Canada and BEPS: A Progress Report

The author considers how the OECD’s BEPS project may relate to the Canadian government’s 2015 federal budget. He also looks into Canada’s evolving tax policy in relation to issues commonly associated with BEPS, even in the absence of specific Canadian tax law responses, so far, to BEPS.

1. Canada in the Global Community

Canada long has been an active contributor to the work of the OECD on tax matters, and is represented on the OECD’s Committee on Fiscal Affairs. Even before the formal beginning of the OECD/G20 project to address base erosion and profit shifting (BEPS), a senior official of the Canada Revenue Agency has led Working Party 6, which deals with transfer pricing. During that period, the OECD has directed considerable attention and resources to reconditioning its Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations dealing with intangibles; not surprisingly, many dimensions of the BEPS project concern transfer pricing. Canada is a member of the G20 and the G7.

In this light, it would hardly be surprising that Canada has considered and informed views on BEPS, including how Canada should respond to observations by the OECD in the course of its BEPS work that reflect a developing convergence among nations about how to address the economic, fiscal and tax effects of private and tax law regimes that are not homogeneous, may not mesh well and, perhaps most importantly, are not systematically coordinated. Even more, countries may not necessarily have common economic and related tax interests as each responds, even apart from BEPS as such, to the effects of prevailing economic conditions on its ability to advance its own economic and social welfare interests through the “best” use of its resources – including fiscal resources. Canada, like any other country, reasonably can be expected to evaluate its interests from time to time as it observes how various dynamic economic and fiscal forces particularly important to its economic prospects, and its economic citizens – taxpayers – response to them, affect its budgetary prospects.

The narrow focus for this commentary is the connection between Canada’s latest (2015) budget1 and BEPS. The short observation is that there is very little to say about any specific relation, because there is none – at least none that has been concluded or announced. However, that is not necessarily the end of things. There are clear and persistent indications that Canadian tax policy and legislation continually respond to issues that, most currently, are seen as BEPS issues. Where Canada may go is, then, possibly to be inferred from where Canada has been. This commentary makes the brief allusions to BEPS in the recent Canadian federal budget as a point of departure for drawing attention to how, in any event and even before the BEPS project, there are indications in Canada’s legislative experiences and its evolving tax policy of Canada’s responding, in relation to Canada’s particular circumstances and interests, to BEPS issues, even if it may seem that Canada is not reacting directly to the BEPS project.

2. Canadian Budgetary Context

Canada’s form of government is a parliamentary democracy. The government’s fiscal year ends on 31 March. Usually in the spring of each calendar year, the government presents the budget for its upcoming year to Parliament; the budget includes supplementary information and often specific proposals on tax matters, some of a “technical” nature and others to address perceived inadequacies in the tax system that have become evident through observed tax planning practices. Shortly after the budget is presented, the government tables its proposals for tax legislation in the House of Commons, in the form of a Notice of Ways and Means Motion; subsequently, a bill containing specific legislation which, after study by Parliamentary Committees (of the House of Commons and the Senate), would become law upon approval by the House of Commons and the Senate and the granting of Royal Assent by the Governor General of Canada. Not infrequently, supplementary materials tabled with the budget identify certain areas of “large” fiscal and tax policy significance for study and consultation; even if proposed legislation is included, it is subject to modification through, and as result of, the study.

Canada’s most evident awareness and approach to BEPS are reflected in supplementary materials tabled with both the 2014 and 2015 federal budgets. Areas selected for study, as reflected in the supplementary materials, tend to be harbingers of how the current government may be expected to develop and set priorities for tax policy in light of prevailing and predicted economic, social policy, fiscal and tax policy forces and related influences.

It is important to understand the process by which budgets presented by the government foreshadow tax policy developments, in light of the present state of the Canadian government. A feature of Canada’s form of government is that legislative measures that have not been enacted in a legislative session are customarily enacted in the following session. They tend generally to have legal effect from the date on which they are first presented in a budget (absent a...
specific alternative effective date) – even though not actu-
ally enacted until later –, following the ordinary course of
the legislative business of the government, and are also
customarily re-presented to new parliamentary sessions
if the session in which they were originally presented dis-
solves. Commonly, for measures that were introduced and
meant to be relied upon as nascent legislation, this would
be the expectation, even if there were a complete change of
government after an election; that is, in this regard the con-
tinuing business of government, which would be and has
been specifically relied upon, generally would be expected
to be completed.

