

Thailand Dispute Resolution Profile

(Last updated: 1 June 2020)

General Information

- **Thailand tax treaties are available at:**

<http://www.rd.go.th/publish/766.0.html>

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

Mr. Ekniti Nitithanprapas, Director-General, The Revenue Department of Thailand

90 Soi Phaholyothin 7, Phaholyothin Road, Phayathai, Bangkok 10400

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

Mr. Ekniti Nitithanprapas, Director-General, The Revenue Department of Thailand

90 Soi Phaholyothin 7, Phaholyothin Road, Phayathai, Bangkok 10400

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
A. Preventing Disputes				
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?	No	-	-
2.	Are bilateral APA programmes implemented? If yes:	Yes	-	-
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	Yes	-	-
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	Yes	Taxpayers shall submit a written document of intent to the Director-General of the Revenue Department prior to or within the last day of the first accounting period of APA submission.	-
c.	<ul style="list-style-type: none"> Are rules, guidelines and procedures on how taxpayers can access and use bilateral APAs, including the specific information and documentation that should be submitted in a taxpayer's request for bilateral APA assistance, publicly available? 	Yes	-	http://www.rd.go.th/publish/fileadmin/download/GUIDANCE-ON-APA-PROCESS-EN.pdf
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	No	-	-

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e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	No	-	-
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	-	-
4.	Is other information available on preventing tax treaty-related disputes?	No	-	-

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. Availability and Access to MAP				
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?	Yes	-	-
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	See detailed explanation	At present, as there is no general anti-abuse provision implemented in Thailand, the domestic legislation is applied in place of the general anti-abuse provision. However, double taxation cases due to domestic anti-abuse provision are included within the scope of MAP.	-
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	No	The Revenue Department does not have an audit settlement system.	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	-	-
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	-	-

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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 provided by the domestic law of your jurisdiction?	Yes	-	-
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?	Yes	Taxpayers are allowed to access to MAP irrespective of domestic remedies (i.e. appeal and tax court).	-
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	The Revenue Department has released MAP guidelines providing the specific information and documentation that should be submitted in a taxpayer's request for MAP on our website.	http://www.rd.go.th/public/fileadmin/user_upload/porsor/final_MAPmanualEN.pdf
14.	Are there specific timeline for the filing of a MAP request?	Yes	Under most treaties, the case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.	-
15.	Are guidance on multilateral MAPs publicly available?	No	Thailand has never implemented multilateral MAPs.	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	No	-	-

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17.	Are there any fees charged to taxpayers for a MAP request?	No	-	-
18.	Is there any other information available on availability and access to MAP?	No	-	-

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C. Resolution of MAP Cases				
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	The Revenue Department should find the resolution of each case within 24 months.	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	No	The Revenue Department does not published MAP statistics in our website but we have submitted MAP statistics to the OECD.	-
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	Surcharges and penalties will not be waived or reduced for general MAP cases but surcharge will be reduced according to the domestic law for APA cases.	-
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?	No	The Revenue Department does not have a specific MAP office. MAP is the mission of International Tax Group, Division of Tax Policy and Planning, the Revenue Department.	-
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	-	-
a.	<ul style="list-style-type: none"> Are there any legal limitations in your domestic law (for example in your 	Yes	-	-

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	constitution) to include MAP arbitration in your tax treaties?			
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	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	-	-
a.	<ul style="list-style-type: none"> 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? 	See detailed explanation	<p>MAP guidance addresses that, in Thailand, court decisions are binding and the Revenue Department cannot reach an agreement with the tax administration of the Contracting State on taxation that is not in accordance with the decision if the court decisions have already entered into force, even where such taxation is more favourable to the taxpayer.</p> <p>The fact that the court has ruled on the case to which the application relates, does not itself prevent the initiation of a MAP. However, for the above reasons, the Thai competent authority cannot hold a different position and apply an agreement, which deviates from the Thai court decision that has entered into force.</p>	http://www.rd.go.th/public/fileadmin/user_upload/porsor/final_MAPmanualEN.pdf
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	Yes	-	-

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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)?	See detailed explanation	Thailand is in the process of joining MLI to amend DTAs to include provisions, which would oblige Thailand to make corresponding adjustments.	-
27.	Is there any other information available on resolution of MAP cases?	No	-	-

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D. Implementation of MAP Agreements				
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?	No	-	-
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?	No	For TP case (tax to be refunded): Taxpayer shall submit the tax refund application (Kor.10 form) within 60 days from the date the adjustment has been made. This information is mentioned in the Transfer Pricing Act 2015.	-
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	See detailed explanation	Thailand is in the process of joining MLI to amend DTAs to include provisions, which would oblige Thailand to implement MAP agreement notwithstanding any time limits in the domestic law. Anyway MAP agreement will be implemented with respect to the provision of Mutual Agreement Procedure of each treaty.	-

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31.	Is there any other information available on the implementation of MAP agreements?	No	The Revenue Department has published MAP Guidance in our website.	http://www.rd.go.th/publish/fileadmin/user_upload/porsor/final_MAPmanualEN.pdf