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MALDIVES  
INLAND REVENUE  
AUTHORITY

# **Guide on Mutual Agreement Procedure (MAP)**

MIRA M852

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# Table of Contents

1. Introduction .....	5
1.1 Background and context.....	5
2. Mutual Agreement Procedure (MAP).....	6
2.1 Legal context for MAP.....	6
2.2 Purpose of Mutual Agreement Procedure.....	7
2.3 Forms of double taxation.....	7
2.3.1 Juridical double taxation.....	7
2.3.2 Economic double taxation .....	8
2.4 When can taxpayers make a MAP request? .....	9
2.4.1 Situations where taxpayer can access MAP.....	10
2.4.2 Time limit for requesting for MAP.....	11
2.4.3 Limiting the need for MAP requests .....	12
2.5 How to make a MAP request .....	12
2.5.1 Address to submit MAP request.....	13
2.5.2 MAP involving multiple jurisdiction.....	13
3. MAP Process .....	14
3.1 Mutual expectations for MAP .....	14
3.2 The Competent Authority of the Maldives .....	14
3.3 The MAP team .....	15
3.4 Taxpayer’s involvement in the process .....	15
4. MAP Stage 1 .....	16
Step 1: Submitting MAP request.....	16
Step 2: Determining whether the case is justified .....	16
Step 3: Unilateral relief .....	17
5. MAP Stage 2 .....	18
Step 1: Evaluation.....	18
Step 2: Negotiation and agreement.....	19
5.1 Competent Authority Mutual Agreements .....	20
5.2 What happens if the taxpayer disagrees with the MAP outcome?.....	20
6. Interactions between MAP and the domestic law.....	21
6.1 Impact of domestic law objections and appeals on the MAP process .....	21

6.1.1 Pursuing Maldivian domestic law remedies.....	21
6.1.2 Pursuing domestic remedies in the other jurisdiction.....	21
6.1.3 Protective MAP request.....	21
6.2 Objections under Tax Administration Act.....	22
6.2.1. Objection undecided when CAs reach agreement.....	22
6.2.2. Objection finalized before CAs reach agreement .....	23
6.3 Impact of Court or Tax Appeal Tribunal decisions on MAP .....	23
6.4 Obligations under tax laws .....	23
6.4.1 Paying tax during the MAP process .....	23
6.4.2 Penalties and fines under MAP.....	24
6.4.3 Remission of fines and penalties .....	24
7. Withdrawal from MAP process.....	25
8. Benchmark time to conclude a MAP case.....	26
8.1 Time limits to implement the MAP outcome.....	26
9. MAP and the anti-avoidance provisions.....	27
10. Confidentiality of information.....	28
11. Competent Authority of the Maldives.....	29
12. For support and assistance .....	29

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The information in this guide is based on laws and regulations prevailing at the time of publication. Taxpayers and payers can rely on this guide as to the MIRA’s interpretation of the relevant tax laws and regulations. If you do not understand anything in this guide or have queries related to your particular circumstances, call 1415 or send an email to [1415@mira.gov.mv](mailto:1415@mira.gov.mv).

## List of abbreviations

<b>APA</b>	Advance Pricing Agreement/Arrangement
<b>APAR</b>	Advance Pricing Arrangement Regulation (Regulation Number 2021/R-42)
<b>BEPS</b>	Base Erosion and Profit Shifting
<b>CA</b>	Competent Authority
<b>CG</b>	Commissioner General of Taxation
<b>DTAA</b>	Double Tax Avoidance Agreement
<b>ITA</b>	Income Tax Act (Law Number 25/2019)
<b>ITR</b>	Income Tax Regulation (Regulation Number 2020/R-21)
<b>MAP</b>	Mutual Agreement Procedure
<b>MIRA</b>	Maldives Inland Revenue Authority
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PE</b>	Permanent Establishment
<b>TAA</b>	Tax Administration Act (Law Number 3/2010)
<b>TAT</b>	Tax Appeal Tribunal of the Maldives
<b>TAR</b>	Tax Administration Regulation (Regulation Number 2013/R-45)

## Definitions

### **1. Competent Authority**

The designated representative under an applicable treaty in each of the jurisdictions will be responsible for administering treaties.

