



HELLENIC REPUBLIC



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**SUBJECT: “Regulation of issues regarding the Mutual Agreement Procedure in accordance with the bilateral Conventions for the Avoidance of Double Taxation on Income”**

**DECISION**

**THE GOVERNOR OF THE INDEPENDENT AUTHORITY FOR PUBLIC REVENUE**

**WE DECIDE**

**Article 1**

**Subject Matter and Scope**

1. This decision regulates issues regarding the Mutual Agreement Procedure (hereinafter referred to as “MAP”), pursuant to the provisions of the Conventions for the Avoidance of Double Taxation (hereinafter referred to as “DTCs”) which have been ratified by Greece and are currently in force. A detailed list of the DTCs is attached as an annex hereto.

2. The initiation of the MAP requires the submission of a request by the persons defined in the relevant provisions of the DTCs. If a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of the applicable DTC, he may, irrespective of the remedies provided for by the domestic law of the Contracting States, present his case to the competent authority of the Contracting State of which he is a resident, in case that the applicable DTC does not provide for a right to submit a MAP request to both Contracting States. In case that the taxpayer has subsequently transferred his tax residence to another state, the request must be submitted to the state of which he was a resident in the year when tax was imposed in violation of the DTC provisions. In cases where the MAP request concerns the application of the relevant DTC provisions on “non-discrimination”, the taxpayer must submit the above-mentioned request to the competent authority of the Contracting State of which he is a national.

## **Article 2**

### **Competent Authority**

1. The Competent Authority for the submission and examination of requests, as well as for conducting the MAP under the DTC provisions, except for those referred to in paragraph 2 of this article, is the Directorate for International Economic Relations (Department A´ - Tax Issues) of the Independent Authority for Public Revenue (hereinafter referred to as “IAPR”).

2. The Competent Authority for the submission and examination of requests, as well as for conducting the MAP which concerns exclusively the elimination of double taxation in connection with the adjustment of profits of associated enterprises, under the corresponding articles of the DTCs (article 9 of the OECD Model Tax Convention), is the Directorate of Audits (Department E´ - Transfer Pricing - Multilateral and Special Audits) under the D.G. of Tax Administration of IAPR.

3. For the purposes of this decision, the Competent Authority may sign a Memorandum of Understanding with the foreign competent authorities, whenever the disputed issue concerns multiple jurisdictions (multilateral issue).

4. The competent service for the implementation of the Agreement within the MAP framework based on the Mutual Agreement Decision, as defined in paragraphs 1, 5, 6 and 7 of article 9 of this decision, is the Tax Office (hereinafter referred to as “D.O.Y.”) where the applicant is liable to file an income tax return or, in the absence of that, any special decentralized or regional service under the D.G. of Tax Administration of IAPR, which is required to act in order to implement the Mutual Agreement Decision referred to in article 9 of this decision.

## **Article 3**

### **Formal examination of the request**

1. The Competent Authority receives and examines the MAP request as to its admissibility and its content, according to article 4 of this decision.

2. In particular, the MAP request is admissible, as long as it is submitted to the Competent Authority within the two-year or three-year time limit (provided for in the

applicable DTC) from the notification of the action resulting in taxation not in accordance with the provisions of the applicable DTC.

3. In case that the relevant DTC does not provide for a time limit, the MAP request is not subject to a time limit for submission to the Competent Authority and it may be submitted and accepted at any time. In any case, for the smooth functioning and conduct of the procedure, the request should be submitted as soon as possible, but not beyond a period of five years. If the request is submitted beyond the five-year period, the Competent Authority shall receive the request and exhaust all available means for the substantive examination thereof; however, the resolution of the issue in these cases may become difficult or even impossible.

4. In case that the request is not admissible or the required information is not provided by the applicant within the time limit specified in par. 6, the Competent Authority rejects the request and notifies the applicant and the foreign competent authority of the reasons for the rejection, in writing.

5. The Competent Authority sends the taxpayer a confirmation of receipt within thirty (30) days of receiving his request. The confirmation is sent either by registered mail to the postal address indicated by the applicant or by e-mail to the electronic mail address indicated by him.

6. The Competent Authority has the right to request additional information from the applicant, as well as any other necessary information, setting a two-month time limit for the submission thereof, which may be extended at the applicant's request. Throughout the procedure, the applicant may submit additional information on a voluntary basis.

