

## Viet Nam Dispute Resolution Profile

(Last updated: 01 August 2018)

### General Information

- **Viet Nam's tax treaties are available at:**

<http://www.gdt.gov.vn/wps/portal/english> (list only). The tax treaties are available at the GDT office or Books published by the Tax Journal.

- **MAP requests should be made to:**

Mr. Dang Ngoc Minh, Competent Authority

Deputy Director General

General Department of Taxation of Viet Nam

Email: [dnminh@gdt.gov.vn](mailto:dnminh@gdt.gov.vn)

Tel: (84-24) 3971.2298

Fax: (84-24) 3971.2286

Office address: 123 Lo Duc, Hai Ba Trung, Ha Noi, Viet Nam

or

Mr. Vu Chi Hung, Competent Authority

Director of International Taxation Department

General Department of Taxation of Viet Nam

Email: [ychung@gdt.gov.vn](mailto:ychung@gdt.gov.vn)

Tel: (84-24) 3971.9319

Fax: (84-24) 3971.2288

Office address: 123 Lo Duc, Hai Ba Trung, Ha Noi, Viet Nam

- **APA requests should be made to:**

Mr. Dang Ngoc Minh, Competent Authority

Deputy Director General

General Department of Taxation of Viet Nam

Email: [dnminh@gdt.gov.vn](mailto:dnminh@gdt.gov.vn)

Tel: (84-24) 3971.2298

Fax: (84-24) 3971.2286

Office address: 123 Lo Duc, Hai Ba Trung, Ha Noi, Viet Nam

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>A. Preventing Disputes</b>				
1.	Are agreements reached by your competent authority to resolve difficulties or doubts arising as to the interpretation or application of your tax treaties in relation to issues of a general nature which concern, or which may concern, a category of taxpayers published?	Yes	Up to now, all MAP cases are being processed.	-
2.	Are bilateral APA programmes implemented? If yes:	Yes	In effect since 2014 by MOF's Circular 201/2013/TT-BTC dated 20/12/2013.	<a href="http://www.gdt.gov.vn/">http://www.gdt.gov.vn/</a>
a.	<ul style="list-style-type: none"> <li>Are roll-back of APAs provided for in the bilateral APA programmes?</li> </ul>	No	The effect of an APA begins no sooner than the date the taxpayer submits the formal APA application.	Article 23, Circular 201/2013/TT-BTC, <a href="http://www.gdt.gov.vn/">http://www.gdt.gov.vn/</a>
b.	<ul style="list-style-type: none"> <li>Are there specific timeline for the filing of an APA request?</li> </ul>	Yes	<p>Within 120 days from the date of receiving GDT's written letter approving for a formal APA application, the taxpayer must submit formal APA application.</p> <p>In case that the taxpayer is not able to submit the application in due date because of objective reasons, the taxpayer must submit a written request to and approved by GDT to extend the deadline. The deadline extended is no more than 30 days from the original expiry date.</p>	Article 9 Circular 201/2013/TT-BTC, <a href="http://www.gdt.gov.vn/">http://www.gdt.gov.vn/</a>
c.	<ul style="list-style-type: none"> <li>Are rules, guidelines and procedures on how taxpayers can access and use bilateral APAs, including the specific information and documentation that</li> </ul>	Yes	Template and List of detailed information is given at Article 9 of Circular 201/2013/TT-BTC.	Article 9, Circular 201/2013/TT-BTC <a href="http://www.gdt.gov.vn/">http://www.gdt.gov.vn/</a>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	should be submitted in a taxpayer’s request for bilateral APA assistance, publicly available?			
d.	<ul style="list-style-type: none"> <li>Are there any fees charged to taxpayers for a bilateral APA request?</li> </ul>	No	-	Circular 201/2013/TT-BTC, <a href="http://www.gdt.gov.vn/">http://www.gdt.gov.vn/</a>
e.	<ul style="list-style-type: none"> <li>Are statistics relating to bilateral APAs publicly available?</li> </ul>	No	No APA has been concluded to date.	-
3.	Is training provided to your officials involved in the auditing /examination of taxpayers to ensure that any assessments made by them are in accordance with the provisions of your tax treaties?	Yes	From 2014 to now, the experts of OECD, WB, UN, JICA supported us to hold about 22 workshops on TP, APA. For each workshop, we invited about 60 officials involved in the auditing/examination of taxpayers.	-
4.	Is other information available on preventing tax treaty-related disputes?	Yes	-	-

