Guidelines for requesting Mutual Agreement Procedure ("MAP") assistance in Ireland

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

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1 Introduction

The purpose of this document is to set out the process through which taxpayers can request assistance from the Competent Authority in Ireland to resolve disputes arising from taxation not in accordance with the provisions of the relevant double taxation agreement ("DTA") and/or the EU Arbitration Convention.[1] In Ireland, Revenue is the Competent Authority.[2] Taxpayers may request mutual agreement procedure ("MAP") assistance under the terms of the relevant DTA (in conjunction with the relevant articles of the Multilateral Instrument ("MLI"),[3] where applicable), the EU Arbitration Convention,[4] or the European Union (Tax Dispute Resolution Mechanisms) Regulations 2019 ("EU TDRM").[5]

MAP assistance is provided by Revenue's International Tax Division. Contact details for submitting a request for MAP assistance to Revenue are included in Appendix 1 of this document.

This document distinguishes between requests for MAP assistance and requests for correlative adjustments. In the case of a correlative adjustment, a foreign associated taxpayer has settled a case unilaterally with its foreign tax administration with respect to a transaction with its Irish associated taxpayer. Subsequently the associated Irish taxpayer makes a claim to Revenue for a correlative adjustment. Revenue has published separate guidelines with respect to correlative adjustments, including details of how to make a claim for a correlative adjustment.[6] See section 4 for further information.

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[1] Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises - 90/436/EEC, referred to as the EU Arbitration Convention.

[2] Certain officers in Revenue are authorised representatives for the purposes of being a Competent Authority under the terms of Ireland's DTAs, the EU Arbitration Convention and the EU TDRM. The role of the Competent Authority is carried out independently from the audit function within Revenue.

[3] "Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting", the "MLI", as ratified by Ireland under the Multilateral Convention to Implement Tax Treaty Related Measures Order 2018 (S.I. No. 440 of 2018). The MLI modifies existing tax treaties, in order to implement the tax treaty-related measures to combat aggressive tax planning that were agreed as part of the OECD/G20 BEPS project. The application of the MLI with respect to a particular DTA depends on the positions taken by Ireland and its treaty partner regarding which Articles of the MLI they have adopted. Taxpayers should therefore consult the relevant DTA, the MLI provisions (including the entry into effect provisions) and the MLI positions taken by Ireland and its treaty partner. Revenue is publishing synthesised texts to facilitate the application and interpretation of Ireland's DTAs as modified by the MLI. These are published at Tax Agreements-Double Taxation Treaties-Tax Treaties by Country. For further information please see Tax Agreements-Multilateral Agreements.

[4] The EU Arbitration Convention only applies to cases involving transfer pricing or the attribution of profits to permanent establishments.

[5] European Union (Tax Dispute Resolution Mechanisms) Regulations 2019 (S.I. No. 306 of 2019) and European Union (Tax Dispute Resolution Mechanisms) (Amendment) Regulations 2020 (S.I. No. 673 of 2020), which give effect to the Council Directive (EU) 2017/1852 of 10 October 2017 on Tax Dispute Resolution Mechanisms in the European Union. Guidelines on the European Union (Tax Dispute Resolution Mechanisms) Regulations 2019 are available on the Revenue website.

[6] Guidelines for Article 9 Correlative Adjustment claims, Tax and Duty Manual Part 35-02-09.

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This document does not deal with applications for advance pricing agreements ("APAs"). Revenue has published separate guidelines with respect to bilateral APA applications in Ireland.[7] This document may be revised from time to time as necessary.

In February 2026, the OECD published a Manual on Effective Mutual Agreement Procedures ("MEMAP") setting out comprehensive practical guidance for competent authorities and taxpayers on the effective conduct of the MAP process.[8]

1.1 Legal basis for a MAP request

Article 25 of the OECD's Model Tax Convention on Income and on Capital[9] ("MTC") provides a mechanism to resolve difficulties arising where the actions of one or both of the Contracting States result or will result for the taxpayer concerned in taxation not in accordance with the provisions of the convention. In such a case, a taxpayer may request assistance from the Competent Authority to resolve the issue. Under the equivalent of Article 25(2) of the MTC, within the relevant Irish DTA, Revenue will endeavour to resolve such cases by mutual agreement with the Competent Authority of the other Contracting State.

Generally, Ireland's DTAs state that taxpayers must approach the Competent Authority of their country of residence to request MAP assistance. In cases where an adjustment to profits is made by a tax administration that affects related parties in different jurisdictions, it is advisable for each taxpayer to make a separate request for MAP assistance to the Competent Authority of the country in which it is resident.