## **Article 4**

### **Content of the request**

1. The request is submitted in writing, in the Greek or the English language. The information and the documents which must be submitted together with the request for the initiation of the MAP are the following:

a. Details of the applicant: full name/company name, postal address, tax identification number (TIN), contact details, and in case of transfer pricing, the details of the company submitting the request, as well as those of the other associated persons involved in the relevant transactions, including all permanent establishments.

b. Basis for the request: reference to a specific DTC and provisions of the article(s) thereof, which, according to the applicant, are not properly implemented.

c. Facts of the case: Detailed information regarding the facts and circumstances of the specific case, including the tax year(s) and the tax amount(s) concerned (in both domestic currency and foreign currency, if deemed necessary), as well as any supporting documents. For transfer pricing cases, detailed information regarding the relation between the enterprise and the other parties involved in the relevant transactions.

d. Analysis of the issue to be resolved: a statement provided by the applicant, explaining the reasons for which the applicant considers that the actions of one or both of the Contracting States result for him in taxation not in accordance with the provisions of the relevant DTC, together with supporting documentation in the Greek

or the English language (e.g. copies of tax audit reports, tax assessments or equivalent documents, leading to double taxation). For transfer pricing cases, detailed description and documentation regarding the transactions related to the MAP request and the methodology used for the adjustments.

e. Detailed information regarding any procedures related to an administrative appeal, closure, administrative dispute resolution, administrative settlement, court settlement or out-of-court settlement, judicial appeal and, in general, proceedings before a Court, which may have been initiated by the applicant or other parties regarding the MAP request, in any of the states involved, whichever stage they are at, whether they are pending or have been completed.

f. A statement by the applicant, which is equivalent to a solemn declaration under article 8 of Law No. 1599/1986, confirming that the applicant or, in case of transfer pricing, other associated person involved in the relevant transactions has not submitted a complaint according to the provisions of Law No. 4714/2020 (Government Gazette A/148/31-07-2020), which incorporates into the Greek legislation the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union.

g. A statement by the applicant, which is equivalent to a solemn declaration under article 8 of Law No. 1599/1986, confirming that all the information provided is accurate.

2. The request is obligatorily submitted to the Competent Authority, either by registered mail or by courier service or by e-mail after scanning the documents. More specifically, requests addressed to the Directorate for International Economic Relations (Department A´ - Tax Issues) should be sent to the e-mail address [dos.a@aade.gr](mailto:dos.a@aade.gr) and requests addressed to the Directorate of Audits (Department E´ - Transfer Pricing - Multilateral and Special Audits) under the D.G. of Tax Administration of IAPR should be sent to the e-mail address [d.eleg05@aade.gr](mailto:d.eleg05@aade.gr)

If the request is submitted in paper form, it must be submitted to the competent authority together with an electronic file on an optical disc - CD or USB stick -, which should contain the information referred to in points (a) to (g), paragraph 1 of this article, in digital form.

The post office receipt or the courier service receipt or the e-mail sent by the applicant constitutes proof of submission of the request.

3. In case that the MAP is initiated by a foreign competent authority, the Competent Authority may ask the foreign competent authority to forward the required information and documents.

4. The applicant may be represented by a lawyer or a third person, who has been legally authorized to act on his behalf.

## **Article 5**

### **Substantive examination of the request**

1. After completion of the formal examination, the Competent Authority proceeds to the substantive examination of the request, in order to consider if the request is valid, i.e. if there is or will be taxation not in accordance with the provisions of the relevant

DTC. At this stage, the Competent Authority may request the views of the competent tax service or any necessary information, as the case may be.

2. In case that the Competent Authority for receipt of the request considers that the request is not valid, it must contact the foreign Competent Authority providing the reasons for its decision and asking the latter to present its views.

3. The period of five (5) years after the end of the relevant tax year, within which the tax administration may issue an administrative, estimated or corrective tax assessment, is extended for a period equal to the time limit for submission of a MAP request referred to in article 63A of the Tax Procedure Code, as defined in the specific provisions for the possibility of submitting a MAP request, only for the submission and acceptance of the related request. Also, if such a request is submitted, the above-mentioned period is extended for the duration of the MAP, only for the issue relating or pertaining to that procedure.

