



OECD's newly released MAP statistics reveal number of cases continues to rise

Global Transfer Pricing Alert 2018-029

The OECD on October 10 issued the 2017 mutual agreement procedure (MAP) statistics, which provide detailed information regarding the MAP activities of 85 OECD and G20 jurisdictions. According to the OECD, the statistics show that even though tax administrations are closing an increasing number of cases, the total number of cases in inventory continues to rise.

Background

The final report on BEPS Action 14 ([Making Dispute Resolution Mechanisms More Effective](#)) includes a commitment by jurisdictions to implement a minimum standard to ensure that they resolve treaty-related disputes in a timely, effective, and efficient manner. All 115 members of the Inclusive Framework on BEPS commit to the implementation of the Action 14 minimum standard, which includes timely and complete reporting of MAP statistics pursuant to an [agreed reporting framework](#). The 2017 MAP statistics are reported under this new framework. They cover all the members that joined the IF prior to 2018.

Total MAP Caseload

The MAP Statistics Reporting Framework makes a distinction between cases before and after January 1, 2016, which is the date in which the reporting jurisdictions committed to the implementation of the Action 14 minimum reporting standard, and between transfer pricing cases and "other cases." For jurisdictions that joined the Inclusive Framework after December 31, 2016, the distinction is made between cases

received before and after January 1 of the year when the country joined the Inclusive Framework.

With that in mind, the total number of MAP cases is as follows:

All cases ¹	2017 Start inventory	Cases started in 2017	Cases closed	End inventory
Cases received prior to 1 January 2016 or of the year of joining the BEPS Inclusive Framework	6313	0	1764	4549
Cases received on or after 1 January 2016 or of the year of joining the BEPS Inclusive Framework	1187	2076	981	2282

More specifically, the number of transfer pricing cases closed in 2017, and the ending inventory is as follows:

Transfer pricing cases ²	Start inventory	Cases started	Cases closed	End inventory
Cases received prior to 1 January 2016 or of the year of joining the BEPS Inclusive Framework	3561	0	984	2577
Cases received on or after 1 January 2016 or of the year of	576	779	251	1104

¹New cases (cases received on or after 1 January 2016 or 1 January of the year of joining the BEPS Inclusive Framework) are counted using an [agreed methodology](#) that uses a common start date and allows for reconciliation of all MAP cases between members of the Inclusive Framework thus eliminating double counting. Old cases (cases received prior to 1 January 2016 or 1 January of the year of joining the BEPS Inclusive Framework) were based on each reporting jurisdictions' own methodology without a jurisdiction by jurisdiction breakdown and the possibility of reconciliation. Aggregate reporting for old cases therefore included double counting of cases reported by two reporting jurisdictions in their respective inventory.

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Of the total number of cases in inventory – 6,831 – transfer pricing cases account for slightly more than half – 3,681. Of that total 3,681 transfer pricing cases in inventory at the end of 2017, 676 are US cases, followed closely by India with 646, Germany with 542, and France with 474.

The aggregate statistics show a decrease in the overall number of cases in MAP inventory – from 7,500 in 2016 to 6,831 in 2017 -- the OECD attributes that, in significant part, to a different counting methodology used for cases received since 2016.

The individual country data shows a decrease of inventory in about half of the reporting jurisdictions and an increase in the other half. Compared to 2016, new transfer pricing cases are up by 25 percent, and other cases by 50 percent. As a result, even a 35 percent increase in the number of cases closed has not yet prevented the aggregated global inventory from rising.

The table below lists the countries that received the most new cases in 2017:

	Cases started in 2017
Germany	582
Belgium	502
UK	344
France	336
United States	299
Luxembourg	250
Netherlands	223
Italy	206
Switzerland	169
India	136

Average time to close MAP cases

The Action 14 minimum standard requires that jurisdictions seek to resolve MAP cases within an average time frame of 24 months. According to the OECD statistics, for cases that started before 1 January 2016 or 1 January of the year a jurisdiction joined the BEPS Inclusive Framework, the average time to close a MAP transfer pricing case was 40.9 months. By comparison, for cases that started on or after 1 January 2016 or 1 January of the year the jurisdiction joined the BEPS Inclusive Framework was only 7.8 months, but this statistic may be favorably affected by the small sample of cases in this group. The average time to complete a transfer pricing case in 2017 – including both pre- and post-2106 cases -- was 30 months (the same as in 2016), and for other cases, 17 months.

Average times for case resolution varied significantly by jurisdiction, ranging from 3 to 59 months, and approximately 60 percent of the reporting jurisdictions met the 24-month goal across all cases.

MAP outcomes

Of the cases closed in 2017, agreement fully eliminating double taxation or fully resolving taxation not in accordance with a tax treaty was reached in 59 percent of cases. Unilateral relief was granted in 19 percent of all cases, and 4 percent of the cases were resolved through a domestic remedy. Only in 1 percent of the cases was there agreement that there was no taxation not in accordance with a tax treaty.

Timely filing of MAP requests

Competent authority assistance for double taxation is provided under the MAP article of the relevant tax treaty. To obtain relief from double taxation, competent authorities must be notified of the proposed transfer pricing adjustments, or a request for MAP assistance must be filed, within the time frames specified under tax treaties. Failure to make the appropriate filings can result in the tax authorities denying the taxpayer's request for competent authority relief to eliminate double taxation. For a more detailed discussion of the deadlines to preserve taxpayer rights to request competent authority assistance to relieve double taxation, see [Global Transfer Pricing Alert 17-045](#).

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