

GUIDE TO THE

MUTUAL AGREEMENT PROCEDURE

VERSION 2.0 - 2026



GUIDE ON THE MUTUAL AGREEMENT PROCEDURE ESTABLISHED IN THE CONVENTIONS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF TAX EVASION AND AVOIDANCE IN RELATION TO INCOME AND CAPITAL TAXES

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1. INTRODUCTION

This guideline aims to provide orientation to person(s)¹ and other interested parties regarding the Mutual Agreement Procedure (hereinafter, MAP) established in the agreements in force for the avoidance of double taxation and the prevention of tax evasion and avoidance in relation to income and capital taxes signed by Peru (hereinafter, DTA). For this purpose, the guideline takes into account, for illustrative purposes, the provisions of the OECD Model Tax Convention on Income and on Capital, 2017 version (hereinafter, the OECD Model²), including the officially⁴ published amendments to Article 25 and its Commentary, as well as the OECD's Manual on Effective Mutual Agreement Procedures (hereinafter, MEMAP⁵), and also the content of the country's mutual agreement procedure profile⁶.

In any case, this guideline is not intended to modify any provision of the DTAs signed by Peru or of domestic legislation, but solely to facilitate their understanding. Accordingly, should any doubt arise between what is stated in this guideline and the provisions of the aforementioned rules, the latter shall prevail.

2. MUTUAL AGREEMENT PROCEDURE

In accordance with the provisions of the DTAs signed by Peru, the MAP is a procedure that may be initiated when a person⁷ considers that the measures adopted by one or both Contracting States imply or may imply for that person taxation that is not in accordance with the provisions of the corresponding DTA, irrespective of the remedies available under the domestic law of those Contracting States. Such person may submit this case to the competent authority of the Contracting State of which the person is a resident.

In addition, the DTAs with Chile, Mexico, Korea, Switzerland, and Portugal provide that, in cases involving non-discrimination, such person may submit its case to the competent authority of the Contracting State from which the person is a national, and that the competent authorities of the Contracting States shall make every effort to resolve the issue raised in the MAP in order to avoid taxation that is not in accordance with the corresponding DTA.

2.1. Current Legal Framework

The current legal framework of the MAP is composed of the nine (9) DTAs signed and in force by Peru⁸, which have been concluded with the following countries:

- ✓ Republic of Chile

¹ In the terms established in the DTAs concluded by Peru.

² Regarding the Commentary on Article 25 of the MAP.

³ OECD (2019), Model Tax Convention on Income and on Capital 2017 (Full Version), OECD Publishing, Paris. Available at <https://doi.org/10.1787/g2g972ee-en>.

⁴ Update to the OECD Model Tax Convention, November 2025. Available at: https://www.oecd.org/en/publications/the-2025-update-to-the-oecd-model-tax-convention_5798080f-en.html

⁵ OECD (2007), Manual on Effective Mutual Agreement Procedures (MEMAP), OECD Publishing, Paris. Available at <https://doi.org/10.1787/2bb3ab55-en>.

⁶ Updated as of November 2024. Available at: <https://www.oecd.org/en/topics/sub-issues/dispute-resolution-in-cross-border-taxation/mutual-agreement-procedure-profiles.html>

⁷ Although the MAP may be initiated either by a person or by the Competent Authority, this guide covers only the first scenario.

⁸ Available at: https://www.mef.gob.pe/es/?option=com_content&language=es-ES&Itemid=100878&lang=es-ES&view=article&id=302

- ✓ Government of Canada
- ✓ Federative Republic of Brazil
- ✓ United Mexican States
- ✓ Republic of Korea
- ✓ Swiss Confederation
- ✓ Portuguese Republic
- ✓ State of Japan
- ✓ United Kingdom of Great Britain and Northern Ireland

The MAP is regulated in Article 24 of the DTAs signed by Peru with the Federative Republic of Brazil, the Republic of Korea, the Swiss Confederation, the Portuguese Republic, and United Kingdom of Great Britain and Northern Ireland, as well as in Article 25 of the DTAs signed by Peru with the Republic of Chile, the Government of Canada, the United Mexican States, and the State of Japan.

