REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

JUN 29 2022

REVENUE REGULATIONS NO. 10-2022

SUBJECT: Prescribing the Guidelines and Procedures for Requesting Mutual Agreement Procedure ("MAP") Assistance in the Philippines

TO: All Internal Revenue Officers and Others Concerned

Section 1. MAP and its Legal Basis

The Mutual Agreement Procedure ("MAP") article in the Double Taxation Agreements (DTAs) or tax treaties of the Philippines with other jurisdictions allows the competent authorities of the contracting states to resolve disputes arising from differences or difficulties in the interpretation or application of the tax treaty through mutual agreement. These disputes involve cases of double taxation, juridical and economic, which oftentimes result from inconsistencies in the interpretation and application of treaty provisions and from transactions not conducted at arm's length.

Usually, the recourse of a taxpayer whose income is subjected to double taxation or to taxation not in accordance with the provisions of the relevant DTA is to litigate such case in court or to file an administrative appeal. With MAP, the affected taxpayer is now given another avenue, independent from the ordinary legal remedies, to resolve disputes resulting from the inconsistent and improper application or interpretation of treaty provisions.

While the competent authorities may resort to MAP, they are, however, not obliged to reach an agreement and resolve their tax disputes. What the MAP article requires is that they shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the relevant DTA.

Section 2. Objective

This Regulations is being issued to set out the process through which taxpayers can request MAP assistance from the Philippine Competent Authority to resolve disputes arising from taxation not in accordance with the provisions of the relevant DTA. It outlines the procedures for initiating a MAP request and the specific information and documentation that a taxpayer is required to submit in support thereof, and provides guidance in the implementation of a MAP agreement that has been reached, if any.

Section 3. Typical scenarios requiring MAP Assistance

The following are some typical examples of taxation not in accordance with a tax convention that would necessitate a MAP assistance:

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1. The withholding tax rate imposed on an item of income earned by a domestic corporation or resident citizen is beyond the maximum rate fixed under the tax treaty.
2. A taxpayer is deemed a resident of the Philippines and of the other contracting state based on their domestic laws. This triggers the application of the tiebreaker rules under the applicable tax treaty.
3. A domestic corporation or a resident citizen is taxed in the other country on the business profit or income from independent services despite not having a permanent establishment or a fixed based in that country under the tax convention.
4. A resident citizen or domestic corporation has been or will be subject to taxation not in accordance with the provisions of the applicable tax treaty regarding the amount of profit attributable to the permanent establishment or fixed base.
5. A taxpayer is uncertain whether the convention covers a specific item of income or is unsure of the characterization or classification of the item related to a cross-border issue.
6. A taxpayer is subject to additional tax in one country because of a transfer pricing adjustment to the price of goods or services transferred to or from a related party in the other country.

Section 4. The Composition of the MAP Team

The MAP Team of the Bureau of Internal Revenue (BIR) shall be composed of the following:

1. The Competent Authority for the Philippines

To implement the MAP article, the Commissioner of Internal Revenue (CIR) is hereby 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).

2. Offices under the Competent Authority

To effectively implement the MAP functions, the receipt, detailed analysis, and initial review of the MAP cases shall be conducted by the following:

a. 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.

   In order to enable ITAD to carry out its mandate to resolve MAP cases in a timely and effective manner, adequate resources (e.g. personnel, funding, training, etc.) shall be provided to the MAP function.

   i. With respect to manpower, the Personnel Division shall revisit the organizational structure and staffing pattern of ITAD and accordingly plan the staff augmentation for the MAP function, taking into consideration the number of case officers handling MAP cases, the average case load of each case officer, whether the case

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officers are handling MAP cases only or are also assigned to any other tasks, the complexity of cases handled by these case officers and the years of experience of the case officers handling MAP cases, among others. The Chief of ITAD shall be allowed to request more personnel to handle increasing inventory of MAP cases if the circumstances so warrant.

ii. Adequate funding shall also be allocated to the MAP function for travelling expenses to conduct face-to-face negotiations where necessary.

b. 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.

