

## New Zealand Dispute Resolution Profile

(Updated on 26 January 2023)

### General Information

- **New Zealand tax treaties are available at:** <http://taxpolicy.ird.govt.nz/tax-treaties>
- **MAP and bilateral/multilateral APA requests should be made to:**

*Taxpayer specific cases (including transfer pricing) –*

Mr John Nash  
Strategic Advisor (International)  
Inland Revenue Department  
55 Featherston Street  
PO Box 2198  
Wellington 6140  
New Zealand  
Tel 64 4 890 3290  
Fax 64 4890 4503  
[john.nash@ird.govt.nz](mailto:john.nash@ird.govt.nz)

*Treaty interpretation and other treaty issues cases –*

Ms Carmel Peters  
Strategic Policy Advisor  
Inland Revenue Department  
55 Featherston Street  
PO Box 2198  
Wellington 6140

New Zealand  
Tel 64 4 890 6139  
[carmel.peters@ird.govt.nz](mailto:carmel.peters@ird.govt.nz)

- **New Zealand Guidance is available as follows:**

- Tax Treaties: <http://taxpolicy.ird.govt.nz/tax-treaties>
- Mutual Agreement Procedure: <http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure>
- Advance Pricing Agreements: <http://www.ird.govt.nz/international-tax/business/transfer-pricing/practice-issues/advance-pricing-agreements>
- Transfer Pricing: <http://www.ird.govt.nz/international-tax/business/transfer-pricing>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>A. Preventing Disputes</b>				
1.	Are agreements reached by your competent authority to resolve difficulties or doubts arising as to the interpretation or application of your tax treaties in relation to issues of a general nature which concern, or which may concern, a category of taxpayers published?	Yes	These are published on Inland Revenue’s tax policy website when completed with agreement from the treaty partner concerned (e.g. US/NZ mutual agreement on fiscally transparent entities of 8 February 2005, superseded by subsequent protocol).	<a href="http://taxpolicy.ird.govt.nz/tax-treaties">http://taxpolicy.ird.govt.nz/tax-treaties</a>
2.	Are bilateral APA programmes implemented? If yes:	Yes	-	<a href="http://www.ird.govt.nz/international-tax/business/transfer-pricing/practice-issues/advance-pricing-agreements">http://www.ird.govt.nz/international-tax/business/transfer-pricing/practice-issues/advance-pricing-agreements</a>
a.	<ul style="list-style-type: none"> <li>Are roll-back of APAs provided for in the bilateral APA programmes?</li> </ul>	Yes	If the APA has been made pursuant to a treaty that contains a specific time limit override then there is no restriction on rolling back the agreed transfer pricing methodology.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
b.	<ul style="list-style-type: none"> <li>Are there specific timelines for the filing of an APA request?</li> </ul>	No	-	-
c.	<ul style="list-style-type: none"> <li>Are rules, guidelines and procedures on how taxpayers can access and use bilateral APAs, including the specific information and documentation that</li> </ul>	Yes	Information required to facilitate an APA request is set out in public	<a href="http://www.ird.govt.nz/international-tax/business/transfer-pricing/practice-issues/advance-pricing-agreements">http://www.ird.govt.nz/international-tax/business/transfer-pricing/practice-issues/advance-pricing-agreements</a>

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	should be submitted in a taxpayer’s request for bilateral APA assistance, publicly available?		guidance on advance pricing agreements.	
d.	<ul style="list-style-type: none"> <li>Are there any fees charged to taxpayers for a bilateral APA request?</li> </ul>	No	If any overseas travel is involved in completing an APA, Inland Revenue will seek to recover “out of pocket” costs (transport, accommodation and meals) on an actual and reasonable basis.	<a href="http://www.ird.govt.nz/international-tax/business/transfer-pricing/practice-issues/advance-pricing-agreements">http://www.ird.govt.nz/international-tax/business/transfer-pricing/practice-issues/advance-pricing-agreements</a>
e.	<ul style="list-style-type: none"> <li>Are statistics relating to bilateral APAs publicly available?</li> </ul>	Yes	The names of countries with whom bilateral APAs have been concluded are published.	<a href="http://www.ird.govt.nz/international-tax/business/transfer-pricing/practice-issues/advance-pricing-agreements">http://www.ird.govt.nz/international-tax/business/transfer-pricing/practice-issues/advance-pricing-agreements</a>
3.	Is training provided to your officials involved in the auditing /examination of taxpayers to ensure that any assessments made by them are in accordance with the provisions of your tax treaties?	Yes	Inland Revenue employs a number of subject matter experts, including technical specialists that focus solely on transfer pricing and international tax matters. These specialists provide advice and assistance to our auditors/examiners to ensure assessments are in accordance with OECD Transfer Pricing Guidelines and New Zealand’s double taxation agreements.	<a href="http://www.ird.govt.nz/international-tax/business/transfer-pricing/practice-issues/advance-pricing-agreements">http://www.ird.govt.nz/international-tax/business/transfer-pricing/practice-issues/advance-pricing-agreements</a>
4.	Is other information available on preventing tax treaty-related disputes?	Yes	A comprehensive series of Practice Notes on transfer pricing issues is	-

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			published on the Inland Revenue website.	

**Notes:**

1. An APA is an “arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustments thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time”. (see definition of APA in the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (“Transfer Pricing Guidelines”).)