Canada is currently in a unique position, which may affect
pending legislation but, as of yet, has not affected enacted
legislation and continuing consultations on tax policy
matters (including BEPS). On 19 October 2015, Canada’s
Conservative-majority government was defeated; the
Liberal party, led by new Prime Minister Justin Trudeau,
owned a majority mandate, has formed a new government
and has recently convened Parliament to pursue its policy
priorities and legislative programme. It is too early to
know – even to speculate – how BEPS-oriented initiatives
pursued by the previous government will fare.

To the extent that BEPS deals with the administration of
the existing tax system according to extant tax policy and
legislation, it would be surprising if the change in gov-
ernment were to change the course along which Cana-
dian tax and finance officials have so far addressed BEPS.
On the other hand, to the extent that the implementa-
tion of BEPS initiatives would require legislative change
and economic, fiscal and tax policy decisions to be made
concerning Canada’s over-arching economic position,
ongoing study of BEPS anticipated in both the 2014 and
2015 federal budgets could, conceivably, be affected by the
government change. This high level commentary seeks to
navigate these possibilities, with the benefit of clues from
ongoing changes to the Canadian tax system which, in
qualitative terms, have BEPS features.

Many of the BEPS recommendations published by the
OECD on 5 October 20152 and embraced by the G20
Finance Ministers at their meeting later that week in Lima,
Peru, on 8 October, concern improvements to ongoing tax
administration or anticipate the possibility of legal change
to enhance international fiscal harmony, even without har-
monization of countries’ laws. On that basis and to the
extent seen as in line with prevailing Canadian tax policy,
it would not be surprising if Canada’s new government
were to pursue legislative and tax policy initiatives devel-
oped by its predecessor, notably as set out in the previous
government’s 2014 and 2015 budgets. But at the moment,
this remains speculation. These comments proceed on the
basis that the new government will continue to address
BEPS; more significantly perhaps – as these comments
note – “whether” Canada will or should respond to BEPS
will be considered directionally by how Canada has
already addressed many of the BEPS issues, in all of the

Actions, as Canada’s tax policy and legislation have been
rebalanced to respond to economic and commercial influ-
ences on the effectiveness of Canadian tax law.

3. Canadian Budgetary Initiatives

Canada’s direct attention to BEPS reaches back to the
summer of 2013, and is also reflected in several targeted
budgetary items announced in 2014 and 2015.

In the late summer of 2013, Canada initiated a consulta-
tion about what is casually referred to as “treaty shopping”.
There was a clear connection to aspects of the BEPS project
concerning perceived tax treaty abuse and other propos-
als to refine how treaties should apply. This consultation
became manifest in specific proposals – including “anti-
conduit” and “principal purpose” rules – presented in the
government’s 2014 federal budget. By the late summer of
2014, this initiative had been suspended to await the
results of the OECD’s ongoing work on treaty abuse, for
possible reconsideration in light of final BEPS recommenda-
tions.3

Not surprisingly, perhaps, the government has not yet
rekindled its consideration of treaty shopping. The OECD’s
completed BEPS study has only just been published. It is
not clear into what direction Canadian treaty policy will
move. No doubt, Canada’s response will take into account
that at present, it has entered into 92 tax treaties and a
considerable number of tax information exchange agree-
ments. Those treaties are substantially similar, influenced
considerably by, and modelled on, the OECD Model Tax
Convention on Income and on Capital (OECD Model),
but also reflecting aspects of the UN Model Tax Conven-
tion.

Taking account of the reach of Canadian trade, which is
served by the allocation of taxing rights under treaties, it is
not entirely clear what elements of perceived treaty abuse
are, in fact, problematic for Canada’s international tax rela-
tions. Even though the Canada–United States income tax
treaty now includes in article XXIX-A a reciprocal limita-
tion on benefits rule, it seems to have been Canada’s histor-
ical view, reflected also in the general anti-avoidance rule
in section 245 of the Income Tax Act (ITA), that anti-abuse
limitations are inherent in treaties, including tax treaties as
a matter of customary public international law. A general-
ized anti-tax avoidance orientation in Canadian tax treaty
policy is also reflected in the limitation on benefits article,
in article XXIX-A(7) which may both insinuate the applica-
tion of Canada’s general anti-avoidance rule in section
245 of the ITA and capture implied limitations on the appli-
cation of treaties where undue tax avoidance is consid-
ered to have been fostered, inconsistent with the notion
of treaties as the OECD explains it in the Commentary on