Section 5. Initiating a MAP Request

1. Pre-filing Consultation

A taxpayer may, prior to making a formal request for MAP assistance, request for a pre-filing consultation following the procedures outlined below:

a. the request for a pre-filing consultation should be addressed to the Chief of ITAD, Attention: Section Chief, Rulings and MAP Section;
b. supporting documents shall be attached to such request, when necessary; and
c. if so requested, the taxpayer or his authorized representative shall attend and make a presentation of the issues that require competent authority assistance.

The taxpayer shall be informed of the outcome of the pre-filing consultation. If the Chief of ITAD believes that the issues may be resolved through MAP, it shall advise the taxpayer to submit a formal request for MAP assistance.

2. A Valid MAP Request

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 hereof 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

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.

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3. Specific Information and Documentation to be Submitted with the MAP Request

a. Minimum Information

In order for a MAP request to be considered valid under the DTA, it should contain the following information:

i. 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);
ii. 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;
iii. relevant facts of the case, the taxation years or period involved and the amounts involved (in both the local currency and foreign currency);
iv. 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;
v. analysis of the issue(s) involved, including its interpretation of the application of the specific treaty provision(s);
vi. 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;
vii. whether the issue(s) involved were previously dealt with;
viii. 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;
ix. 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
x. 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.

b. Documentation

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

i. 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;
ii. copies of tax assessments, audits conducted by the foreign tax authority leading to the incorrect application of the tax treaty provision;
iii. 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);

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iv. decisions of a competent court or tax tribunal on a similar case involving the same factual and legal issues;
v. 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);
vi. a copy of the complaint or appeal filed in court or with the tax authorities, if any;
vii. a copy of any settlement or agreement reached with the other jurisdiction which may affect the MAP process;
viii. proof of payment of tax resulting from the transfer pricing adjustment made in the foreign country; and
ix. 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.

4. Venue

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;[1] 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.

5. Period within which to File the MAP Request

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

[1] For MAP requests invoking the provision of Article 25 of the Convention between the Government of the Republic of the Philippines and the Government of the United States of America with Respect to Taxes on Income.

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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.

6. Manner of Submission

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.

7. Fees

Fees associated with the negotiation of bilateral or multilateral APAs[2] 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.

Section 6. The MAP Process

1. Preliminary Assessment

During the preliminary assessment, the responsible officer should determine whether the following requisites are present:

a. the request contains the minimum information and documentation set out in Section 5(3) hereof;
b. There is a DTA in place between the Philippines and the foreign jurisdiction which contains a MAP article; and
c. the MAP request was filed with the proper Competent Authority within prescribed time limit.

If any of the aforesaid requisites is missing, the MAP request shall not be considered valid and admissible. Where only the first requisite is missing, the competent authority shall return the documents submitted by the taxpayer and notify him/her in writing of any deficiencies that need to be clarified, completed and submitted.

MAP requests originating from a foreign jurisdiction shall comply with the MAP Guidelines set by the said jurisdiction. The Philippine Competent Authority shall not,

[2] APAs in which two or more jurisdictions concur.

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however, be precluded from either requesting clarification or requiring the foreign Competent Authority to submit additional documents, if warranted.

The receipt of a valid request will determine the start date for a MAP request or the commencement of the MAP process. This start date is relevant for the purpose of computing the time taken to resolve a MAP request and in determining whether the request was presented within the time frame stipulated in the DTA. For this purpose, a MAP request will not be regarded as initiated until all the relevant information requested has been provided.

If the MAP request was presented beyond the prescribed time limit or the MAP request utterly lacks legal basis, the MAP request shall be closed, and taxpayer shall be notified in writing of the result and action taken by the BIR within thirty (30) days from receipt thereof.

2. Analysis of a MAP Case

Once a case that meets the requirements of the treaty has been accepted, the MAP Office must determine whether the taxpayer's objection is justified. It is at this stage that the MAP Office should commence a detailed analysis of the MAP request. As the case progresses, it is likely that there will be further information requests. Taxpayers are expected to cooperate fully with the MAP Office by providing complete and accurate information without delay when requested. As treaty partners, mutual cooperation and assistance between competent authorities on this matter is highly encouraged. Without proper information and documentation, the MAP Office may be unable to resolve disputes.