### **2. Treaty partner**

The term 'treaty partner' refers to a country/jurisdiction with which the Maldives has an effective tax treaty.

### **3. Tax treaty**

Tax treaty refers to double tax avoidance agreements entered into by the Maldives as per Section 51 of the Tax Administration Act or Tax Information Exchange Agreements or Mutual Administrative Assistance Agreements entered into by the Maldives as per Section 51-I of the Tax Administration Act.

# I. Introduction

## I.1 Background and context

The increase in world trade and cross border investments has contributed to the growth of the global economy. International trade and investment carry significant tax implications due to differences in tax systems across countries. This difference has opportunities to obtain undue tax advantages and pose the risk of double taxation. Eliminating opportunities for the avoidance or evasion of taxation and effective prevention of double taxation with bilateral and multilateral cooperation is critical to sustain economic growth and protect the tax base. Tax treaties facilitate mutual cooperation between jurisdictions bringing certainty to taxpayers under the Mutual Agreement Procedure (MAP) arrangement.

As the Maldives is looking to expand its current treaty network, it is important for the Maldives to have its MAP process properly in place. Furthermore, developing solutions to prevent and resolve disputes under MAP (i.e., Action 14: Making Dispute Resolution Mechanisms More Effective) is a minimum standard under the Base Erosion and Profit Shifting (BEPS) Action Plan. The Maldives, being a member of the OECD/G-20 BEPS Inclusive Framework, has committed to adopting the minimum standard of BEPS Action 14.

## 2. Mutual Agreement Procedure (MAP)

MAP is an alternate dispute resolution mechanism available for taxpayers, when the taxpayer considers that the actions of MIRA or the tax administration of the other treaty partner or both results or will result in taxation not in accordance with a tax treaty, to resolve the dispute mutually by the competent authority (CA) of the Maldives and other relevant jurisdiction(s). MAP is the basis for CAs of the jurisdictions to discuss with the intent to resolve difficulties and differences in the interpretation and application of tax treaties on a mutually agreed basis. CAs would engage with each other, exhausting all possible avenues, to resolve the issues faced by the taxpayer.

The MAP mechanism is independent from the domestic legal remedies. Taxpayers would be able to seek access to MAP irrespective of domestic law mechanisms to resolve these international tax disputes.

### 2.1 Legal context for MAP

MAP requires a domestic legal framework that facilitates the mechanism and a tax treaty with an article on MAP allowing CAs to work together (i.e., similar to Article 25 of the OECD Model Tax Convention). Maldives has established the legal framework required for the functioning of MAP process by enacting the necessary domestic legislation. Under the Section 52-I of the Tax Administration Act (Law Number 3/2010), the CA of the Maldives is authorized to conduct MAP under a tax treaty in accordance with the rules stipulated in the Chapter 13 of the Tax Administration Regulation (Regulation Number 2013/R-45).

Currently, the tax treaty with the United Arab Emirates (U.A.E Treaty), the International Air Transport Agreement with India and the Tax Exchange of Information Agreement (TIEA) with India are the only treaties of the Maldives in force which allow for MAP assistance. Residents could approach the relevant CA to resolve disputes under the MAP article of the treaties. The Maldives has two additional treaties, with the MAP article, signed with Bangladesh and Malaysia, which are not yet in force. The Maldives is currently negotiating additional tax treaties with other jurisdictions, and therefore it is expected that the Maldives' treaty network with the MAP article

to expand with additional jurisdictions. The jurisdictions with which we have ongoing negotiations include Singapore, Sri Lanka, Hong Kong, India and Mauritius.

#### Tax Treaties

Please follow the [link](#) to view the existing tax treaties of the Maldives

## 2.2 Purpose of Mutual Agreement Procedure

MAP is the mechanism to prevent and resolve disputes in relation to taxation under the tax treaty. MAP can help to:

- relieve double taxation.
- resolve treaty related disputes.
- prevent disputes by settling differences in interpretation and application of tax treaties.