**Notes:**

1. An APA is an “arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustments thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time”. (see definition of APA in the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (“Transfer Pricing Guidelines”).

2. Situations may arise in which the issues resolved through an APA are relevant with respect to previous filed tax years not included within the original scope of the APA. The concept of “roll-back” is further elaborated in paragraph 4.136 of Section F (Advance pricing arrangement) of Chapter IV of the Transfer Pricing Guidelines and in paragraph 69 of Section D.4.2 (Possible retrospective application (“Roll back”)) of the Annex to Chapter IV (Guidelines for Conducting Advance Pricing Arrangements under the Mutual Agreement Procedure (“MAP APAs”)) of the Transfer Pricing Guidelines. Simply put, the “roll-back” of the APA is understood to mean that the outcome of the APA is applied to previous filed tax years not included within the original scope of the APA.

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<b>B. Availability and Access to MAP</b>				
5.	Are transfer pricing cases covered within the scope of MAP?	Yes	-	-
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	No	-	-
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	No	-	-
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	Transaction can be between the taxpayers within the country <u>or</u> transaction related to foreign taxpayer.	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	No	-	-
10.	Are there any other treaty related issues not covered under s/n 5 to 9 which are not within the scope of MAP?	No	-	-
11.	Are taxpayers allowed to request MAP assistance in cases where the taxpayer has sought to resolve the issue under dispute via the judicial and administrative remedies	Yes	-	-