After establishing that the taxpayer's objection is justified, the MAP Office shall then determine whether the Philippine Competent Authority could resolve the case unilaterally or without the involvement of the other Competent Authority. Where the action that results in taxation not in accordance with the provisions of the DTA is due in whole or in part to a measure taken in the Philippines, the Philippine Competent Authority may decide to resolve it unilaterally. In doing so, the MAP Office shall coordinate with the office of the BIR that issued the ruling or assessment, if necessary.

On the other hand, if the MAP case is justified but the Philippine Competent Authority cannot arrive at a unilateral solution, the MAP case will move to the bilateral stage where both competent authorities shall endeavor to resolve the case by mutual agreement or should strive to find a solution on how the provisions of the tax treaty should be applied in the given situation. They are not, however, obliged to enter into an agreement for each individual MAP case.

3. Consultations between the MAP Team and other offices of the BIR

The MAP Office may exchange opinions with the relevant office of the BIR whenever necessary. The latter is expected to coordinate and comply with the request for information in a timely manner so as not to obstruct the smooth implementation of the MAP process.

Where relevant, the MAP Office may require the office that rendered the assessment to forward the case docket, or to share the relevant documents explaining the details of the taxation.

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4. Consultations between the Competent Authorities

If the taxpayer's claim is justified and cannot be resolved unilaterally, the Philippine Competent Authority shall endeavor to resolve the case with the Competent Authority of the other contracting state in a timely manner. To set in motion the bilateral stage of the MAP process, the former shall then notify the latter of its receipt of the MAP request and its intention to conduct bilateral consultations with the latter within thirty (30) days from its determination that unilateral resolution is not possible.

Actual discussions leading to the resolution of the MAP request shall be between the competent authorities of the concerned contracting states only. The competent authorities may bring along their MAP Teams including the tax auditors who made the adjustments. The role of the tax auditors shall, however, be limited to clarifying the facts of the case and providing other background analysis to assist the Competent Authorities in understanding the case. They should not be involved in the decision-making process.

It shall be the duty of the Competent Authorities to notify each other of the envisaged presence of the tax auditor. If a Competent Authority prefers to resolve the MAP case without the tax auditors, such request should be respected by the other Competent Authority.

On the other hand, the involvement of the taxpayer shall be limited only to presenting its views to the proper competent authority and providing the relevant information. 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.

5. Negotiation of Bilateral or Multilateral APAs

The BIR shall subscribe to a commercial database for determining external comparable in order that the MAP Team will be able to effectively negotiate bilateral or multilateral APAs with the competent authority(ies) of other jurisdictions through the MAP process. However, if the MAP Team finds that the internal comparables provided by the taxpayer or the external comparables lifted from proprietary databases are reliable, it may then review the APA request and proceed with the MAP consultation.

Commercial databases[3] are developed by editors who compile accounts filed by companies with the relevant administrative bodies and present them in an electronic format suitable for searches and statistical analysis, while proprietary databases[4] are developed and maintained by advisory firms developed and maintained by advisory firms.

If the taxpayer used a proprietary database to support its transfer prices, the MAP Team shall be given access to the said database for review and verification purposes.

A separate Regulations will be issued for the APA Program.

[3] OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (2022), paragraph 3.30, page 159.
[4] *Id.* at paragraph 3.34, page 158.

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6. Authority of the MAP Team

The MAP Team shall have the authority to resolve MAP cases in accordance with the terms of the applicable and effective DTA with the view of eliminating taxation not in accordance with the provision thereof. This is, however, without consideration to the policy or policies that the Philippines would like to adopt in future negotiations and renegotiations of DTAs.

In regard to transfer pricing issues, the MAP Team shall resolve the MAP case independently and objectively, i.e., without being influenced in any manner by the tax auditor or examiner who made the adjustments. In other words, the approval or direction of the examiner who made the adjustments at issue is not required to resolve a MAP case resulting from transfer pricing adjustments.

7. Resolution of a MAP Case

The following are the possible outcomes of the MAP process:

a. access to MAP is denied (i.e. not an admissible request or denied for any other reasons);
b. objection is not justified;
c. objection is resolved via domestic remedy;
d. unilateral relief will be granted;
e. competent authority agreement for full or partial elimination of double taxation;
f. competent authority agreement stating that there is no taxation not in accordance with the tax treaty;
g. no competent authority agreement is reached including agreement to disagree; and
h. any other outcome.