Eliminating opportunities for cross-border tax avoidance and evasion, and the effective and efficient prevention of double taxation are critical to building an international tax system that supports economic growth and a resilient global economy. The MAP aims to minimize the risks of uncertainty and unintended double taxation by ensuring the consistent and proper implementation of tax treaties, including the effective and timely resolution of disputes.

## 2.3 Forms of double taxation

In most instances, MAP cases involve cross-border double taxation. This can happen when the domestic taxation provisions of two jurisdictions overlap. There are two forms of double taxation on which the taxpayer may request access to the MAP.

### 2.3.1 Juridical double taxation

Juridical double taxation refers to a situation where the same taxpayer is taxed in more than one jurisdiction on the same income, profits, or gains. Juridical double taxation may arise if:

- each jurisdiction subjects the same taxpayer to tax on their world-wide income – for example, each country considers the taxpayer to be resident in that country under domestic tax laws, and be taxed on the same income in both jurisdictions.
- a resident of one jurisdiction derives income in the other jurisdiction and both jurisdictions impose tax on that income or part of that income – for example, if the country of source imposes a withholding tax on a royalty payment, and the country of residence taxes the taxpayer on their world-wide income by assessment.

### **Relieving juridical double taxation**

Maldives domestic law provisions and tax treaties provides mechanism to relieve juridical double taxation.

- An income tax credit for the foreign tax paid by a Maldivian resident will be allowed under the Income Tax Act.<sup>1</sup> Additionally, the Income Tax Act exempts any income made exempt from tax under a tax treaty (i.e., income where taxing right is allocated to the treaty partner).<sup>2</sup>
- Apart from the domestic law tax credit, tax treaties also eliminate double taxation by providing tax credit, including residency tie-breaker rules and allocating exclusive taxing rights over certain types of income.

### **2.3.2 Economic double taxation**

The economic double taxation refers to situation where the same income, profit or gain is taxed in the hands of different persons. Economic double taxation may arise when a jurisdiction adjusts a resident taxpayer's taxable income by applying the arm's length principle to transactions between it and an associated taxpayer in another jurisdiction (a primary transfer pricing adjustment).

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<sup>1</sup> Income Tax Act (Law Number 25/2019) s 72.

<sup>2</sup> Income Tax Act s 12(h).

This may result in double taxation because the taxpayer whose taxable income is increased will be liable to pay tax in one jurisdiction on an amount of profit the associated taxpayer will also be liable to pay tax on in the other jurisdiction.

### **Relieving economic double taxation**

Economic double taxation can arise when a jurisdiction makes a primary transfer pricing adjustment consistent with the associated enterprises article in tax treaties.

The other jurisdiction may then be required to make an appropriate adjustment to the amount of tax charged on the income, profit or gain of the associated enterprise in that jurisdiction in order to relieve economic double taxation (a correlative adjustment).

## **2.4 When can taxpayers make a MAP request?**

A taxpayer may initiate a MAP request when the taxpayer considers the actions of one or both jurisdictions' tax administration result (or will result) in taxation not in accordance with a tax treaty. The risk of such taxation must be probable (not merely possible). This can arise from a variety of actions by a jurisdiction, including:

- a notice of assessment or reassessment.
- an issued audit position.
- a domestic legislative or regulatory change.
- a withholding tax certificate.

MAP can be set in motion by the taxpayer without waiting until the taxation that is considered by the taxpayer to be 'not in accordance with the tax treaty' has been charged or notified of the charge. Where a charge has been made contrary to the domestic law and the tax treaty, a MAP request can only be made to the extent that treaty provision is affected by the action.

## 2.4.1 Situations where taxpayer can access MAP

Taxpayers may seek assistance from the CA of the Maldives due to actions by the Maldives or the treaty partner. The following are common situations, but not limited to, in relation to which a taxpayer may seek to access MAP.

- Transfer pricing issues.
- Juridical or economic double taxation.
- Withholding taxes.
- Determination of residence.
- Determination of the existence of a permanent establishment of the taxpayer.
- Attribution of profit to a permanent establishment.

The situations are detailed below.

