

Streamlining the Tax Treaty Mutual Agreement - India

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- **Rules and guidelines for accessing and resolving dispute under MAP should be drafted and published accordingly so as to empower the tax payer to use this tool in circumstances defined**
 - Provision for MAP – Article 25 UN Model Convention
 - Provisions provide for Competent Authorities (CAs) to undertake steps to resolve the dispute by MAP
 - Instances where MAP can be invoked:
 - taxpayer not treated in accordance with the provisions of the treaty; or
 - relates to interpretation and/or application of treaty provisions; or
 - Relates to cases dealing with elimination of double taxation

- **Rules and guidelines should provide for common provisions and approach to be followed by all treaty countries in resolving issues under MAP**
 - A common set of rules and regulations/procedure should be drafted for implementation
 - A common approach will lead to transparency and better working of MAP
 - For example ; the *last bestoffer* approach

- **Published, consistent and mandatory timelines for resolving issues under MAP**
 - Mutually agreed timelines
 - Will lead to MAP becoming effective
 - CA should be made liable to adhere

- **Where MAP provisions provide for resolution of issues related to transfer pricing, it should also deal with the issue of corresponding adjustments to the other contracting state along with rollback provisions**
 - Corresponding adjustments will help in double taxation
 - Roll backprovisions will make MAP lucrative

- **Timelines for implementation of decision achieved under MAP**
 - Specific rules can be inserted or made part of overall scheme
 - Will give taxpayer a certainty on pending assessment issues
 - Will create harmonious climate between treaty countries

- **CAs should be empowered for resolving issues under MAP**
 - Treaty countries should provide sufficient powersto CAs
 - This shall ensure that the negotiations are done by the CA in more effectiveand swiftmanner
 - They should not be restrictedto mere mouth piece
- **Transparency in theapproach by treaty countries**
 - There should be parity between recommendations and position taken by treaty countries while resolving issuesunder MAP

- **Accessibility of resolution under MAP remedy in case of issues related to anti-abuse provisions both in treaty law and domestic tax provisions**
 - It should cover anti-abuse issues related to provisions under the treaty or domestic tax laws of the treaty country

- Simplified/ Tax friendly provisions for charging of interest and penalty on tax payable or refund to be granted**
- Publishing statistics of MAP resolutions**
- Provisions for deferment of tax collection or suspension of tax collection during MAP proceedings**
- Periodical peer review of MAP resolutions**

THANK YOU