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Tax alert: India issued an updated Mutual Agreement Procedure Guidance

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This alert highlights the updated Guidance on Mutual Agreement Procedure (MAP), 2026, issued by the Central Board of Direct Taxes (CBDT) on 30 September 2026. The revised guidance updates the earlier MAP Guidance issued in August 2020 and subsequently revised in 2022 and aligns India's MAP framework with the provisions of the Income-tax Act, 2025 and the Income-tax Rules, 2026.

In a nutshell

The Action 14 Report of Base Erosion and Profit Shifting (BEPS) emphasizes enhancing the effectiveness, transparency, and accessibility of cross-border tax dispute resolution mechanisms. Action 14 Report of BEPS requires every country that agrees to implement BEPS minimum standards, to issue detailed MAP guidance to provide taxpayers with clarity on the availability and administration of MAP.

India being a signatory to the implementation of BEPS package, issued comprehensive guidance in August 2020 and subsequently issued clarifications in June 2022.
With the enactment of the Income-tax Act, 2025 and the Income-tax Rules, 2026, as well as the emergence of new interpretational and procedural issues not previously addressed, the CBDT has now issued an updated MAP Guidance, 2026.

The updated MAP guidance majorly updates statutory references for the new income-tax law and provide clarifications on certain aspects which were not clear in the earlier guidance notes.
More specifically, it provides guidance on MAP proceedings for cases before Board for Advance Rulings ("BAR") and Direct Tax Vivad se Vishwas Scheme ("VsV"), 2024.

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Background

The CBDT has issued updated guidance on the MAP under India's tax treaties. In addition to providing transitional guidance following the enactment of the Income-tax Act, 2025, the updated guidance introduces several notable changes affecting MAP accessibility and its interaction with parallel proceedings, including APA, ITAT, BAR and VsV scheme. A summary of the key clarifications and developments is set out below.

Additional Guidance

1. Transition to the new income-tax law and MAP application form

Income-tax Act, 2025 and Income-tax Rules, 2026 are applicable from Tax Year 2025-26. Accordingly, MAP proceedings for all financial years up to FY 2025-26 will be governed by Rule 44G of the repealed Income Tax Rules 1962 as per the saving provisions in section 536(2) of the Income-tax Act, 2025.

2. Invoking MAP: a conclusive view is required

The 2026 Guidance clarifies that MAP should be invoked only after a tax authority has taken a conclusive view on the tax dispute even though the tax demand is not raised. A preliminary notice for initiation of tax proceedings or a show-cause notice is insufficient to invoke MAP. The updated guidance clarifies that where a treaty partner grants MAP access in such cases, the Indian CA ("Competent Authority") will seek closure of such MAP case with an understanding with the other treaty partner that the MAP access can be given as and when the final order on tax dispute will be issued to the taxpayer.

Updated guidance

1. Greater flexibility on parallel proceedings under MAP and APA

Unilateral Advance Pricing Agreement ("UAPA"): Under the 2022 MAP Guidance, while access to MAP was allowed, the India CA would not process the MAP application until the unilateral APA was concluded. The updated MAP guidance permits the Indian CA to grant MAP access and discuss possible resolutions during the pendency of the UAPA. In case the UAPA is concluded before the MAP resolution, Indian CA will not deviate from the UAPA outcome. Similarly, if the MAP is resolved and the India taxpayer accepts MAP, UAPA will not deviate from MAP outcome.

Bilateral/Multilateral Advance Pricing Agreement ("BAPA/MAPA"): Under the 2022 MAP Guidance, a MAP application concerning the same issue and years for which bilateral or multilateral APA application has already been filed could not be admitted. Under the updated MAP guidance, such MAP application may be accepted or rejected or may be accepted but kept in abeyance till the conclusion of BAPA/MAPA.

2. MAP and ITAT order

Under the 2022 MAP guidance, once the ITAT order is issued, the Indian CA would not discuss the MAP case any further and would request the CA of the other country to provide correlative relief, if such relief is required to eliminate double taxation arising from the ITAT order. The earlier MAP guidance did not distinguish between the ITAT order being favourable or not from the perspective of the taxpayer. However, the updated MAP guidance provides that if the ITAT order is not in favour of the taxpayer, the two competent authorities would agree on the outcome of such MAP cases for statistical purpose. This additional change in language, in substance, does not amend the existing position and hence, India will not negotiate MAP in case where the ITAT order is issued on merits.

3. BAR replaces AAR: materially different MAP treatment

The 2022 Guidance denied MAP access where an advance ruling had been obtained from, or the relevant issue was pending before, the erstwhile Authority for Advance Rulings ("AAR"). After the abolition of the AAR and constitution of the Board for Advance Rulings ("BAR"), the updated MAP guidance provides access to MAP in

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respect of cases either pending before or concluded by BAR.

The updated MAP guidance provides that MAP access is available to the taxpayer that has obtained an advance ruling from the BAR on the issue under MAP. However, Indian CA will not deviate from the ruling of the BAR and would request the other CA to provide correlative relief, if such relief is required to eliminate double taxation arising from the BAR ruling.

In cases where the taxpayer is an Indian resident and its case is pending before the BAR; there is a statutory restriction for any income tax authority or ITAT to decide any issue covered in such proceedings. However, in case of non-resident, such restriction is not there. Therefore, in case of non-resident taxpayer, where any action is taken by Indian tax authorities which is not in accordance with the relevant DTAA, the access to MAP is available to such non-resident taxpayer and the two CAs will endeavour to resolve MAP like any other MAP case. However, if the order of the BAR is issued during the pendency of the MAP, the Indian CA will not deviate from the BAR order once it is given effect to by the assessing officer.

4. Vivad se Vishwas expanded to cover the 2024 Scheme

The updated MAP guidance covers Direct Tax Vivad se Vishwas Act, 2020 and Direct Tax Vivad se Vishwas Scheme, 2024.

The updated guidance clarifies that where a taxpayer, being resident of India, has applied for VsV scheme and it is accepted by tax authorities of India, the Indian CA would provide access to MAP but will not deviate from the outcome of VsV; would only request the other CA to provide correlative relief, if such relief is required to eliminate double taxation arising from the VsV scheme. The updated guidance further clarifies that where the taxpayer has not availed the benefit of VsV by paying taxes, the two Cas can resolve the case under MAP.

Comments:

The updated guidance provides clarity on situations where MAP resolution can be provided even when the proceedings are before ITAT, VsV and BAR. This widens the benefit of MAP for taxpayers even when proceedings are before these authorities.

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