3. See the August 2013 consultation document and responses to it on the
Department of Finance Canada’s website, including a submission by
J. Scott Wilkie available at, respectively, http://www.fin.gc.ca/activity/
asp. See also CA: The Road to Balance: Creating Jobs and Opportunities
(11 February 2014), at 349–357; and CA: Department of Finance Release,
Department of Finance Canada Consults on Draft Tax Legislation (29 Aug.
2014).
Article 1 of the OECD Model. That OECD Commentary is notably consistent with the approach taken by the OECD in addressing various aspects of perceived treaty abuse in the context of Actions 5 (harmful tax practices), 6 (granting of treaty benefits in inappropriate circumstances) and 7 (artificial avoidance of permanent establishment status).

The final reports on BEPS Actions 5, 6 and 7 concerning treaties particularly, and Actions 8 through 10 concerning transfer pricing, but – more broadly – value creation, contain recommendations that may be seen as consistent not only with Canada’s historical outlook on treaty abuse, but also with specific detailed initiatives offered as part of the 2014 budget and the scoping paper published by the Department of Finance in 2013. These concerned, among other things, disregarding intermediate entities that were not engaged in meaningful business endeavours with their own resources, through anti-conduit and principal-purpose treaty limitations.

In the 2014 budget, seemingly unconnected to BEPS but quite clearly focused on a statutory provision that may have become unwieldy, the government proposed to study a substantial reconditioning of the system in the ITA for dealing with eligible capital property, which may comprise expenditures on various intangibles that otherwise are not property in the strict legal sense. Proposed for consideration was a single category of such property which would replace a highly technical and somewhat arcane system; for domestic tax purposes, manifestations of know-how and show-how would be hosted by a streamlined statutory tax provision that, it is imagined, might be less affected by private law notions of ‘property’, contractual relations and the means by which relevant transfers would be considered to take place for tax purposes. It is interesting to speculate as to whether it is a coincidence that this is occurring contemporaneously with the OECD’s comprehensive examination of intangibles and, particularly, how tax systems should deal with soft intangibles.

In the same budget, the government moreover proposed broad study of tax planning by international businesses, evidently to be oriented around BEPS subjects. Notably, in the context of BEPS, the government committed to inquire about particular questions associated with BEPS, “to protect the Canadian tax base, while maintaining an internationally competitive tax system that is attractive for investment”.

It is telling that one of the questions anticipated whether, to what extent and how Canada should participate in multilateral initiatives aimed at base erosion: “Would concerns about maintaining Canada’s competitive tax system be alleviated by coordinated multilateral implementation of base protection measures?” This, of course, is the difficult balance that countries continually face, with or without BEPS as a catalyst, as they evaluate their tax and related economic and fiscal policies, and resources, notably, no doubt, in relation to those of other countries with which they have trading and commercial relations.

Indications in the 2015 budget suggest that those consultations with interested parties have taken place.

The 2015 budget proposed to continue studying the revision of tax rules dealing with eligible capital property, and – taking account of consultations until then – in the BEPS context, “tax planning by multinational enterprises”. Notably, the government of that time, said that it: will proceed […] in a manner that balances tax integrity and fairness with the competitiveness of Canada’s tax system. Improving business tax fairness and competitiveness has been a central element of the Government’s approach to fostering an environment in which businesses can thrive and compete in a global economy. Taxes are one of the main factors that drive investment decisions and the Government is committed to maintaining Canada’s advantage as an attractive destination for business investment.

Canada already offers relative low corporate tax rates, both headline rates and effective rates, taking into account various deductions and credits that offer support for industrial economic development, for example in primary resource industries and for scientific research and development. Canada’s “foreign affiliate” (CFC) system is in the nature of a territorial system, according to which foreign business income earned by ‘foreign affiliates’ of Canadian corporate taxpayers is not taxed, while certain charges associated with earning it are deductible in computing Canadian domestic income of the foreign affiliates’ shareholders. Canada’s treaty system has largely developed since adoption in the early to mid-1970s of Canada’s modern CFC regime, possibly to foster – as it has been observed – access to the scope of Canada’s salutary foreign affiliate system. In short, the tax system continues to function as an element of Canada’s global economic strategy. Despite the change in Canadian government, it would be surprising if the economic interests faced and to some extent as framed by the previous government were not to influence the course of the new government as it crafts its own responses and priorities.

