

MUTUAL AGREEMENT PROCEDURE PROCESS

BRUNEI DARUSSALAM
MINISTRY OF FINANCE AND ECONOMY

| NO | WORK PROCESS | ACTION BY |
|---|--|---|
| 1 | STEP 1: MAP Request a) Notify MOFE of its intent to initiate MAP in writing and include a brief description of the cause and circumstances involved. | Taxpayer |
| | b) Meet with taxpayer within 1 month of receiving the notification. c) Give outcome of the pre-filing meeting and the next course of action. | MOFE |
| | If MOFE considers a MAP request is justified, d) Submit a complete MAP request in writing and email the soft copy. | Taxpayer |
| | 2 | STEP 2: Evaluation a) Review the request within 1 month for validity of a MAP, taking into consideration the followings:- <ul style="list-style-type: none"> • Issue relates to a foreign country with which Brunei Darussalam has a tax treaty. • The actions of one or both countries have resulted or will result in taxation not in accordance with the tax treaty. • Submission of request within the time limit stated in the relevant tax treaty. • Completion of supporting documents as per required under Section 7 of MOFE MAP Guidelines. b) Notify CA of the treaty partner in writing of receiving the MAP request. c) Issue query letter to request for lack of/additional supporting documents if necessary. |
| d) Furnish other relevant supporting documents within time limit stated in the query letter. | | Taxpayer |
| If MAP request is accepted, e) Issue acceptance letter to taxpayer and notify CA of treaty partner on the commencement of MAP. | | MOFE |

| NO | WORK PROCESS | ACTION BY |
|----------|--|------------------------------|
| | <p>If MAP request appears to be not justified (e.g. if a satisfactory unilateral solution is reached),</p> <p>f) Notify CA of treaty partner of rejection proposal and ask for view of the case, then</p> <p>i) If both agree, submit rejection letter to taxpayer; or,</p> <p>ii) If CA's view differs, revisit the evaluation and initiate bilateral consultation to determine whether MAP request is justified.</p> | MOFE |
| | g) Acknowledge receipt of the notification (optional). | CA of Treaty Partner |
| 3 | <p>STEP 3: Negotiation</p> <p>a) Resolve the MAP case unilaterally, OR, engage CA of the treaty partner to start negotiation through bilateral/multilateral tax agreements.</p> <p>b) Seek further information from taxpayer through query letters, discussions, meetings, site visits, interviews, etc.</p> | MOFE |
| | c) Cooperate with MOFE to give information relevant to MAP case. | Taxpayer |
| | d) Resolve MAP case within 24 months from receiving the taxpayer's complete MAP request. | MOFE |
| | e) Update taxpayer (if necessary) on the progress of the MAP case. | MOFE |
| 4 | <p>STEP 4: Implementation</p> <p>a) Arrive at a MAP outcome after negotiation.</p> | MOFE CA of Treaty Partner |
| | b) Notify in writing to the CA of the treaty partner of the agreed and approved MAP outcome. | MOFE |
| | c) Communicate the agreed MAP outcome to taxpayer in writing and electronically within 1 month after b). | MOFE |
| | d) Decide and inform MOFE in writing whether the agreed MAP outcome is acceptable or otherwise. | Taxpayer |

| NO | WORK PROCESS | ACTION BY |
|----|--|---|
| | <p>Taxpayer accepts the MAP outcome;</p> <ul style="list-style-type: none"> i) Inform the acceptance in writing to CA of the treaty partner. ii) Exchange agreement with CA of the treaty partner to conclude MAP. iii) Update the MAP Statistic Database. <p>Taxpayer rejects the MAP outcome;</p> <ul style="list-style-type: none"> i) Inform in writing to CA of the treaty partner of the rejection and the closure of the case. ii) Inform in writing to the taxpayer on the closure of the case. | <p>MOFE</p> |
| | <ul style="list-style-type: none"> e) Implement the MAP agreement. | <p>MOFE Taxpayer CA of Treaty Partner</p> |

MOFE aims to resolve any MAP cases **within 24 months** from receiving the taxpayer's complete request.

Case start date and Case closed date

When a complete MAP request is received, evaluated and considered valid, MOFE will issue an acceptance letter to taxpayer and notify CA of the treaty partner of the commencement of the MAP case **within 4 weeks** from the receipt of taxpayer's request. CA of the treaty partner that receives the notification if it wishes to acknowledge receipt of the letter may do so within 1 week from the date of receipt of the notification.

- For case start date,
 - (I) It shall only start **after 1 week** from the date of acknowledgment receipt of notification by CA of the treaty partner, **or after 5 weeks** from the date of receipt of the taxpayer's complete MAP request, whichever is earlier; and
 - (II) If MOFE receives an incomplete MAP request, taxpayer needs to furnish the required information and/documentation within 2 months of the date the MAP request is received. The case start date shall be the date MOFE receives the full required information and/documentation.

- For case closed date,
 - (I) It is the date of the official communication in writing from MOFE to inform taxpayer of the outcome* of the MAP case; or,
 - (II) The date when MOFE receives notification from the taxpayer on the withdrawal of the MAP request.

* Outcome of a MAP case could be one of the followings:

- (i) Competent Authority Agreement that will fully eliminate double taxation or fully resolve taxation not in accordance with the DTA (regardless of whether the taxpayer accepts/rejects that outcome);
- (ii) Competent Authority Agreement that will partially eliminate double taxation or partially resolve taxation not in accordance with the DTA (regardless of whether the taxpayer accepts/rejects that outcome);
- (iii) No agreement is reached including "agreement to disagree";
- (iv) No taxation issues in accordance with the provisions of the DTA;
- (v) Access to MAP is denied/MAP request is rejected;

- (vi) Unilateral relief is granted;
- (vii) Objection is resolved via domestic remedy; and
- (viii) Any other outcome not aforementioned.