

Dbriefs Bytes Transcript

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For comments on Action 6, see [the highlighted text below](#).

BEPS

Sub-divider slide : Action 6 discussion draft

The OECD has issued another discussion draft on Action 6 (which concerns the prevention of treaty abuse).

You will remember that, as with most of the September 2014 deliverables, the Action 6 deliverable contained a number of unresolved issues.

Well, this current discussion draft is essentially a catalogue of those unresolved issues.

It doesn't provide any solutions, but it does seek to provide a fairly comprehensive list of the issues. Which, I guess, is step 1.

There are 20 issues described in the discussion draft, and these are organized into 3 groups:

The first group of issues concerns the proposed "limitation on benefits" (LOB) provision.

The second group concerns the "principal purposes test" (the PPT).

And the third group concerns other issues.

On most of the issues, the OECD is requesting public comments.

Let's look at the first group of issues, concerning the LOB provision.

Here we have 10 issues. I won't read them out – if you'd like to study the list, please hit the pause button.

However, what I find particularly interesting are:

numbers 1 and 2 in regard to collective investment vehicles (CIVs), and

number 4 (which raises the possibility of alternative LOB provisions for EU countries).

The second group of issues concerns the PPT rule.

And here we have 7 issues. Again, hit the pause button if you would like to study them.

The most interesting item is the suggestion that the application of the PPT rule should be excluded from the arbitration process. That would be a recipe for unrelieved double taxation, if you ask me.

And then we have the third group of issues – called "other".

There are 3 "other issues":

Application of the new treaty residence tie-breaker rule

Design and drafting of the rule applicable to PEs located in third States.

Proposed Commentary on the interaction between double tax treaties and domestic anti-abuse rules.

The OECD has called for public comments on this discussion draft by 9 January.

Action 6 will be discussed at a public consultation meeting in Paris on 22 January.

If you would like to obtain a copy of the discussion draft, and our Tax Alert on the topic, please go to BEPS Central.

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