



Guidance on The Bahamas and Japan Mutual Agreement Procedure

MINISTRY OF FINANCE

JUNE 2024

Index

The Bahamas and Japan Mutual Agreement Procedure Guidance

01

INTRODUCTION

02

SCOPE OF THE MUTUAL AGREEMENT PROCEDURE

03

WHO CAN REQUEST THE INITIATION OF A MUTUAL AGREEMENT PROCEDURE

04

HOW TO INITIATE A MUTUAL AGREEMENT PROCEDURE

05

PROCESSING MUTUAL AGREEMENT PROCEDURES

06

IMPLEMENTATION OF THE AGREEMENT REACHED UNDER A MAP



01 INTRODUCTION

INTRODUCTION

02 SCOPE OF MAP

03 WHO CAN REQUEST A MAP

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE AGREEMENT

Being a highly regulated international financial centre, The Bahamas became a member of the Inclusive Framework on Base Erosion and Profit Shifting (“BEPS”) on 10 December, 2017 with a view to maintaining cooperative international relationships and staying abreast of global good practices. The Action 14 Minimum Standard– “Makes Dispute Resolution Mechanisms More Effective”, is the measure being used to promote cooperative relationships between Partner Jurisdictions with respect to double taxation. Recognising the importance of removing double taxation as an obstacle to cross-border trade and investment, the 2015 Action 14 Report reflected the commitment of countries to implement the minimum standard to ensure that treaty related disputes are resolved in a timely, effective and efficient manner. The minimum standard is complemented by a set of best practices to ensure that tax treaty disputes are effectively resolved through The Mutual Agreement Procedure (MAP).



01 INTRODUCTION

02 SCOPE OF MAP

03 WHO CAN REQUEST A MAP

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE AGREEMENT

INTRODUCTION

MAP allows the Competent Authorities to resolve differences or difficulties regarding the interpretation or application of the Convention on a mutual-agreed basis. This mechanism seeks to ensure the proper application and interpretation of a tax treaty so that taxpayers entitled to the benefits of the treaty are not subject to taxation by either Jurisdiction which is not in accordance with the terms of the treaty.

Under the MAP, taxpayers desiring to have certainty on the tax treaty treatment of their cross-border trade and investment and clarity on the application and interpretation of the treaty may apply for MAP by making a request for assistance through the Competent Authority.



SCOPE OF THE MAP

01

INTRODUCTION

02 SCOPE OF MAP

The Bahamas concluded a Tax Information Exchange Agreement (TIEA) with Japan for the purpose of the prevention of fiscal evasion and the allocation of rights of taxation with respect to income of individuals. The Government of the Commonwealth of The Bahamas and the Government of Japan are hereinafter referred to as the “Contracting Parties”.

03

WHO CAN REQUEST A
MAP

04

HOW TO INITIATE A MAP

05

PROCESSING MAPS

06

IMPLEMENTATION OF THE
AGREEMENT

This Guidance document shall apply to individuals who are residents of one or both of the Contracting Parties and apply to taxes on income of individuals imposed on behalf of a Contracting Party or of its local authorities, irrespective of the manner in which they are levied.

In the case of Japan, the existing taxes which are covered under the TIEA are the income tax and the local inhabitant taxes, as well as any identical or substantially similar taxes that are imposed after the date of signature of the TIEA in addition to, or in place of, such existing taxes.



SCOPE OF THE MAP “LIMITATIONS”

01 INTRODUCTION

02 SCOPE OF MAP

03 WHO CAN REQUEST A MAP

The Bahamas does not have a domestic personal income tax regime. Therefore, it is not possible for a situation to arise where a person would suffer from income taxation in The Bahamas as an income tax regime does not exist.

04 HOW TO INITIATE A MAP

Currently, there are no Advanced Pricing Agreements (“APAs”) in place in The Bahamas.

05 PROCESSING MAPS

As a result, this Guidance document does not deal with applications for personal income tax adjustments and APAs.

06 IMPLEMENTATION OF THE AGREEMENT



WHO CAN REQUEST A MAP? “COVERED PERSONS”

01 INTRODUCTION

02 SCOPE OF MAP

Individuals who are residents of one or both of the Contracting Parties.