The 2015 Federal Budget restated the government’s commitment to the common reporting standard for the automatic exchange of information concerning non-residents that are not Canadian citizens. The government stated: “Canada proposes to implement the common reporting standard starting on July 1, 2017, allowing a first exchange of information in 2018”. It is evident, however, in the government’s commitment to information exchange, that it is mindful of the main features of long-standing treaty commitments for the exchange of information, including as reflected in the OECD Convention on Mutual Administrative Assistance in Tax Matters, of which Canada was an early signatory and which it ratified (as to information exchange but not the other aspects dealing with collection

4. The Road to Balance: Creating Jobs and Opportunities, supra n. 3, at 347, 348.
5. The Road to Balance: Creating Jobs and Opportunities, supra n. 3, at 348.
7. Supra n. 1, Tax Measures, Supplementary Information, “Update on Tax Planning by Multinational Enterprises”, at 471, 472.
9. Supra n. 1, Tax Measures, Supplementary Information, at 472, 473.
and reporting) in 2015. The government said, in a way that would seem to be agnostic to its identity, that:

[a]s of the implementation date, financial institutions will be expected to have procedures in place to identify accounts held by residents of any country other than Canada and to report the required information to the Canada Revenue Agency. As the Canada Revenue Agency formalizes exchange arrangements with other jurisdictions, having been satisfied that each jurisdiction has appropriate capacity and safeguards in place, the information will begin to be exchanged on a reciprocal, bilateral basis. As noted, Canada has entered into many tax treaties and tax information exchange agreements on more or less consistent terms, and has ratified the OECD Convention on Mutual Administrative Assistance in Tax Matters. Canada has also responded – not without controversy – to the initiatives by the United States to enforce that country’s Foreign Account Tax Compliance Act (FATCA), by entering into an intergovernmental agreement with the United States ostensibly pursuant to the Canada–United States Income Tax Convention and enacting bespoke Canadian tax legislation (Part XVIII of the ITA) applicable to financial institutions in order to give effect to its bilateral commitment with the United States for information exchange. This is an example of how Canada is advanced in areas touching BEPS, including – in this case – Actions 13 (tax reporting) and 15 (multilateral instrument) concerning information exchange and multilateral treaty commitments. Indeed, it might be said that a country like Canada that has entered into so many treaties with like terms, has already constructively fashioned a multilateral treaty through typical channels and means even though those treaty commitments might be enhanced to take account of changing tax policy and patterns of taxpayer behaviour.

4. The Current State of Play

Recent Canadian budgets have reflected some sensitivity to the effects of the BEPS project. As a responsible member of the global community and an adherent to the BEPS recommendations (Canada has not expressed any reservations or observations on what the OECD announced on 5 October 2015), it is reasonable to expect that Canada will have an eye on the BEPS recommendations as it monitors and reviews tax policy and tax legislation with Canada’s economic place in the world in mind. There are few specific indications of how the Canadian government and officials of the Department of Finance are undertaking this review, and there is no announced outcome of the BEPS-related study and consultation on which the government commented in supplementary budget information as part of the 2014 and 2015 federal budgets.

But are there other ways to anticipate or infer what Canada may do? Despite robust BEPS reports and substantial insight contained therein as to international tax policy and inter-nation tax relations, would it be a constructive response, in Canada’s case, possibly to do very little – at least for now? Are there clues as to what Canada may do that can be found in how Canada continues to monitor and develop its tax system even recently, apart from BEPS? Could it be said that even before or – in any event – despite or in parallel to BEPS, Canada has been attentive to BEPS (or, at least, BEPS-like) concerns, and that it has continued to address, in the 2015 federal budget, albeit possibly broadly or directionally, base erosion and income diversion vulnerability in the Canadian tax system, as experience and Canada’s economic, fiscal and tax compliance interests reveal? Can Canada’s response be seen, for example, through enhanced and more specific anti-base erosion limitations for insurance swaps in the foreign affiliate rules and anti-hybrid transaction rules for synthetic equity arrangements that displace economic ownership of securities by tax-indifferent investors (notably, non-residents)? These are not specific responses to Action 2 (interest) or 4 (hybrids), but the concerns addressed and the directional tendency of the responses are coherent with Canada’s tax policy interests and directionally parallel to the analysis and recommendations in those Actions.