The MLI entered into force for Ireland on 1 May 2019.[10] One of the provisions of the MLI, which Ireland has adopted, allows taxpayers to approach the Competent Authority of either jurisdiction to request MAP assistance under a DTA. The new rule will only apply, however, in treaties where Ireland's treaty partner has also adopted the provision and ratified the MLI. Where both countries have elected to apply the new rule, taxpayers will be able to approach the Competent Authority of either treaty partner jurisdiction in order to request MAP assistance. Taxpayers should consult the relevant DTA and the relevant MLI provisions (following ratification by both treaty partners) when making a MAP request.[11]

Article 6 of the EU Arbitration Convention provides that a taxpayer may present a MAP request to the Competent Authority where the taxpayer considers that the principles contained in Article 4 of the EU Arbitration Convention have not been

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[7] Bilateral Advance Pricing Agreement Guidelines, Tax and Duty Manual Part 35-02-07.

[8] OECD (2026), *Manual on Effective Mutual Agreement Procedures (2026 Edition): Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris.

[9] OECD (2026), *Model Tax Convention on Income and on Capital 2025 (Full Version)*, OECD Publishing, Paris.

[10] Tax Agreements-Multilateral Agreements.

[11] Tax Agreements-Double Taxation Treaties-Tax Treaties by Country.

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observed. For such cases, the request should be submitted to the Competent Authority of both jurisdictions at the same time.[12]

With effect from 1 July 2019, the EU TDRM offers taxpayers a mechanism to resolve disputes between Member States where those disputes arise from the interpretation or application of a DTA or the EU Arbitration Convention in respect of income or capital earned in a tax year commencing on or after 1 January 2018.[13]

2 Making a MAP request

2.1 Valid MAP request as considered by Revenue under the DTA, the EU Arbitration Convention or the EU TDRM

In order to request MAP assistance, a taxpayer must submit the MAP request in writing to the relevant Competent Authority, providing the required information as specified in section 2.1.2 below, in respect of the action that has resulted or will result in taxation not in accordance with the relevant DTA and/or the EU Arbitration Convention.

Under the EU TDRM, a taxpayer may submit a "complaint" (i.e. a MAP request) to the Competent Authorities of each of the Member States concerned with the dispute, providing the required information as specified in section 2.1.2 below. If a taxpayer submits a complaint under the EU TDRM, any ongoing MAP proceedings under a DTA and/or the EU Arbitration Convention in relation to the same dispute shall come to an end with effect from the date of the first receipt of the complaint made under the EU TDRM by any of the Competent Authorities concerned.

The MAP request must be submitted within the time limit specified in the applicable DTA, the time limit specified in Article 6 of the EU Arbitration Convention or the time limit specified under the EU TDRM as appropriate (refer to section 2.1.1 below).

A valid MAP request must contain, at minimum, the information set out in section 2.1.2 below.

Taxpayers may discuss the case with the Competent Authority prior to making a written MAP request.

2.1.1 Time limit for making a MAP request

The time limit for submitting a request for MAP assistance under a DTA is determined by the relevant DTA. Generally, Ireland's DTAs follow Article 25 of the MTC and provide that a request for MAP assistance must be submitted within 3 years from the first notification of the action resulting in taxation not in accordance with the convention. However, some treaties provide for a different time period.

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[12] Final Report on Improving the Functioning of the Arbitration Convention - JTPF/002/2015/EN Annex I - Revised Code of Conduct for the effective implementation of the Arbitration Convention.

[13] Subject to the agreement of the relevant Competent Authorities, the EU TDRM may apply in respect of the resolution of disputes relating to tax years commencing before 1 January 2018.

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Therefore, taxpayers should always consult the relevant DTA and the relevant MLI provisions (following ratification by both treaty partners) at an early stage to ensure that they submit a request for MAP assistance within the specified time limit.[14]

Where the time limit specified in a DTA has not been met, a request for MAP assistance will not be accepted.

Where taxpayers request MAP assistance under the EU Arbitration Convention, Article 6(1) provides that a MAP request must be presented within 3 years from the first notification of the action which results or is likely to result in double taxation.

For complaints submitted under the EU TDRM, the complaint must be submitted within 3 years from the receipt of the first notification of the action resulting in, or that will result in, the question in dispute.

Revenue considers the date on which the taxpayer receives the first tax assessment notice, or equivalent, that results in double taxation as being the beginning of the 3-year period.

2.1.2 Minimum information required to be a valid MAP request

In order for a MAP request to be considered a valid request under the DTA, the MAP request submitted to the Competent Authority under the equivalent of Article 25(1) of the MTC should specify, at a minimum:

- the tax period(s) concerned;
- the nature of the action giving rise, or expected to give rise, to taxation not in accordance with the DTA; and
- the full names and addresses of the parties to which the MAP relates.

