bilateral agreements on avoidance of double taxation;
  - Enhancements in the withholding tax structure, where possible, to promote the broadening of investor base in ASEAN debt issuance; and
  - Provision of technical assistance on tax structure enhancement to CLMV countries.

# Tax Cooperation in ASEAN (2)

- 2025 AEC Blueprint continues work on double taxation treaties and withholding tax reforms, plus commitments to:
  - Improve the implementation of exchange of information in accordance with international standards;
  - Discuss measures to address the issue of BEPS;
  - Explore the possibility of global taxpayers' identification number; and
  - Explore the possibility of collaboration in excise taxation and information sharing on common excisable products.

# Obstacles to greater tax cooperation and harmonization

- Work on tax cooperation under the AEC Blueprint has been slow. ASEAN Forum on Taxation still working out the implementation details, including their timeline.
- AMS remain autonomous with respect to raising taxes and setting tax rates; this allows them to use taxation for different policy objectives.
- AMS differ both in their ability to raise revenues as well as in their tax administration capacities.
- Flexibility inherent in AEC allows AMS to implement any commitments according to their own timetables and capacities.

# Finding a middle ground: the EU experience

- EU taxation policy gives EU countries leeway to decide on their tax systems, so long as these conform with EU rules.
- The main priorities of EU taxation policy are supporting the Single Market by eliminating tax obstacles to all forms of cross-border economic activity; eliminating harmful tax competition; and combating fraud.
- Tax harmonization has initially focused on indirect taxes.



# Thank you!

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*The Impact of AEC  
taxation convergence in  
the national landscape*  
28 July 2016

**pwc**

**Isla Lipana & Co.**

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# *Agenda*

- AEC Background
- Tax Action Points under the AEC Blueprint

# *Asean Economic Community*

# 1

The Impact of AEC taxation convergence in the national landscape  
Isla Lipana & Co., PwC member firm

28 July 2016  
Slide3

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# ***Asean Economic Community***

## The Ten ASEAN Member States

- Brunei Darussalam
- Cambodia
- Indonesia
- Lao PDR
- Malaysia
- Myanmar
- Philippines
- Singapore
- Thailand
- Vietnam

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## *Asean Economic Community*

- First AEC Blueprint signed in November 2007
- Establishment of AEC in 2015.
- AEC Blueprint 2025 adopted by ASEAN Leaders in November 2015 providing strategic measures from 2016 to 2025.
- Tax cooperation serves as one of the key elements to support regional competitiveness.

# *AEC Tax Action Points*

# 2

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## ***Five Tax Action Points under the AEC***

1. Concerted efforts to support the completion and improvement of network of bilateral tax agreements to address the issues of double taxation, and work towards the enhancement of withholding tax structure, where possible, to promote the broadening of investor base in ASEAN debt issuance;
2. Improve the implementation of exchange of information in accordance with international standards
3. Discuss measures to address the issue of base erosion and profit shifting to ensure fiscal health;
4. Explore the possibility of global taxpayers' identification number to improve tax collection and enhance monitoring of transactions; and
5. Explore the possibility of collaboration in excise taxation and information sharing among ASEAN Member States on common excisable products



## *Tax Action Point 1*

Improvement of network of bilateral tax agreements and enhancement of withholding tax structure

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## ***Tax Action Point 1***

### **On Bilateral Tax Agreements**

- To date, the **Philippines** has **40 effective tax treaties** with various countries
- 41 next year with effectivity of the treaty with Turkey

## ***Tax Action Point 1***

### **Latest Philippine Tax Treaties**

<b>Country</b>	<b>Effectivity</b>
United Arab Emirates	2009
Japan	2009 (Protocol)
Kuwait	2014
Germany	2016 (Protocol)
Qatar	2016
Turkey	2017

## ***Tax Action Point 1***

### **Status of Philippine Tax Treaties with ASEAN Countries (as of February 2016)**

<b>Country</b>	<b>Effectivity</b>
Singapore	1977
Indonesia	1983
Thailand	1983
Malaysia	1985
Vietnam	2004
Brunei Darussalam	n/a
Cambodia	n/a
Lao PDR	n/a
Myanmar	n/a

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## ***Tax Action Point 1***

### **On Bilateral Tax Agreements**

- Revenue Memorandum Order No. 27-2016 provided new procedures in claiming preferential tax treaty benefits specifically for dividends, interest income and royalties of non-residents sourced within the Philippines.
- However, the new BIR Commissioner suspended the RMO until further notice.