03 WHO CAN REQUEST A MAP

For the purposes of this Guidance, the term “resident of a Contracting Party” means:

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE AGREEMENT

- (a) in the case of Japan, any individual who, under the laws of Japan, is liable to tax therein by reason of his domicile, residence or any other criterion of a similar nature except any individual who is liable to tax in Japan in respect only of income from sources in Japan; and
- (b) in the case of The Bahamas, any individual domiciled in The Bahamas who is a citizen of The Bahamas or has been granted permission to reside or remain in The Bahamas pursuant to Parts Four and Six of the Immigration Act of The Bahamas.



WHO CAN REQUEST A MAP? “COVERED PERSONS”

01 INTRODUCTION

02 SCOPE OF MAP

If an individual is a resident of both Contracting Parties, then his status shall be determined as follows:

03 WHO CAN REQUEST A MAP

- (a) he shall be deemed to be a resident only of the Contracting Party in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting Parties, he shall be deemed to be a resident only of the Contracting Party with which his personal and economic relations are closer (centre of vital interests);
- (b) if the Contracting Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting Party, he shall be deemed to be a resident only of the Contracting Party in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting Parties or in neither of them, he shall be deemed to be a resident only of the Contracting Party of which he is a national;
- (d) if he is a national of both Contracting Parties or of neither of them, the Competent Authorities of the Contracting Parties shall settle the question by mutual agreement.

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE AGREEMENT



HOW TO INITIATE A MAP

01

INTRODUCTION

02

SCOPE OF MAP

In The Bahamas the Competent Authority is the Minister of Finance or his duly authorize representative, namely the Financial Secretary in the Ministry of Finance.

03

WHO CAN REQUEST A MAP

All MAP Requests should be made in writing and addressed as follows:

04 HOW TO INITIATE A MAP

Financial Secretary
Ministry of Finance
Cecil Wallace-Whitfield Centre
West Bay Street
P.O. Box N-3017
Nassau, The Bahamas

05

PROCESSING MAPS

06

IMPLEMENTATION OF THE AGREEMENT

Email: competentauthorityMOF@bahamas.gov.bs



HOW TO INITIATE A MAP

01

INTRODUCTION

02

SCOPE OF MAP

03

WHO CAN REQUEST A MAP

04 HOW TO INITIATE A MAP

05

PROCESSING MAPS

06

IMPLEMENTATION OF THE AGREEMENT

The Competent Authority is committed to ensuring a good faith application of the TIEA and endeavours to resolve requests in accordance with the TIEA. Every effort will be made to reach a satisfactory resolution of the issues involved.

The Competent Authority will strive to resolve cases in a timely manner and keep the taxpayer informed of the status of their request on an on-going basis. Once a decision has been made or a solution agreed to by the Jurisdictions involved on a particular case, the taxpayer will be advised of the decision in writing.



01 INTRODUCTION

02 SCOPE OF MAP

03 WHO CAN REQUEST A MAP

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE AGREEMENT

PROCESSING THE MAP

Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with Chapter 3 of the TIEA, he may, irrespective of the remedies provided by the laws of those Contracting Parties, present his case to the competent authority of the Contracting Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the Agreement.

The Bahamas' Competent Authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of Japan, with a view to the avoidance of taxation which is not in accordance with Chapter 3 of the TIEA. Any agreement reached shall be implemented notwithstanding any time limits in the laws of the Contracting Parties.



PROCESSING THE MAP

01 INTRODUCTION

02 SCOPE OF MAP

03 WHO CAN REQUEST A MAP

The Competent Authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement.

04 HOW TO INITIATE A MAP

The Competent Authorities of the Contracting Parties may communicate with each other directly for the purpose of reaching an agreement.

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE AGREEMENT



PROCESSING THE MAP

“GENERAL FORMAT REQUIREMENTS”

01 INTRODUCTION

02 SCOPE OF MAP

To facilitate the review of a MAP request, the taxpayer should submit the request to the Office of the Competent Authority in writing (hardcopy/electronic). The Request and all of its accompanying documentation must be presented in English.