In order for a MAP request to be considered a valid request by Revenue under the EU Arbitration Convention, the MAP request submitted to the Competent Authority should specify, at a minimum:[15]

- the identification of the taxpayer to which the MAP relates and the other parties to the relevant transactions;
- the tax period(s) concerned;
- details of the relevant facts and circumstances of the case;
- copies of any tax assessment notices, tax audit reports or equivalent documents leading to the alleged double taxation;
- details of any appeals and litigations initiated by the taxpayer or other parties to the relevant transactions; and
- an explanation by the taxpayer of why it considers that the principles of the EU Arbitration Convention have not been observed.

[14] Tax Professionals-Tax Agreements-Double Taxation Treaties.

[15] Final Report on Improving the Functioning of the Arbitration Convention - JTPF/002/2015/EN Annex I - Revised Code of Conduct for the effective implementation of the Arbitration Convention, Section 7.2.

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In order for a complaint to be considered a valid request by Revenue under the EU TDRM, the complaint submitted to the Irish Competent Authority should be accompanied by the information specified in the relevant section in Appendix 2.

The taxpayer must also undertake to respond as completely and quickly as possible to requests by the Competent Authority for further information.

Where the MAP request, either under Article 25(1) of the MTC or Article 6(1) of the EU Arbitration Convention, does not contain this minimum amount of information, it will not be regarded as a MAP request by Revenue, i.e. it will not be regarded as submitted for the purpose of satisfying the time limit requirements (refer to section 2.1.1 above) in the relevant DTA or the EU Arbitration Convention.

Where a complaint under the EU TDRM does not contain all of the information specified in the relevant section of Appendix 2, it may be rejected by the Irish Competent Authority.

2.2 Complete MAP request

While a MAP request will be regarded as presented for time limit purposes where the information set out in section 2.1.2 above has been provided, Revenue will not commence the MAP process until a complete request for MAP assistance is received. In order for a MAP request to be considered complete, taxpayers must provide the information outlined in the relevant section of Appendix 2.

2.2.1 Start date/initiation of a MAP request

The receipt of the information outlined in the relevant section of Appendix 2 will determine the start date for a MAP request under a DTA. This start date is relevant for the purposes of computing the time taken to resolve a MAP request.[16]

For the purpose of determining the starting point of the two year period under Article 7(1) of the EU Arbitration Convention,[17] a MAP request will not be regarded as initiated until all of the relevant information requested in Appendix 2 of this document has been provided. Taxpayers are advised to consult the Revised Code of Conduct for the Effective Implementation of the Arbitration Convention for further information.[18]

Under the EU TDRM, the starting point of the two year period for the Irish Competent Authority to endeavour to resolve a question in dispute with the other Competent Authorities involved in the complaint is the date of the last notification of a decision to accept the complaint by a Competent Authority. The two year period

[16] The start date for a MAP case is defined in the "MAP Statistics Reporting Framework" updated in December 2022 contained in pages 48 to 77 of OECD (2023), BEPS Action 14 on More Effective Dispute Resolution Mechanisms – Peer Review Documents, OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris.

[17] Article 7(1) of the EU Arbitration Convention provides for a two year period for the Competent Authorities to resolve a case prior to the case being submitted to an advisory commission (arbitration panel).

[18] Final Report on Improving the Functioning of the Arbitration Convention - JTPF/002/2015/EN Annex I - Revised Code of Conduct for the effective implementation of the Arbitration Convention, Section 7.6(a).

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may be extended by up to one year at the request of one of the Competent Authorities involved.

2.2.2 Analysis of a MAP request and taxpayer role

As Revenue begins the detailed analysis of the MAP request, it is likely that there will be further information requests.

Taxpayers are expected to cooperate fully with Revenue by providing complete and accurate information without delay when requested. Without proper information and documentation, Revenue may be unable to resolve disputes.

MAP discussions between Revenue and the other Competent Authority are a government-to-government process. Taxpayer involvement in the MAP is generally limited to presenting its views to both Competent Authorities and providing the relevant information. Taxpayers are not involved in the actual discussions between the Competent Authorities. However, where appropriate, taxpayers may be invited to make a presentation before the Competent Authorities to ensure a common understanding of the facts of a particular case.

Throughout the MAP process, the taxpayer should ensure that each tax administration is provided with the same information at the same time. This applies to any information submitted by the taxpayer to either tax administration as part of the MAP process.

Revenue will keep the taxpayer informed of the status of their MAP request on an on-going basis.

2.3 Confidentiality

The information submitted to Revenue in connection with a MAP request will be treated as confidential in accordance with the provisions of the Taxes Consolidation Act ("TCA") 1997.

The exchange of information between Revenue and the Competent Authority of the treaty partner country in relation to a MAP shall be carried out in accordance with the provisions of the relevant DTA. Information exchanged under Ireland's DTAs is confidential and may only be used and disclosed in accordance with the provisions of the treaty.