### **a) Transfer pricing issues**

A taxpayer may be subject to additional tax because of a transfer pricing adjustment in relation to goods and services from a related party in a treaty partner's jurisdiction. A transfer pricing adjustment may also involve the adjustment of other inter-related party transactions such as cost contribution arrangement and financial arrangement or such other transactions involving transfer pricing adjustment. The adjustments may lead to double taxation. In such cases, taxpayers could approach the CA of the Maldives to bring an adjustment to the income, profit or gain in the Maldives or treaty partner to reduce or withdraw the adjustment.

### **b) Residency**

Tax residency in a jurisdiction determines the tax base of the taxpayer. A taxpayer may be considered to be a resident of two treaty countries under each country's domestic law, and each country may assert that the taxpayer is a resident of its jurisdiction for purposes of the tax treaty. If unresolved, the taxpayer could be subject to taxation not in accordance with the treaty and therefore liable for tax on the same income in both countries. A request to the competent authorities would initiate discussions between the competent authorities

regarding the proper application of the tiebreaker rules contained in the residency article of the convention. The taxpayer should approach the competent authority of the country in which the taxpayer asserts residency and in some cases where it is incorporated.

**c) Issues related to permanent establishment**

Business profits are typically taxed under tax treaties based on the concept of permanent establishment (PE). Tax treaties allocate the taxing rights on business profits between the country where the business is located (source country) and the country where the business is resident (resident country). The general principle is that business profits are taxable in the source country if the enterprise has a permanent establishment there, and to the extent the income is attributable to that permanent establishment. Hence, there are two main issues for which a taxpayer could seek a MAP request. First, in determining whether a permanent establishment exists and second, in attributing income to the permanent establishment.

**d) Withholding taxes**

Jurisdictions usually apply withholding taxes to the income sourced by non-residents. The tax treaty assigns taxing rights and rates to the jurisdictions. A taxpayer could seek a MAP request when withholding tax is levied beyond what is allowed within the applicable treaty. This situation could arise due to classification of payments (e.g., a dividend in one jurisdiction may be interest in another).

## 2.4.2 Time limit for requesting for MAP

The time limit to present a case for MAP would depend on the time period agreed upon in a particular tax treaty. Usually, taxpayers are required to request for MAP within three years from the first notification resulting in taxation not in accordance with a treaty. This time limit will be applied in the most favorable way to the taxpayer. Where applicable the time limit for submitting a MAP request will usually start from the day the notice of assessment or reassessment is issued.

MAP requests lodged after the time limit expires will not be accepted.

### 2.4.3 Limiting the need for MAP requests

Taxpayers may seek an Advance Pricing Arrangement (APA) to minimize the need for a MAP and reduce the risk of being subject to double taxation as a result of transfer pricing or profit reallocation adjustments in future years.

#### Detailed information on APAs.

For more information on APAs please refer to:

- [Section 53-I of the Tax Administration Act](#)
- [Advance Pricing Arrangement Regulation \(APAR\)](#)
- [Guide on Advance Pricing Arrangements \(APAs\)](#)

### 2.5 How to make a MAP request

Taxpayers must submit MAP request to the relevant CA within the time period allowed in the tax treaty. The relevant CA may be the CA of taxpayers' jurisdiction of residence or nationality or the CA of the other jurisdiction, depending on the MAP article of the tax treaty. For instance, in U.A.E Treaty, Maldivian nationals or tax residents could seek assistance only from the CA of the Maldives.

To make a MAP request to the CA of the Maldives, taxpayers are required to submit the completed 'Request for Mutual Agreement Procedure (MIRA 921) form together with all necessary information and documents.

The following information must be provided as part of the application;

- Identification information of the taxpayer
- Basis for the request, including the relevant treaty articles that the taxpayer considers the countries are applying incorrectly.
- Financial statements and tax returns relevant to the application.
- Analysis of the issues that the taxpayer wants to resolve under MAP.

- If the taxpayer has lodged a MAP request in the other country, all relevant information and documents related to the request.
- Whether issues have been previously dealt with under a tax ruling or an APA.
- A document certifying whether taxpayer has made any tax payments related to the request.
- All other relevant facts of the case and supporting documents.