## ***Tax Action Point 1***

### **ASEAN Corporate Income Tax rates**

<b>Country</b>	<b>Corporate Income Tax</b>	<b>Country</b>	<b>Corporate Income Tax</b>
Singapore	17%	Malaysia	24%
Brunei Darussalam	20%	Lao PDR	24%
Cambodia	20%	Myanmar	25%
Thailand	20%	Indonesia	25%
Vietnam	20%	Philippines	30%

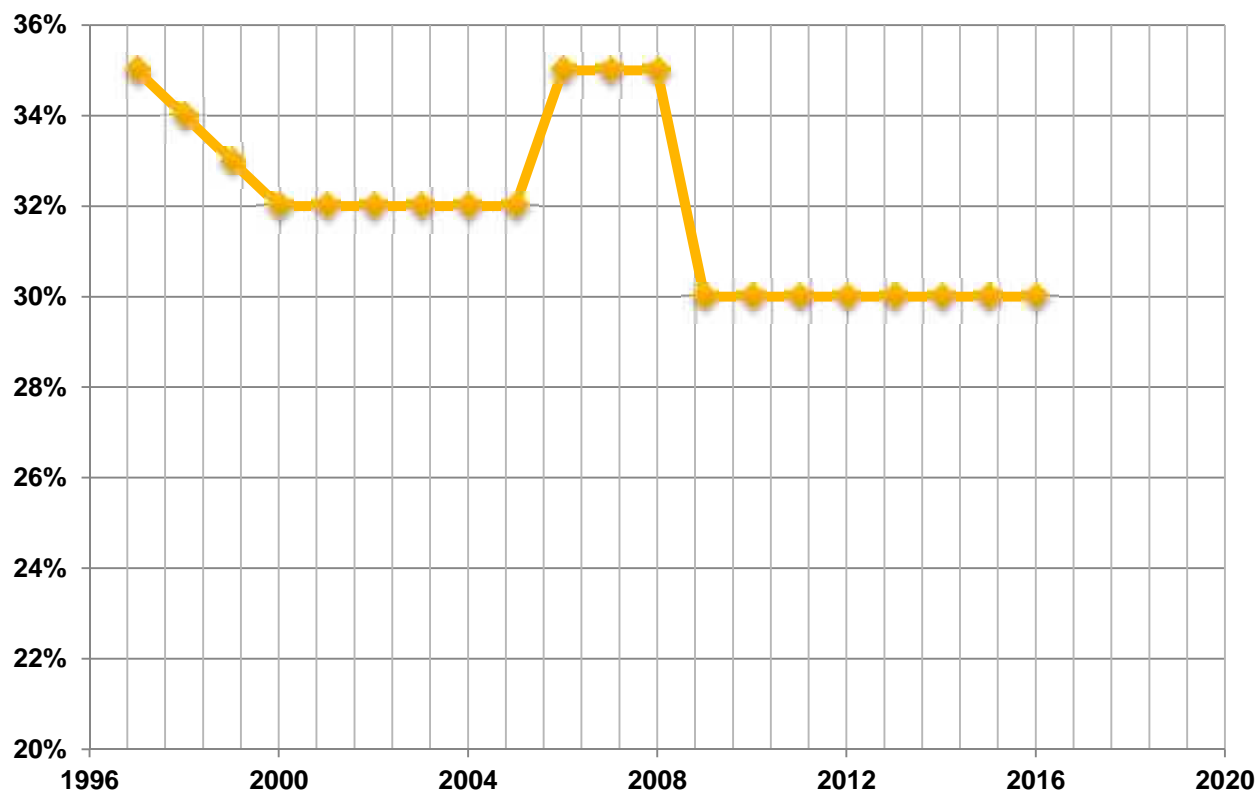
*Source: WWTS*

The Impact of AEC taxation convergence in the national landscape  
Isla Lipana & Co., PwC member firm