Any speculation about how Canada may respond to BEPS, through consultations that have already been undertaken or new responses to the recently published BEPS reports, may be informed by Canada’s recent legislative responses to various international developments. This offers insight into what more Canada may decide it needs to do – if anything – to reinforce prevailing tax policy and legislative developments taken, no doubt, in Canada’s fiscal interests, but also reflecting broader international tendencies. In some manner or other, these touch all of the BEPS Actions.

In fact, there is notable broad consistency between various recommendations in the BEPS reports and ongoing Canadian tax policy thinking already implemented in Canadian tax law. Canada has enacted or has pending – quite apart from BEPS as such – provisions to deal with:

- interest, through tightened thin capitalization, directed interest income, constructive dividend withholding tax and foreign affiliate dumping – Actions 2 (interest), 3 (CFCs), 4 (hybrids) and 5 (harmful tax practices):

10. OECD, Convention on Mutual Administrative Assistance in Tax Matters, notably ch. III, sec. 1 and ch. IV.
11. Supra n. 12, Tax Measures, Supplementary Information, at 473.
13. Sec. 212(3.1)-(3.4) ITA.
14. Sec. 112(2.3)-(2.34) and 248(1) ITA, “synthetic equity arrangement”, as proposed.
15. See J.S. Wilkie, “Waiting for ‘BEPS’ … Canada Appears”, CCH Intl. Tax J 5 (Sept. –Oct. 2014), for a general discussion on parallels. The legislative references in this and the present commentary are not meant to be comprehensive but simply to indicate the sensitivity of Canadian tax policy and legislative development to BEPS issues, in ways that are broadly consistent with BEPS Action Reports recommendations.
16. Sec. 18 (4)-(8) ITA.
17. Sec. 17 ITA.
18. Sec. 212 (3.1)-(3.4) ITA.
19. Sec. 212.3 ITA. At least since 1981, Canadian initiatives to refine limitations on the deductibility of interest have met with a variety of challenges, which, apart from changes of the sort mentioned in these comments, have not resulted in broad-based limitations of this nature. Despite the recommendations in the OECD’s Action 4 report, it is not clear that legislative change in this area should be expected soon.
hybrids, including by way of legislative changes addressed to base erosion associated with foreign tax credits generated by disparities in entity classification and ownership – foreign tax credit generators –,20 hybrid entities dealt with by article IV(6) and (7) of the Canada-United States income tax treaty and hybrid transactions implemented through derivatives strategies, such as derivative forward agreements,21 synthetic disposition arrangements22 and – most recently, as proposed in the 2015 Budget – synthetic equity arrangement rules23 that, in one manner or other, counter tax results from the economic ownership of investment property through synthetic legal indirectness – Actions 2, 4 and 5; and

generalized base erosion through various legislative responses, including Canada’s CFC (foreign affiliate) rules, which contain specific anti-base erosion rules targeting, for example, cross-border charges for property and services within corporate families that reduce Canadian taxable income24 and – more recently, as part of the 2015 federal budget – income attributable to the offshore insurance of Canadian risks captured through tracking arrangements that economically swap pools of insured Canadian risks for foreign risks,25 and foreign affiliate dumping rules26 that limit appropriations of the value of foreign controlled Canadian subsidiaries through investments in foreign corporations regarding which they have no direct business connection – Actions 2, 3, 4 and 5.

As mentioned, Canada can be seen to already have constructed its own “multilateral instrument” (Action 15) through its extensive network of bilateral tax treaties and agreements with intersecting and transitive, as well as bilateral, effects. And as far as tax reporting in general, transfer pricing reporting in particular and even disclosure of aggressive tax planning,27 Canada has committed to a variety of specific legislative regimes and treaty obligations that manifest at least the tendencies directionally of Actions 11 (measuring BEPS), 12 (mandatory disclosure) and 13 (transfer pricing documentation, reporting and – via treaties – information sharing with other tax authorities). It could even be said that these initiatives bear hallmarks, or in any event are consistent with the objectives, of country-by-country reporting. No doubt, without the OECD’s country-by-country reporting regime in place, achieving a similar objective through bilateral treaty information exchange is likely to be more cumbersome. But, regarding the objectives served by information exchange, Canada’s commitment is, it seems, clear even if – not unlike a number of BEPS initiatives – it would be decided that specific tax legislation would be required, or would at least be desirable, to implement country-by-country reporting.

