

OECD publishes mutual agreement procedure statistics for 2021 3/50/22



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In November the OECD published the 2021 statistics for the mutual agreement procedure (MAP) covering 127 jurisdictions and practically all MAP proceedings around the world. This article explores global MAP trends in 2021, looks at Latvian statistics and analyses how last year's statistics in Latvia compare to global trends.

An overview

MAP is a means of resolving international double taxation disputes. The report on BEPS¹ Action 14 includes the jurisdictions' commitment to adopt a mandatory standard in order to ensure they resolve disputes in a timely, efficient and effective manner. All OECD/G20 Inclusive Framework BEPS members undertake to implement the Action 14 minimum standard, which includes a timely and complete reporting of MAP statistics under an agreed reporting scheme. MAP 2021 statistics are provided according to that scheme and apply to all members having joined it before 2022.

Global trends

The statistics show several positive trends. Overall, MAP proceedings completed in 2021 are 13% up on 2020, with a 22% increase in transfer pricing (TP) proceedings and a 7% increase in other proceedings. This is mainly due to the competent authorities beginning to make more use of virtual means of communication, which made communication considerably easier. In addition, an emphasis was placed on easier MAP proceedings and closer cooperation between the competent authorities, which allowed them to resolve common issues, with solutions capable of being used in several MAP proceedings simultaneously.

As part of MAP, 65% of TP proceedings were completely resolved by eliminating double taxation or agreeing on unilateral relief in 2021. According to the published statistics, only 5% of MAP proceedings that were closed in 2021 did not reach an arrangement or achieved partial assistance through MAP. An important trend in the statistics for 2020 and 2021 is that more proceedings are resolved by awarding a unilateral relief or a national legal remedy – about 20% (up from about 10% in 2019).

In 2021 some negative trends were observed as well, such as a drop in the number of new MAP proceedings. The number of newly started proceedings dropped by 3% on 2020. The drop was mainly due to a reduction of more than 10% in newly started TP proceedings, which was partly offset by the number of other proceedings, which grew by 4%. The drop in the number of new proceedings might be due to the interruption of audit activities at the early stage of the Covid-19 pandemic. As the tax authorities resume and reinforce their audit activities, the number of newly started MAP proceedings is expected to grow again in the years to come.

One of the least understood aspects of statistics is the significance of the number of cases called off by taxpayers – the proceedings in this category stood at 14% in 2020 and at 11% in 2021, a significant

increase on past years. The OECD's report on MAP statistics unfortunately does not offer more detailed comments on the situations in which MAP proceedings are called off, except for cases where a taxpayer calls off proceedings after the issue has been resolved through legal remedies in their own country.

Statistics in Latvia

In 2021, Latvia mainly showed similar trends in the number of MAP proceedings started and closed. As with other jurisdictions, the number of MAP proceedings started in Latvia shrank from ten in 2020 to six in 2021. And four out of the proceedings brought in 2021 involved TP. The OECD statistics also suggest that the number of MAP proceedings closed in 2021 grew from two in 2020 to four in 2021, but only one of those involved TP and ended with a unilateral relief being awarded.

The biggest difference between the Latvian and global statistics lies in how long MAP proceedings took to complete. In 2021 it took an average of 25 months in Latvia, which is a considerable increase compared to ten months in 2020. Such a dramatic increase significantly differs from the global trends but is understandable, given the relatively low number of MAP proceedings that may cause such statistical deviations. It is worth mentioning that the only MAP case that was closed in 2021 lasted less than two months, which is a considerably shorter period than the year before, when this process lasted slightly more than ten months.

Conclusions

The OECD's MAP statistics summary allows us to conclude that overall 2021 showed positive trends, which was reflected in the number of closed MAP proceedings and in their positive outcome. Despite the global Covid-19 pandemic in 2021, the parties concerned were able to continue MAP and make the process more efficient through virtual meetings, which accelerated the course of certain MAP proceedings. Latvia had similar trends overall. And the Latvian statistics showed that MAP may be a relatively short process and mainly bring a positive outcome for all the stakeholders.

¹The OECD project aimed at preventing tax base erosion and profit shifting