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Slide13

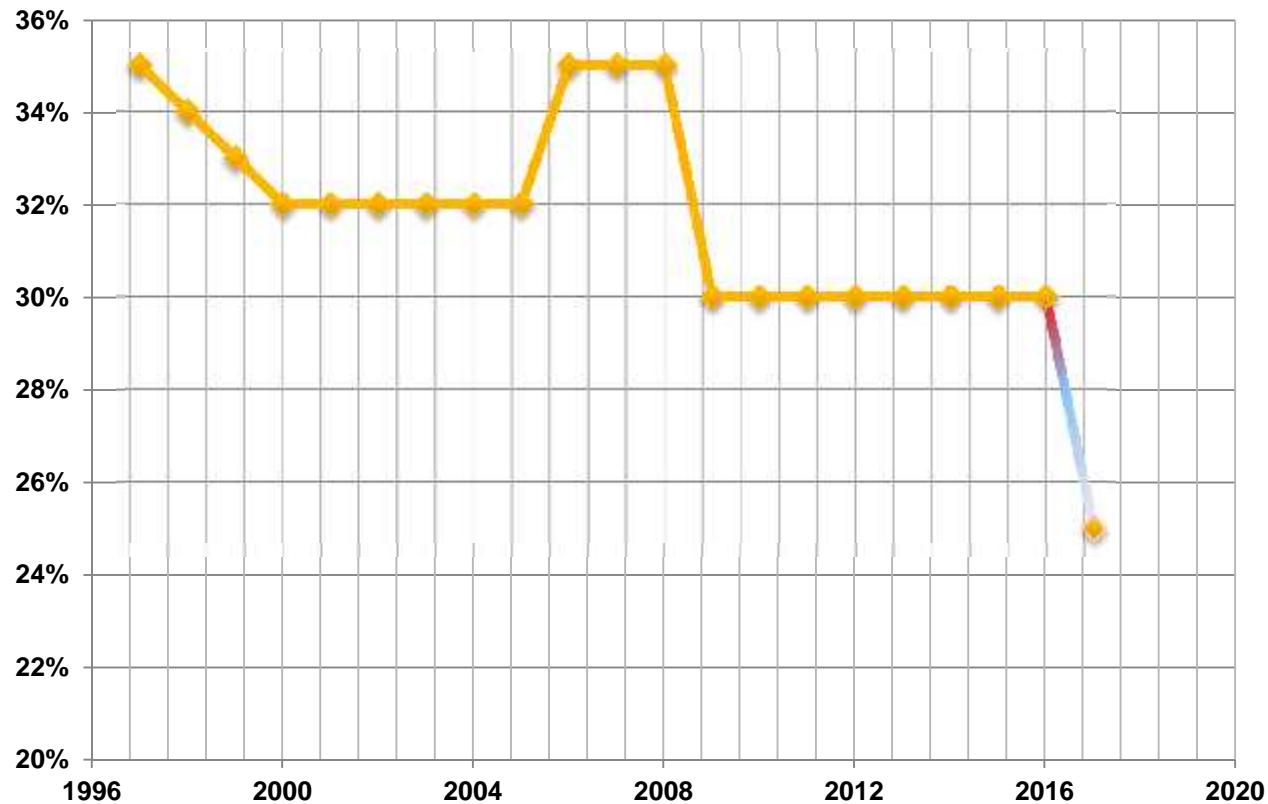
## ***Tax Action Point 1***

A look at the Philippine CIT for the past 20 years



## ***Tax Action Point 1***

A look at the Philippine CIT for the past 20 years....& next year?