For the CA of the Maldives to be able to accept the MAP request, it must contain sufficient information for the CA to determine if the case is justified.

### 2.5.1 Address to submit MAP request

To submit a MAP request to the CA of the Maldives, email it and any other correspondence relating to a MAP to [internationaltaxation@mira.gov.mv](mailto:internationaltaxation@mira.gov.mv).

Alternatively, our postal address for submitting MAP requests is:

Maldives Inland Revenue Authority,  
Ameenee Magu,  
Male' 20379,  
Republic of Maldives.

### 2.5.2 MAP involving multiple jurisdiction

The MAP article allows CAs to resolve, by mutual agreement, difficulties in the interpretation and application of the convention. In doing so, they can consult on cases not provided for in the convention including, for example, details of a transaction in a third jurisdiction.

CAs of each jurisdiction can participate in multilateral MAP consultations when all jurisdictions have a tax treaty containing the necessary MAP and EOI articles with each of the other jurisdictions.

## 3. MAP Process

The MAP process covers the stages from taxpayer's initial MAP request to MIRA until the CA reaches an agreement (or not) and implements the decision. MIRA's MAP process consists of two stages.

### 3.1 Mutual expectations for MAP

MAP, as other dispute resolution mechanisms, requires both taxpayer and MIRA's co-operation. Expectations we may have of each other include:

- All parties co-operate fully and be committed to the process.
- MAP requests will be evaluated by MIRA on a case-by-case basis, considering merits and facts surrounding the particular case.
- All parties to be transparent and provide all relevant information and material facts.
- All parties to provide prompt replies to all the reasonable queries.
- All parties must act in good faith to reach an agreement on a timely basis.

### 3.2 The Competent Authority of the Maldives

The CA in consultation with the MAP team:

- reviews the taxpayer's MAP request to determine if it is justified.
- determines whether MIRA will relieve double tax, or whether MIRA can otherwise resolve the case, unilaterally,
- tries to resolve the MAP case in line with the relevant tax treaty by communicating directly with the other jurisdiction's CA involved in the MAP case.

In trying to resolve the MAP case, the CA may seek specialist advice or input from other MIRA staff.

### 3.3 The MAP team

MIRA's MAP program will be led by the CA, assisted by International Relations and Cooperation Division of MIRA.

The officers from International and Cooperation Division are the points of contact for taxpayers in relation to the MAP program and applications.

### 3.4 Taxpayer's involvement in the process

While the taxpayer initiates the MAP process by making a request to the CA, MIRA would advise the taxpayer of the progress, as taxpayers are not permitted to attend MAP negotiations.

If the CAs in both jurisdictions agree, the taxpayer may present arguments in support of the case to both of them jointly. If they do not agree, the CA of the Maldives will give the taxpayer an opportunity to present the arguments to the CA of the Maldives.

## 4. MAP Stage I

The first stage in the MAP process has three steps:

- Taxpayers submit request (MIRA 921 form) to the Planning and Development Department,
- the CA considers whether the request is justified,
- If the request is justified, the CA determines if MIRA could provide unilateral relief.

At this stage, the dealings would be made between the taxpayer and the CA of Maldives.

### Step 1: Submitting MAP request

When MIRA receives the taxpayer's completed MAP request, MIRA will confirm whether the taxpayer has submitted it on time and to the correct CA. MIRA will not accept a MAP request received out of time as there is no mechanism in tax treaty for the CA to extend the time allowed to submit a MAP request.

If the taxpayer wants to pursue domestic remedies in either jurisdiction but are concerned about exceeding the time limits for presenting a case, taxpayer can lodge a protective MAP request. (See Section [6.1.3 Protective MAP request](#))

### Step 2: Determining whether the case is justified

The CA would make a preliminary assessment of the taxpayer's request to determine whether the request is justified. The CA will determine the case is justified based on the following:

- The taxpayer has provided a sufficient factual and legal basis for the case.
- Taxpayer's MAP request demonstrates that the actions forming the basis of the request result or will result in taxation not in accordance with a tax treaty.
- The risk of such taxation is at least probable, not just possible.

