

OECD releases 2021 MAP statistics – observations from the Mainland China and Hong Kong SAR perspectives

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In brief

The Organisation for Economic Co-operation and Development (OECD) recently released the [2021 statistics for mutual agreement procedure](#) (MAP). The OECD reported the MAP statistics based on the agreed reporting framework under Action 14 of the Inclusive Framework on Base Erosion and Profit Shifting (BEPS). The statistics cover the status of overall MAP implementation and the relevant cases in the 127 tax jurisdictions (jurisdictions) that joined the Inclusive Framework prior to 2022, which include Mainland China and Hong Kong SAR.

In 2021, the number of MAP cases initiated in Mainland China was similar to that of [2020](#) (with a slight increase in transfer pricing cases). At the same time, the number of MAP cases concluded in 2021 increased by a significant amount. The average time from receipt of the application to initiation was shortened, reflecting the increased importance China tax authorities placed on MAP cases. However, due to the impact of the COVID-19 pandemic, the average time to conclusion increased in 2021. In terms of outcomes, there were more cases in 2021 that reached agreement fully eliminating double taxation / fully resolving taxation not in accordance with tax treaty or partially eliminating double taxation / partially resolving taxation not in accordance with tax treaty.

Similarly, in 2021, the effects of the COVID-19 pandemic also resulted in a decrease in the number of MAP cases initiated and concluded in Hong Kong SAR and an increase in the average time to conclusion. Following alleviation from the COVID-19 pandemic, it is expected that these statistics will show improvement in the handling of cases going forward.

Action item: Taxpayers should review their specific circumstances, and where appropriate, consider resolving existing or future double taxation issues effectively through MAP.

In detail

The 2021 MAP statistics make a distinction between ‘transfer pricing’ cases and ‘other’ cases. Transfer pricing cases refer to where the taxpayer’s MAP request relates to either the attribution of profits to a permanent establishment or the determination of profits between associated enterprises. MAP cases other than the above are considered as ‘other’ MAP cases. The 2021 MAP statistics reveal the following trends:

- The majority of MAP cases were concentrated in 25 jurisdictions (including Mainland China). New cases in these jurisdictions accounted for 93% of new cases worldwide.
- Compared with 2020, the number of new transfer pricing-related cases decreased by 11% in 2021, while the number of other cases showed a slight increase of 3%.
- The number of cases closed in 2021 remained at a high level (2,543 in total), an increase of 7% compared with 2020, and accounted for 40% of the case inventory at the beginning of 2021.
- Closed MAP cases generally resulted in positive outcomes for taxpayers. In 2021, approximately 77% of cases closed were able to fully eliminate double taxation issues.
- The average time to conclusion remained relatively long. The 2021 average time to conclusion for transfer pricing cases decreased in comparison to 2020, from 35 months to 32.3 months. The average time to conclusion for other cases was 20.7 months, a slight increase compared to 2020.

Mainland China

Number of cases started and closed

According to the OECD statistics (covering new cases initiated since January 1, 2016), 43 MAP cases were initiated in 2021, a slight increase compared to 2020. These MAP cases included 19 transfer pricing cases. The main treaty partners of the case inventory included Korea, Japan, United States, Switzerland, and Italy.

The China State Taxation Administration (STA) has been actively working with treaty partners to promote the settlement of MAP cases. There were 27 MAP cases concluded in 2021, including 17 transfer pricing cases, which represents a significant increase compared with 3 cases in 2020. The treaty partners of the closed transfer pricing cases were mainly Korea (7 cases) and Japan (2 cases).

Average time to conclusion

In 2021, the average time taken from receipt of the application to initiation for transfer pricing cases and other cases were 1.83 months and 1.06 months, respectively, representing a reduction in the average from 2020 (4.30 months and 1.36 months, respectively). The shortened time to initiation reflects the increased importance China tax authorities placed on MAP cases.

