Deloitte.

Anticipating BEPS
India impact
Survey Results

December 2015

BEPS – An industry perspective of the anticipated India impact

The Base Erosion and Profit Shifting (BEPS) project of the Organization for Economic Co-operation and Development (OECD) is recently in spotlight of the international tax community. It is expected that the BEPS project will have significant impact on Multinational Enterprises (MNEs).

As a member of the G20 and an active participant in the BEPS project, India is committed to the BEPS project outcome and its implementation. Indian authorities believe that structural changes and mechanisms may need to be adopted as the BEPS project will result in an increased flow of information and exchange of information under treaties. As a result companies operating in India will also need to prepare for the BEPS impact in India.

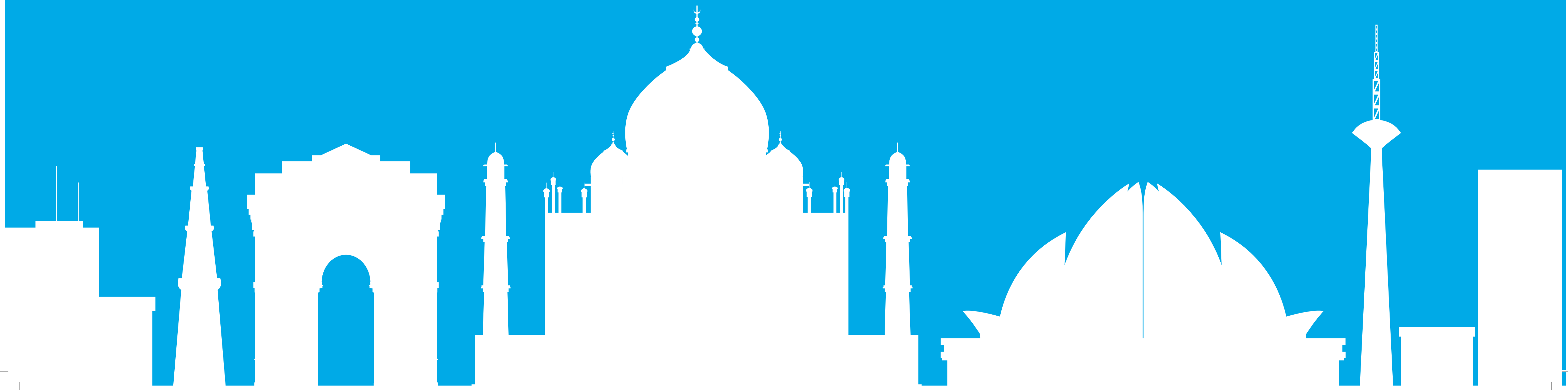
In 2014, Deloitte conducted its first global OECD BEPS survey to gauge the views of multinational companies regarding BEPS and the expected resulting impact on their organisations. In 2015, a follow-up global survey was conducted to understand how client's views on the tax landscape have evolved due to BEPS.

In this scenario, it is necessary to understand the industry perspective of the anticipated impact of the BEPS project in India. This survey 'Anticipating BEPS India impact' reflects Indian industry's response to the BEPS project and it's preparedness for the changes that potential domestic implementation will bring.

The responses under this survey have also been analysed and compared in light of the Deloitte global survey results.

Content

Survey Respondents



Survey Respondents

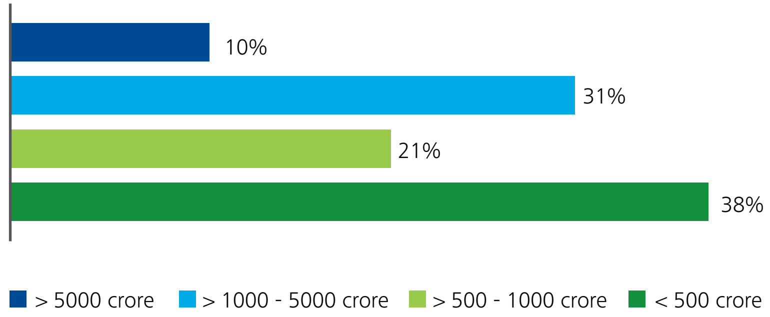
Headquarter location

41% India

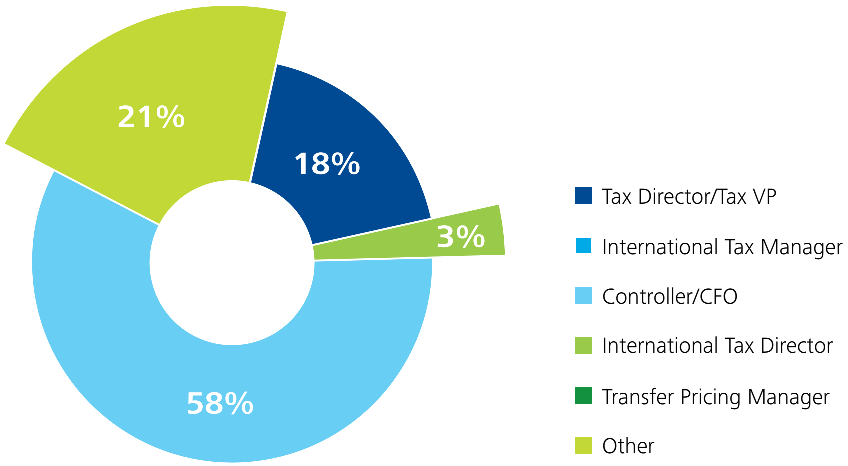
59% Rest of the word

This India specific BEPS survey was conducted with a target audience of tax executives from multinational companies.

Size of Indian operations

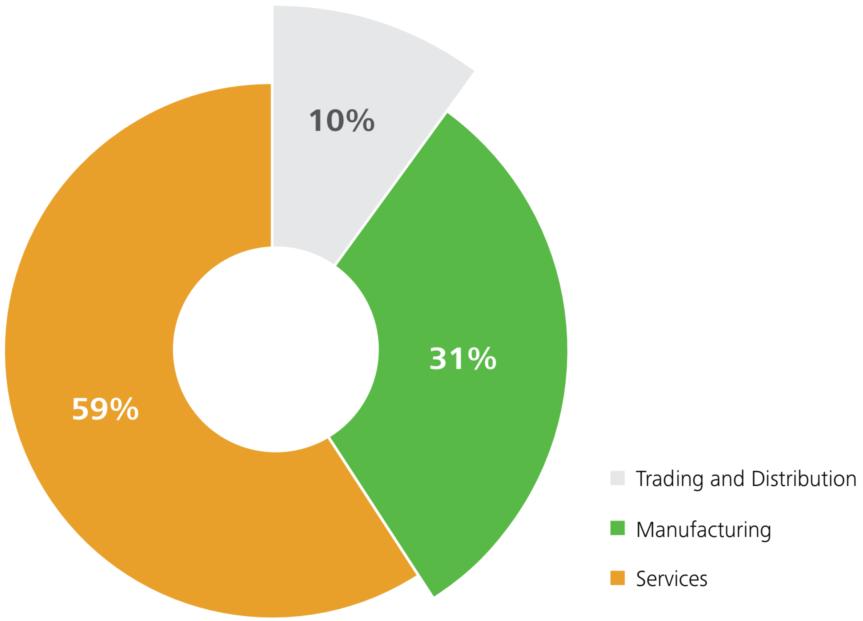


Role/Title

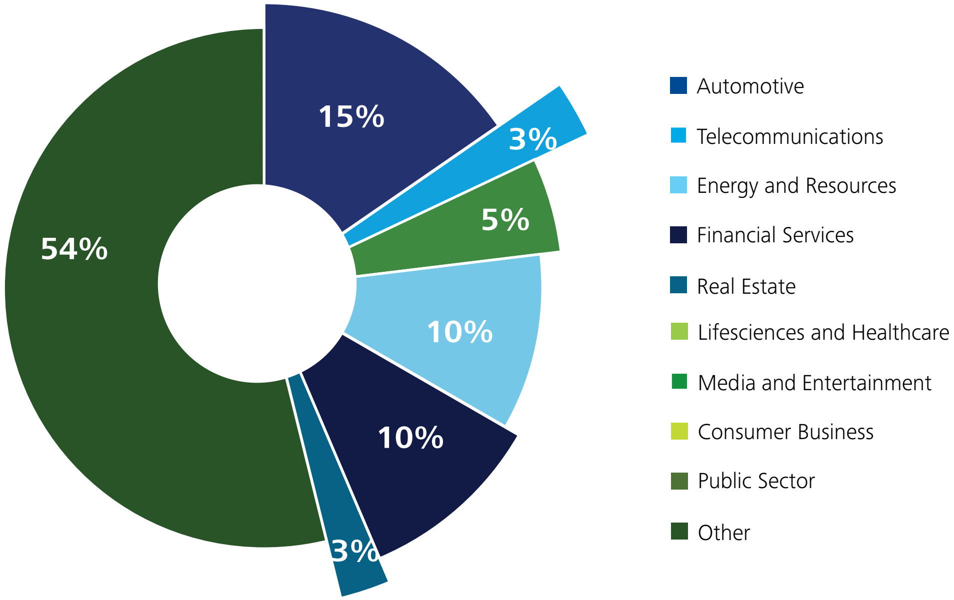


Survey Respondents

Core Business in India



Industry of operations



The targeted audience was characterized into three core businesses and further split into specific industries to get an overall industry perspective.