The CA will accept that the risk of taxation not in accordance with a tax treaty is probable if the taxpayer has received written notification from MIRA or the tax administration of a treaty partner

country of an actual or proposed action. The notification should include details of what is to be adjusted, the amounts and the basis of calculation.

After the CA determines the MAP request is justified, the CA will inform the taxpayer that the case has been accepted and placed into the MAP program.

The following actions do not justify a MAP request:

- An audit or examination of the affairs of the taxpayer or those of an associated foreign entity prior to the issue of an audit position or equivalent position paper.
- Exchange of information requests about dealings between the taxpayer and an associated foreign entity.
- Discussion between the taxpayer and MIRA about the tax affairs of the taxpayer.

If the CA considers that the case is not justified, the CA will inform the taxpayer that no further action will be taken by MIRA in relation to the request.

### Step 3: Unilateral relief

The CA will decide whether an appropriate solution could be provided unilaterally. If this is not possible, such as when the taxation not in accordance with the tax treaty is due wholly or in part to an action taken in the other jurisdiction, the CA will try to resolve the case by mutual agreement with the CA of that other jurisdiction (stage two).

## 5. MAP Stage 2

In this stage, there are 2 separate steps.

### Step I: Evaluation

The CA customarily commences their evaluation of a MAP case upon receiving a detailed submission from the taxpayer. The purpose of this step is to develop positions for negotiation in the light of the rules of the respective taxation laws and of the provisions of the tax treaty. The position paper is critical to conduct negotiations and reach an agreement. The position paper should include:

- Legal name, address and taxpayer identification number of the person requesting assistance, its related persons in the other country, if applicable, and the basis for determining the association.
- The contact details of the CA official in charge of the case.
- Overview of the issue, transactions, business, and basis for adjustment.
- Applicable taxation years.
- Amount of income and tax adjusted for each taxable year, if applicable.
- Summary of relevant information from the tax return.
- Description of the exact nature of the issue or adjustment and the relevant domestic laws and treaty articles.
- If relevant, calculation with supporting data (may include financial and economic data, reports relied upon, explanatory narratives, as well as taxpayer documents and records where relevant and appropriate).

In transfer pricing cases, the following additional information may be included:

- An outline of comparable transactions and methods for adjusting differences.
- A description of the methodology employed for the adjustment.
- An explanation of the appropriateness of the transfer pricing methodology employed for the adjustment (i.e., an explanation why the taxpayer believes the adjustment achieves an

arm's length outcome; identification of tested party, if applicable; industry and functional analysis, if a relevant study is not already included elsewhere in the taxpayer's submission).

The position paper will be made available to the CA to commence the negotiations.

## Step 2: Negotiation and agreement

Negotiation would be a government-to-government process, where the CAs communicate to resolve any differences in positions and endeavor to reach an agreement. However, to understand the issues in the case, the CAs may request the taxpayer to provide presentations.

The CAs will seek to resolve the case in a fair and objective manner, on its merits, in accordance with the terms of the Convention and applicable principles of international law on the interpretation of treaties. The negotiation may be in the form of exchange of papers, informal calls and videoconferences or formal face-to-face meetings.

In all instances and as part of the negotiations, the CAs will seek to establish a mutual understanding of the relevant principles embodied in the treaty, the facts of the case and how those principles are to be applied in order to relieve any taxation that is not in accordance with the tax treaty.

For example, if MIRA makes the primary transfer pricing or profit reallocation adjustment, the CA of the Maldives will try to demonstrate to the other CA that:

- The adjustment results in taxation in accordance with the treaty.
- The treaty partner country should relieve any resultant double tax.

The CAs will be committed and will make the best efforts to resolve the case. However, this does not mean that the CAs will resolve every case or necessarily relieve all taxation not in line with the treaty.

## 5.1 Competent Authority Mutual Agreements

When the CAs resolve a MAP case, the resolution would be confirmed by an exchange of letters. Since some MAP agreements can be rather complicated, the CAs exchange these letters soon after concluding the discussions to ensure an accurate reflection of the agreed-upon terms. Once a mutual agreement is finalized between the CAs, MIRA will notify the taxpayer of the decision and provide an explanation of the outcome. If the taxpayer accepts the agreement, both tax administrations will be notified, and the taxpayer will receive a letter confirming the agreement.