In addition, there is the Convention to Standardize the Tax Treatment Provided for in the Agreements to Avoid Double Taxation signed among the State Parties to the Pacific Alliance Framework Agreement (hereinafter, the Convention), which harmonizes the tax treatment of pension funds and amends the DTAs signed by Peru with the Republic of Chile and the United Mexican States and incorporates a Protocol applicable to the Republic of Peru and Colombia in Annex I that harmonizes the tax treatment of certain income obtained by pension funds, as well as a provision on the MAP⁹.

2.2. Competent Authority for the MAP (CA)

(i) Peruvian Competent Authority (PCA) for the MAP

The article referring to general definitions of the DTAs signed by Peru states that the expression competent authority in Peru means the Ministry of Economy and Finance or its authorized representative.

Through Ministerial Resolution No. 383-2021-EF/10, published on 31 December 2021¹⁰, the National Superintendent of the National Superintendence of Customs and Tax Administration (SUNAT) was designated as the authorized representative of the Minister of Economy and Finance to exercise the function of the PCA provided for in the DTAs in force, as well as those that enter into force after the publication of said resolution.

According to SUNAT's Regulations on Organization and Functions, the Division of Negotiation and Mutual Administrative Assistance in Tax Matters (DNAAMMT), organic subunit depending on the International Taxation Office of the National Intendency of Strategies and Risks is responsible for evaluating and proposing the resolution of MAP cases.¹¹

Details of the Peruvian Competent Authority for the PAM

Name: Mr. Javier Eduardo Franco Castillo
 Position: National Superintendent of SUNAT
 E-mail: map-peru@suntat.gob.pe

⁹ Available at: https://www.mef.gob.pe/contenidos/tributos/cv_dbl_imp/Convencion_tributaria_estados_alianza_del_pacifico.pdf

¹⁰ Available at: <https://www.gob.pe/institucion/mef/normas-legales/2611185-383-2021-ef-10>.

¹¹ <https://www.suntat.gob.pe/institucional/quienessomos/igo/rof/rof.html>

MAP contact point

Name: Mr. Carlos Octavio Rojas Chávez

Position: Intendant of the National Intendancy of Strategies and Risks (*INER* or *Intendencia Nacional de Estrategias y Riesgos*) of SUNAT

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(ii) Competent Authority of the Other Contracting State (CAO)

The article on general definitions in the DTAs signed by Peru describes the Competent Authority of the other Contracting State for the purposes of the respective Convention

The contact details of the CAOs of the ten (10)¹² States with which Peru has signed a DTA can be found on the OECD website¹³.

2.3. Matters that may be submitted to a MAP

For illustrative purposes and without limitation, and in accordance with the Commentary on Article 25 of the OECD Model Convention, the matters that may be submitted to the MAP, on the basis that their application could give rise to international double taxation or a result not in accordance with the provisions of the DTA, include, among others:

- Conflicts of residence
- Withholding tax applied to various types of income
- Determination of the existence of a permanent establishment
- Transfer pricing adjustments

2.4. MAP Modalities

(i) Unilateral¹⁴

If a person submits a MAP request to the PCA and that authority considers, as a result of its evaluation, that it can resolve the case on its own, it will issue a decision resolving the MAP case without involving the other Contracting State(s). Such decision may grant or deny relief from the international double taxation claimed by the person, without prejudice to notifying the other Contracting State(s) of its decision.

¹² Formed by the nine (9) DTAs signed by Peru and Colombia in accordance with the Protocol (Annex I) to the Convention.