4. If a tax audit is being conducted, without having been completed, or if the taxpayer has lodged an administrative appeal with the Directorate for Settlement of Disputes, according to article 63 of the Tax Procedure Code, the Competent Authority notifies the applicant in writing that the MAP request will not be examined until the completion of that procedure. The applicant notifies the Competent Authority of the completion of those procedures, in order for it to proceed immediately to the substantive examination of the request.

5. In case that the applicant submits a request for remedies as a consequence of tax assessments by a foreign tax authority, claiming that they resulted in taxation not in accordance with the provisions of the relevant DTC, his request is examined only if these assessments have become final abroad and there are no judgments against them in the other Contracting State.

6. Within the framework of the examination of MAP requests, the Directorate of Audits of IAPR may request all the necessary information from the audit services of IAPR, where the audit file is kept, including the physical file if needed. The audit services, in turn, commit to sending that information within a reasonable time.

7. The Competent Authority examines the factual and legal issues of the case, taking into consideration the provisions of the domestic law and the DTC, the request for initiation of the MAP, the information received from the applicant, the findings of any tax audit conducted by the Greek tax authority, the views of the competent tax service or the working groups referred to in article 7, par. 6 of this decision, as well as any other information related to the case.

8. After completion of the above examination, if the Competent Authority considers that the request is valid and if it is possible, it provides a satisfactory solution in order to avoid taxation not in accordance with the provisions of the applicable DTC, so the issue is resolved unilaterally. Otherwise, there will be consultation between Competent Authorities, according to article 7 of this decision.

## **Article 6**

### **Interaction with other procedures**

1. The MAP provided for by this decision is terminated automatically upon submission of a complaint for the same dispute, pursuant to the provisions of Law No. 4714/2020 (Government Gazette A/148/31-07-2020), which incorporates into the

Greek legislation the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union, from the day of receipt of the complaint by the Competent Authority. After submission of the complaint under article 23 of Law No. 4714/2020, the submission of a related MAP request for the same dispute is not allowed and in case that such a request is submitted, it is rejected as inadmissible.

2. Any appeal before the competent Administrative Courts does not impede the applicant's access to the MAP. Therefore, the Competent Authority proceeds to the formal examination of the request in any case and considers that the case presented is pending before it. However, it proceeds to the substantive examination and evaluation of the request, only if and for as long as the case has not been discussed. In that case, in addition to the information regarding the appeal, which is submitted together with the request according to the previous article, the applicant is required to provide a certificate from the Registry of the relevant Court, attesting that the appeal has not been discussed. If the case has already been discussed at the time of submission of the request or if it is discussed after the initiation of the MAP, the Competent Authority does not proceed to the substantive examination of the case. In any case, it notifies immediately the foreign competent authority in writing. In particular, if a final judgment on the appeal is delivered, the applicant provides immediately a copy to the Competent Authority, in order for it to notify the foreign competent authority accordingly, pursuant to what is stated in the judgment, in accordance with articles 7, 8 and 9 of this decision, as the case may be.

3. Closure, administrative dispute resolution or court settlement does not impede the applicant's access to the MAP. However, the Competent Authority is bound by the outcome resulting from the closure, as well as the administrative dispute resolution or the court settlement, in case that their subject matter is identical to the dispute referred to in the MAP request. The taxpayer must present the closure statement, the record of the administrative dispute resolution or the statement in relation to the court settlement, respectively, to the Competent Authority. The Competent Authority prepares a final position paper in accordance with the closure statement, the record of the dispute resolution or the court settlement and notifies the foreign competent authority thereof, for information purposes.

## **Article 7**

### **Consultation between competent authorities – Position paper**

1. The consultation between the competent authorities is conducted in writing (by mail / e-mail) and/or verbally (by telephone / teleconference), in case that the issue cannot be resolved unilaterally according to article 5, par. 8. The applicant is not directly involved in the negotiations conducted within the MAP framework and his participation is limited to providing all the information to the competent authorities, in a timely and accurate manner, which is necessary to reach a solution to his case.

2. In case that the Greek Competent Authority initiates the MAP, it addresses a position paper to the foreign competent authority, which contains the case submitted, the reasons for which it considers that there has been taxation not in accordance with the provisions of the relevant DTC and a presentation of its proposal on how to resolve the dispute.

