

**U.S.- U.K. DEVELOP NEW ADMINISTRATIVE ARRANGEMENTS FOR
MUTUAL AGREEMENT PROCEDURE**

WASHINGTON — The Internal Revenue Service and the U.K. Inland Revenue have agreed to new Administrative Arrangements that outline guiding principles to follow when using the Mutual Agreement Procedure (the MAP) found in Article 25 of the U.S.-U.K. Income Tax Convention. The Arrangements were developed to make sure the MAP works as quickly and effectively as possible, and that taxpayers are kept informed about the way their cases are being handled.

Article 25 of the U.S.-U.K. Income Tax Convention provides for a mutual agreement procedure under which the tax authorities of the two countries try to resolve, by mutual agreement, cases where taxpayers believe they are being taxed by either country in a way that is not in accordance with the Convention. It also attempts to resolve any difficulties or doubts concerning the interpretation or application of the Convention. In general, taxpayers may invoke the MAP in relation to any aspect of the tax treatment provided by the Convention.

Both countries are committed to making the MAP work as quickly and effectively as possible. The IRS and the Inland Revenue have therefore agreed on certain Administrative Arrangements to describe how they will operate the MAP. In particular the Arrangements set a target timetable for dealing with particular cases. Where it does not prove possible to resolve a particular case within that timeframe, the case will be reviewed at a more senior level to ensure that all appropriate action is being taken to resolve the case. Taxpayers will be kept informed of the progress of their case.

The operation of the Arrangements will be kept under review. The text of the Administrative Arrangements is attached.

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Administrative Arrangements for the Implementation of the Mutual Agreement Procedure (Article 25) of the Convention Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains (Signed on December 31, 1975, as Amended by Protocols) (the “Convention”)

The competent authorities of the United Kingdom and the United States enter into an agreement under the Mutual Agreement Procedure Article (Article 25) of the Convention, with a view to the effective administration and resolution of cases conducted between them under the process. The Mutual Agreement Procedure (the “MAP”) of the Convention provides that the competent authorities of the two Contracting States shall “endeavour to resolve by mutual agreement” cases of “taxation not in accordance with this Convention.” The United Kingdom and the United States are committed to assisting taxpayers in the conduct of cases under the MAP, to ensuring taxpayers know what they can expect from the competent authorities, and to making the MAP as expeditious and effective as possible.

Particular areas in which MAP cases arise are-

- (i) consideration of the appropriate transfer pricing methodologies to be applied to cross-border transactions between related persons/associated enterprises;
- (ii) the determination of appropriate attributions of profits to the permanent establishments of enterprises; and
- (iii) the qualification of entitlement to benefits under the Convention, such as residence.

In these and other areas of difficulties and doubts arising as to the interpretation or application of the Convention, the United Kingdom and the United States are committed to promoting and supporting domestic initiatives and programmes designed to assist taxpayers and to helping taxpayers in avoiding or resolving any disputes which might arise.

These Arrangements set out certain objectives and practices the United Kingdom and the United States will adopt in dealing with cases under the MAP of the Convention with a view to ensuring taxation in accordance with the Convention.

Time Frames

The United Kingdom and the United States agree that cases presented under Article 25 of the Convention shall be dealt with as expeditiously as possible. The objective, in cases other than Advance Pricing Arrangements or Agreements, is to resolve a case by concluding a Mutual Agreement within 18 months from transmittal of a position paper by one Contracting State to the other. The relevant competent authority will endeavour to deliver a position paper to its counterpart within 120 days of receipt of the presentation of a case under the MAP. In cases of Advance Pricing Agreements or Arrangements, the competent authorities will endeavour to agree upon a joint target timetable for dealing with the various stages of the application, with the aim of securing Mutual Agreements within a similar overall time frame, taking into account the complexities of the particular cases involved.

The role of the taxpayer

The United Kingdom and the United States agree that, in law, the negotiation of a MAP is a government-to-government process. A taxpayer has no legal right to attend negotiations between the competent authorities or to observe the negotiations. However, it is also recognised that the taxpayer is a key stakeholder in the MAP process. The competent authorities therefore agree that they will keep taxpayers informed about the progress of a case under the MAP and will invite them to provide such further information as may be helpful in reaching a resolution. At their discretion, they may allow information to be provided to them in a joint presentation by the taxpayer.

Accelerated MAP

When a taxpayer requests competent authority assistance with respect to an issue that has also arisen in a subsequent period, the taxpayer may also request assistance for the subsequent period. If requested, the United Kingdom and the United States will seek to resolve the issue for subsequent taxable periods.

Resolution of cases

The United Kingdom and the United States will strive to coordinate the MAP with their respective internal appeals processes to expedite the resolution of cases.

While the staff of the respective competent authority offices will continue to carry on the primary negotiation of cases arising under Mutual Agreement Article of the Convention, the United Kingdom and the United States agree that in any case that extends beyond a time frame as agreed upon above, senior officials will undertake a review of the case

to ensure that all appropriate action is being taken to facilitate resolution of the matter. In addition, neither the United Kingdom nor the United States will withdraw from MAP proceedings without meeting face-to-face to specifically discuss the problems or concerns that give rise to the consideration of withdrawal.

Confidentiality

The United Kingdom and the United States are committed to ensuring confidentiality concerning taxpayer information, under the Convention and their respective laws.

Face-to-Face Meetings

The United Kingdom and the United States agree to meet at least three times a year to conduct face-to-face discussions. Interim meetings and other communications also will be conducted as necessary in an effort to resolve cases.

The United Kingdom and the United States have agreed to publish these Arrangements to assist taxpayers in understanding and making full and appropriate use of the MAP in the Convention. The Arrangements will be reviewed from time to time.

Agreed the 25th October 2000.

For the United States:

For the United Kingdom:

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