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## ***Tax Action Point 1***

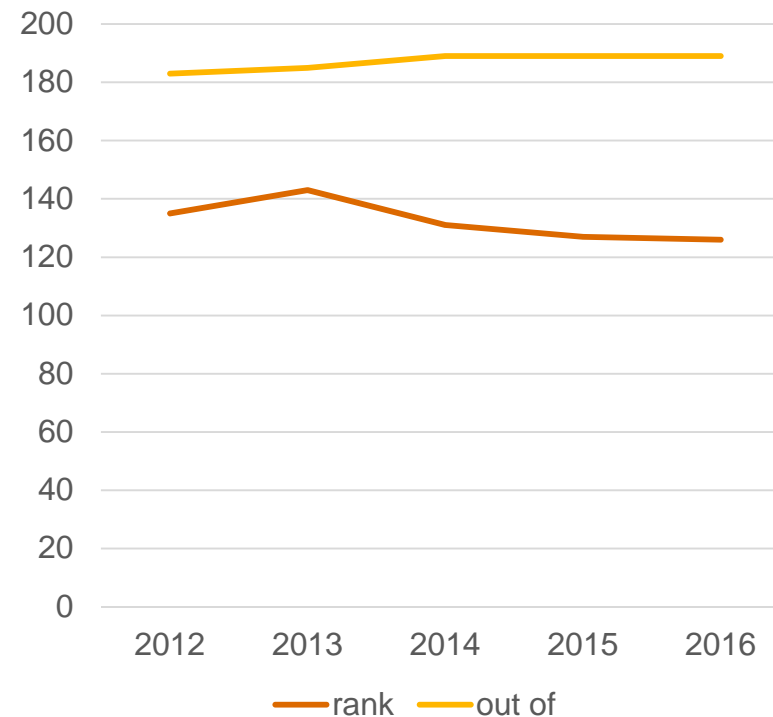
### **Paying Taxes Ranking of Other ASEAN countries (2016)**

<b>Country</b>	<b>Rank (out of 189)</b>
Singapore	5
Brunei	16
Malaysia	31
Thailand	70
Myanmar	84
Cambodia	95
<b>Philippines</b>	<b>126</b>
Laos	127
Indonesia	148
Vietnam	168

## ***Tax Action Point 1***

### **Paying Taxes Ranking of the Philippines for the last 5 years**

<b>Year</b>	<b>Rank</b>	<b>Out of</b>
2016	126	189
2015	127	189
2014	131	189
2013	143	185
2012	135	183



## *Tax Action Point 2:*

Improve the implementation of exchange of information in accordance with international standards

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## ***Tax Action Point 2***

### **Exchange of Information**

#### **What is Exchange of Information (EOI)?**

A mechanism under tax treaties that enable tax authorities to exchange information needed to enforce their domestic tax laws, implement tax treaties, protect their tax base and combat tax evasion.

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## ***Tax Action Point 2***

### **Exchange of Information**

#### **What are the forms of EOI?**

- Upon Request
- Spontaneous
- Automatic

***Philippine Status on Exchange of Information – “Upon Request and Spontaneous” – Committed***

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## *Tax Action Point 2*

### **EOI initiatives across ASEAN (whether upon request, spontaneous or automatic) :**

<b>Country</b>	<b>No. of Agreements</b>
Singapore	83
Indonesia	79
Vietnam	53
Malaysia	46
Thailand	46
<b>Philippines</b>	<b>40</b>
Brunei Darussalam	28
Myanmar	6
Cambodia	1

## ***Tax Action Point 2***

EOI Automatic status as of 9 May 2016

<b>First Exchanges by 2018</b>	<b>Not Committed</b>
Brunei Darussalam	Philippines
Indonesia	Thailand
Singapore	Vietnam
Malaysia	Cambodia
Myanmar	Laos PDR

## *Tax Action Point 3:*

# Discuss measures to address BEPS



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## *Tax Action Point 3*

### **What is BEPS?**

- Special project sponsored by the OECD to address "gaps and inadequacies of domestic laws, insufficient controlled foreign company rules, transfer mispricing, tax treaty abuses or problems arising from hybrid mismatch arrangements"
- Will have significant ramifications to tax systems worldwide

*Essentially, to modernize tax rules...*

- **BEPS: Recommendations, not laws**

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## ***Tax Action Point 3***

### **BEPS Action Plan focused on 3 themes**

- Substance
- Coherence of the international tax system
- Transparency

The BEPS Action Plan also sought to address digital business, improve dispute resolution and create a multilateral instrument for rapid updating of bilateral tax treaties.