In particular, for transfer pricing cases, the position paper contains full justification for the tax assessment or the adjustment of profits and it is accompanied by the main

documents supporting the position of the Competent Authority, as well as a list of all the other documents which have been used for the adjustment.

3. In case that the Greek Competent Authority receives a MAP request from a foreign competent authority, it responds to the position paper of the foreign authority by preparing a document, in which it expresses its agreement or disagreement with the views of the foreign authority.

4. In case that the foreign competent authority initiates the MAP and a tax audit of intra-group transactions of the associated enterprise (transfer pricing audit) has not been conducted in Greece, the General Director of Tax Administration of IAPR orders the competent tax audit service to initiate a tax audit, pointing out that it should be conducted as a matter of priority, due to a pending MAP request.

5. The position paper referred to in par. 2 and 3 of this article is not notified to the applicant.

6. By decision of the Governor of IAPR, special working groups may be set up, as the case may be, with the participation of other services as well, besides the Directorate for International Economic Relations or the Directorate of Audits, or of a representative of the Special Legal Office for Public Revenue of IAPR, in order to address special issues arising within the MAP framework.

7. The position paper is submitted to the Governor of IAPR for approval.

## **Article 8**

### **MAP outcome**

1. The agreement between the Contracting States can be reached either in the form of an exchange of letters between the competent authorities of the Contracting States and by e-mail, or in the form of a joint document, signed by their competent authorities. The outcome of the MAP consultation is submitted to the Governor of IAPR for approval. The outcome of the MAP consultation occurs through the Agreement between the competent authorities. In case that a MAP Agreement is reached, within a month of the completion of the procedure, the Competent Authority notifies the applicant in writing about the content of the MAP Agreement between the competent authorities, as well as the manner in which it should be implemented as an element of the Mutual Agreement Decision. Within a time limit of sixty (60) days, the applicant may accept or reject the MAP Agreement as above. For this purpose, an acceptance document is drawn up, which is signed by the applicant and the Competent Authority of IAPR, in which the parties agree that their dispute is resolved.

2. If the applicant does not accept the MAP Agreement or if he does not sign the acceptance document, a rejection document is drawn up. Partial acceptance of the MAP Agreement by the applicant is not possible, unless the Contracting States have agreed that such a partial acceptance is possible.

3. In case of acceptance of the MAP Agreement by the applicant, if legal remedies have been exercised before a Greek court, the applicant -before the issuance of the Mutual Agreement Decision referred to in article 9 of this decision- must provide an official copy of the written statement on the withdrawal of the document initiating proceedings for the issues resolved through the MAP, which is filed with the Registry of the Court, according to the provisions of article 143 of the Administrative

Procedure Code, even in cases where the request has been submitted to a Foreign Competent Authority.

4. Regardless of the above, in case that by exercising legal remedies before a Greek court, in the judgment of the Competent Authority, judicial protection is sought for issues which are not included in the MAP request or which are not resolved through that procedure and partial withdrawal is not possible, the Mutual Agreement Decision is issued without the need for a statement on the withdrawal of the document initiating proceedings. In the latter case, before the issuance of the Mutual Agreement Decision, the applicant is required to inform the Court about the MAP outcome, i.e. reaching an agreement between the competent authorities of the Contracting States, which he himself has accepted and which shows that the subject matter of the dispute with the tax administration has ceased to exist. For this purpose, the applicant presents the acceptance document regarding the MAP Agreement -signed by himself and the Competent Authority- to the Court Registry, and he receives a relevant certificate/protocol, which he presents to the Competent Authority.

5. Following the acceptance or rejection of the MAP Agreement by the applicant, the foreign competent authority is notified.

6. In case that, for any reason, the Contracting States do not reach an agreement within the time limit provided for in the provisions of the relevant DTC, regarding those DTCs where a relevant time limit is provided for, the procedure is completed by drawing up a document in which the failure to reach an agreement is ascertained.