03 WHO CAN REQUEST A MAP

Taxpayers should provide the following relevant information in their Request:

04 HOW TO INITIATE A MAP

(i) Identification of the taxpayer(s):

05 PROCESSING MAPS

The name, address, date of birth, taxpayer identification number and contact details of the taxpayer(s) and the relationship between the taxpayers covered in the MAP Request (where applicable).

06 IMPLEMENTATION OF THE AGREEMENT



PROCESSING THE MAP

“GENERAL FORMAT REQUIREMENTS”

01 INTRODUCTION

02 SCOPE OF MAP

(ii) The Basis of the Request:

03 WHO CAN REQUEST A MAP

The MAP request should state the specific agreement including the provision(s) of the specific Article(s) which the taxpayer considers is not being correctly applied by either one or both Contracting Parties (and to indicate which Party and the contact details of the relevant person(s) in that Party).

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE AGREEMENT



PROCESSING THE MAP

“GENERAL FORMAT REQUIREMENTS”

01 INTRODUCTION

(iii) Facts of the Case:

02 SCOPE OF MAP

The Request should could contain all the relevant facts of the case including any documentation to support the facts, the taxation years or period involved and the amounts in involved (in both local currency and foreign currency);

03 WHO CAN REQUEST A MAP

04 HOW TO INITIATE A MAP

a. The taxation years or periods in question;

05 PROCESSING MAPS

b. 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);

06 IMPLEMENTATION OF THE AGREEMENT

c. A summary of the facts and an analysis of the issues for which competent authority 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).



PROCESSING THE MAP

“GENERAL FORMAT REQUIREMENTS”

01 INTRODUCTION

02 SCOPE OF MAP

(iv) Analysis of the issue(s) requested to be resolved under MAP:

03 WHO CAN REQUEST A MAP

The taxpayer should provide an analysis of the issue(s) involved, including its interpretation of the application of the specific provision(s) of the agreement, to support its basis for making a claim that the provision of the specific agreement is not correctly applied by either one or both Contracting Party. The taxpayer should support its analysis with relevant documentation (for example, documentation required under published guidance, copies of tax assessments, audits conducted by the tax authorities leading to the incorrect application of the tax provision(s) of the agreement).

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE AGREEMENT



PROCESSING THE MAP

“GENERAL FORMAT REQUIREMENTS”

01 INTRODUCTION

02 SCOPE OF MAP

(v) MAP Request also Submitted in Another Jurisdiction:

03 WHO CAN REQUEST A MAP

If the request was submitted in another Jurisdiction, the local MAP request should make this clear, together with the date of such submission, the name and the designation of the person or the office to which the MAP request was submitted. A copy of that submission (including all documentations filed with that submission) should also be provided.

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

The same applies if a request is made in another jurisdiction under another instrument that provides for a mechanism to resolve treaty-dispute.

06 IMPLEMENTATION OF THE AGREEMENT



PROCESSING THE MAP

“GENERAL FORMAT REQUIREMENTS”

01 INTRODUCTION

02 SCOPE OF MAP

(vi) MAP Issues Previously Dealt with By Other Remedies

03 WHO CAN REQUEST A MAP

The Request should state whether the issue(s) presented in the local MAP request has been previously dealt with, for example, in an advance ruling, advance pricing arrangement, settlement agreement or by any tax tribunal or court. If yes, a copy of these rulings, agreements or decisions should be provided.

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE AGREEMENT



PROCESSING THE MAP

“GENERAL FORMAT REQUIREMENTS”

01 INTRODUCTION

02 SCOPE OF MAP

(vii) Declarative Statement

03 WHO CAN REQUEST A MAP

A statement confirming that all information and documentation provided in the MAP request is accurate and that the taxpayer will assist the Competent Authority in its resolution of the issue(s) presented in the MAP request by furnishing any other information or documentation required by the Competent Authority in a timely manner.

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE AGREEMENT



PROCESSING THE MAP

“GENERAL FORMAT REQUIREMENTS”

01 INTRODUCTION

02 SCOPE OF MAP

The request should generally 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.

03 WHO CAN REQUEST A MAP

04 HOW TO INITIATE A MAP

Alternatively, an accompanying document, stating as much, may be provided within a reasonable period of time after the submission.