MAP Cases shall be resolved within an average timeframe of 24 months from receipt of a complete MAP request. This is dependent, however, on the complexity of the case, and the cooperation of the taxpayer and of the competent authorities.

8. Competent Authority Agreement

Any agreement reached between the competent authorities shall be communicated to the taxpayer within 30 days after the consultation or meeting. The Philippine Competent Authority shall give the taxpayer another 30 days within which to convey its/his/her acceptance or disapproval to the mutual agreement reached. If the competent authority agreement has been rejected and a valid notice of objection or an appeal has been lodged under applicable domestic procedures, the taxpayer typically has the option to proceed through the appeals process and/or to court, if applicable. If the other redress mechanism (appeal or court decision) does not reverse the judgment in its entirety, double taxation may remain.

9. Timely implementation of MAP Agreements

If the taxpayer confirms in writing its acceptance of the mutual agreement reached by the competent authorities, the Philippine Competent Authority shall give effect to such mutual agreement and ensure its implementation without delay.

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In cases where a refund is due to the taxpayer, the taxpayer should begin the process of obtaining the refund following the procedures prescribed under existing revenue issuances. In case there is a provision in the MAP Article of the relevant DTA on the implementation of the MAP Agreement, then, the MAP Agreement may be implemented pursuant to the provision of the DTA notwithstanding any time limits in the National Internal Revenue Code of 1997 (Tax Code), as amended. However, in case the relevant DTA is silent as to the period of implementation of the MAP Agreement, then the MAP Agreement shall be implemented pursuant to the domestic statute of limitation under the Tax Code.

Where during the MAP process, the domestic statute of limitations will expire which may then affect the possibility to implement a MAP agreement, the Philippine Competent Authority shall immediately notify its treaty partner of such fact.

10. Competent Authority Agreement has not been reached

If the competent authorities are not able to reach an agreement, the Philippine competent authority will notify the taxpayer in writing within 30 days after the consultation or meeting, citing the reasons therefor. The taxpayer may pursue any available domestic remedies after receiving such notice.

11. Interaction with Domestic Remedies

a. Judicial or other administrative appeals versus MAP

MAP assistance may be requested irrespective of the remedies provided by the domestic laws of the Philippines. Thus, a taxpayer can request MAP assistance from the Philippine Competent Authority even in situations where there is a pending judicial or administrative appeal and even where a decision, ruling or final assessment has already been rendered by the competent officials of the BIR.

It must be emphasized, however, that a MAP case cannot proceed simultaneously with the determination of judicial or other administrative appeals. Depending upon which process is chosen, the other process should be held in abeyance pending the outcome of the first process. Thus, if a judicial or administrative proceeding is ongoing, the taxpayer is duty-bound to notify the Competent Authority of such fact and of its decision whether to suspend the resolution of the MAP case or the judicial or administrative proceedings. If the taxpayer does not want to suspend the administrative or judicial remedies, the Competent Authority will have to hold in abeyance the MAP process pending the outcome of the former.

If, on the other hand, the taxpayer opts to suspend the administrative or judicial proceedings, he/she/it shall submit a proof of such suspension to the Competent Authority, such as a duly issued order or resolution of suspension from the BIR or the court. If the Competent Authorities cannot reach an agreement through the MAP process or if the taxpayer rejects the agreement between the Competent Authorities, the taxpayer can then pursue and proceed with any available domestic administrative or judicial remedies.

b. Court decisions cannot be overruled through MAP

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Section 8 of the Civil Code of the Philippines states that judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines. Such interpretations constitute part of the law as of the date it was originally passed, since the Supreme Court's construction merely establishes the contemporaneous legislative intent that the interpreted law carried into effect.[5] However, when a doctrine of the Court is overruled and a different view is adopted, and more so when there is a reversal thereof, the new doctrine should be applied prospectively and should not apply to parties who relied on the old doctrine and acted in good faith.[6]

Thus, once a taxpayer's liability has been finally determined by the court, the BIR shall be bound by the said decision and shall no longer provide further relief through MAP. In no case shall the Philippine Competent Authority be allowed to deviate from a domestic court decision. Simply put, only issues not decided by the court with finality will be discussed in the MAP proceedings.

c. Effect of decisions rendered by foreign courts

While the BIR is bound by the decision of Philippine courts, it is not, however, bound by a decision given by a foreign court or administrative tribunal. The Philippine Competent Authority may choose to unilaterally provide relief if requested by the taxpayer and to the extent deemed appropriate based on the merits of the case.

d. Suspension of Tax Collection

In addition to the minimum information mentioned in Section 5(3)(a), a taxpayer seeking further recourse through MAP shall indicate in the MAP request, if there is a tax assessment involved, the suspension of the collection of such taxes. The Competent Authority, in acting upon such MAP request, may grant the requested suspension of collection pursuant to the Tax Code and its relevant rules and regulations.

