

**REVENUE REGULATIONS NO. 10-2022** issued on June 30, 2022 prescribes the guidelines and procedures to be followed by taxpayers in requesting for Mutual Agreement Procedure (MAP) assistance from the Philippine Competent Authority to resolve disputes arising from taxation not in accordance with the provisions of the relevant Double Taxation Agreement (DTA).

The Regulations enumerate some typical examples of taxation that are not in accordance with a tax convention that would necessitate a MAP assistance.

To implement the MAP article, the Commissioner of Internal Revenue (CIR) is designated as the Competent Authority for the Philippines (Philippine CA). Where it is not possible for the CIR to deal directly with MAP cases, he/she shall delegate his/her functions and powers to other competent officials of the BIR via a Revenue Delegated Authority Order (RDAO).

The Rulings and MAP Section of the International Tax Affairs Division (ITAD) (hereinafter referred to as the "MAP Office") shall commence the analysis and resolution of MAP cases. The recommendation of the MAP Office shall be reviewed by the Chief of ITAD. The proposed resolution or action of the ITAD on the MAP cases shall be subject to review by the Assistant Commissioner for Legal Service, the Deputy Commissioner for Legal Group and finally, by the Competent Authority or his/her authorized representative. In the interest of time, the Competent Authority may introduce streamlining procedures, taking into account the inventory of MAP cases and the number of handling officers.

A taxpayer may, prior to making a formal request for MAP assistance, request for a pre-filing consultation following the procedures outlined in these Regulations. To request for MAP assistance, a taxpayer must submit a request in writing, which must be signed by the taxpayer or its/his/her authorized representative. The request should contain and include the information and documentation as specified in Subsection 3 of these Regulations and should be submitted to the following address:

**Office Address:** International Tax Affairs Division  
Room 811, BIR National Office Building  
BIR Road, Diliman, 1100 Quezon City

**Email address:** [map\\_itad@bir.gov.ph](mailto:map_itad@bir.gov.ph)

Where the MAP request has been mistakenly submitted to another office of the BIR, the receiving office shall immediately forward the same to ITAD without delay and shall notify the taxpayer of such fact. In order for a MAP request to be considered valid under the DTA, it should contain the following information:

- a. identity of the taxpayer(s) to which the MAP relates (name, address, taxpayer identification number, contact details and the relationship between the concerned taxpayers, if applicable);
- b. the tax convention article(s) that the taxpayer asserts is (are) not being correctly applied, and the taxpayer's interpretation of the application of the article;
- c. relevant facts of the case, the taxation years or period involved and the amounts involved (in both the local currency and foreign currency);
- d. the name of the foreign tax administration involved and, if possible, identification of the regional or local tax administration office that has made, or is proposing to make, the adjustment;
- e. analysis of the issue(s) involved, including its interpretation of the application of the specific treaty provision(s);
- f. whether the MAP request was also submitted to the competent authority of the other Contracting Party, together with the date of such submission, the name and the designation of the person or the office to which the MAP request was submitted;

- g. whether the issue(s) involved were previously dealt with;
- h. a statement indicating whether the taxpayer has filed a notice of objection, notice of appeal, refund claim, or comparable document in either of the relevant jurisdictions;
- i. a schedule of the time limitations in each jurisdiction (domestic as well as tax convention time limits) in respect of the years for which relief is sought (in cases of multiple taxpayers, a schedule for each); and
- j. a statement confirming that all information and documentation provided in the MAP request is accurate and that the taxpayer will assist the competent authority in its resolution of the issue(s) presented in the MAP request by furnishing any other information or documentation required by the competent authority in a timely manner.

A certified true copy of the following documents, if relevant, shall be attached to the MAP request:

- a. Final Assessment Notice, rulings duly issued by the competent officials of the BIR or any equivalent document which contains the action that results in double taxation;
- b. Copies of tax assessments, audits conducted by the foreign tax authority leading to the incorrect application of the tax treaty provision;
- c. Audited Financial Statements and Income Tax Return duly filed with the BIR together with the latter's attachments (e.g. BIR Form No. 1709), transfer pricing documentation, advance ruling, advance pricing arrangement (APA);
- d. Decisions of a competent court or tax tribunal on a similar case involving the same factual and legal issues;
- e. A copy of any other request for MAP assistance and the associated documents filed, or to be filed, with the competent authority of the other contracting state, including copies of correspondence from the other tax administration. copies of briefs, objections, etc., submitted in response to the action or proposed action of another tax administration (if applicable, translated copies are helpful and where documentation is voluminous, a description of the documentation may be acceptable);
- f. A copy of the complaint or appeal filed in court or with the tax authorities, if any;
- g. A copy of any settlement or agreement reached with the other jurisdiction which may affect the MAP process;
- h. Proof of payment of tax resulting from the transfer pricing adjustment made in the foreign country; and
- i. Duly authenticated (consularized or apostilled) Special Power of Attorney authorizing the taxpayer's representative to file the request for MAP assistance and to do such other acts leading to the resolution of the MAP case.