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## *Western responses to BEPS issues*

- **United Kingdom:** First of 44 countries to formally commit to implementing the new country-by-country reporting template
- **Italy:** New transfer pricing rules for on-line advertising
- **Spain:** New general audit guidelines indicate intention to focus on digital economy, use of hybrid mechanisms, deductibility of interest expense
- **France:** New rules denying deductions for interest payments to related parties that are subject to low tax
- **Austria:** New provision imposing subject-to-tax test with respect to deduction for interest and royalties paid to related parties
- **Chile:** Pending tax reform bill includes new CFC regime
- **Norway:** New limits on deductibility of interest expense
- **Finland:** Tightened limits on deductibility of interest expense
- **Mexico:** New requirements for eligibility for treaty benefits
- **Russia:** Ministry of Finance letter to tax authorities calling for denial of treaty benefits
- **Canada:** Consultation on domestic law approach to denying treaty benefits

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## ***In AsiaPac....***

- **Vietnam:** New circular issued providing for denial of treaty benefits
- **India:** On 29 Feb 2016, introduced proposals to include implementation of Master File and CbCR, introduction of a withholding tax on certain specified digital services and a “Patent Box” tax regime for royalty income.
- **Singapore:** Revised TP guidelines, which includes enhanced guidance in the cost plus method and significant enhancement to the Mutual Agreement Procedure (MAP) and Advance Pricing Arrangement (APA) programmes.
- **Japan:** Came out with outline of the 2016 tax reform proposals in December 2015, which includes rules on CbCR based on BEPS Action 13 recommendations
- **Korea:** Approved legislation last December to implement BEPS Action 13 recommendations.
- **Australia:** Passed the multinational anti-avoidance rule and the CbC reporting regime in December 2015.

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## ***Tax Action Point 3***

### What about the Philippines?

- To date, no formal announcement from the BIR on BEPS
- MNCs with local presence will be impacted by rules/regulations to be issued in their parent jurisdictions
- Local conglomerates with affiliates/operations outside the Philippines will also be affected by rules developed in those foreign jurisdictions
- All companies will in some way or another be affected by policy shifts and enforcement activities to be implemented by the BIR

## *Tax Action Point 4:*

Explore the possibility of global TIN to improve tax collection and enhance monitoring of transactions

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## ***Tax Action Point 4***

### Possibility of global TIN

- The adoption of Global TIN is seen as a measure to curtail, if not, eradicate rampant cases of domestic and international tax evasion, smuggling and cross border corruption.
- It will serve as a passport for cross border trade and investment which will enhance monitoring and will eventually enable better audit of cross border transactions. The adoption of global/regional TIN is projected to meet and facilitate the existing international standards on taxation and tax administration.

Source: NTRC Journal

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## ***Tax Action Point 4***

### **Are there initiatives from the Philippines in developing a Global TIN?**

None to date. But the BIR, under the previous administration embarked on a series of reforms that aims to promote efficiency in tax enforcement and compliance including a new Tax Identification Number Card.



## *Tax Action Point 5:*

Explore the possibility of collaboration in excise taxation and information sharing among ASEAN Member States on common excisable products

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## ***Tax Action Point 5***

### **What is Excise Tax?**

- Excise Tax is a tax on the production, sale or consumption of a commodity in a country.
- In the Philippines, this is applicable on goods manufactured or produced in for domestic sale or consumption or for any other disposition; and on imported goods.