Due respect will also be given to the confidentiality of government-to-government communication as set out in the preamble to the Revised Code of Conduct for the effective implementation of the Arbitration Convention.[19]

[19] Final Report on Improving the Functioning of the Arbitration Convention - JTPF/002/2015/EN Annex I - Revised Code of Conduct for the effective implementation of the Arbitration Convention.

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2.4 Factors to be considered in determining whether to accept a MAP request

MAP request submitted under a DTA and/or the EU Arbitration Convention

The factors which Revenue will consider in determining whether to accept requests for MAP assistance include:

- There is a DTA in place between Ireland and the foreign jurisdiction which contains the appropriate enabling provision and/or both countries are signatories to the EU Arbitration Convention; and
- The actions of one or both countries result or may result in taxation not in accordance with the provisions of the DTA and/or the provisions of Article 4 of the EU Arbitration Convention may not have been observed; and
- The Competent Authority receives a valid MAP request within the time limit specified in the applicable DTA and/or the time limit specified in Article 6 of the EU Arbitration Convention (refer to section 2.1 above); and
- The issue or objection raised by the taxpayer appears to be justified/well founded.

Revenue will notify the taxpayer in writing, where possible, within 30 days of receipt of the taxpayer's MAP request, whether their request has been accepted or rejected. Revenue will provide the taxpayer with the reasons for its decision where a request is rejected.

Complaint submitted under the EU TDRM

The Irish Competent Authority will make a decision to accept or reject the complaint within 6 months from the date of receipt of the complaint, or if later, within 6 months of receipt of any additional information requested by them within 3 months of receipt of the complaint. It will notify its decision to the taxpayer. A complaint may be rejected if:

- The taxpayer has failed to provide the information required in the relevant section of Appendix 2 or any additional information requested by the Irish Competent Authority within 3 months of receipt of the complaint;
- In the opinion of the Irish Competent Authority, there is no "question in dispute", i.e. there is no matter giving rise to a dispute between Member States arising from the interpretation or application of the DTA or the EU Arbitration Convention; or
- The complaint is not submitted within the time limit (refer to section 2.1 above).

If the Irish Competent Authority rejects a complaint, the taxpayer may avail of the following avenues of recourse:

- Where the Irish Competent Authority rejects the complaint but other Competent Authorities involved accept the complaint, or vice versa, the taxpayer can request that an advisory commission is set up to deliver a decision on whether the complaint should be accepted or rejected. The request must be made in writing within 50 days of the notice of the decision to reject the complaint.

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- Where all of the Competent Authorities involved reject the complaint, the taxpayer can appeal the Irish Competent Authority's decision to the Tax Appeal Commission within 30 days of the notice of the decision to reject the complaint.

2.5 Stages of the MAP Process

2.5.1 First stage - unilateral

For MAP requests made to the Irish Competent Authority under the MAP article of a DTA and/or the EU Arbitration Convention, the Irish Competent Authority will first, if the request appears to be justified/well founded, attempt to resolve the matter unilaterally, without consulting the other Competent Authority.

For a complaint made under the EU TDRM, the Irish Competent Authority will first consider if it is able itself to resolve the question in dispute.

If the Irish Competent Authority is not itself able to arrive at a satisfactory solution, it will contact the Competent Authority of the other jurisdiction to set in motion the second, bilateral, stage of the MAP process.

2.5.2 Second stage - bilateral

During the second, bilateral, stage of the MAP process the Irish Competent Authority will endeavour to resolve the matter by mutual agreement with the Competent Authority of the other jurisdiction involved.

It is important to note that the equivalent paragraph in the relevant DTA of paragraph 2 of Article 25 of the MTC requires both Competent Authorities to negotiate with a view to the avoidance of taxation not in accordance with the DTA. However, in the absence of mandatory binding arbitration[20] there is no guarantee that the case will be successfully resolved.

2.6 Interaction with domestic remedies

A taxpayer may request MAP assistance irrespective of the remedies provided by Ireland's domestic law.

A taxpayer can request MAP assistance from the Irish Competent Authority in situations where a decision has been rendered by an Irish court or the Appeal Commissioners. However, the Competent Authority cannot derogate in the MAP from a decision of the Appeal Commissioners or the highest court in which the matter is heard.

Revenue does not envisage the parallel undertaking of a MAP where the taxpayer is simultaneously pursuing judicial or administrative remedies. However, a taxpayer may submit a request for MAP assistance while judicial or administrative proceedings are ongoing. In such cases, the Competent Authority will generally request that the taxpayer agrees to the suspension of its judicial or administrative remedies pending the outcome of the MAP.[21] If the taxpayer does not agree to

[20] Refer to section 3.2.1 *"Arbitration"*.