If the terms and conditions of the resolution are not satisfactory to the taxpayer, the taxpayer may be entitled to withdraw from the MAP process and pursue other domestic redress mechanisms still available.

At this point, it would be appropriate for the CAs to agree upon a tentative schedule for implementing the agreement. The agreed adjustments will then be processed by the MIRA or the relevant tax administration to provide the relief for double taxation.

## 5.2 What happens if the taxpayer disagrees with the MAP outcome?

An appropriate solution, arrived at by both CAs, may result in:

- Restoring the original tax position by withdrawing the adjustment that led to the MAP request.
- Making a correlative adjustment or providing a credit to relieve any double taxation.
- Amending the tax assessment or tax payable if the taxpayer agrees with the MAP outcome.

Irrespective of the MAP outcome, if the taxpayer disagrees with the MAP outcome, the taxpayer may proceed with the domestic objection or appeal rights in relation to the assessment arising from issues that are outside the scope of the MAP or otherwise left unresolved.

## 6. Interactions between MAP and the domestic law

### 6.1 Impact of domestic law objections and appeals on the MAP process

The MAP provides an additional dispute resolution process in addition to those available under the domestic legislation of the Maldives and other jurisdictions. Taxpayers can submit a request for MAP assistance irrespective of domestic law remedies available or while judicial or administrative proceedings under domestic law are ongoing. If the taxpayer is pursuing domestic law remedies, MIRA will try to progress the MAP case as much as possible, depending on the circumstances of the case.

#### 6.1.1 Pursuing Maldivian domestic law remedies

MIRA does not expect parallel undertaking of a MAP where the taxpayer is simultaneously pursuing judicial or administrative remedies. Where the matter is subject to administrative or judicial review, MIRA may defer progressing the MAP request until the TAT or a court of law in the Maldives has made its determination.

#### 6.1.2 Pursuing domestic remedies in the other jurisdiction

Whether a MAP can progress while taxpayer's objection, review and appeal rights are ongoing in the other jurisdiction depends on whether the CA in that jurisdiction is prepared to proceed with MAP negotiations concurrently.

MIRA will defer issuing any reassessment to the extent allowable in the domestic law, which can include a foreign income tax credit, until such time as the review and appeal rights in the tax treaty partner country have lapsed or are rescinded or exhausted.

#### 6.1.3 Protective MAP request

Protective MAP requests ensure that taxpayers are able to request assistance without missing MAP time limits. As the MAP requests have to be made before the time limit specified in the tax

treaty to which the issue falls, and if the domestic objection and appeal procedure is taking longer than expected, a protective MAP request can be filed to ensure that the notification is filed before the time limit passes.

If the request meets the requirements of MAP, MIRA will:

- accept the MAP request.
- advise the other jurisdiction of the request.
- defer CA negotiations until the taxpayer informs us that taxpayer would like the case to progress.

## 6.2 Objections under Tax Administration Act

Taxpayers can object to decisions of MIRA and the Commissioner General of Taxation (CG).<sup>3</sup>

Taxpayers can concurrently pursue objection and request for MAP assistance.

### 6.2.1. Objection undecided when CAs reach agreement

When the taxpayer has an undecided objection, the CAs would only reach an agreement in the following scenarios:

#### Scenario 1

If the CAs agree to restore the taxpayer's original tax position, MIRA will finalize the MAP case, and the taxpayer will need to withdraw the objection in writing.

#### Scenario 2

If both CAs resolve the MAP request whereby the adjustment is wholly or partly maintained and the taxpayer agree with the agreement reached by the CAs, then the taxpayer will need to withdraw the objection in writing.

#### Scenario 3

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<sup>3</sup> Tax Administration Act (Law Number 3/2010) s 42.

If the taxpayer is dissatisfied with the CA's agreement, the taxpayer can continue to pursue domestic objection and appeal rights. As above, the CAs will finalize the MAP case without implementing the agreement reached.