Survey Results

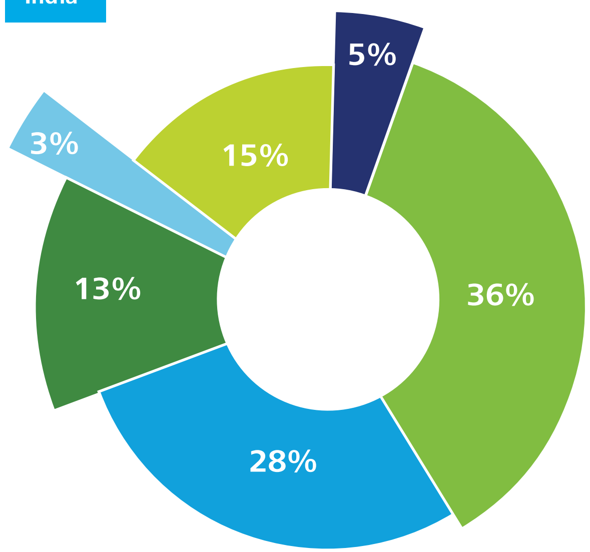
Overall environment

Question 1

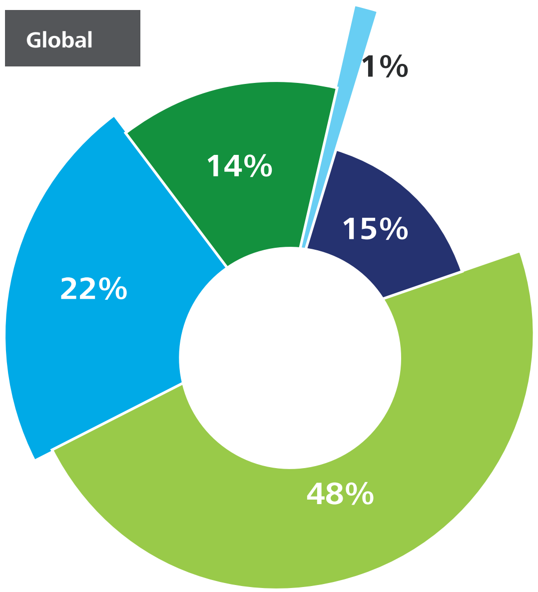
In India more than 40% agree or strongly agree that the C-suite and/or Board of Directors of their organization have inquired about the impact/increased risk for the Company, if any, due to BEPS.

Globally more than 60% agree or strongly agree that the C-suite and/or Board of Directors of their organization have inquired about the increased media and political activist group interest in tax.

India



Global



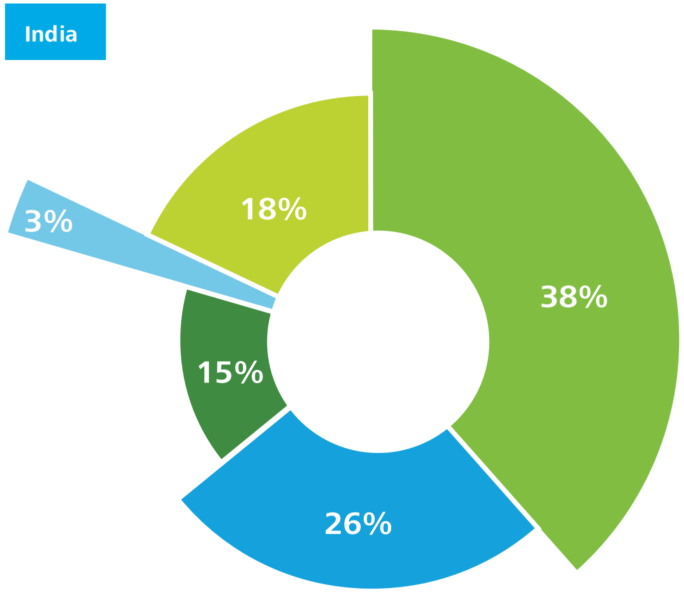
Strongly agree | Neither agree or disagree | Strongly disagree | Agree | Disagree | N/A

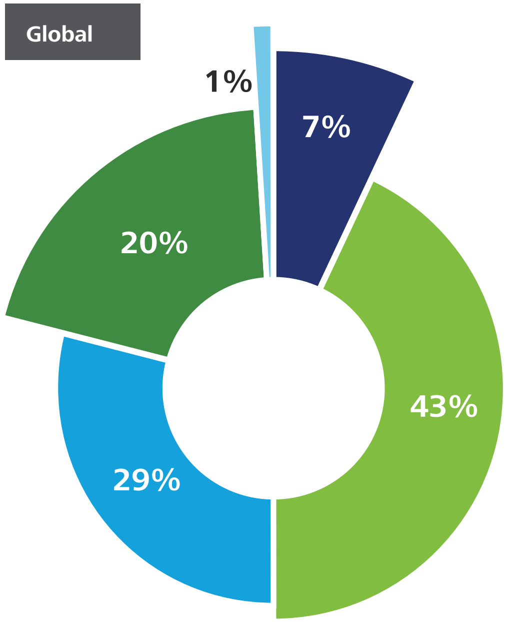
Insight

These statistics are not surprising; tax is high on the agenda of the top management of many companies.

Question 2

In India 38% and globally 50% agree or strongly agree that their organization has developed additional corporate policies and procedures in response to the anticipated increase in scrutiny due to BEPS.





Strongly agree | Neither agree or disagree | Strongly disagree | Agree | Disagree | N/A

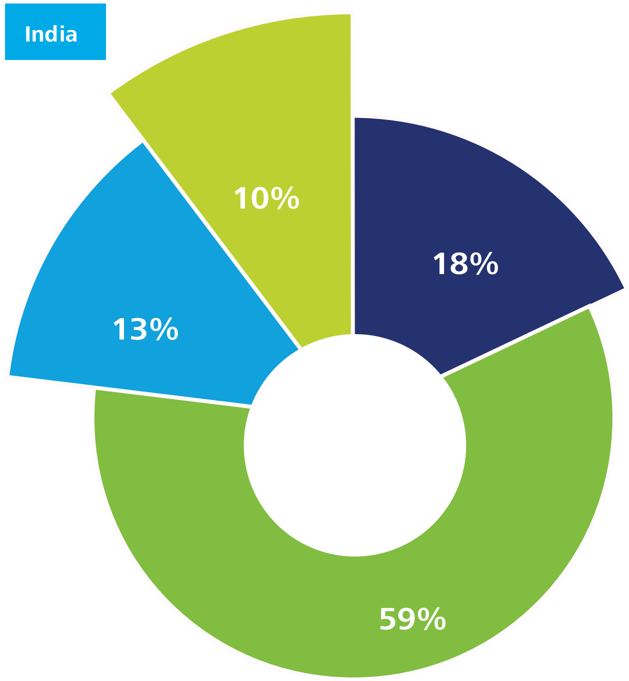
Insight

These percentages are lower than anticipated as the level of concern about increased scrutiny of taxation due to BEPS is quite high both in India and globally.

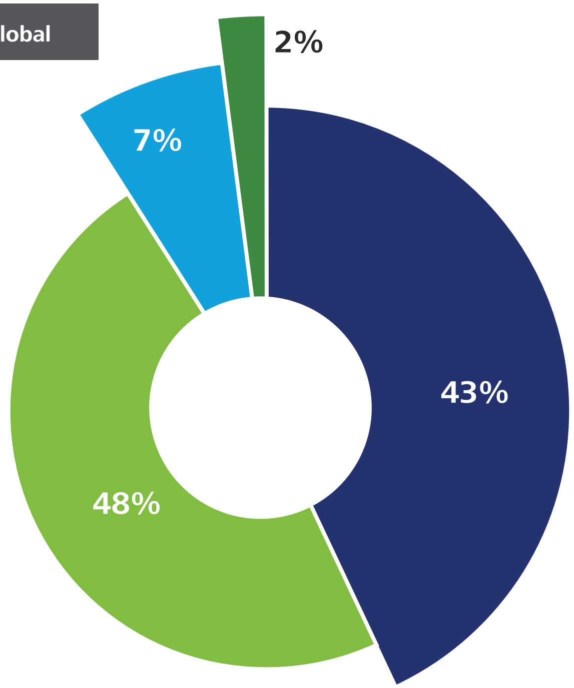
Question 3

In India 76% and globally 91% believe that tax structures implemented today are under greater scrutiny by tax administrations due to BEPS, than they would have been a year ago.

