

Kingdom of Bahrain


Guidance on Mutual Agreement Procedure (MAP)

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Version 1.1

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Overview

The purpose of this Guidance on Mutual Agreement Procedure (MAP) is to:

- Provide taxpayers with necessary information to consider before requesting a MAP.
- Allow Competent Authorities in tax matters (CAs) to cooperate with the intent to resolve international tax disputes.

The Bahrain Competent Authority (BCA)

All Competent Authority matters such as Exchange of Information on Request (EOIR), application for Certificates of Residence for Tax Purposes (COR) and Mutual Agreement Procedure (MAP) are dealt with by Foreign Tax Relations Directorate (FTRD) at the National Bureau for Revenue (NBR). All EOIR, COR, and MAP requests could be sent by mail, e-fax or email in either Arabic or English to:

Foreign Tax Relations Directorate
National Bureau for Revenue
Bahrain World Trade Centre, West Tower
P.O. Box 17555
Manama
Kingdom of Bahrain

Tel No: +973 17502322
e-Fax No: +973 17910098
E-mail: Competent.Authority@nbr.gov.bh

Disclaimer: This Guidance is not comprehensive and does not include all tax issues or cases. Also, it does not provide technical or legal details, and it should not be used as a legal reference.

What is a MAP

MAP is a procedure through which CAs consult and interact to resolve international tax disputes and to avoid double taxation arising from actions of one or both of the contracting states resulting in taxation not in accordance with the applicable Double Taxation Convention (DTC).

Inter alia, access to MAP is granted for Transfer Pricing cases, anti-abuse provision claims, multilateral disputes, and for multi-year resolution of cases.

How does it work?

A MAP request is initiated by a request received either from a taxpayer or a CA of a Contracting State. By this request, a person informs or notifies a CA of a Contracting State of which he is a resident (or one of the contracting states as it is mentioned in the DTC) that he believes there is an action by one of the Contracting States involved which has resulted in or will result in taxation not in accordance with the provisions of the DTC signed by both Contracting States, irrespective of the remedies provided by the domestic law of those Contracting States¹. The request must be presented within time limits specified in the DTC² from the first notification of the action resulting in taxation not in accordance with the provisions of the DTC. Where relevant, a MAP request can cover matters such as penalties and refunds. If a DTC contains a provision for MAP arbitration where no mutual agreement is reached, then an arbitration phase will follow.

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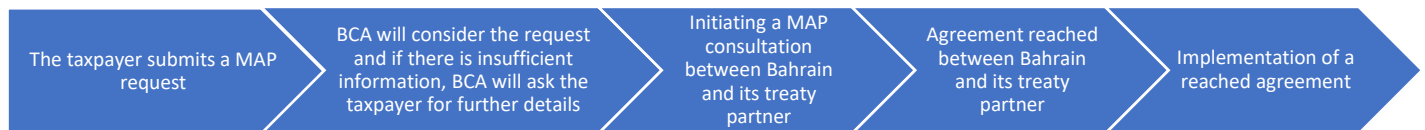
E-mail: Competent.Authority@nbr.gov.bh

¹ In cases of an administrative or judicial decision made, which affects matters that are MAP related, BCA will inform the CA of the Contracting State of that decision and that it is bound by this decision, before its conclusion, requesting the CA of the Contracting State to consider taking the necessary actions to avoid double taxation.

² In cases where the DTC does not contain time limits for taxpayers to submit their MAP request, BCA will apply a 3year time limit as set out in the 2017 OECD Model Tax Convention.

Steps of a MAP request:

- 1- The taxpayer submits a MAP request;
- 2- BCA will consider the request and ask the taxpayer for further information in writing, if required;
- 3- Initiating a MAP consultation between Bahrain and its treaty partner;
- 4- Agreement reached between Bahrain and its treaty partner;
- 5- Implementation of mutual agreement reached.



Minimum requirements for a MAP request (where applicable):

Requests need to comply with the following minimum information requirements in order for BCA to process a request:

1. Date of taxpayer's MAP Request.
2. Details of the taxpayer:
 - 2.1) Natural persons:
 - a. Full names and surname;
 - b. Physical address;
 - c. Contact details;
 - d. Certified copy of the taxpayer's Kingdom of Bahrain Identity Card for residents in Bahrain;
 - e. Date of birth; and
 - f. Certified copy of Passport, and Residency Permit(s) (non-Bahrainis resident in Bahrain).