### 6.2.2. Objection finalized before CAs reach agreement

If MIRA allows an objection in full and there is no longer any taxation that is not in line with the provisions of the tax treaty, the CAs will finalize the MAP case. If all, or some, of the MAP issues remain unresolved following an objection decision, the MAP will continue in an attempt to resolve the case.

If the CAs have not agreed on an appropriate solution by the time MIRA decides to disallow, or allow in part, the taxpayer's objection, the taxpayer has the right to apply to the TAT for a review of the objection decision or appeal to a court of law in the Maldives against the objection decision. Whether or not the CAs would continue the MAP during the review and appeal stages will be considered on a case-by-case basis.

## 6.3 Impact of Court or Tax Appeal Tribunal decisions on MAP

Once the TAT decides or a court of law in the Maldives decides, the CA of Maldives will abide by that decision. Where such a decision or order has been made, the taxpayer will not have the opportunity to present the case to MAP.

## 6.4 Obligations under tax laws

### 6.4.1 Paying tax during the MAP process

Currently there are no concessions available on payment of taxes even if there is a pending MAP case regarding that payment.

## 6.4.2 Penalties and fines under MAP

Tax treaties do not include penalties and fines as being a 'tax'. Therefore, taxpayers cannot seek relief under a MAP for any penalties or fines.

## 6.4.3 Remission of fines and penalties

CG has the right to waive off fines imposed under a tax law.<sup>4</sup> Taxpayers can make a written request to remit any penalties or fines accrued for unpaid tax, by submitting 'Request for Fine Relief' (MIRA 910) form.

### Download

MIRA 910: Request for Fine Relief

[DHI](#) - [ENG](#)

How to complete Request for Fine Relief

DHI - [ENG](#)

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<sup>4</sup> Tax Administration Act (Law Number 3/2010) s 75(a).

## 7. Withdrawal from MAP process

The taxpayer can withdraw from the MAP process at any time before the CAs and the taxpayer reach an agreement. The taxpayer's withdrawal from the process, especially at a late stage, is highly discouraged because of the inevitable waste of resources. The taxpayer must notify of the withdrawal in writing. This notification should include the reason for the withdrawal. Once a withdrawal notice is received, MIRA will inform the relevant CA of the other jurisdiction.

## 8. Benchmark time to conclude a MAP case

MIRA is committed to the OECD's recommended average timeframe of two years to resolve MAP cases. However, MIRA will try to resolve the case as quickly as possible. In the meantime, MIRA will communicate with the taxpayer and with the other jurisdiction on a timely basis and keep the taxpayer informed of the progress of the case.

For the purpose of this timeframe, the MAP requested will be regarded as presented where all the information required to be submitted in the MIRA 921 form is provided. This date would be the commencement date of the two-year timeframe.

The date of completion of the MAP request would be the date the taxpayer agrees or disagrees to the CA resolution or withdraws from the MAP process.

### 8.1 Time limits to implement the MAP outcome

If the taxpayer confirms in writing the acceptance of the mutual agreement, MIRA will give effect to the mutual agreement and seek to ensure its implementation without delay. The MAP agreement will be implemented despite any domestic time limits. Any refund entitled to the taxpayer would be refunded as per Section 69 of the TAA.

## 9. MAP and the anti-avoidance provisions

Taxpayers will be able to request MAP assistance for tax that results from the application of the general anti-avoidance rule. In such cases, CA of the Maldives will engage in consultations with the CA of the other jurisdiction. However, taxpayers should be aware that any claim of taxation not in accordance with the provisions of the convention may not necessarily be resolved and any double taxation incurred may not be eliminated.

You may refer to the Section 66 of the ITA and Section 128-I of the ITR for details on the general anti-avoidance rules.

## 10. Confidentiality of information

All the information obtained or generated by MIRA or the CA during the course of MAP process are strictly confidential. The TAA of the Maldives contains strict provisions that require information exchanged obtain to be kept confidential and limit the persons to whom the information can be disclosed and the purposes for which the information may be used.

MIRA may publish aggregated information of the MAP statistics according to the disclosure provisions as provided in the TAA.

## 11. Competent Authority of the Maldives

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## 12. For support and assistance

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