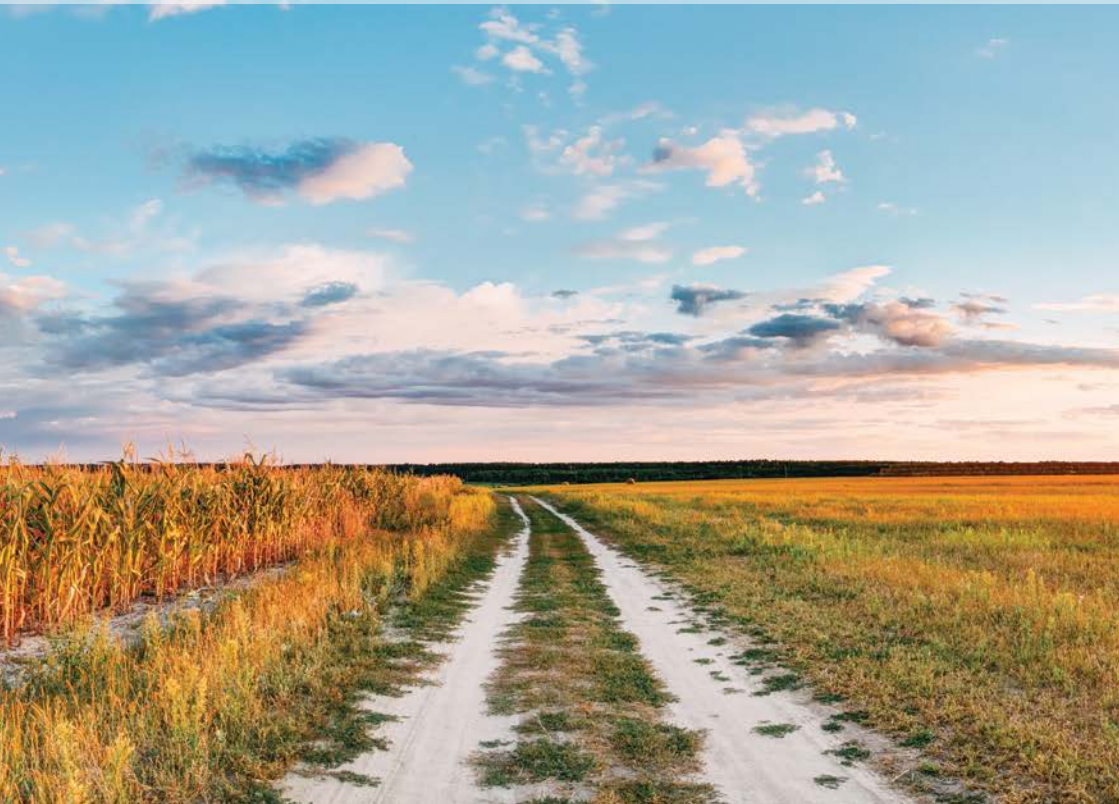




# APA & MAP COUNTRY GUIDE 2018 – SINGAPORE

New paths ahead for international tax  
controversy





## SINGAPORE

### APA PROGRAM

KEY FEATURES	
<b>Competent authority</b>	Inland Revenue Authority of Singapore ('IRAS')
<b>Relevant provisions</b>	Section 8 and 10 of the Transfer Pricing Guidelines (Fourth edition), published by the IRAS on the 12 January 2017.
<b>Types of APAs available</b>	Unilateral, bilateral, and multilateral APAs are available.
<b>Acceptance criteria</b>	<p>The acceptance of a MAP or APA application is at the discretion of the IRAS. Bilateral and multilateral APAs are available to:</p> <ul style="list-style-type: none"><li>■ Taxpayers that are Singapore tax residents; and</li><li>■ Taxpayers who are not Singapore tax residents but have a branch in Singapore.</li></ul> <p>Such applications are to be made by the Taxpayers in the jurisdictions in which they are tax residents and with which Singapore has a DTT. Unilateral APAs are available to Taxpayers regardless of whether they are Singapore tax residents.</p> <p>Taxpayers should only apply for an APA when:</p> <ul style="list-style-type: none"><li>■ there is a genuine motive to obtain certainty for the avoidance of double taxation;</li><li>■ the request relates to specific current or future transactions that are not hypothetical;</li><li>■ they are certain that the cross-border related party transactions will commence or continue to take place throughout the APA covered period;</li><li>■ the incidence of double taxation is certain or highly probable for the fiscal years to be covered;</li><li>■ the Taxpayer has robust reasons and TP documentation to support the application; and</li><li>■ the Taxpayer has evaluated the suitability of an APA through an in-depth cost benefit analysis of their tax situations.</li></ul>



## SINGAPORE (cont'd)

### KEY FEATURES

#### **Key timing requests, deadlines**

The APA process follows strict timing deadlines, including:

- submission of pre-filing materials at least one month prior to the pre-filing meeting;
- the pre-filing meeting must take place at least nine months before the first day of the fiscal year the APA is intended to cover; and
- the IRAS will indicate whether it is inclined to accept the APA request at least four months before the first day of the APA covered period.