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2.2) Companies and other bodies:

- a. Certified copy of the Commercial Registration Certificate
 - b. Contact details; and
 - c. The name and address of any representative of the taxpayer.
3. For transfer pricing cases, the name, address and, if possible, the taxpayer identification number of any related foreign taxpayer involved.
4. If a representative is acting for the taxpayer, a signed statement from the taxpayer that the representative is authorized to act for the taxpayer in making the MAP Request.
5. In the case of withholding tax, the following additional information is required:
- a. full names and surname of the person who withheld the tax;
 - b. physical address of the person who withheld the tax;
 - c. contact details of the person who withheld the tax.
6. The contact details of the correspondent CA.
7. Tax assessment years or periods involved.
8. The relationship, situation, or structure of the transactions, issues, or related parties involved (advising of any changes in these matters that occur after the request has been filed would be helpful).
9. A summary of the facts and an analysis of the issues for which CA assistance is requested, including any specific issues raised by the tax administrations affecting the taxpayer and the related amounts (in both currencies and supported by calculations, if applicable).
10. Applicable Article(s) of the relevant DTC and the taxpayer's conclusion based on the facts.
11. For transfer pricing cases, documentation as described in domestic legislation of the taxpayer's state of residence, if available (where documentation is inordinately voluminous, a description of the documentation prepared in connection with the transactions which are the subject of the MAP request is needed).
12. A statement indicating whether the taxpayer has:
- a. raised the matter with the other Contracting State, if applicable;
 - b. filed a notice of objection, notice of appeal or submitted a refund claim; or
 - c. submitted any comparable document, in any of the relevant jurisdictions.

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13. Any copies of correspondence from the other tax administration, copies of briefs, objections, etc., submitted in response to the action or proposed action of the other tax administration (if applicable, translated copies are helpful and where documentation is voluminous, a description of the documentation is needed).

14. Where the request for CA assistance involves issues that are currently or were previously considered by the tax authorities of either contracting state as part of an advance pricing arrangement, ruling, or similar proceedings, a statement to that effect.

15. A schedule of the time limitations in each jurisdiction (domestic as well as tax treaty time limits) in respect of the years for which relief is sought (in cases of multiple taxpayers, a schedule for each).

16. Any other facts that the taxpayer may consider relevant.

17. A copy of any settlement or agreement reached with the other jurisdiction which may affect the MAP process.

18. The taxpayer's views on any possible bases on which to resolve the issues.

The request should be signed by the taxpayer, or by an authorized person on behalf of the taxpayer, confirming the accuracy and completeness of the facts and information presented in the request.

Consideration of a MAP request:

MAP requests will only be accepted if:

- The issue or transaction relates to a jurisdiction with which Bahrain has a DTC;
- It is apparent that the actions of one or both jurisdictions resulted IN or will result in taxation not in accordance with the DTC; and
- The taxpayer notifies BCA within the time limits specified in the applicable DTC³.

Timeline for MAP requests

Assuming the MAP request is initiated with the time limits mentioned in the relevant tax treaty, BCA will then follow the following time limits. Time limits may be extended or cut short depending upon the facts and circumstances of a particular case.

³ In cases where the DTC does not contain time limits for taxpayers to submit their MAP request, BCA will apply a 3year time limit as set out in the 2017 OECD Model Tax Convention.

No.	Action	Time limit
1	BCA will notify the taxpayer of receiving the request	Within 30 days of the taxpayer initiating the MAP request
2	BCA will notify the correspondent CA about the request	
3	Further information/documentation	The taxpayer will be given 30 days to provide any requested information/documentation
4	BCA will determine the eligibility of the MAP request BCA will notify the taxpayer, in writing setting out its reasons, if the case is accepted or rejected.,	Within 30 days after the necessary information or documentation is provided to BCA
5	(If accepted) Proposal to the other CA to start MAP discussions by issuing a notification letter to them.	
6	BCA will regularly update the Taxpayer on the progress and the outcome of the CAs negotiations	In general, BCA aims to resolve MAP cases within 2 years of receiving the taxpayer's application
7	When an agreed outcome is reached between BCA and the relevant foreign CA	BCA will write to inform the taxpayer within 30 days of reaching a mutual agreement and advise the taxpayer on the next course of action. The taxpayer will have to decide whether the agreed outcome is acceptable
8	Taxpayer's approval of mutual agreement in writing	To be submitted immediately after conclusion of mutual agreement. 30 days deadline to respond
9	Confirmation of mutual agreement with terms and conditions: exchange of closing letters	As soon as possible after acceptance of mutual agreement by taxpayer