If the decision in the MAP (MAP Decision) case upholds the tax liability of the taxpayer, the enforcement of tax collection shall begin to run again after the date the MAP Decision had been released, mailed or sent by the BIR to the registered address of the taxpayer.

12. Withdrawal of a MAP Case

Where a taxpayer wishes to withdraw a MAP request, he/she/it shall promptly notify the Competent Authority to which the request was submitted of the withdrawal of its MAP request. This notification should include the reason for the withdrawal (e.g. resolution of the issue through domestic remedies).

13. Appropriate Transfer Pricing Adjustment under the DTAs

Transfer pricing adjustment refers to the corresponding adjustment of profits resulting from international dealings between associated enterprises which were not conducted at arm's length. This may occur, for example, where a taxpayer settles a dispute unilaterally

[5] Roque Senarillos vs. Epifanio Hermosisima, et. al., G.R. No. L-10662, December 14, 1956.
[6] Columbia Pictures, Inc. v. Court of Appeals, G.R. No. 110318, August 28, 1996.

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with the foreign tax administration without involving the Philippine Competent Authority, i.e. the taxpayer has agreed to the adjustment that was raised by the foreign tax authority and has paid the additional foreign tax resulting from such adjustment.

The Philippines considers that economic double taxation resulting from the inclusion of profits of associated enterprises is not in accordance with the object and purpose of tax treaties and falls within the scope of the MAP article. Therefore, if the article on associated enterprises of the relevant DTA contains a provision on transfer pricing adjustment, the Philippines will make corresponding adjustments or grant access to MAP with respect to the economic double taxation that may otherwise result from a primary transfer pricing adjustment. In cases where the objection of the taxpayer is justified, the Philippine Competent Authority may provide for corresponding adjustments unilaterally. The purpose of such adjustment is to provide the Philippine taxpayer with relief from double taxation resulting from an adjustment initiated by the foreign tax administration and accepted by the taxpayer.

MAP requests involving transfer pricing adjustments will be reviewed extensively based on the information and documentation provided by the taxpayer, and a correlative adjustment to the profits of the taxpayer shall be made only to the extent that the Philippine Competent Authority considers the adjustment to be at arm's length. Where, following the review, the Philippine Competent Authority agrees to the whole or part of a transfer pricing adjustment made by the foreign tax authority, the former must obtain a confirmation from the latter that tax has been paid on the said adjustment.

Where refund is due, the taxpayer shall be guided by the discussion on paragraph 8 of this Section.

Section 7. Audit Settlement

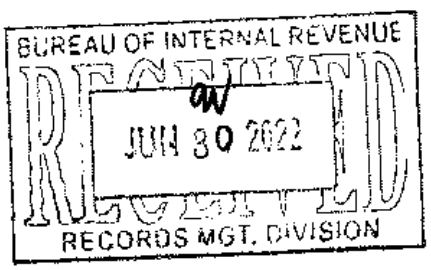
Audit settlements reached between the tax authority and the taxpayers do not preclude access to MAP. If a MAP request has been initiated after such audit settlement, the Philippine competent authority should independently consider whether such settlement would result in taxation not in accordance with the provisions of the Convention.

After all, 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.

Section 8. Confidentiality

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.



Section 9. Repealing Clause

All existing revenue issuances or portions thereof inconsistent herewith are hereby revoked and/or amended accordingly.

Section 10. Effectivity

This Regulations shall take effect after fifteen (15) days following its publication in a newspaper of general circulation.

CARLOS G. DOMINGUEZ
Secretary of Finance

JUN 29 2022

Recommending approval:

CAESAR R. DULAY
Commissioner of Internal Revenue

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