



QUESTIONNAIRE FOR BUSINESS ON PROCEDURES FOR RESOLVING INTERNATIONAL TAX DISPUTES

Introduction

1. The OECD has recently launched a major project on dispute resolution building on the existing mechanisms for the prevention and resolution of international tax disputes found in the Mutual Agreement Procedure (MAP) of Article 25 of the OECD Model Tax Convention and in the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administration (especially Chapter IV and the Annex on MAP APAs).

2. We believe it is vital for our work to have input from the business community and from other interested non-governmental parties. We are therefore issuing an open invitation to you to contribute to the OECD project by providing us with your experience or comments on the issue of dispute resolution. To facilitate your input we have prepared the following questionnaire but please feel free to submit your comments in whatever form you choose. Although many international tax disputes relate to transfer pricing, our project will also examine other international tax disputes, for example caused by conflicting interpretation of treaty provisions by the Contracting States.

3. To ensure a full and frank disclosure your comments will, unless you state otherwise, remain confidential to the OECD Secretariat, although OECD Member countries will be provided with a summary of the issues and comments raised. We do however ask you to identify yourself in your reply as we may need to follow-up on your responses.

4. Input can be provided by individual taxpayers, or on a more collective basis by industry bodies or by professional advisory firms. If you would like further information or would like to discuss the substantive issues please do not hesitate to contact John Neighbour, Head of the Tax Treaty and Transfer Pricing (john.neighbour@oecd.org; Telephone 33 1 45 24 96 37).

5. Please send your reply by e-mail, fax or mail to the following address **by 7 November 2003**:

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QUESTIONNAIRE ON DISPUTE RESOLUTION

The following questionnaire is designed to elicit your general views and comments on dispute resolution mechanisms and to give you the opportunity to report the experience you have had with using the existing dispute resolution mechanisms. The focus is on the main dispute resolution mechanism currently in use – the Mutual Agreement Procedure (MAP) of Article 25 of the OECD Model Tax Convention¹.

Contact for follow-up:

Name:

Country:

E-mail address:

Telephone:

Fax:

Please indicate whether you are responding to this questionnaire :

- As an individual
- As a corporate taxpayer
- On behalf of other taxpayer(s) (e.g. advisory firm, law firm, business association, etc.)

Where you are replying on behalf of others please construe the term “you” to mean “your organisation” or “your clients” as appropriate. Also, please indicate what group of taxpayers you are representing.

Q1. When you experienced potential double taxation or taxation not in accordance with a Double Tax Convention, which of the following actions did you take after you had exhausted any domestic administrative appeals process, e.g. referral to an appeals section of the relevant tax administration:

- Apply for Mutual Agreement Procedure (MAP) under the relevant treaty
- Litigate the matter through the courts
- Nothing i.e. accept the double or inconsistent taxation
- Other action (please specify)

Please indicate an approximate proportion for each choice of action where you have experienced double or inconsistent taxation more than once and give the total number of cases.

Q2. What influenced the action you took?

¹ Article 25 of the OECD Model Tax Convention sets out three different areas where MAP are used (i.e. taxation not in accordance with the provisions of convention, interpretation and application of convention and the elimination of double taxation in cases not otherwise provided for in the Convention). Please distinguish, if necessary, your replies according to the area.

- Q3. In cases where you did not take the case to MAP please explain why you chose not to follow this route?
- Q4. Where you have used the MAP process what was the result (please indicate an approximate proportion for each result where you have used MAP more than once and the total number of cases)?
- An agreement was reached between the tax authorities that eliminated double or inconsistent taxation
 - An agreement was reached between the tax authorities that only partially eliminated double or inconsistent taxation
 - No agreement was reached
 - Request for MAP rejected by the tax authority
 - MAP terminated at your request
- Q5. Where there was no agreement(s) between the tax authorities what was the reason(s) given?
- Q6. Where the MAP application(s) was rejected by the tax authority what was the reason(s) given?
- Q7. Where the MAP was terminated at your request before agreement was reached, please state your reasons for doing so.
- Q8. What do you think in general are the strengths and weaknesses of MAP?
- Q9. Please describe your experiences as regards the following specific aspects of the MAP:
- Successful elimination of double taxation: do you consider that the agreement(s) reached between the tax authorities was satisfactory? If not, please comment why it was not satisfactory for you.
 - The time frame to reach an agreement: in particular, how long did it take to complete the MAP (in months, starting from date of application)? Where you have had more than one agreement please give the total number, average time, the extreme ranges and any other statistical information you have.
 - Transparency of the process
 - Costs associated with the process
 - Corresponding Adjustments
 - Any particular problems that you have experienced
- Q 10. Please describe what you believe would be an appropriate norm as regards the following specific aspects of the MAP:
- Successful elimination of double taxation
 - The time frame to reach an agreement
 - Transparency of the process
 - Costs associated with the process

- Corresponding Adjustments
- Any particular problems that you have experienced

- Q11. What general suggestions do you have to improve the effectiveness of the MAP process?
- Q12. Please provide us with your experience, or any views you might have on international tax dispute resolution mechanisms other than MAP (e.g. arbitration or mediation).
- Q13. Please provide us with your experience or any views you might have on international tax dispute prevention mechanisms (e.g. bilateral and multilateral advance pricing arrangements (MAP APAs), simultaneous examinations).
- Q14. Do you have any other comments?