Also as noted, Canada has been attentive to the general application of tax treaties as the circumstances to which they relate change and, indeed, as questions arise of the sort contemplated in Actions 4, 6 and 7 about the desirable reach of tax treaties. For example, Canada has considered including factors associated with the avoidance of permanent establishment status (Action 7) as reflected in the adoption in the Canada-United States income tax treaty of a “services PE” in article V(9) of that treaty. Furthermore, in the 1990s and culminating in a 1998 report,28 the Canadian tax authorities undertook a comprehensive review of the tax effects of electronic commerce, specifically addressing questions about what it meant to carry on business in a place and how the notion of permanent establishment should be interpreted. Actions 1 (digital economy), 5, 6 and 7, and indeed Actions 8 through 10 which, although dedicated to transfer pricing, fundamentally concern establishing the “source” of income, reflect an underlying inquiry about the significance of organizational forms and contracts in a manner consistent with Canada’s earlier work on e-commerce. Canada is even a pioneer of sorts as regards dispute resolution (Action 14), having adopted arbitration as part of the mutual agreement procedure framed by the Canada-United States and Canada-United Kingdom income tax treaties.29

5. Conclusion

Recent Canadian budgets reflect sensitivity to BEPS – to base erosion and profit shifting as economic, fiscal and tax policy issues and to BEPS writ large by the OECD and G20. There is nothing else specific and recent, however, to point to, as such, that necessarily connects Canadian budget or legislative initiatives to BEPS. Not surprisingly, Canada has not yet reacted legislatively to BEPS as such or offered very much insight, so far, on the extent to which legal changes should be expected, although it is foreseeable that specific legislative provisions seemingly would be considered necessary to implement “country-by-country” reporting. However, Canada’s reaction more broadly may be inferred from its unreserved OECD participation and the resulting OECD Action reports and may be anticipated in light of its evident attention, already in ongoing legislation, to issues commonly thought of as BEPS issues as they have arisen to attract tax policy intervention.

20. Sec. 126(4.11)-(4.13) (for direct foreign tax credit) and 91(4.1)-(4.7) (in the foreign affiliate regime) ITA, in both cases relying on and effectively importing, for Canadian tax purposes, the foreign legal treatment of arrangements.

21. Sec. 12(1)(x.7) and 248(1) ITA (forward derivative agreement).

22. Secs. 80.6 and 248(1) ITA (synthetic disposition arrangement).


24. Sec. 95(2)(a.1)-(a.4), 95(2)(b) and 95(3) ITA.

25. Supra n. 12.

26. Sec. 212.3 ITA.

27. Sec. 237.3 (dealing with reportable transactions) ITA, in the context more generally of obligations to report tax shelters in sec. 237.1 and, in a broader context, of particular reporting obligations association with transactions with non-residents in secs. 233.1 to 233.6.

28. C.A. Electronic Commerce and Canada’s Tax Administration: A Report to the Minister of National Revenue from the Minister’s Advisory Committee on Electronic Commerce (Apr. 1998), in particular secs. 4.2 and 6.3.

29. Canada is also an adherent to the OECD’s Manual on Effective Mutual Agreement Procedure, and a participant in the OECD Global Forum and the specialized forum within that Forum on mutual agreement procedures.
But, looking deeper into Canada’s tax policy, there are indications – tangible indications – of how Canada perceives BEPS issues when Canada’s economic and fiscal interests are affected. These are revealed not by reports on studies and consultations noted in recent budgets, but in specific incremental legislative initiatives offering responses to Canada’s BEPS interests proportionate to Canada’s economic resources, vulnerability and prospects. Canada’s commitment to exchanging tax information, pertinent to BEPS Action 13, is also clear and may be the most obvious way in which Canada will be immediately responding to BEPS. The recent budgets, with brief comments on BEPS, may, possibly, best be seen as a point of reference to noticing Canada’s high level of BEPS awareness and, consequently, how the textures – if not the terms – of existing Canadian tax law may be evolving, with important implications for how tax law should be understood when it is applied and when compliance and reporting decisions are made.