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suspend the administrative or judicial remedies, the Competent Authority will delay the MAP process pending the outcome of the administrative or judicial proceedings.

If the Competent Authorities cannot reach agreement through the MAP process or if the taxpayer rejects the agreement between the Competent Authorities, the taxpayer can then pursue any available domestic administrative or judicial remedies.

2.7 Other relevant guidance

Relief from collections, interest and penalties - Tax collection may be suspended where, on foot of an assessment or an amended assessment raised by Revenue, the taxpayer makes a MAP request in accordance with the relevant DTA, EU Arbitration Convention or the EU TDRM, within 30 days after the date of the notice of assessment and has paid any undisputed tax amounts.[22]

Separately, tax collection may also be suspended where the taxpayer has appealed against the assessment and has paid any undisputed tax amounts.

Where applicable, interest and penalties will apply in accordance with the TCA 1997 and the Code of Practice for Revenue Audit.[23]

Taxpayer-initiated foreign adjustments - Access to MAP will be available for issues arising from a bona fide taxpayer-initiated foreign adjustment.

Ireland's domestic legislation prevents a taxpayer from claiming a deduction for the foreign adjustment in their tax return under self assessment.[24] Taxpayers are required to present such cases to Revenue for consideration by making a request for a correlative adjustment or a MAP request.

Treaty anti-abuse and domestic anti-abuse provisions - Where issues arise relating to the application of treaty anti-abuse provisions or the application of domestic anti-abuse provisions, Ireland will engage in consultation with the Competent Authority of the other Contracting State.

However, taxpayers should be aware that while Revenue will engage with the tax authority of the other relevant jurisdiction in relation to MAP requests which concern the application of treaty and/or domestic anti-abuse provisions, any claim of taxation not in accordance with the provisions of the convention may not necessarily be resolved and any double taxation may not be eliminated.

Audit settlement - Audit settlement agreements between tax authorities and taxpayers do not preclude access to MAP.

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[21] Section 949W, TCA 1997 (as amended by Finance Act 2019) provides for a stay in appeal proceedings on the application of both parties to the appeal, to allow a MAP to proceed.

[22] Section 959AW, TCA 1997 (as amended by Finance Act 2019).

[23] Code of Practice for Revenue Compliance Interventions.

[24] Section 81(2)(o), TCA 1997.

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Multiple years - Taxpayers may submit MAP requests that span multiple years, subject to the time limit in the relevant DTA.

Multilateral MAPs - Where a MAP issue involves more than two tax jurisdictions, Revenue will consider entering into a series of bilateral MAPs as a way of dealing with such multilateral situations. Revenue will also consider requests by the taxpayer to conduct multilateral meetings with the other tax administrations, subject to the terms of the relevant DTAs and the agreement of the other tax administrations.

Absence of Article 9(2) in a DTA - Economic double taxation can arise as a result of the inclusion in the profits of an enterprise of one Contracting State, profits on which an enterprise of the other Contracting State has been charged to tax in that other State, under the equivalent of Article 9(1) of the MTC. Article 9(2) of the MTC provides for a correlative adjustment to be made to relieve the economic double taxation that could otherwise arise. Where a DTA (in conjunction with the MLI, where applicable) does not include the equivalent of Article 9(2) of the MTC, Revenue regards such economic double taxation as being implicitly within the scope of the DTA by virtue of the inclusion of Article 9(1) and, accordingly, Revenue is willing to consider a request in such cases for MAP or correlative adjustment.

Items not covered by MAP - No relief will be available, **inter alia,** for:

- Interest and penalties imposed by the other country; and
- Secondary/repatriation of profits adjustments implemented under the laws of the other country.

3 Resolution of a MAP request

There are a number of potential outcomes[25] in a MAP case, including:

- unilateral relief (refer to section 2.5.1 above);
- Competent Authority agreement for full or partial elimination of double taxation;
- no Competent Authority agreement is reached, including agreement to disagree;
- MAP request withdrawn by the taxpayer.

In line with BEPS Action 14[26], Revenue is committed to seeking to resolve MAP cases within an average timeframe of 24 months of receipt of the complete MAP request. However, this is dependent on a number of factors such as the complexity of the case, the co-operation of the taxpayer and the number of rounds of negotiations required.

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[25] http://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdfOECD (2023), BEPS Action 14 on More Effective Dispute Resolution Mechanisms – Peer Review Documents, OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris (refer to "MAP Statistics Reporting Framework", paragraph 14 for a list of potential outcomes).

[26] Action 14: 2015 Final Report, Making Dispute Resolution Mechanisms More Effective.

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3.1 Competent Authority agreement has been reached

Once a mutual agreement has been reached between Revenue and the other Competent Authority, Revenue will notify the taxpayer in writing of the agreed outcome, where possible within 30 days of the Competent Authority meeting. Revenue will request that the taxpayer confirm in writing whether it accepts the mutual agreement within 30 days of receipt of the letter from Revenue.

