



APA & MAP COUNTRY GUIDE 2018 – THAILAND

New paths ahead for international tax
controversy





THAILAND

APA PROGRAM

KEY FEATURES	
Competent authority	The Revenue Department ('the Revenue')
Relevant provisions	Guidance on the APA process, available on the Revenue's website.
Types of APAs available	Bilateral APAs are available.
Acceptance criteria	No specific guidance.
Key timing requests, deadlines	Taxpayers must submit a written document of intent for a pre-filing meeting at least six months prior to the last day of the first accounting period that the APA aims to become effective. Furthermore, APA applications must be submitted to the Revenue within the last day of the first accounting period intended to be covered by the APA.
APA term limits	There is a five-year maximum term for an APA.
Filing fee	There is no filing fee.
Rollback availability	There is no rollback availability.
Collateral issues	No specific guidance.



THAILAND (cont'd)

PRE-FILING REQUIREMENTS

Overview

Taxpayers must submit a written document of intent for a pre-filing meeting to the Director General of the Revenue at least six months prior to the last day of the first accounting period that the proposed APA is to become effective. The objective of the pre-filing meeting is to:

- discuss the reason for the APA application;
- submit pre-filing documentation;
- discuss the documents required to be included in the APA application;
- discuss the filing date of the APA application; and
- discuss ways to minimise the time taken to process the APA application.

Pre-filing documents must be submitted at least 15 days prior to the pre-filing meeting. Pre-filing documents include:

- name and address of Taxpayer seeking the APA;
- accounting period of the entity and the relevant transactions;
- structure and relationship of the related parties;
- details of business revenue account showing all transactions;
- detailed analysis of assets and risks of all transactions;
- detailed analysis of the structure of industries and their market share; and
- TP method chosen for the APA and explanation of the selection.

Anonymous pre-filing availability

Anonymous pre-filing is not available.



THAILAND (cont'd)

APPLICATION REQUIREMENTS

Content of application

Taxpayers must submit a written document of intent (a form to be published by the Revenue) and required documents to the Revenue within the last day of the first accounting period intended to be covered by the APA. Required documents include:

- the name and address of the Taxpayer seeking the APA;
- the accounting period intended to be covered and the relevant transactions;
- the organisational structure and relationship of the related entities;
- details of business revenue accounts showing all transactions;
- a detailed analysis of assets and risks of all transactions;
- the TP method chosen for the APA and explanation of the selection;
- a benchmarking study of comparables;
- the critical assumptions;
- the history and status of any audits; and
- any other relevant documents requested by the Revenue.

Five hard copies of each document and one electronic copy must be submitted to the Revenue.

Language

The documentation must be submitted in both Thai and English.

SME provisions

No specific guidance.

OTHER PROCEDURAL CONSIDERATIONS

General

While the Revenue follows a standard pre-filing, application and monitoring process, it should be noted that documentation is required to be submitted in in both Thai and English.

Monitoring & compliance

There is no specific guidance on post-agreement filing procedures. The timeframe for annual report submission will be provided in a written notice from the Revenue at the conclusion of APA.

Renewal procedure

No specific guidance.



THAILAND (cont'd)

MAP PROGRAM

KEY FEATURES	
Competent authority	The Revenue Department ('the Revenue')
Relevant provisions	There are no specific provisions for the MAP procedure in domestic law. Taxpayers must rely on the MAP provisions under DTTs.
Acceptance criteria	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 Thailand is signatory. It should be noted, however, that indirect taxes are not covered under Thailand's DTTs.
Key timing requests, deadlines	Most of Thailand's DTTs permit Taxpayers to present a case to the Revenue within three years from the first notification to the Taxpayer of the actions giving rise to taxation not in accordance with the DTT. However, time limits may vary, and the relevant DTT should be consulted for the applicable time limit.
APPLICATION REQUIREMENTS	
Content of application	Taxpayers are required to submit a letter requesting commencement of MAP. The letter should explain the facts and circumstances of the case, and the reasons why the Taxpayer regards the tax treatment as being not in accordance with the provisions of the applicable DTT.
Language	No specific guidance.
OTHER PROCEDURAL CONSIDERATIONS	
Interaction with domestic proceedings	It is possible to request MAP while the Taxpayer is pursuing domestic litigation against the Revenue. However, Taxpayers must pay the assessed tax if they have received an assessment notice, regardless of whether or not the Taxpayer requests MAP.
Arbitration	No specific guidance.
STATISTICS	
APA	Statistics on APAs have not been made publicly available. The Revenue has had an APA program since 2010.
MAP	Statistics on MAP requests have not been made publicly available.



THAILAND (cont'd)

DOUBLE TAXATION TREATY NETWORK

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

Armenia	Finland	Mauritius	Spain
Australia	France	Myanmar	Sri Lanka
Austria	Germany	Nepal	Sweden
Bahrain	Hong Kong	Netherlands	Switzerland
Bangladesh	Hungary	New Zealand	Taipei ^(III) , ^(IV)
Belarus	India ^(IV)	Norway	Tajikistan ^(IV)
Belgium	Indonesia	Oman	Turkey
Bulgaria	Ireland ^(IV)	Pakistan	Ukraine
Cambodia ^(IV)	Israel	Philippines	United Arab Emirates
Canada	Italy	Poland	United Kingdom
Chile	Japan ^(VI)	Romania	United States
China	Korea (Republic of)	Russia	Uzbekistan
Cyprus	Kuwait	Seychelles	Vietnam
Czech Republic	Laos	Singapore ^(IV)	
Denmark	Luxembourg ^(VI)	Slovenia	
Estonia ^(IV)	Malaysia	South Africa	

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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