India



Global



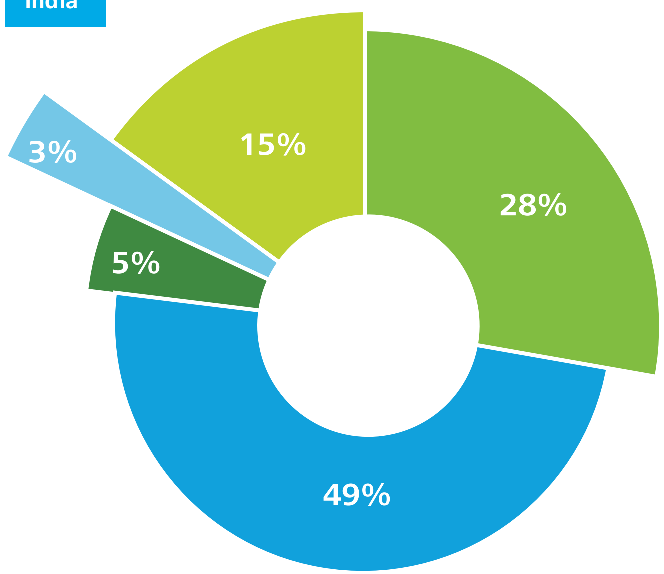
■ Strongly agree ■ Neither agree or disagree ■ Strongly disagree ■ Agree ■ Disagree ■ N/A

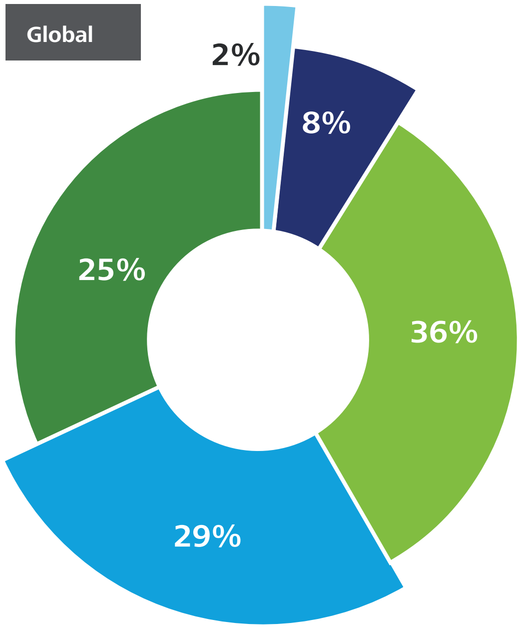
Insight

Given the focus on transparency and consistency, the universal expectation of greater scrutiny by tax administrations globally, is not unfounded.

Question 4

Only 28% in India and 44% globally agree or strongly agree their business has changed the way they conduct tax planning for cross-border transactions as a result of proposed changes from the BEPS project.





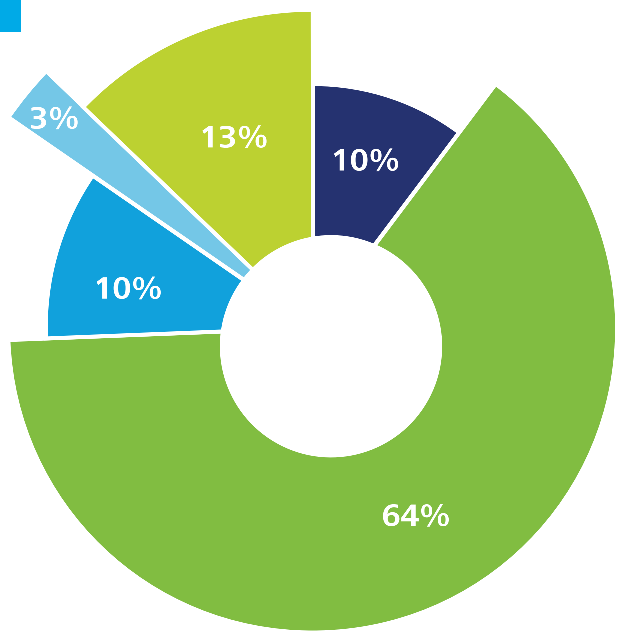
Strongly agree | Neither agree or disagree | Strongly disagree | Agree | Disagree | N/A

Insight 27% of businesses in India have already changed the way they conduct their tax planning even though the majority of changes as a result of BEPS are yet to come into force. Businesses may be waiting to see how the BEPS recommendations are incorporated in the Indian legislation.

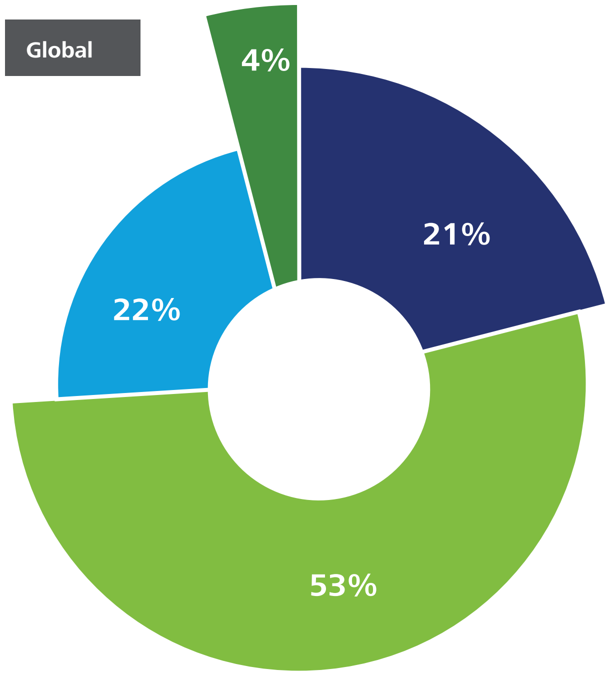
Question 5

In India and globally 74% agree or strongly agree that reputational risks are of much greater concern when executing cross-border tax planning, due to BEPS.

India



Global

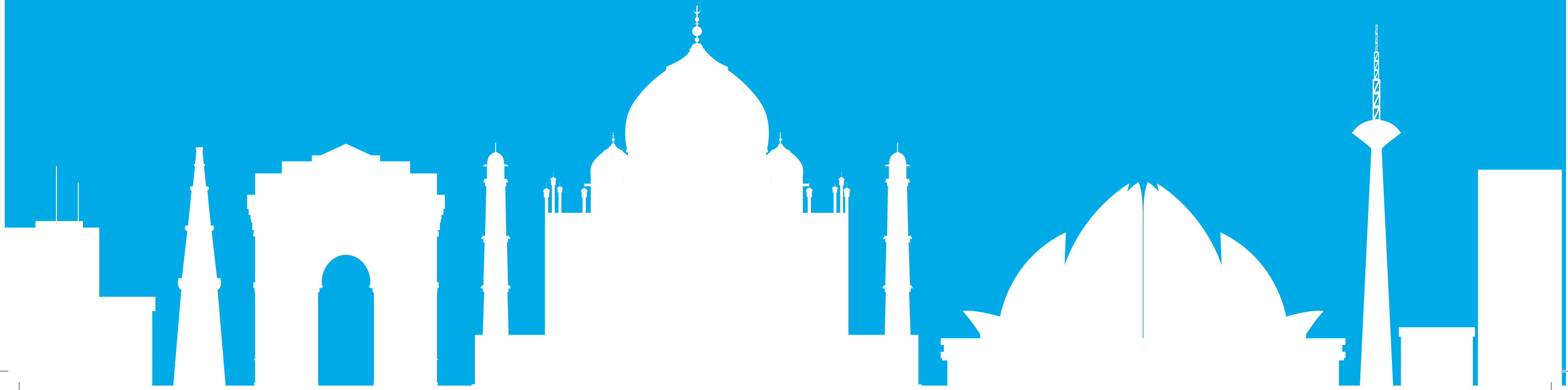


Strongly agree | Neither agree or disagree | Strongly disagree | Agree | Disagree | N/A

