

# **International Tax: Mutual Agreement Procedures (including Transfer Pricing/Corresponding Adjustments/ Advance Pricing Agreement issues)**

## **1. Where should I lodge a request for a Mutual Agreement Procedure (MAP) (including a claim for a corresponding/correlative adjustment) or an Advance Pricing Agreement (APA)?**

Requests/claims should be lodged with the:

Director  
International Tax Branch  
Corporate Business and International Division  
Office of the Revenue Commissioners  
Stamping Building  
Dublin Castle  
Dublin 2  
Ireland

Telephone/Fax:

- For non-Transfer Pricing MAPs:  
Tel: + 353 1 702 4108 or 674 8211  
Fax: + 353 1 679 3314
- For Transfer Pricing MAPs/APAs (including claims for a corresponding or correlative adjustment):  
Tel: + 353 1 674 8020 or 674 8639  
Fax: + 353 1 679 3314

[www.oecd.org](http://www.oecd.org) contains Country Profiles for each OECD member country (including Ireland) under the headings “Dispute Resolution: Country Profiles” and “Transfer Pricing Country Profiles”. Country Profiles contain contact details and other useful information.

## **2. What information should be included in a MAP Request?**

The MAP request should:

- quote the legal basis for the MAP i.e. the relevant Article in Ireland’s [double taxation treaties/agreements](#) or [EU Arbitration Convention](#);
- explain why a MAP is considered necessary;
- explain the issues involved (attaching relevant background documentation);
- set out what the requester considers to be the correct outcome (attaching any documents, case law, etc, backing up the requester’s view).

If the MAP request(s) is being made to more than one competent authority, we expect the Irish competent authority to receive the same information as the other competent authority(ies).

### 3. What information should be included with a claim for a corresponding adjustment?

Relief from double taxation in the case of a transfer pricing adjustment (i.e. a claim for a corresponding or correlative adjustment) **must** be claimed i.e. relief cannot be taken automatically.

To enable Revenue to examine the merits of a claim for relief we require the letter claiming relief to:

- quote the legal basis for the claim i.e. the relevant *article(s)* in Ireland's [double taxation treaties/agreements](#) (including a statement as to why the *agreement* quoted is the relevant agreement) or the [EU Arbitration Convention](#);
- set out how the relevant enterprises are associated;
- explain what the transfer pricing policy was prior to the audit in the other country (attaching a copy of any documentation evidencing that policy e.g. transfer pricing study, economist report, any other expert advice);
- set out those elements of the transfer pricing policy that the other country did not agree with and why;
- set out how the agreement with the other country was arrived at to include details of:
  - how the enterprise sought to rebut the assessment;
  - the process by which agreement was reached and how such an agreement is justifiable as arm's length;
  - the quantum of the adjustment agreed and the financial years covered;
  - an account (if relevant) of the considerations leading to acceptance of a negotiated settlement as opposed to litigation (including, where available, a copy of the legal advice the enterprise received);
- contain a copy of the settlement agreement reached with the other country;
- state whether any previous or subsequent years are to be audited where there is a prospect of similar issues arising;
- state whether there are audits being undertaken by other countries that might affect the profits of the Irish associated enterprise.

In making a claim it is important to be aware that no relief will be available, inter alia, for:

- interest and penalties imposed by the other country;
- secondary/repatriation of profits adjustments implemented under the laws of the other country;
- non-deductible payments of a capital nature.

If the merits of the claim are accepted, the Irish associated enterprise will be asked to submit revised tax computations for the accounting periods affected in order to compute the quantum of the relief and normally a revised assessment will then issue.

**General queries regarding Double Taxation Treaty coverage and time limits for requesting MAPs** should be referred to the:

Director  
International Tax Branch  
Corporate Business and International Division  
Office of the Revenue Commissioners  
Stamping Building  
Dublin Castle  
Dublin 2  
Ireland

Tel: + 353 1 674 8020 or 674 8639  
Fax: + 353 1 679 3314.

#### **4. Does Revenue accept APA Requests under the MAP?**

Any company that is considering making a bilateral or multilateral APA request is invited to contact us – see contact details under 1. above.

#### **5. OECD Manual on Effective Mutual Agreement Procedures (MEMAP)**

The OECD has published a Manual on Effective Mutual Agreement Procedures (MEMAP). The aim of this Manual, which sets out best practice, is to increase awareness of the MAP process and how it should function. The Manual may be accessed by clicking [here](#).

#### **6. EU Joint Transfer Pricing Forum**

With a view to improving the functioning of the [EU Arbitration Convention](#) and to bring about a more uniform application of transfer pricing rules within the EU, the EU Joint Transfer Pricing Forum (JTTPF) has developed three documents which set out best practice. All three documents have been adopted by the EU Commission and Ecofin.

The documents are not legally binding: rather they are political commitments. The documents are:

**[1. The Code of Conduct for the effective implementation of the Arbitration Convention:](#)**

The Code was revised in 2009 – the hyperlink is to the revised Code. The purpose of the Code is to ensure the effective and uniform application of the EU Arbitration Convention by all Member States.

**[2. The Code of Conduct on EU Transfer Pricing Documentation:](#)**

This Code is intended to ease the compliance burden of enterprises that are required to comply with transfer pricing documentation obligations of Member States.

**[3. Guidelines for Advance Pricing Agreements within the EU:](#)**

The Guidelines are intended to assist in dispute resolution and avoid double taxation.

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