05 PROCESSING MAPS

Processing of the MAP request will not be commenced by the Competent Authority until all required documentation is submitted to the Competent Authority.

06 IMPLEMENTATION OF THE AGREEMENT



PROCESSING THE MAP “CONFIDENTIALITY”

01 INTRODUCTION
INTRODUCTION

02 SCOPE OF MAP

03 WHO CAN REQUEST A
MAP

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE
AGREEMENT

The information submitted to the Competent Authority in connection with a MAP request will be treated as confidential and the exchange of information and/or documents in relation to a MAP request shall be carried out in accordance with the provisions of the TIEA.



IMPLEMENTATION OF THE AGREEMENT REACHED

01 INTRODUCTION

02 SCOPE OF MAP

03 WHO CAN REQUEST A MAP

04 HOW TO INITIATE A MAP

05 PROCESSING MAPS

06 IMPLEMENTATION OF THE AGREEMENT

Before reaching a final resolution of the MAP case with the competent authority of Japan, The Bahamas Competent Authority will notify the person who submitted the MAP request of the proposed terms and conditions of the Agreement reached, giving a reasonable timeframe for acceptance of the terms.

If acceptance of the terms and conditions of the Agreement reached is not received within the specified timeframe, The Bahamas Competent Authority shall send the Competent Authority of Japan a proposal to close the MAP case without agreement.

After the acceptance of the Agreement reached under the MAP, The Bahamas Competent Authority will convey acceptance and confirm the Agreement in writing with the Competent Authority of Japan. Thereafter, The Bahamas Competent Authority will inform the person who submitted the MAP request of the implementation of the Agreement. However, it should be noted that The Bahamas does not have a personal income tax regime, and as a result no personal income tax adjustments would be made.



TYPICAL MAP PROCESS TIMELINES

ANNEX 1 – TIMELINES FOR A TYPICAL MAP PROCESS IN ACCORDANCE WITH THE OECD’S MAP STANDARD

STAGE	ACTION	TARGET TIME FRAME
First	Initiation of MAP by taxpayer: submission of MAP request	Time-limit provided for by the treaty (OECD Model Tax Convention: 3 years from notification of action giving rise to taxation not in accordance with the convention).
	Confirmation of the receipt of MAP request to the taxpayer and advising the other competent authority (CA) of the request. Preliminary review of case by CA that received request. Possible requests for additional information to taxpayer	Within a month after initiation by taxpayer of MAP.
	Determination of eligibility for MAP by CA that received the request. Notification to taxpayer by that CA if the case is accepted or rejected. (If accepted) Proposal to the other CA to start MAP discussions: issuance of opening letter to the other CA	Within a month after the necessary information is provided to the CA that received the request.
	Confirmation by the other CA of receipt of MAP request, preliminary screening for completeness of request and notification of decision to accept or reject request.	Within a month after the receipt of the opening letter from the CA that received the request.
Second	Analysis & Evaluation by the CA of the country that initiated the adjustment. Initiation of MAP consultations with other CA (if the CA of the country that initiated the adjustment is unable at this point to arrive at a satisfactory solution – i.e. provide unilateral relief): Issuance of position paper by the CA of the country that initiated the adjustment.	Ideally within 4 months, but no later than 6 months after agreement between CAs to enter into MAP consultations.
	Review of case by the other CA (the CA being asked to provide relief), preliminary screening for completeness of position paper and notification of missing information and determination whether it can provide unilateral relief to taxpayer. Response to the position paper by other CA	Within 6 months of receiving the position paper.
	Negotiation between the CAs	6 months



TYPICAL MAP PROCESS TIMELINES

Third	Mutual Agreement between the CAs: document the CA agreement in the form of memorandum of understanding	Within 24 months of the acceptance date of a MAP request.
	Taxpayer's (and other interested parties) approval of mutual agreement.	To be submitted immediately after conclusion of mutual agreement. 1 month deadline to respond
	Confirmation of mutual agreement with terms and conditions: exchange of closing letters.	As soon as possible after acceptance of mutual agreement by taxpayer (and possibly other parties).
	Implementation of mutual agreement.	No later than 3 months after exchange of closing letters.