	provided by the domestic law of your jurisdiction?			
12.	Are taxpayers allowed to request for MAP assistance in cases where the issue under dispute has already been decided via the judicial and administrative remedies provided by the domestic law of your jurisdiction?	No	The CA of Vietnam shall not settle complaints that have been settled or are being settled by courts, that have been settled or are being settled in accordance with the order of settlement of complains of Vietnam.	Article 7, Circular 205/2013/TT-BTC dated 24 <sup>th</sup> December, 2013 of MoF
13.	Are rules, guidelines and procedures on how taxpayers can access and use MAP, including the specific information and documentation that should be submitted in a taxpayer’s request for MAP assistance, publicly available?	Yes	Article 7, Circular 205/2013/TT-BTC dated 24 <sup>th</sup> December, 2013 of MoF.	<a href="http://www.gdt.gov.vn">http://www.gdt.gov.vn</a>
14.	Are there specific timeline for the filing of a MAP request?	Yes	3-year period from the date of receiving the first notice from Tax Authorities leading the tax treatment deem by the complainant not in accordance with the provisions of the Agreement.	<a href="http://www.gdt.gov.vn">http://www.gdt.gov.vn</a>
15.	Are guidance on multilateral MAPs publicly available?	No	Not yet issued	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	No	The complainant must to fulfil all tax obligations stated in the tax treatment decisions (which are tax administrative decisions, tax notices, etc.) issued by tax authorities before and during the process of settlement of the complaining.	<a href="http://www.gdt.gov.vn">http://www.gdt.gov.vn</a>
17.	Are there any fees charged to taxpayers for a MAP request?	No	Taxpayers do not have to pay fees for a MAP request.	-
18.	Is there any other information available on availability and access to MAP?	No	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>C. Resolution of MAP Cases</b>				
19.	Are there any model timeframes for the steps taken by your competent authority from the receipt of a MAP case to the resolution of the case provided to taxpayers?	Yes	Internal procedures.	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	No	Up to now, all MAP cases are being processed.	-
21.	Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure?	No	Where, according to the MAP results, taxpayer have to pay additional tax, apart from additional tax have to pay, taxpayer shall be penalties according to the provisions of tax law.	-
22.	Are the roles and responsibility of the MAP office publicly available, for example, is the mission statement of the MAP office available in the <i>annual</i> report of the organisation?	Yes	Articles 51 and 52, Circular 205/2013/TT-BTC dated 24 <sup>th</sup> December, 2013 of MoF. Accordingly, GDT is the CA of Vietnam to deal with matters related to the Agreements, including: studying and settling disputes, complaints, proposals and relevant matters in the course of implementation of the Agreements with the competent authority of the Contracting State to the Agreements concluded with Vietnam through bilateral agreement procedure prescribed in the Agreements.	<a href="http://www.gdt.gov.vn">http://www.gdt.gov.vn</a>
23.	Is MAP arbitration a mechanism currently available for the resolution of tax treaty related disputes in any of your tax treaties? If not:	No	Vietnam does not apply the MAP arbitration mechanism.	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
a.	<ul style="list-style-type: none"> <li>Are there any legal limitations in your domestic law (for example in your constitution) to include MAP arbitration in your tax treaties?</li> </ul>	No	-	-
b.	<ul style="list-style-type: none"> <li>Does your treaty policy allow you to include MAP arbitration in your tax treaties?</li> </ul>	No	-	-
24.	<p>Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available?</p> <p>If yes:</p>	Yes	Article 7, Circular 205/2013/TT-BTC dated 24 <sup>th</sup> December, 2013 of MoF.	<a href="http://www.gdt.gov.vn">http://www.gdt.gov.vn</a>
a.	<ul style="list-style-type: none"> <li>Does the guidance specifically address whether the competent authority considers that it is legally bound to follow a domestic court decision in the MAP or will not deviate from a domestic court decision as a matter of administrative policy or practice?</li> </ul>	Yes	Article 7, Circular 205/2013/TT-BTC dated 24 <sup>th</sup> December, 2013 of MoF. Accordingly, the CA of Vietnam shall not settle complaints that have been settled or are being settled by courts, that have been settled or are being settled in accordance with the order of settlement of complains of Vietnam, or that have been beyond the 3 year time limit.	<a href="http://www.gdt.gov.vn">http://www.gdt.gov.vn</a>
25.	<p>Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?</p>	Yes	Article 7, Circular 205/2013/TT-BTC dated 24 <sup>th</sup> December, 2013 of MoF. Accordingly, the complain must be lodged within a 3 year period from the date of receiving the first notice from Tax Authorities leading the tax treatment deem by the complainant not in accordance with the provisions of the Agreement.	<a href="http://www.gdt.gov.vn">http://www.gdt.gov.vn</a>



s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
26.	Do all your jurisdiction’s tax treaties contain a provision which would oblige your jurisdiction to make corresponding adjustments or to grant access to the MAP with respect to the economic double taxation that may otherwise result from a primary transfer pricing adjustment (i.e. is paragraph 2 of Article 9 of the OECD Model Tax Convention or the UN Model Double Taxation Convention included in all of your jurisdiction’s tax treaties)?	No	Only 50/79 DTAs of Vietnam has Article 9.2.	-
27.	Is there any other information available on resolution of MAP cases?	No	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>D. Implementation of MAP Agreements</b>				
28.	Where the agreement reached by your competent authority through the MAP process leads to additional tax to be paid by your taxpayer, is there publicly available information on the timeframe the taxpayer could expect its tax position to be amended to reflect the agreement reached by the competent authority and/or for the additional tax to be paid?	Yes	-	-
29.	Where the agreement reached by your competent authority through the MAP process leads to a refund of the tax due or paid by your taxpayer, are there publicly available information on the timeframe the taxpayer could expect its tax position to be amended to reflect the agreement reached by the competent authority and/or for a refund of the tax paid?	Yes	-	-
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	Yes	Most of the DTAs Vietnam signed has this regulation, only 8/79 DTAs do not have this regulation.	-
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-