Insight

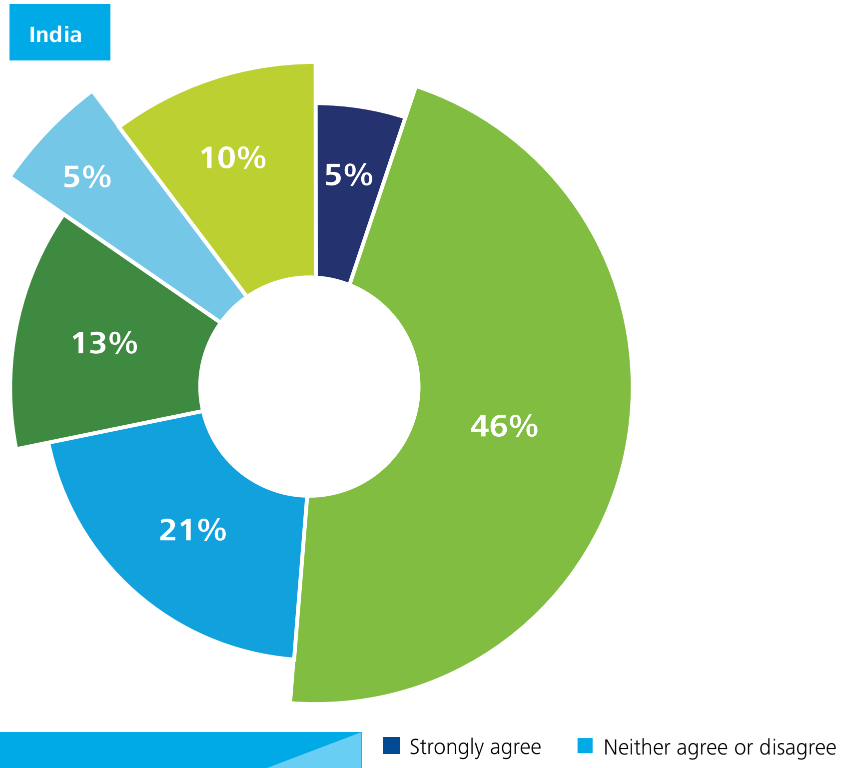
Given the focus on corporate social responsibility and the continued media coverage of high profile cases in international tax planning, this result is not surprising.

Impact of actions



Question 6

51% in India agree or strongly agree that their organization has assessed the potential BEPS impact of changes related to implementation of CBC and Transfer Pricing Documentation.



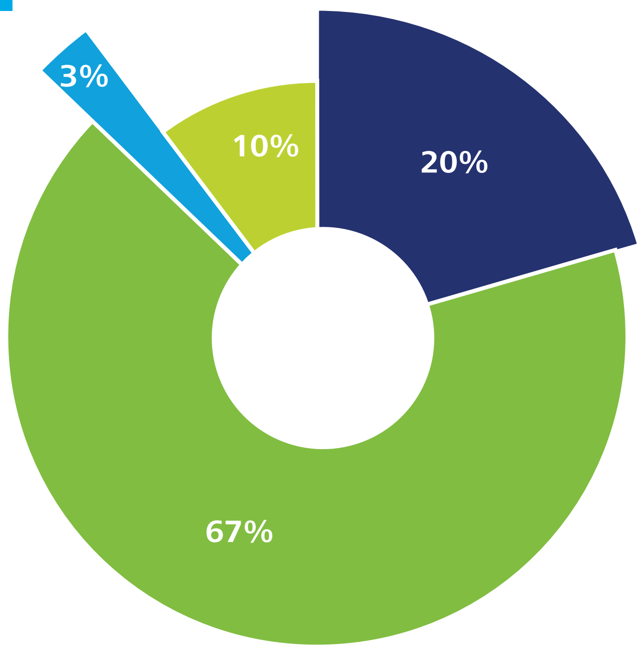
Insight

Changes due to CbC reporting will significantly impact the manner in which MNEs comply with documentation requirements, thus need for readiness is not surprising.

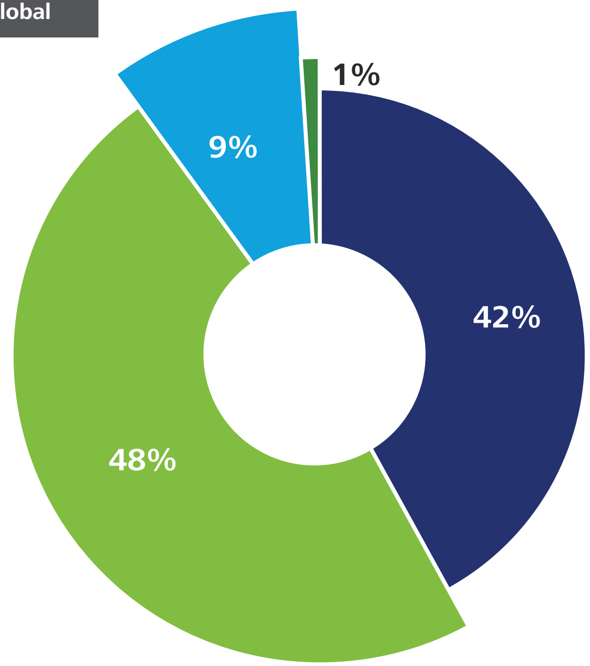
Question 7

In India and globally more than 85% agree or strongly agree that the corporate tax and transfer pricing compliance burden will substantially increase as a result of additional reporting from the OECD BEPS recommendations.

India



Global



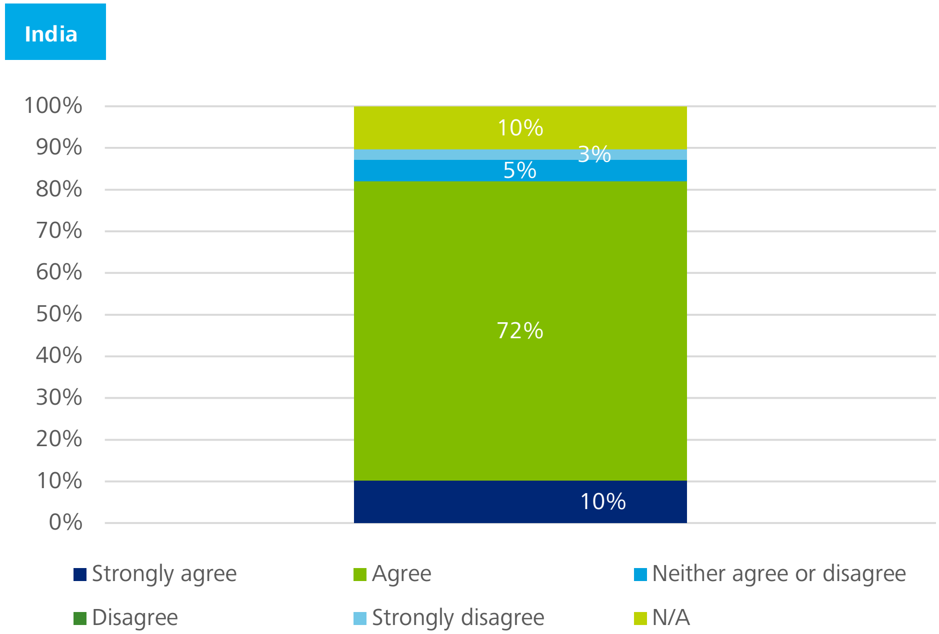
Strongly agree | Neither agree or disagree | Strongly disagree | Agree | Disagree | N/A

Insight

We agree that the income tax compliance burden will increase with the disclosure requirements coming out of BEPS, specifically country-by-country reporting.

Question 8

In India, 82% agree or strongly agree that tax authorities will increase tax assessments in India as a result of the BEPS recommendations on intangibles.



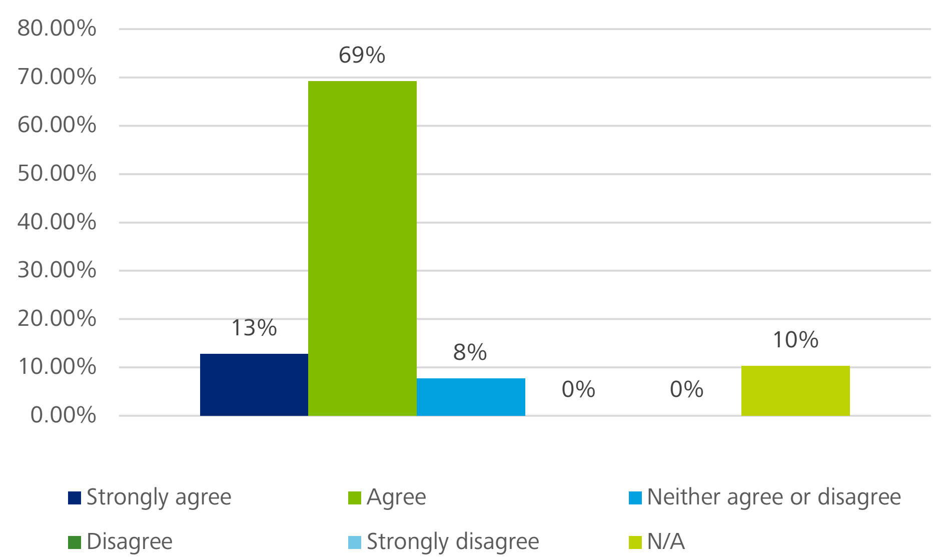
Insight

Given India's contribution in the R&D, IT and marketing space, the focus on intangibles is likely to lead to an increase in assessments in India.

Question 9

In India, 82% agree or strongly agree that there will be significant impact resulting from an uncoordinated approach adopted by countries relating to low value add services.