If the attachments are in a foreign language, the MAP Office will require the taxpayer to submit an English translation thereof. Subject to the provision of the relevant DTA, the MAP request may be presented to the following:

- a. competent authority of the Contracting State of which he is a resident;
- b. competent authority of the Contracting State of which he is a citizen; or,
- c. if the case falls under the Non-Discrimination article of the DTA. to the Contracting State of which the taxpayer is a national.

Generally, the DTAs require that the MAP request be presented to the competent authority of the Contracting State of which he is a resident. In the case of the Philippines, however, where the MAP request relates to attribution of profits and transfer pricing adjustments, taxpayers are strongly encouraged to ensure that the associated enterprise in the other contracting state also contacts its

Competent Authority. To facilitate the expeditious resolution of a MAP case, the taxpayer should submit all supporting documents promptly and simultaneously to both Competent Authorities. If the taxpayer is intending to submit the same MAP request to the other competent authority, the two (2) requests should be submitted at the same time.

The MAP request must be submitted within the time limit specified in the applicable DTA. Depending on the provision of the DTA, the MAP request may be presented to the relevant competent authority within two (2) or three (3) years from the first notification of the action resulting in taxation not in accordance with the provisions of the DTA. The taxpayers should always consult the relevant DTA at an early stage to ensure that they submit a request for MAP assistance within the specified time limit.

In cases where the DTAs do not provide a time limit, the MAP request must be submitted to the relevant competent authority within three (3) years from the first notification of the action resulting in taxation not in accordance with the provisions of the DTA. The filing period shall be reckoned from the date of receipt of the Final Assessment Notice or of a ruling denying the claim for treaty benefit, or any equivalent document which contains the action that results in double taxation.

A MAP request may be filed manually to the competent authority or his/her authorized representatives, or electronically via an encrypted mail. Where voluminous documents are attached to such request, the documents shall be sent to the designated address via a registered mail or a courier.

Fees associated with the negotiation of bilateral or multilateral APAs or with the hiring of independent experts or mediators shall be shouldered by the party initiating the MAP request. In all other cases, no fees shall be charged by the competent authority for the resolution of MAP cases. The details of the following steps in the MAP Process are specified in the Regulations:

- a. Preliminary Assessment
- b. Analysis of a MAP Case
- c. Consultations between the MAP Team and other offices of the BIR
- d. Consultations between the Competent Authorities
- e. Negotiation of Bilateral or Multilateral APAs
- f. Authority of the MAP Team
- g. Resolution of a MAP Case
- h. Competent Authority Agreement
- i. Timely implementation of MAP Agreements
- j. Competent Authority Agreement has not been reached
- k. Interaction with Domestic Remedies
  - Judicial or other administrative appeals versus MAP
  - Court decisions cannot be overruled through MAP
  - Effect of decisions rendered by foreign courts
  - Suspension of tax collection
- l. Withdrawal of a MAP Case
- m. Appropriate Transfer Pricing Adjustment under the DTAs

Audit settlements reached between the tax authority and the taxpayers do not preclude access to MAP. If a MAP request has been initiated after such audit settlement, the Philippine competent authority should independently consider whether such settlement would result in taxation not in accordance with the provisions of the Convention. The competent authority must ensure that taxpayers entitled to treaty benefits are not subjected to taxation by either of the Contracting Parties which is not in accordance with the provisions of the DTAs.

The information provided and documents submitted in support of the MAP request shall be treated with utmost confidentiality pursuant to Section 270 of the Tax Code, as amended. Any exchange of information between the competent authorities shall be carried out in accordance with the provisions of the relevant DTA. Information exchanged pursuant to the effective DTAs of the Philippines is confidential and shall only be used and disclosed in accordance with the provisions of the relevant DTA.