The APA application should be submitted within three months of the IRAS indicating that it will accept an APA application.

#### **APA term limits**

There is a five-year maximum term for an APA.

#### **Filing fee**

There is no filing fee for bilateral or multilateral APAs. There is an administrative fee for unilateral APAs where related transactions involve a jurisdiction with which Singapore does not have a DTT.

#### **Rollback availability**

Rollback years are available for two years immediately prior to the covered period for bilateral and multilateral APAs. Rollback availability is based on the merits of the request and there is no significant difference in the facts and circumstances for the covered period and for the rollback years. Documentation substantiating this may be requested by IRAS. Unilateral APAs will not be extended to prior years.

#### **Collateral issues**

Administrative or tax issues subject to legal or judicial proceedings that are relevant to and may affect the outcome of the APA should be addressed and resolved during the APA process. The IRAS is unlikely to deviate from determinations made by Singaporean tribunals or courts.



## SINGAPORE (cont'd)

### PRE-FILING REQUIREMENTS

#### **Overview**

Taxpayers should initiate a pre-filing meeting with IRAS either directly or through its tax agent. Pre-filing materials must be submitted to IRAC one month prior to the pre-filing meeting and include:

- the Taxpayer's name, address, tax identification number and contact details;
- type of APA sought;
- any relevant foreign tax authorities;
- fiscal years intended to be covered under the proposed APA;
- a brief description of the transactions involved;
- the related parties to the transactions; and
- a letter of authorisation ('LOA') for the IRAS to discuss with appointed representatives of the Taxpayer on the matters relating to the APA application.

The pre-filing meeting must take place at least nine months before the first day of the fiscal year the APA is intended to cover. The IRAS will indicate whether it is inclined to accept the APA request at least four months before the first day of the APA covered period.

#### **Anonymous pre-filing availability**

Anonymous pre-filing is not available.



### APPLICATION REQUIREMENTS

#### **Content of application**

One electronic copy and three hard copies of the APA application should be submitted within three months of the IRAS indicating that it will accept an APA application.

The application must include:

- the entities covered;
- the transactions covered;
- the period covered;
- the TP method;
- the agreed arm's length remuneration for the covered transaction;
- compensating adjustment rules;
- critical assumptions; and
- any other documentation as agreed with the IRAS at the pre-filing stage.

The Taxpayer should submit the application simultaneously with the IRAS and any relevant foreign tax authorities.

#### **Language**

The documentation should be submitted in English.

#### **SME provisions**

No specific guidance.

### OTHER PROCEDURAL CONSIDERATIONS

#### **General**

Taxpayers should note that the key deadlines for submission of documentation must be strictly observed in order for the APA to cover the fiscal years intended.

#### **Monitoring & compliance**

Taxpayers must file annual compliance reports to demonstrate compliance with the terms and conditions of the APA together with its income tax returns. There is no fixed prescribed format for filing the report.

#### **Renewal procedure**

Taxpayers may request to renew an existing APA following the same process as it did to initiate the existing APA. Any significant changes to the circumstances prevailing when the existing APA was made should be highlighted.



## SINGAPORE (cont'd)

### MAP PROGRAM

#### KEY FEATURES

<b>Competent authority</b>	Inland Revenue Authority of Singapore ('IRAS')
<b>Relevant provisions</b>	Section 9 of the Transfer Pricing Guidelines (Fourth edition), published by the IRAS on the 12 January 2017; and the e-Tax Guide, available on the IRAS website.
<b>Acceptance criteria</b>	Taxpayers may request a MAP if taxation has or is likely to occur that is not in accordance with the provisions of a DTT to which Singapore is signatory.
<b>Key timing requests, deadlines</b>	Taxpayers should submit a MAP application to the IRAS within the time limit specified in the MAP article of the relevant DTT.