If the taxpayer rejects the mutual agreement reached between the Competent Authorities, it can withdraw from the MAP process and pursue any available domestic remedies.

3.1.1 Implementing agreement

If the taxpayer confirms in writing its acceptance of the mutual agreement, Revenue will give effect to the mutual agreement and seek to ensure its implementation without delay. In cases where a refund is due to the taxpayer, the taxpayer should contact the Revenue Division or Branch dealing with its affairs to begin the process of obtaining the refund. The taxpayer will be required to submit revised tax computations for the affected accounting periods to Revenue.

In cases where a refund is due to the taxpayer, to the extent that Revenue does not process a refund of tax arising from the mutual agreement within 93 days of the receipt from a taxpayer of a valid claim for repayment of tax, interest will become due and payable in accordance with the provisions of the TCA 1997.

3.2 Competent Authority agreement has not been reached

In the event that Revenue is unable to reach agreement with the Competent Authority of the foreign tax administration and in the absence of mandatory binding arbitration, Revenue will notify the taxpayer in writing, where possible within 30 days of the Competent Authority meeting, setting out why agreement could not be reached. Except for cases involving arbitration (refer to section 3.2.1 below), Revenue is not obliged to engage in further discussions with the other Competent Authority where Revenue or the other Competent Authority believes that agreement cannot be reached.

3.2.1 Arbitration

The Competent Authorities will endeavour to resolve cases with the objective of eliminating double taxation. However, it may not always be possible for the Competent Authorities to reach agreement, in which case arbitration may be available under the EU Arbitration Convention, the relevant DTA or the EU TDRM.

3.2.1.1 MAP request submitted under the EU Arbitration Convention

Where taxpayers have submitted a valid claim under the EU Arbitration Convention, the Competent Authorities have 2 years to reach agreement on the case. The two-year period starts on the later of the following dates: (i) the date of the tax assessment notice, i.e. a final decision of the tax administration on the additional income, or equivalent; (ii) the date on which the Competent Authority receives the

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request and the minimum information as stated under Section 7.6(a) of the Revised Code of Conduct for the effective implementation of the Arbitration Convention.[27]

If agreement is not reached within this timeframe, an advisory commission (arbitration panel) is established to review the case (unless both Competent Authorities by mutual agreement and with the agreement of the taxpayer(s) concerned waive the two year time limit). Both Competent Authorities agree on the composition of the advisory commission. The advisory commission will deliver its decision not more than 6 months after the date the matter was referred to it. Both Competent Authorities must then act within 6 months in accordance with the decision of the advisory commission unless both Competent Authorities reach an alternative agreement to eliminate double taxation. If the Competent Authorities do not reach an alternative agreement within 6 months of the advisory commission's decision, they will be obliged to implement the advisory commission's decision.

As the Irish Competent Authority cannot derogate from a decision of the Appeal Commissioners or an Irish court, the advisory commission cannot be established until the taxpayer has allowed the time limit for appeal to expire or withdraws any such appeal before a decision has been reached.[28]

3.2.1.2 MAP request submitted under a DTA with an arbitration provision

Ireland has adopted the mandatory binding arbitration provisions of the MLI. The MLI arbitration provisions will only apply, however, in treaties where Ireland's treaty partner has also adopted the provisions and ratified the MLI. Taxpayers should consult the relevant DTA and the relevant MLI provisions (following ratification by both treaty partners) when making a MAP request.[29]

In addition to treaties that will or have been modified by the MLI to include or replace an arbitration provision, a MAP arbitration provision is included in seven of Ireland's treaties (Israel, Kosovo, Liechtenstein, Mexico, Netherlands, Switzerland, and the US).

An exchange of notes to establish procedures and, in some cases, to bring MAP arbitration into effect is required for three of these treaties (Israel, Mexico and the US). No notes have been exchanged.

3.2.1.3 Complaint submitted under the EU TDRM

The Competent Authorities will endeavour to resolve the question in dispute by mutual agreement within two years of the date of the last notification of a decision to accept the complaint by a Competent Authority. The two-year period may be extended by up to one year at the request of one of the Competent Authorities involved. If an agreement to resolve the question in dispute is not reached between

[27] Final Report on Improving the Functioning of the Arbitration Convention - JTPF/002/2015/EN Annex I - Revised Code of Conduct for the effective implementation of the Arbitration Convention.

[28] EU Arbitration Convention, Article 7(3).

[29] Tax Agreements-Double Taxation Treaties-Tax Treaties by Country.