On the other hand, the average time to conclusion needed to close MAP cases in 2021 increased in comparison to 2020. The average time to conclusion for transfer pricing cases initiated since January 1, 2016 was 37.89 months. The average time for other cases was 41.93 months. In 2020, the averages were 30.72 months and 21.93 months, respectively. This increase was mainly due to the impact of the COVID-19 and the complexity of the cases.

Outcome of MAP cases

Of the cases concluded in 2021, more than 65% of the transfer pricing cases reached agreement, fully eliminating double taxation / fully resolving taxation not in accordance with tax treaty or partially eliminating double taxation / partially resolving taxation not in accordance with tax treaty. More than 15% of transfer pricing cases were concluded with unilateral relief granted and resolved via domestic remedies. For other cases, more than 50% reached agreements to eliminate double taxation fully or partially, or resolution of tax issues that were not in accordance with tax treaties. Approximately 15% of cases were concluded with unilateral relief granted.

Observation: The outcome for 2021 MAP cases represents a marked improvement over the previous year and shows a commitment by Mainland China to assist multinational enterprises resolve international double taxation issues and to create a better environment for business and investment.

Hong Kong SAR

Number of cases initiated and concluded

According to data released by the OECD, a total of 3 MAP cases were initiated in 2021, none of which were related to transfer pricing. The COVID-19 pandemic had a significant impact on the operations of Hong Kong enterprises and the Hong Kong Inland Revenue Department (HKIRD), slowing the negotiation process for MAP cases between both parties, and resulting in a large decrease in concluded MAP cases.

Average time to conclusion

For all types of MAP cases, the average time taken from receipt of the application to initiation, and from initiation to conclusion, increased from 2020. The former increased from 1.05 months to 1.15 months, while the latter rose from 22.72 months to 25.17 months (slightly longer than the 24-month average targeted under BEPS Action 14). With the alleviation of the impact from the COVID-19 pandemic, it is expected that these statistics will improve.

Outcome of MAP cases

Out of all MAP cases concluded in 2021, 75% reached agreement to fully eliminate double taxation or were resolved via domestic remedy, representing a noticeable increase compared to 60% in 2020 (including full elimination of double taxation, unilateral relief granted, or agreement that there is no taxation not in accordance with tax treaty).

Observation: The HKIRD is committed to assist multinational enterprises to resolve double taxation issues.

The takeaway

The international taxation environment has been evolving rapidly in line with the expected implementation of the BEPS Action Plans. Following implementation of Pillar Two, the extent of uncertainty in international taxation could increase, resulting in more bilateral disputes. Given the effectiveness of bilateral consultation in resolving double taxation from international tax disputes, MAP is of critical importance to multinational corporations.

According to the latest update from the OECD in December 2022, 142 jurisdictions in the Inclusive Framework have committed to the four minimum standards, including one relating to MAP under Action 14. In this context, it is expected that competent authorities will increase their focus on MAP cases, and that MAP will continue to be an effective measure for multinational corporations to resolve their international double taxation (including double taxation arising from unilateral transfer pricing adjustments).

During the past year, both the STA and the HKIRD have made observable efforts to promote bilateral consultation and made significant progress in MAP cases. With the increasing efficiency of the MAP process in Mainland China and Hong Kong SAR, it is anticipated that more multinational corporations will benefit from MAP as an effective measure to resolve international double taxation caused by unilateral transfer pricing investigations and adjustments.

Also, taxpayers in Mainland China and Hong Kong SAR should consider managing their transfer pricing risks and preventing tax disputes through advance pricing arrangements (APAs). The STA has committed to promoting APAs, and the number of APAs reached in 2021 remain at a high level compared with previous years. Furthermore, simplified procedures for unilateral APAs were introduced in September 2021, aimed at reducing the burden of taxpayers in the APA process. The HKIRD also has reformed the APA application process, allowing bilateral APAs to include retrospective clauses, and simplified the APA application process from five stages to three stages. These measures will help multinational corporations manage their transfer pricing risks in Mainland China and Hong Kong SAR in a more efficient and effective way. For more information on APAs, please see [PwC's Tax Insight](#).

Let's talk

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