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No.	Action	Time limit
10	Implementation of mutual agreement	No later than 90 days after exchange of closing letters

Legal Basis

The BCA relies on the direct applicability of MAP Articles in its DTCs, as under Bahrain Law, tax treaties, once in force override all other domestic laws (other than the Constitution). All Bahrain's DTCs contain MAP provisions.

List of Bahrain's In-force DTCs

No	Jurisdictions	Date of Signature	Date of Entry into Force
1	Algeria	11-06-2000	29-09-2003
2	Austria	2-07-2009	01-02-2011
3	Bangladesh	22-12-2015	30-04-2018
4	Barbados	03-12-2012	16-07-2013
5	Belarus	27-10-2002	16-04-2008
6	Belgium	04-11-2007	11-12-2014
7	Bermuda	22-04-2010	29-01-2012
8	Brunei Darussalam	14-01-2008	18-07-2009
9	Bulgaria	26-06-2009	09-11-2010
10	China	16-05-2002	15-08-2002
11	Cyprus	09-03-2015	26-04-2016
12	Czech Republic	24-05-2011	10-04-2012
13	Egypt	26-04-2016	01-08-2018
14	Estonia	12-10-2012	23-12-2013
15	France	10-05-1993	01-08-1994
16	Georgia	18-07-2011	01-08-2012

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No	Jurisdictions	Date of Signature	Date of Entry into Force
17	Hungary	24-02-2014	19-06-2015
18	Iran	19-10-2002	17-11-2007
19	Ireland	29-10-2009	09-11-2010
20	Isle of Man	03-02-2011	08-03-2012
21	Jordan	08-02-2000	16-12-2001
22	Korea	01-05-2012	26-04-2013
23	Lebanon	07-08-2003	30-09-2005
24	Luxembourg	06-05-2009	10-11-2010
25	Malaysia	14-06-1999	31-07-2000
26	Malta	12-04-2010	28-02-2012
27	Mexico	10-10-2010	22-02-2012
28	Morocco	07-04-2000	10-02-2001
29	Netherlands	16-04-2008	24-12-2009
30	Pakistan	27-06-2005	25-09-2009
31	Philippines	07-11-2001	14-10-2003
32	Portugal	26-05-2015	01-11-2016
33	Seychelles	24-04-2010	03-02-2012
34	Singapore	18-02-2004	31-12-2004
35	Sri Lanka	24-06-2011	11-07-2014
36	Sudan	22-03-2006	19-07-2019
37	Switzerland	23-11-2019	27-07-2021
38	Syria	20-09-2000	25-10-2001
39	Tajikistan	28-05-2014	10-02-2016
40	Thailand	03-11-2001	27-12-2003
41	Turkey	14-11-2005	02-09-2007

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No	Jurisdictions	Date of Signature	Date of Entry into Force
42	Turkmenistan	09-02-2011	13-05-2012
43	United Kingdom	10-03-2010	19-12-2012
44	Uzbekistan	05-06-2009	12-01-2011
45	Yemen	28-12-2002	14-07-2004

Confidentiality

All information obtained or generated during a MAP process is fully protected by the confidentiality provisions of the applicable tax treaty, specifically the Exchange of Information article (Article 26 of the OECD Model Tax Convention).

Further information:

Bahrain's and other jurisdictions MAP profiles can be found in the following link: <http://www.oecd.org/ctp/dispute/country-map-profiles.htm>, which contains information about the Competent Authorities' contact details and other useful information for both tax authorities and taxpayers.

Also, OECD Manual on Effective Mutual Agreement Procedures (MEMAP) can be found here: <http://www.oecd.org/tax/dispute/manualoneffectivemutualagreementproceduresmemap.htm>

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