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the Competent Authorities within this timeframe, the taxpayer may request, within 50 days of being notified by the Irish Competent Authority that no agreement has been reached, that the Competent Authorities set up an advisory commission (i.e. an arbitration panel) to review the case. The advisory commission will deliver its decision not more than 6 months after the date upon which the commission is set up.[30]

The Competent Authorities may subsequently reach an alternative agreement on how to resolve the dispute which deviates from the decision of the advisory commission. If the Competent Authorities do not reach an alternative agreement within 6 months of the advisory commission's decision, they will be obliged to implement the advisory commission's decision.

As the Irish Competent Authority cannot derogate from a decision of the Appeal Commissioners or an Irish court, the advisory commission cannot be established if such a decision has been reached before the taxpayer has the opportunity to request that the advisory commission is set up. If the Appeal Commissioners or Irish court decision is reached after the setting up of the advisory commission but before it delivers its opinion, the arbitration proceedings are terminated.

3.3 MAP request withdrawn by the taxpayer

Where a taxpayer wishes to withdraw a MAP request the taxpayer is required to provide the Competent Authority (to which it submitted the MAP request) with a notification, in writing, of the withdrawal of its MAP request, without delay. This notification should include the reason for the withdrawal (for example resolution of the issue through remedies provided by the domestic law of a Contracting State).

Where a complaint has been submitted by a taxpayer under the EU TDRM, notice of the withdrawal of the complaint should be provided to each of the Competent Authorities at the same time.

4 Correlative adjustments

Revenue's published **Guidelines for Article 9 Correlative Adjustment claims**[31] provide details on making a claim for a correlative adjustment, including the basis on which a company can claim a correlative adjustment, the process of review of the claim by Revenue, and the options available to the company when the review is completed.

If the correlative adjustment claim is wholly or partly refused by Revenue, the taxpayer may request MAP assistance from the Competent Authority in Revenue's International Tax Division provided the request is within the time limit for a MAP request as set out in Section 2.1.1 above. Taxpayers should note that they must comply with the time limit set out in the relevant DTA, the EU Arbitration Convention or the EU TDRM as appropriate.

[30] The six-month time limit may be extended by three months if the advisory commission considers that more time is required to deliver its opinion.

[31] Guidelines for Article 9 Correlative Adjustment claims, Tax and Duty Manual Part 35-02-09.

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Appendix 1: Contact details for submitting a MAP request under a DTA, the EU Arbitration Convention or the EU TDRM

Transfer pricing and attribution of profits to a permanent establishment MAP requests

Requests for MAP assistance that relate to matters of transfer pricing or the attribution of profits to a permanent establishment are dealt with by the Transfer Pricing Branch of the International Tax Division and should be addressed to:

Director, Transfer Pricing Branch

International Tax Division

Office of the Revenue Commissioners

Dublin Castle

D02 F342

Dublin 2, Ireland

Email: transferpricing@revenue.ie

Non-transfer pricing MAP requests

Requests for non-transfer pricing MAP cases are dealt with by the Tax Treaties Branch of the International Tax Division and should be addressed to:

Director, Tax Treaties Branch

International Tax Division

Office of the Revenue Commissioners

Dublin Castle

D02 F342

Dublin 2, Ireland

Email: treatymap@revenue.ie

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Appendix 2: Information and documentation required to be submitted with a request for MAP assistance

Information and documentation submitted with a request for MAP assistance should be prepared in one of the official languages of Ireland (Irish or English) and submitted electronically using Revenue's MyEnquiries[32] facility or the secure Revenue File Transfer Service[33] (RFTS). If requested to do so, the taxpayer should provide a hard copy of the MAP submission and any subsequent material.

Where applicable, taxpayers should ensure that a statement authorising a person (e.g. an agent) to make a MAP request on their behalf is provided.

For MAP requests relating to transfer pricing and the attribution of profits to a permanent establishment, the information should be sent to the Director of the Transfer Pricing Branch. For non-transfer pricing MAP requests, the information should be sent to the Director of the Tax Treaties Branch. Refer to Appendix 1 of the document for the relevant contact information.

Information and documentation required to be submitted with a MAP request under a DTA and / or the EU Arbitration Convention

The information that must be included with a request for a MAP presented under either a DTA or the EU Arbitration Convention is set out below:

i. Identity (such as name, address, tax identification number or birth date, contact details) of the taxpayer(s) covered in the MAP request and of the other parties to the relevant transaction(s).

ii. Details of the relationship between the taxpayer and the other parties to the relevant transaction(s).

iii. The legal basis for the request i.e. the specific tax treaty and/or EU Arbitration Convention including the provision(s) of the specific article(s) which the taxpayer considers is not being correctly applied by either one or both Contracting States (and to indicate which state and the contact details of the relevant person(s) in that state).

iv. Facts and circumstances of the case (including any documentation to support these facts such as financial statements and intercompany legal agreements, the taxation year(s) or period(s) involved and the amounts involved, in both the local currency and foreign currency).