## **Article 9**

### **Mutual Agreement Decision**

1. Based on the mutual agreement, within thirty (30) days and following the presentation of the statement on the withdrawal of the document initiating proceedings referred to in paragraph 3, article 8 or the presentation of the certificate/protocol as defined in paragraph 4, article 8 of this decision, the Competent Authority issues a decision on the MAP Agreement, which is signed by the Governor of IAPR. The decision is legally notified, together with a copy of the acceptance document, to all parties involved, and also to the competent service for its implementation. The Mutual Agreement Decision is not subject to an administrative appeal or any legal remedy. In case that withdrawal is not an issue and the exercise of legal remedies before a Greek Court for the issues which were not resolved through the MAP Agreement is pending, the competent service for the implementation of the Decision sends immediately a copy thereof to the competent Court.

2. The decision referred to in the previous paragraph contains at least the following:

a. Details of the applicant (full name/company name, Tax Identification Number, competent Tax Office, postal address, details of the legal representative). In case of transfer pricing, the details of the associated persons/parties involved in the transactions under review.

b. Reference to the content and the date of the request.

c. Reference to the Contracting State and the foreign Competent Authority involved in the MAP.



- d. Reference to the admissibility of the request.
  - e. Brief reference to the content of the final document in which the agreement between the Competent Authorities of the Contracting States is set out.
  - f. Reference to the Acceptance Document regarding the mutual agreement.
  - g. The manner of implementation of the agreement, which means: the ascertainment of any necessary actions to be taken within the tax administration, pursuant to the domestic law, following the resolution of the issue, which is referred to in the MAP Agreement.
  - h. The fact that it is not subject to an administrative appeal or any legal remedy.
3. A separate Mutual Agreement Decision by the Governor of IAPR is issued for each tax year. The accumulation of decisions regarding the applicant and referring to several years in the same document is possible.
4. In case of issuance of a Mutual Agreement Decision, the limitation period for the State's right to issue an administrative, estimated or corrective tax assessment, on the basis of that decision and in compliance with it, is extended for one (1) year after the issuance of the decision.
5. In case that the implementation of the MAP Agreement within the tax administration requires an action by the competent service for its implementation, the latter proceeds immediately to any appropriate action based on the Mutual Agreement Decision referred to in this article, as a legally enforceable title, in order for what is set out in the Decision to occur immediately as a result.
6. In case that the correct assessment of the final tax liability is necessary for the implementation of the MAP Agreement as set out in the Mutual Agreement Decision, the competent service for its implementation proceeds to any further action necessary for this purpose, and draws up a Special Document on the Implementation of the MAP Decision, in which it lists, with full justification, all the implementation actions to which it proceeds based on the enforceable title. The Special Document on the Implementation constitutes an integral part of the tax assessments issued and it is notified to the applicant.
7. At this stage, for any new tax assessment or annulment of a tax assessment, the competent service for the implementation is required, where appropriate, to: **a)** take into consideration any necessary information already available within the tax administration services, while it may ask the applicant to provide supporting documents or clarifications in writing, if deemed necessary for the correct assessment of the final tax liability, and **b)** for the issuance of income tax assessments, take into consideration the guidelines provided in the circular POL. No. 1154/2017, regarding the tax years for which the Tax Administration may issue a tax assessment according to the Decision No. 1738/2017 by the plenum of the Council of State.

## **Article 10**

### **Maintaining Confidentiality – Disclosure**

1. Regarding the information exchanged between the Competent Authorities during the examination of a MAP request, the provisions of the applicable DTC on the

exchange of information, as well as the current provisions on professional and tax secrecy, shall apply.

2. The Mutual Agreement decisions are published on the webpage of IAPR, and the details of the taxpayer are anonymized. If the taxpayer disagrees with the publication of the entire Decision, a summary thereof is published, containing the description of the issue, the other Contracting State, the tax years referred to in the Mutual Agreement Decision and the legal basis for that decision.

## **Article 11**

### **Entry into force – Transitional provisions**

1. This decision applies to MAP requests which are submitted following its publication, as well as requests which have been submitted and for which a Mutual Agreement Decision has not been issued until the date of publication of this decision.

2. This decision shall enter into force following its publication in the Government Gazette, whereupon the circular POL. No. 1049/2017 by the Governor of IAPR (B' 1235) ceases to apply.

This decision shall be published in the Government Gazette.

**The Governor of the Independent Authority for Public Revenue**

**Georgios Pitsilis**