India

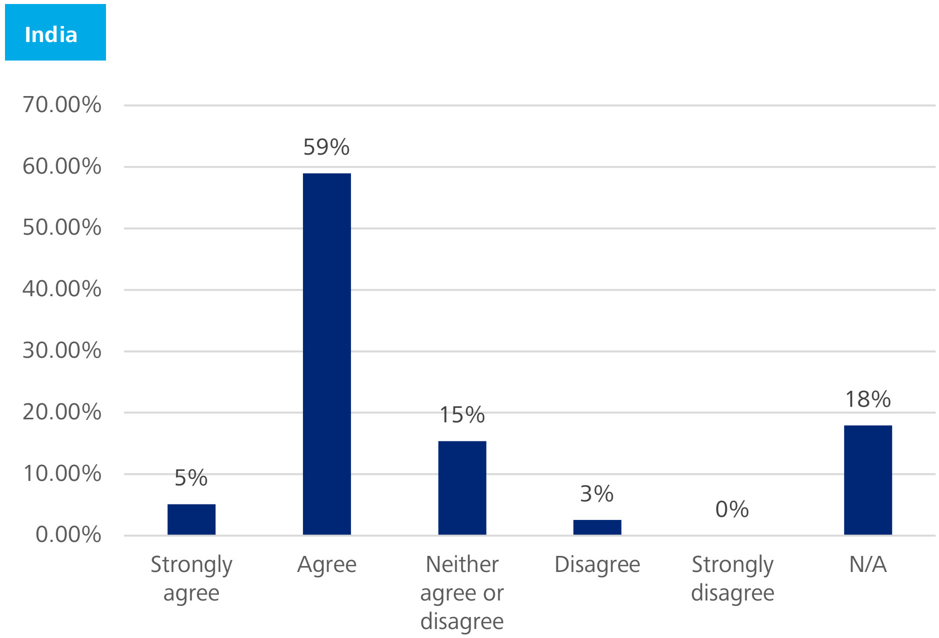


Insight

Given the global diversity in objectives relating to low value added services, the concern regarding an uncoordinated approach by countries is very real.

Question 10

In India, 65% agree or strongly agree that although the tax authorities have not been aggressive in tax examinations of hybrid instruments and interest deductions so far, they are likely to do so going forward.



Insight

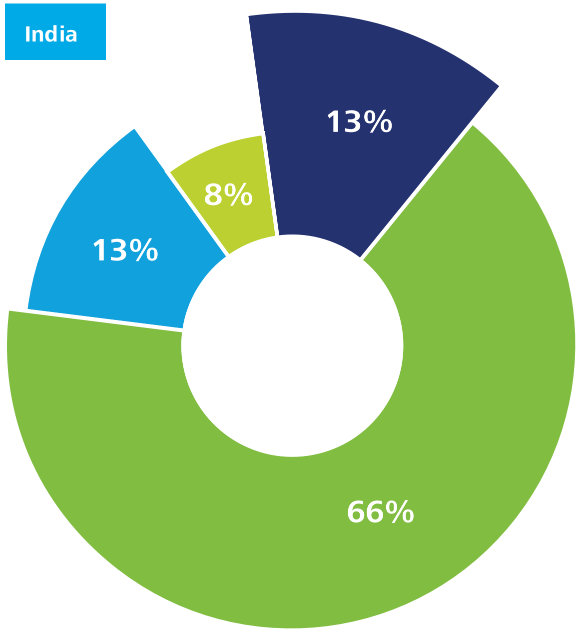
Indian businesses are anticipating a more aggressive stance by tax authorities in the future, regarding hybrid instruments and interest deductions.

Question 11

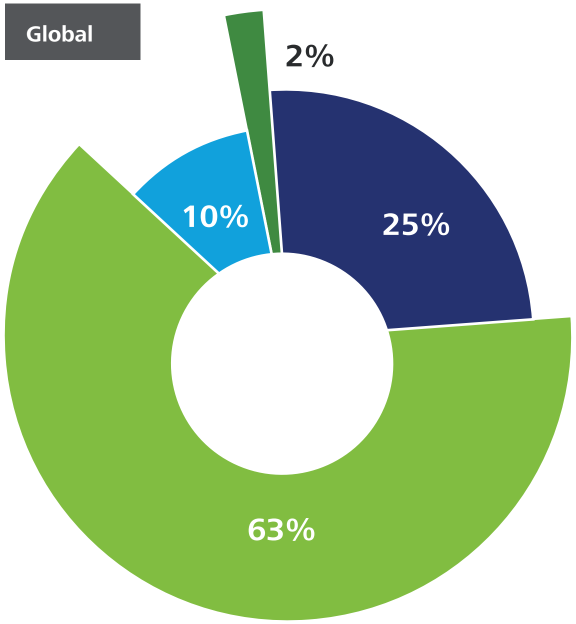
In India, 77% agree or strongly agree that they are anticipating significant legislative and treaty changes as a result of the BEPS recommendations on Permanent Establishments.

Globally 88% agree or strongly agree that the BEPS initiative will result in significant legislative and treaty changes in many countries.

India



Global



Strongly agree | Neither agree or disagree | Strongly disagree | Agree | Disagree | N/A

Insight

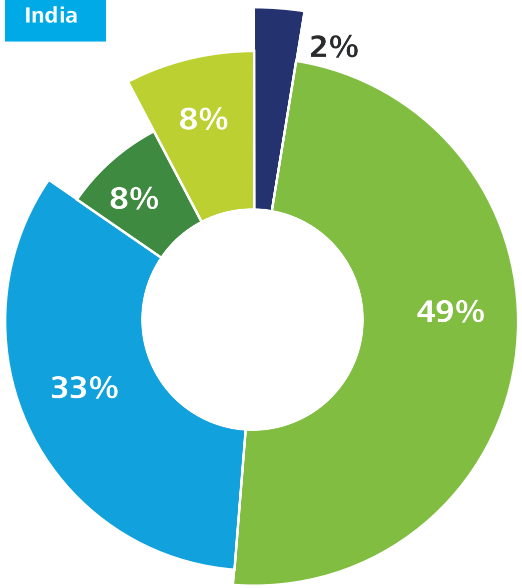
With the BEPS recommendations on permanent establishments, many businesses operating in India that have historically not qualified as permanent establishments will need to review their operating structure afresh.

Question 12

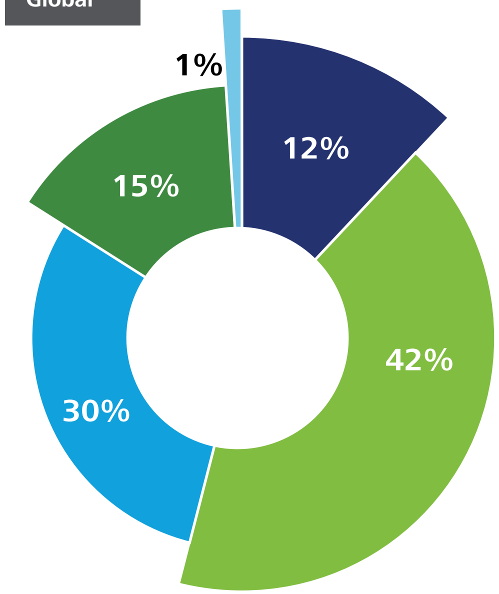
In India, 51% agree or strongly agree that India is likely to introduce Controlled Foreign Corporation rules and make other unilateral legislative changes in the upcoming Budget.

Globally 54% agree or strongly agree that in their country they are anticipating significant unilateral legislative change to protect the tax base that is not coordinated with what other countries are doing.

India



Global



Strongly agree | Neither agree or disagree | Strongly disagree | Agree | Disagree | N/A

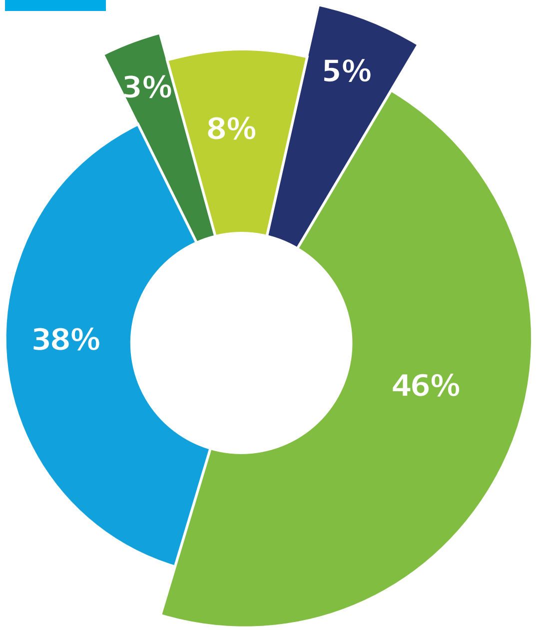
Insight

Introduction of CFC rules have been in discussions in India in the past. Given the renewed focus it has received under BEPS, half of the respondents anticipate CFC rules to be implemented in India.

