

The OECD Holds Public Consultation on Discussion Draft on Dispute Resolution

By David Talakoub

February 2015

News: On January 23, 2015, the Organization for Economic Cooperation and Development (OECD) held a public consultation asking for ideas on how to make dispute resolution mechanisms more effective. The public consultation followed written comments submitted by more than 50 practitioners, taxpayers, and business groups in response to the OECD's discussion draft on Base Erosion and Profit Shifting ("BEPS") Action 14.

Views: In the midst of a period that has witnessed increased disputes and a growing inventory of Mutual Agreement Procedure ("MAP") cases, Action 14 represents a critical component of the OECD's BEPS initiative. In a post-BEPS environment, effective dispute resolution mechanisms will take on even greater importance as the OECD continues to advance its Action Plan.

Unfortunately, the discussion draft left many stakeholders both concerned and disappointed with the OECD's initial recommendations to improve the MAP. A common theme in the responses was the strong desire for mandatory binding arbitration as part of the MAP, which the discussion draft fell short of making a requirement.

With more countries effecting legislation that align with BEPS recommendations, taxpayers could face increased risk of audit and adjustment. While it is clear that stronger action is required to improve the MAP process for OECD member countries, it is imperative to consider the significant and growing impact that non-OECD member countries will play with respect to dispute resolutions going forward. The real question is whether these non-OECD member countries, which include the likes of Brazil, China, India, and Russia; will adopt any aspect of the dispute resolution guidelines ultimately endorsed by the OECD.

Contact Us

David Talakoub

Partner

david.talakoub@petersadvisors.com

+1 (617) 816-9909

The views expressed herein are those of the author and do not necessarily reflect the opinions of the Firm.