[32] MyEnquiries is a structured online contact facility that allows customers to securely send and receive correspondence to and from Revenue instead of using email.

[33] Taxpayers wishing to use the RFTS can contact Revenue (see Appendix 1 of the document for contact details) to obtain further information on using this system.

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v. An analysis of the issues involved (supported with relevant documentation, for example, tax assessment notices, tax audit report or equivalent leading to the alleged double taxation, evidence of tax paid (where applicable)), including:

   a. the taxpayer's interpretation of the application of the specific treaty provisions(s), to support its basis for making a claim that the provision of the specific tax treaty is not correctly applied by either one or both Contracting States; and/or

   b. an explanation by the enterprise why it considers that the principles set out in Article 4 of the EU Arbitration Convention have not been observed.

vi. The request should state whether the issue(s) presented in the MAP request have been previously dealt with, for example, in an advance ruling, APA, settlement agreement or by any tax tribunal or court. This includes details of any appeals and litigation procedures initiated by the taxpayer or the other parties to the relevant transactions. If yes, a copy of these rulings, agreements or any court decisions concerning the case should be provided.

vii. Any other information or documentation requested by the Competent Authority. Responses to requests for additional information should be complete and submitted within the time stipulated in the request for such information or documentation.

viii. An undertaking that the enterprise shall respond as completely and quickly as possible, providing wholly accurate and complete information, to all reasonable and appropriate requests made by a Competent Authority and have documentation at the disposal of the Competent Authorities.

ix. Confirmation of whether the MAP request was also submitted to the Competent Authority of the other Contracting State – if so, the MAP request should make this clear, 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. A copy of that submission (including all documentation filed with that submission) should also be provided unless the content of both MAP submissions are the same.

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Information and documentation required to be submitted with a complaint made under the EU TDRM

The information that must be included with a complaint presented under the EU TDRM is set out below:

1. The name, address, tax identification number of each affected person and any other information necessary for the identification of each affected person and of any other person concerned;

2. The tax year or tax years to which the complaint relates;

3. Details of the following, including a copy of any supporting documents:

   (a) the relevant facts and circumstances of the case, including, in particular –
      (i) details of the structure of the transaction related to the question in dispute and the relationship between the affected person and the other parties to the relevant transactions, and
      (ii) any facts determined in good faith in a mutually-binding agreement between the affected person and Revenue or the tax administration of a relevant Member State, where applicable;

   (b) the nature and date of the actions giving rise to the question in dispute, including, where applicable –
      (i) details of the same income received in the other Member State and the inclusion of such income in the taxable income in the other Member State,
      (ii) details of the tax charged or that will be charged in relation to that income or that gain in the other Member State, and
      (iii) the related amounts in the currencies of the Member States concerned;

4. Reference to the applicable national rules and to the DTA and/or EU Arbitration Convention, the interpretation or application of which is the subject of the question in dispute and, where more than one such arrangement is applicable, specification by the affected person of which arrangement is being interpreted in relation to the question in dispute;

5. The following, together with copies of any supporting documents:

   (a) an explanation of why the affected person considers that there is a question in dispute;

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(b) the details of any appeals and litigation initiated by the affected person regarding the relevant transactions and of any court decisions concerning the question in dispute;

(c) a commitment by the affected person to provide timely and complete responses to all appropriate requests from, and to provide any documentation requested by, the Irish Competent Authority;

(d) a copy of any final tax assessment decision in the form of a final tax assessment notice, tax audit report or other equivalent document leading to the question in dispute and a copy of any other documents issued by Revenue and the tax authorities of the relevant Member States with regard to the question in dispute, where relevant;

(e) information on any complaint submitted by the affected person under another MAP or dispute resolution procedure under a DTA and/or the EU Arbitration Convention, the interpretation or application of which is the subject of the question in dispute, and an express commitment by the affected person that any other ongoing MAP proceedings brought under a DTA or the EU Arbitration Convention will come to an end, if applicable;[34]

6. Any specific additional information requested by the Irish Competent Authority, or the Competent Authority of a relevant Member State, that is considered necessary for them to undertake the substantive consideration of the particular case.

7. A statement confirming that the complaint and all of the information listed above are being simultaneously submitted to all relevant Competent Authorities[35]

In addition to the above, the complaint should identify the other Competent Authorities in each relevant Member State to whom the complaint concerns.

[34] See section 2.1 of this document for further details.

[35] If the affected person is an individual or a small company (within the meaning of Council Directive 2013/34/EU), then this requirement does not apply as the complaint need only be submitted to the Irish Competent Authority. The Irish Competent Authority will then notify the other relevant Competent Authorities of the complaint. The affected person is requested to state in their submission to the Irish Competent Authority if they are such an individual or a small company.

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