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## ***Tax Action Point 5***

### **Philippine initiatives on excise tax?**

- There are no amendments on excise tax regulations insofar as establishing a single rate on excise taxation is concerned. However to lower non-tax barriers, administrative issuances are implemented, e.g., RMO No. 2-2016 centralizing ATRIG
- Excise tax collaboration and sharing, not for harmonization

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## *Parting words*

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# *Thank you.*

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# **TRANS-PACIFIC PARTNERSHIP (TPP)**

**Anthony Amunategui Abad  
TA Trade Advisory Group**



# WHAT IS TPP?

- **Multinational Free Trade Agreement**
  - Composed of **12 Countries**
    - Started with 4 Countries under P4 Trade Agreement
      - Aimed at **eliminating or reducing tariffs** in foreign trade



# WHAT IS TPP?

- Promotes **economic integration** to liberalize trade and investment
- Establishes **Comprehensive Market Access** to member countries
- Governs the exchange of **goods and services, intellectual property, and foreign investment**

# WHAT IS TPP?

- [Preamble](#)
- [Chapter 1: Initial Provisions and General Definitions](#)
- [Chapter 2: National Treatment and Market Access for Goods](#)
- [Chapter 3: Rules of Origin and Origin Procedures](#)
- [Chapter 4: Textiles and Apparel](#)
- [Chapter 5: Customs Administration and Trade Facilitation](#)
- [Chapter 6: Trade Remedies](#)
- [Chapter 7: Sanitary and Phytosanitary Measures](#)
- [Chapter 8: Technical Barriers to Trade](#)
- [Chapter 9: Investment](#)
- [Chapter 10: Cross-Border Trade in Services](#)
- [Chapter 11: Financial Services](#)
- [Chapter 12: Temporary Entry for Business Persons](#)
- [Chapter 13: Telecommunications](#)
- [Chapter 14: Electronic Commerce](#)
- [Chapter 15: Government Procurement](#)

# WHAT IS TPP?

- [Chapter 16: Competition](#)
- [Chapter 17: State-Owned Enterprises and Designated Monopolies](#)
- [Chapter 18: Intellectual Property](#)
- [Chapter 19: Labour](#)
- [Chapter 20: Environment](#)
- [Chapter 21: Cooperation and Capacity Building](#)
- [Chapter 22: Competitiveness and Business Facilitation](#)
- [Chapter 23: Development](#)
- [Chapter 24: Small and Medium-sized Businesses](#)
- [Chapter 25: Regulatory Coherence](#)
- [Chapter 26: Transparency and Anti-Corruption](#)
- [Chapter 27: Administrative and Institutional Provisions](#)
- [Chapter 28: Dispute Settlement](#)
- [Chapter 29: Exceptions](#)
- [Chapter 30: Final Provisions](#)

# Effects of TPP on Member Countries

- **Increased Annual Exports**
  - Reduced tariff = more exporters can sell their products in wide scope of market
- **Increased Annual Imports**
  - Reduced duty = more consumers can buy imported goods
- **Increased GDP**
  - Increased incomes from export and import would redound to the economy

# Effects of TPP on Taxation

- Variables for computing certain national taxes will be higher.
  - Value-added tax
    - Due to comprehensive access of the import market, goods to be imposed with VAT is increased.
  - Income tax
    - Exporting a lot of goods, can increase an individual or domestic corporation's income
- Higher **income** = higher **revenue** for the government

## PH's response to these effects

- These high variables could entail **lower tax rates**
  - Income tax
  - Value-added tax
- Value-added tax on local products can be **eliminated or reduced**

# TPP provisions which affects PH Tax Laws and Regulations

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- National Treatment in accordance with Article III of GATT 1994
  - Elimination of Customs Duties
    - Waiver of Customs Duties
      - Import and Export Restriction

# What should PH do?

- **Total revamp** of the TCC in order to comply with the TPP Agreement.
  - Custom duties
  - Import tariff
  - Export tax
  - Flexible Clause
- No payment of fees rendered for **indirect protection** of a good



# **TRANS-PACIFIC PARTNERSHIP (TPP)**

**NEXT STEPS FOR THE PHILIPPINES:**

**STRATEGY AND REFORM**



END OF PRESENTATION  
**THANK YOU!**

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