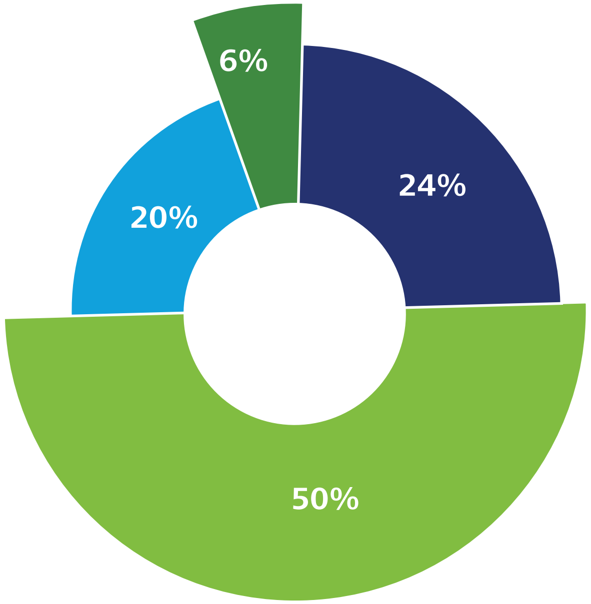
Question 13

In India 49% and globally 74% agree or strongly agree that double taxation will occur as a result of unilateral tax law changes in anticipation of the OECD BEPS recommendations.

India



Global



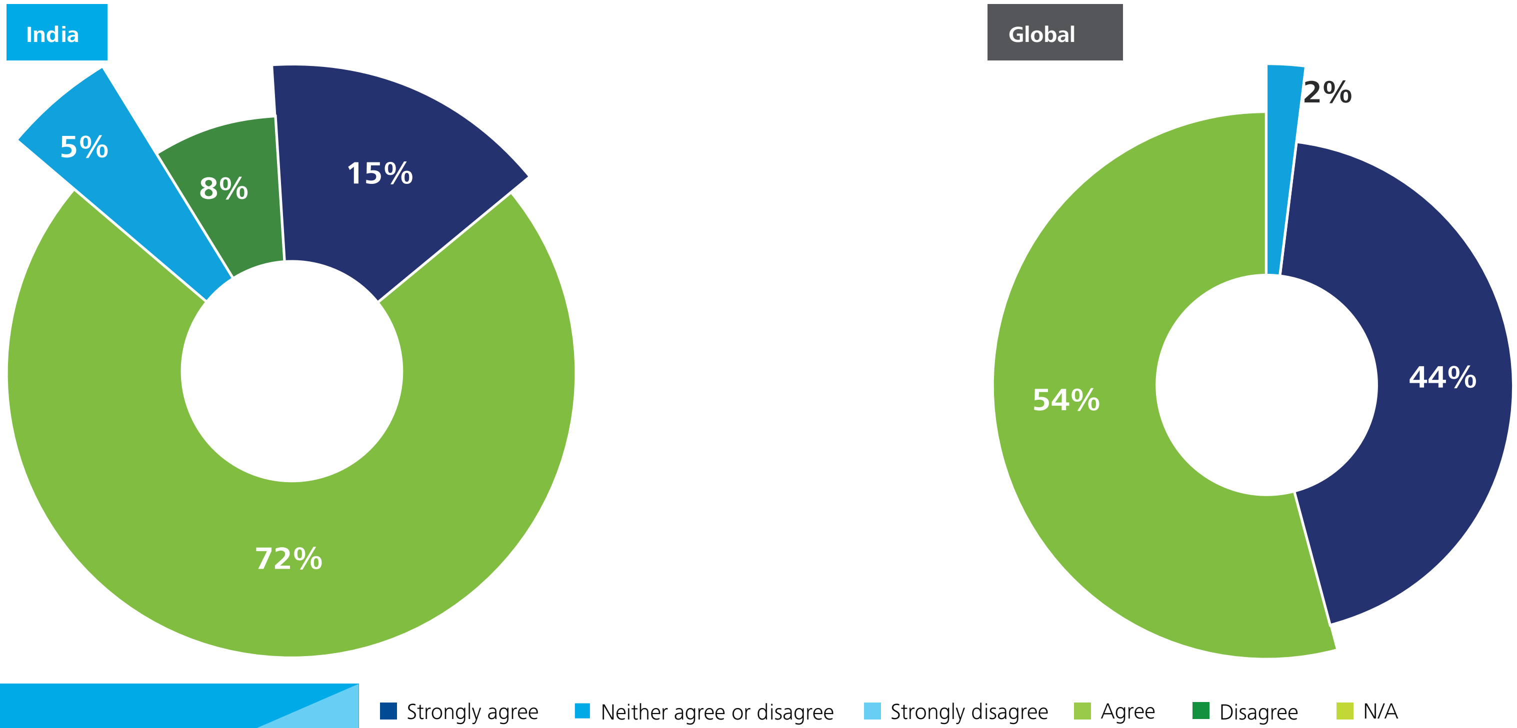
Strongly agree | Neither agree or disagree | Strongly disagree | Agree | Disagree | N/A

Insight

A majority of the respondents fear the reality of double taxation as a result of unilateral tax law changes relating to BEPS.

Question 14

In India 87% and globally 98% of respondents agree or strongly agree that greater scrutiny will be applied by tax authorities surrounding the level of substantive business operations conducted in low tax countries as a result of the BEPS initiatives in the future.



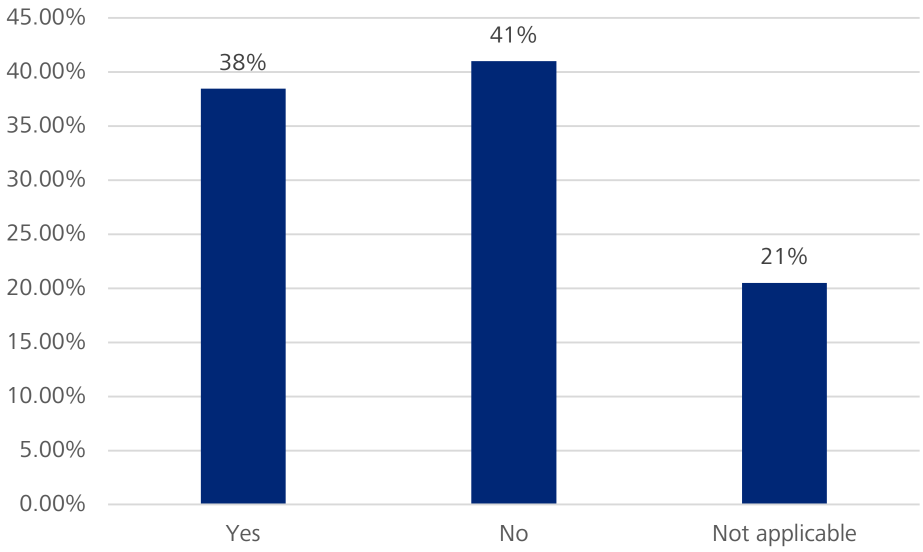
Insight

Given the explosion of information in the hands of tax authorities, the unanimous acknowledgement of greater scrutiny by tax authorities (surrounding the level of substantive business operations conducted in low tax countries) is not surprising.

Question 15

41% of respondents in India are relying on the APA or Mutual Agreement routes for dispute resolution.