2. Situations may arise in which the issues resolved through an APA are relevant with respect to previous filed tax years not included within the original scope of the APA. The concept of “roll-back” is further elaborated in paragraph 4.136 of Section F (Advance pricing arrangement) of Chapter IV of the Transfer Pricing Guidelines and in paragraph 69 of Section D.4.2 (Possible retrospective application (“Roll back”)) of the Annex to Chapter IV (Guidelines for Conducting Advance Pricing Arrangements under the Mutual Agreement Procedure (“MAP APAs”)) of the Transfer Pricing Guidelines. Simply put, the “roll-back” of the APA is understood to mean that the outcome of the APA is applied to previous filed tax years not included within the original scope of the APA.

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<b>B. Availability and Access to MAP</b>				
5.	Are transfer pricing cases covered within the scope of MAP?	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	A request for MAP assistance can be made even if an audit settlement has been agreed domestically.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
10.	Are there any other treaty related issues not covered under s/n 5 to 9 which are not within the scope of MAP?	No	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
11.	Are taxpayers allowed to request MAP assistance in cases where the taxpayer has sought to resolve the issue under dispute via the judicial and administrative remedies provided by the domestic law of your jurisdiction?	Yes	Taxpayers can request MAP assistance and seek to resolve the same matter under the domestic disputes' process simultaneously.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
12.	Are taxpayers allowed to request for MAP assistance in cases where the issue under dispute has already been decided via the judicial and administrative remedies provided by the domestic law of your jurisdiction?	Yes	The New Zealand competent authority is legally bound to follow a domestic court decision in MAP cases but is willing to enter into dialogue with other competent authorities to explain the New Zealand position in any case where double taxation may have arisen as a consequence.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
13.	Are rules, guidelines and procedures on how taxpayers can access and use MAP, including the specific information and documentation that should be submitted in a taxpayer's request for MAP assistance, publicly available?	Yes	Information required to facilitate a MAP request is set out in published MAP guidance.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
14.	Are there specific timeline for the filing of a MAP request?	Yes	New Zealand generally follows a three-year time limit but there are variations depending on the particular treaty.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>

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15.	Are guidance on multilateral MAPs publicly available?	Yes	In an appropriate case, where the relevant double taxation agreements allow, the New Zealand competent authority will engage with other competent authorities to work the case multilaterally.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
16.	Are tax collection procedures suspended during the period a MAP case is pending?	No	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
17.	Are there any fees charged to taxpayers for a MAP request?	No	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
18.	Is there any other information available on availability and access to MAP?	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>



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<b>C. Resolution of MAP Cases</b>				
19.	Are there any model timeframes for the steps taken by your competent authority from the receipt of a MAP case to the resolution of the case provided to taxpayers?	Yes	The overall aim is to complete MAP cases within 12 months of receiving a request for assistance.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
21.	Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure?	No	Penalties and interest can be deferred if the assessment is challenged through either the domestic disputes process in the Tax Administration Act or the New Zealand Courts.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
22.	Are the roles and responsibility of the MAP office publicly available, for example, is the mission statement of the MAP office available in the <i>annual</i> report of the organisation?	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
23.	Is MAP arbitration a mechanism currently available for the resolution of tax treaty related disputes in any of your tax treaties?  If not:	Yes	Double taxation agreements with Australia and Japan contain arbitration clauses.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
a.	<ul style="list-style-type: none"> <li>Are there any legal limitations in your domestic law (for example in your constitution) to include MAP arbitration in your tax treaties?</li> </ul>	N/A	-	-
b.	<ul style="list-style-type: none"> <li>Does your treaty policy allow you to include MAP arbitration in your tax treaties?</li> </ul>	N/A	-	-
24.	<p>Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available?</p> <p>If yes:</p>	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
a.	<ul style="list-style-type: none"> <li>Does the guidance specifically address whether the competent authority considers that it is legally bound to follow a domestic court decision in the MAP or will not deviate from a domestic court decision as a matter of administrative policy or practice?</li> <li></li> </ul>	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
25.	<p>Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?</p>	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>

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26.	Do all your jurisdiction’s tax treaties contain a provision which would oblige your jurisdiction to make corresponding adjustments or to grant access to the MAP with respect to the economic double taxation that may otherwise result from a primary transfer pricing adjustment (i.e. is paragraph 2 of Article 9 of the OECD Model Tax Convention or the UN Model Double Taxation Convention included in all of your jurisdiction’s tax treaties)?	No	Article 9(2) is excluded in 12 of New Zealand’s older treaties agreed by 1988. New Zealand’s current policy is to include Article 9(2) as and when treaties are (re)negotiated.	<a href="http://taxpolicy.ird.govt.nz/tax-treaties">http://taxpolicy.ird.govt.nz/tax-treaties</a>
27.	Is there any other information available on resolution of MAP cases?	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>D. Implementation of MAP Agreements</b>				
28.	Where the agreement reached by your competent authority through the MAP process leads to additional tax to be paid by your taxpayer, is there publicly available information on the timeframe the taxpayer could expect its tax position to be amended to reflect the agreement reached by the competent authority and/or for the additional tax to be paid?	Yes	Assessments for additional tax are processed as soon as possible and generally within one month of concluding a MAP case.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
29.	Where the agreement reached by your competent authority through the MAP process leads to a refund of the tax due or paid by your taxpayer, are there publicly available information on the timeframe the taxpayer could expect its tax position to be amended to reflect the agreement reached by the competent authority and/or for a refund of the tax paid?	Yes	Tax refunds are processed as soon as possible and generally within one month of concluding a MAP case.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	Yes	This applies to any mutual agreement made pursuant to a treaty that contains a specific time limit override.	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>
31.	Is there any other information available on the implementation of MAP agreements?	Yes	-	<a href="http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure">http://www.ird.govt.nz/international-tax/double-tax-agreements/mutual-agreement-procedure</a>