#### APPLICATION REQUIREMENTS

<b>Content of application</b>	<p>There is no prescribed application form to be completed; however, any MAP application should be made in via letter in soft copy and hard copy to the CA of the IRAS, and include the following details and documentation:</p> <ul style="list-style-type: none"><li>■ Taxpayer's name, address, tax identification number, contact details and main business activities;</li><li>■ letter of authorisation stating the engagement of tax agents or other representatives to act for the taxpayer (where applicable);</li><li>■ the relevant DTT, including the provision(s) of the specific article(s) which the Taxpayer considers is not being correctly applied;</li><li>■ the relevant facts of the case and documentation to support these facts, as well as the taxation years and amount involved;</li><li>■ analysis of the issue(s) involved to support the claim that the provision(s) is not correctly applied, and relevant supporting documentation;</li></ul>
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## SINGAPORE (cont'd)

### APPLICATION REQUIREMENTS (cont'd)

#### *Content of application (cont'd)*

- whether the Taxpayer has pursued domestic remedies such as via tax tribunals or courts in the relevant foreign jurisdiction, and a copy of the decision(s);
- whether similar issue(s) has been previously dealt with or is currently being considered in an advance ruling, APA, settlement arrangement or similar proceedings or by any tax tribunal or court, and a copy of these rulings or decisions;
- how the Taxpayer has reflected the issue(s) in its Singapore income tax return (e.g. income not brought to tax, foreign tax credit claimed); and
- a statement confirming that all information and documentation provided in the MAP request is accurate and that the Taxpayer will assist the tax authorities in its resolution of the issue(s) presented in the MAP request by furnishing any other information or documentation required by the IRAS in a timely manner.

#### *Language*

Documentation should be submitted in English.

### OTHER PROCEDURAL CONSIDERATIONS

#### *Interaction with domestic proceedings*

Taxpayers may pursue domestic legal proceedings separately from MAP.

#### *Arbitration*

No specific guidance.

### STATISTICS

#### *APA*

There were 59 active APA applications during income year 2015-16 and 16 completed applications. The average completion time for bilateral and multilateral APAs was 24 months. The IRAS has had an APA program since 2003.

#### *MAP*

Singapore had a total of 21 active MAP applications as of 31 December 2016. The average time needed to close MAP cases is 41 months for transfer pricing cases, and 38 months for other cases.



## SINGAPORE (cont'd)

### DOUBLE TAXATION TREATY NETWORK

The following treaties include MAP provisions which are the basis for bilateral and multilateral APA negotiations:

Albania	Egypt	Jersey <sup>(IV)</sup>	Netherlands	Slovak Republic
Australia	Estonia	Kazakhstan	New Zealand	Slovenia
Austria	Ethiopia <sup>(IV)</sup>	Korea (Republic of)	Norway	South Africa <sup>(IV)</sup>
Bahrain	Fiji	Kuwait	Oman	Spain <sup>(IV)</sup>
Bangladesh	Finland	Laos <sup>(IV)</sup>	Pakistan	Sri Lanka <sup>(IV)</sup>
Barbados <sup>(IV)</sup>	France <sup>(IV)</sup>	Latvia	Panama	Sweden
Belarus <sup>(IV)</sup>	Georgia	Libya	Papua New Guinea	Switzerland <sup>(IV)</sup>
Belgium	Germany	Liechtenstein <sup>(IV)</sup>	Philippines	Taiwan
Brunei	Guernsey <sup>(IV)</sup>	Lithuania	Poland <sup>(IV)</sup>	Thailand <sup>(IV)</sup>
Bulgaria	Hungary	Luxembourg <sup>(IV), (VI)</sup>	Portugal <sup>(VI)</sup>	Turkey
Cambodia <sup>(IV)</sup>	India	Malaysia	Qatar	Ukraine
Canada	Indonesia	Malta	Romania	United Arab Emirates
China	Ireland	Mauritius	Russia	United Kingdom
Cyprus	Isle of Man <sup>(IV)</sup>	Mexico <sup>(I), (IV)</sup>	Rwanda <sup>(IV)</sup>	Uruguay <sup>(IV)</sup>
Czech Republic	Israel	Mongolia	San Marino <sup>(IV)</sup>	Uzbekistan
Denmark	Italy	Morocco <sup>(IV)</sup>	Saudi Arabia	Vietnam
Ecuador <sup>(IV)</sup>	Japan <sup>(VI)</sup>	Myanmar	Seychelles <sup>(IV)</sup>	

#### NOTES

- I denotes treaties with MAP arbitration provisions.
- II denotes treaties with the USSR that remain applicable until a separate tax treaty is concluded.
- III denotes treaties between the countries' representative office in Taipei and the Taipei Economic and Cultural Office in the relevant country.
- IV denotes treaties that became effective within the last five years.
- V denotes treaties that are awaiting ratification.
- VI denotes MAP provisions identical to para 3, art 25 of the OECD Model Convention with respect to Taxes on Income and on Capital.
- VII arbitration is to be conducted under the statutes of the ECJ.
- VIII arbitration is to be conducted under the statutes of the ICJ.



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