India



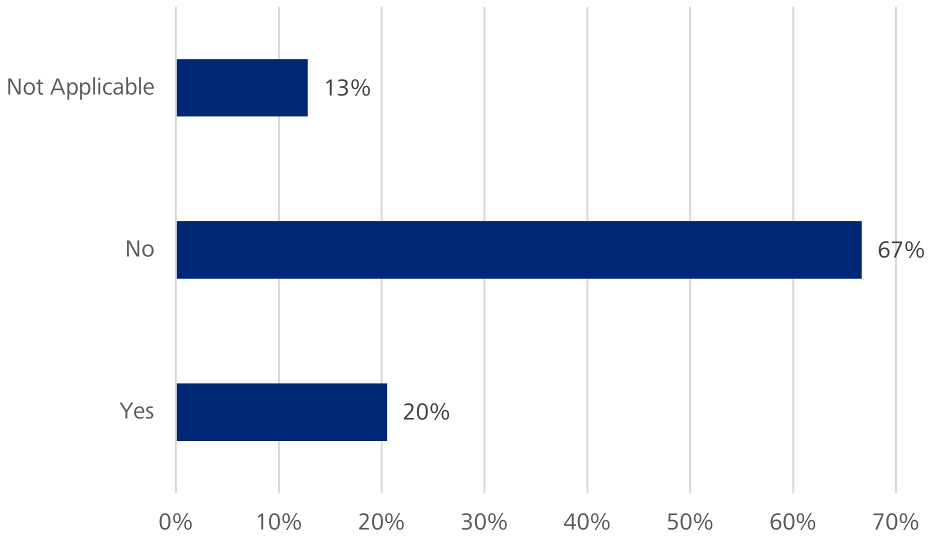
Insight

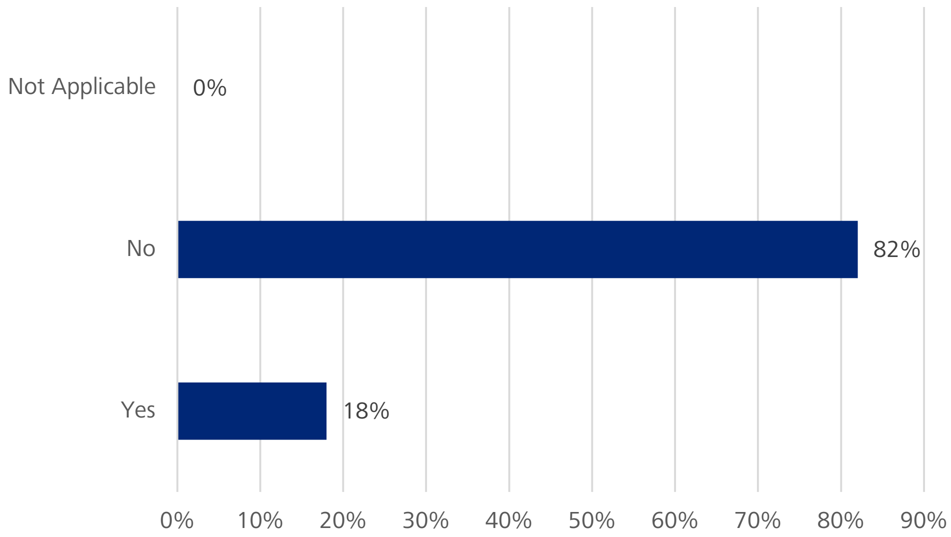
With the Government's focus on investor friendly environment, specifically relating to tax certainty, the APA route has recently become more attractive.

Question 16

In India 67% and 82% of global respondents are not planning on securing additional resources/headcount for their tax group wholly or partly as a result of anticipated changes arising due to the BEPS initiative?

India





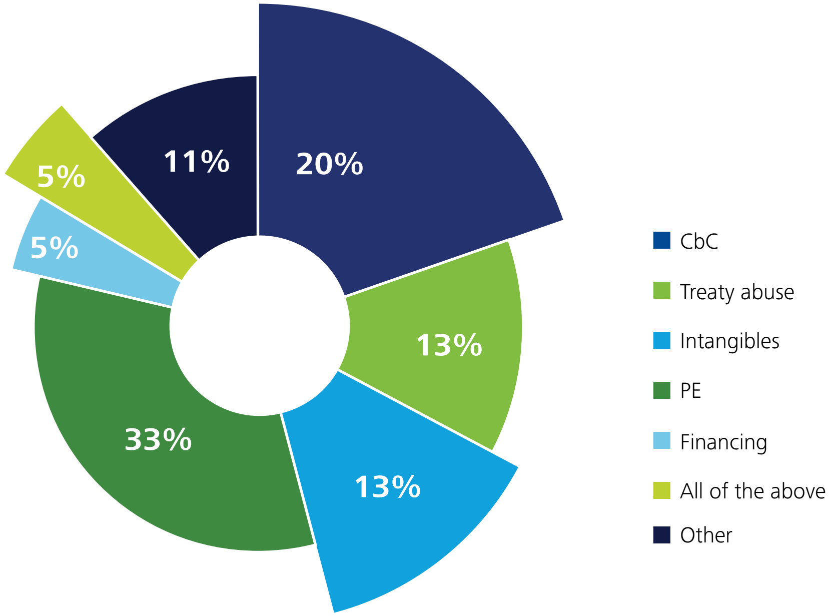
Insight

Despite the concern about increased scrutiny and compliance burden, business are not yet planning on increasing their resources to respond to the changes arising from the BEPS initiative.

Question 17

PEs and CbC were the biggest area of concern relating to BEPS recommendations:

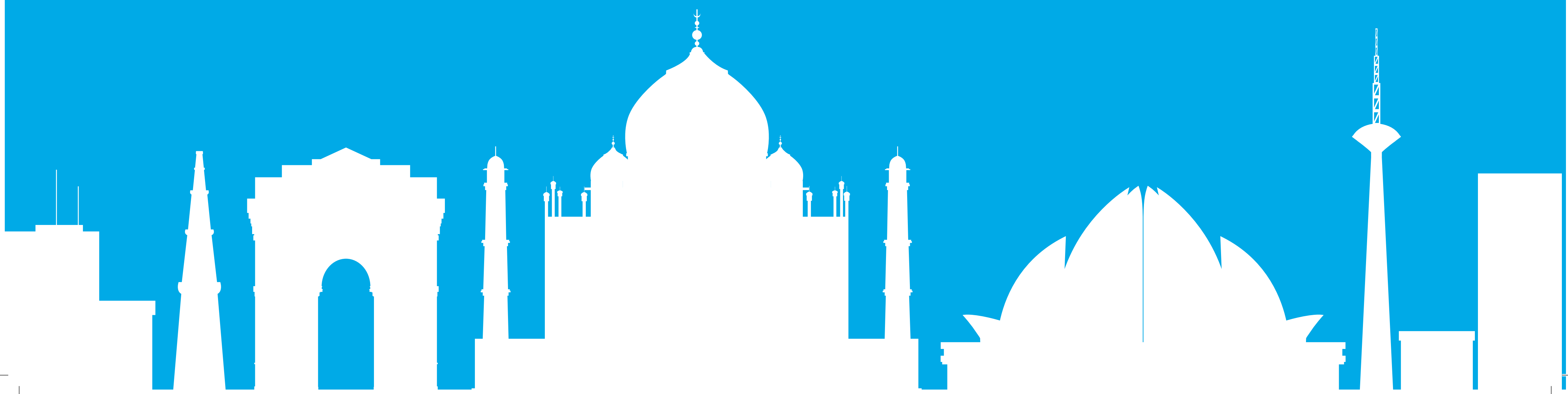
India



Insight

Though Indian operating businesses are generally concerned about the BEPS recommendations, the bigger areas of concern are relating to PE's and CbC.

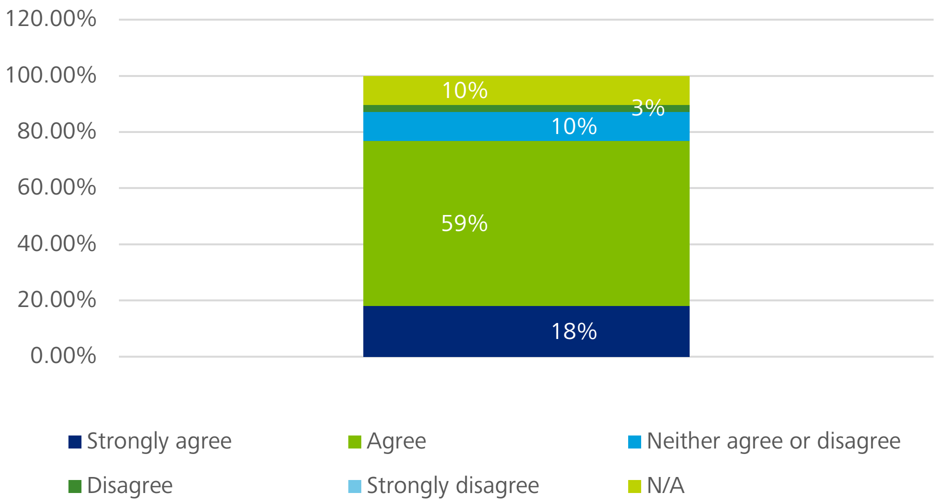
Implementation



Question 18

77% agree or strongly agree that the Indian regulators should adopt the BEPS initiatives in such a way that it does not adversely impact Indian headquartered Multinationals adversely and allows them a level playing field while competing with foreign multinationals.

India



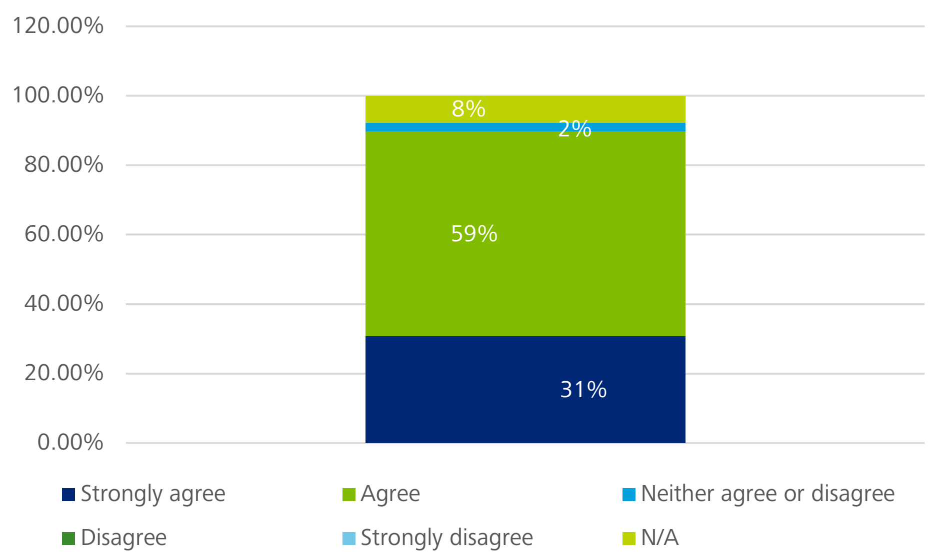
Insight

Vast majority of the respondents believe that regulators should consider and protect the interests of Indian headquartered multinationals while implementing BEPS recommendations in India.

Question 19

90% agree or strongly agree that the Indian regulators should adopt the BEPS initiatives in phases, so that sufficient time is available for tax payers to prepare and comply with the regulations.

India



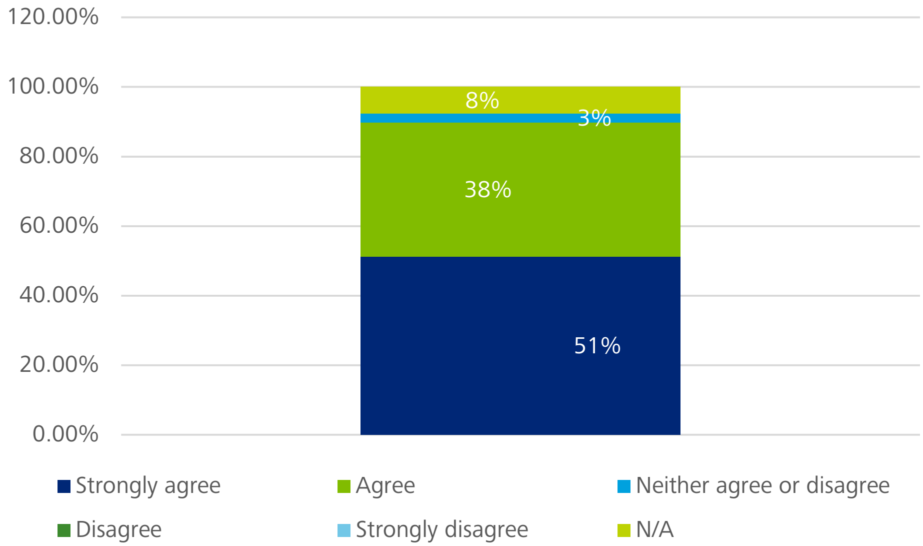
Insight

Overwhelmingly respondents believe that sufficient time is necessary for Indian businesses to adapt to changes anticipated as a result of BEPS. Thus, Indian regulators should adopt a slow and steady approach.

Question 20

90% agree or strongly agree that the Indian regulators should adopt the BEPS initiatives in such a way that it is applicable prospectively and not retrospectively. The BEPS implementation should apply to structures to be put in place, in the future and should not be applicable for structures put in place, in the past.

India

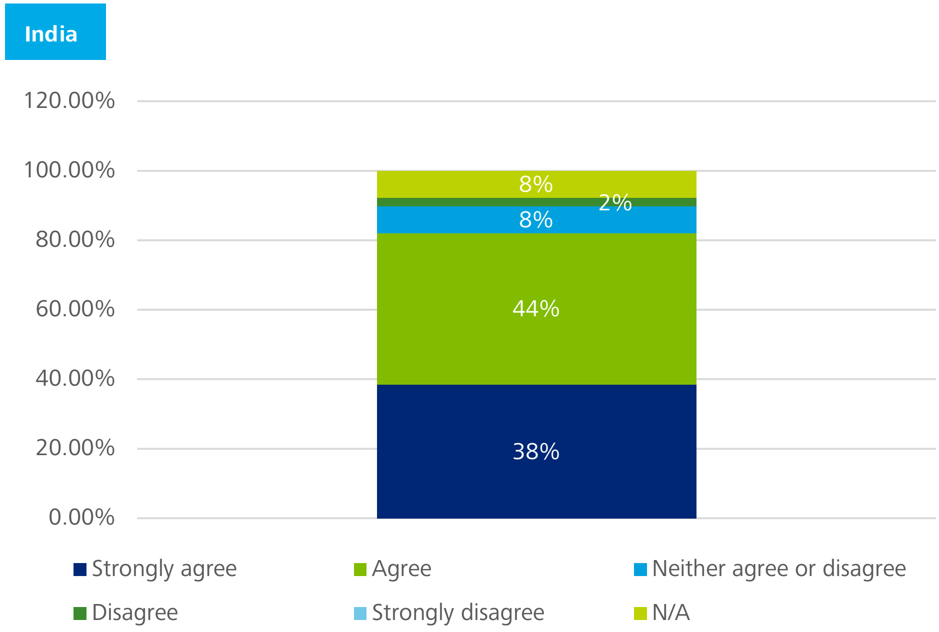


Insight

Retrospective amendments in India have significantly dented investor confidence in the past. Thus, majority of businesses believe that Indian regulators now need to avoid retrospective implementation at all costs.

Question 21

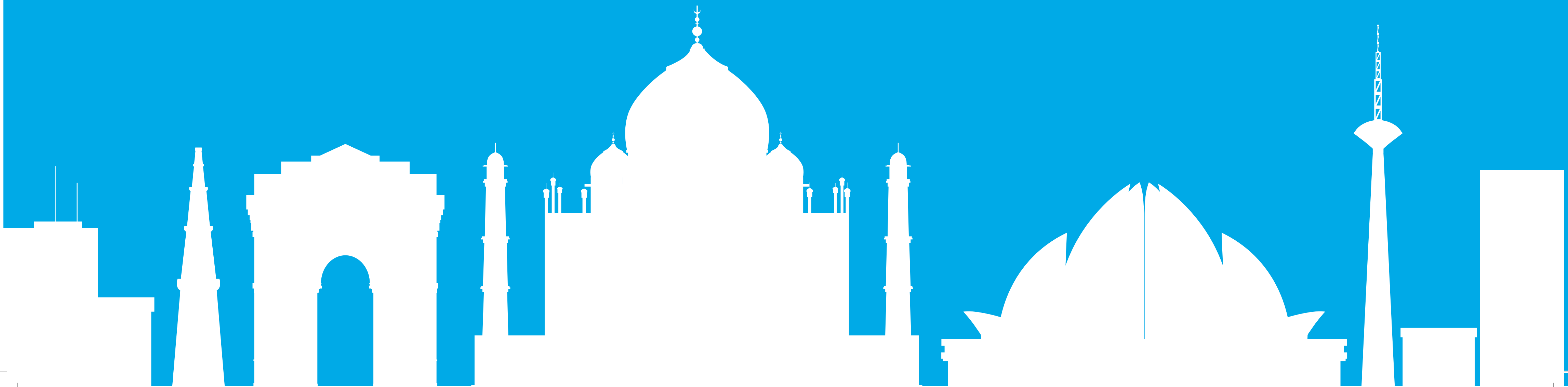
84% agree or strongly agree that there should be a grandfathering clause, to avoid unwinding and revisiting of existing structures, that were put in place before the BEPS initiatives became applicable.



Insight

For a smooth transition, majority of Indian businesses believe that grandfathering clauses are essential.

Summary of short answer responses



Based on the OECD's BEPS deliverables, so far, what will be the most significant areas of change for your business?

Structuring of contracts, intra-group financing, cross border M&A, group TP policy

Basic business model would not change - but the environment / work flows will need to be more robust / detailed and compliant from scrutiny / transparency perspective

CBC reporting is the most significant change wherein we expect all the players in the supply chain globally to share all financial details to all tax jurisdiction. This I anticipate will be a big challenge.

What has surprised you about the OECD's BEPS deliverables to date?

01

This is a challenging initiative and OECD deliverables needs to be acceptable to the developing economies like India. The gap between OECD and the developing economies needs to be bridged.

02

Immediate applicability

Too much regulatory provisions

03

In principle concurrence by participating nations in spite of vast / far reaching impacts and imperfections between developed and developing economies - trying to put them on same platform in spite of being un-comparable.

04

The collective contribution and efforts by all the countries including those who are not part of OECD like developing countries, including India gave their views.

How is your organization responding to BEPS (e.g.; Monitoring the situation? Assessing and quantifying the impact? Implementing structural / financing changes? Doing the work in-house? Engaging external advisors?)

1. Monitoring the situation and implementation of necessary system changes in consultation with external advisors
2. Internal development, structuring business policies, plus external advisors
3. We are currently assessing and quantifying the impact
4. Engaging External Advisors
5. Will cross the bridge as it comes

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