¹³ Available at: <https://www.oecd.org/tax/beps/country-map-profiles.htm>

¹⁴ Paragraph 32 of the Commentary on Article 25 of the OECD Model Convention

(ii) **Bilateral¹⁵**

If a person submits a MAP request before the PCA and that authority considers, as a result of its evaluation, that it cannot resolve the case on its own, it will notify the corresponding OCA of the request, enclosing the relevant documentation, thereby initiating the bilateral stage of the MAP.

Each Competent Authority will state its position regarding the MAP case, initiating technical discussions and negotiations, as appropriate and the procedure may conclude with an agreement granting (total or partial) relief to the international double taxation claimed by the requesting person, or with a non-agreement, not granting the aforementioned relief.

It may occur that the matter submitted to the MAP affects not only two Contracting States but involves additional Contracting States, in which case a multilateral MAP may be carried out. In such circumstances, the PCA will notify the other Contracting States involved of the request.

3. MAP REQUEST

In accordance with the provisions of the DTAs signed and in force for Peru, the MAP request must be submitted to the Competent Authority of the State in which the requesting person resides. Therefore, a person resident in Peru must submit the MAP request to the PCA, and may use as a reference the information suggested in the guidance developed by the OECD¹⁶ on the information and documentation to be submitted with a MAP request:

- (i) Identification details of the person submitting the request and, if applicable, of their legal representative (name and/or business name and/or corporate name; tax address; e-mail; landline and/or mobile phone number; among others); date of the request; and signature of the person requesting the MAP and/or their legal representative.
- (ii) The specific article(s) of the DTA that the taxpayer considers are not being properly applied or interpreted by one or both Contracting States; all relevant facts of the case, including any information and/or documentation supporting such facts; the tax period(s) involved; amounts involved; identification of the related parties to the transaction(s) subject matter of the request; date of notification of the administrative acts subject matter of the request, if applicable; analysis of the subject submitted to the MAP, including the taxpayer's approach regarding the application and/or interpretation of the specific(s) article(s) of the DTA; and documentation supporting such analysis.

If submitting documentation in a language other than Spanish, the corresponding unofficial translation into Spanish may be enclosed.

¹⁵ Paragraph 33 of the Commentary on Article 25 of the OECD Model Convention.

¹⁶ Guidance on Specific Information and Documentation Required to be Submitted with a Request for MAP Assistance. Available at: <https://www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf> (pages 78–80).

- (iii) Updated information on complaints, administrative or judicial remedies filed in Peru or abroad by the taxpayer or related parties, if applicable, regarding the matter submitted to the MAP, as well as any administrative and/or judicial decision issued in connection with such proceedings.

Given its relevance, it is important that this information remain updated throughout the entire MAP process.

- (iv) A copy of the MAP request submitted to the Competent Authority of the other Contracting State by the related party of the requesting person, regarding the same matter submitted to the PCA, including all documentation submitted, if applicable.
- (v) Any other information and/or documentation required by the Competent Authority in a complete and timely manner.

All information obtained or generated during a MAP will be protected by the confidentiality provisions set out in the corresponding DTA, particularly those contained in the article on the exchange of tax information.

For any communication and/or coordination with the team of the National Intendency of Strategies and Risks, which is responsible for the MAP function, you may contact the following e-mail address: map-peru@sunat.gob.pe.

3.1. Deadline for submission

In the case of the DTAs signed with the United Mexican States, the Republic of Korea, the Portuguese Republic, the Swiss Confederation, Japan, and the Republic of Colombia¹⁷, the request must be filed within three (3) years following the first notification of the measure that results in taxation not in accordance with the provisions of the DTA.

For the DTA signed with the Government of Canada, a period of two (2) years following the first notification of the measure that results in taxation not in accordance with the provisions of the DTA is established for submitting the MAP request. This period is replaced by a three (3) year period upon the entry into force (1 October 2025) and application (1 January 2026) of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Multilateral Convention or MLI).

In turn, under the DTA signed with the Federative Republic of Brazil, the MAP request must be submitted in accordance with the deadlines established in the relevant domestic legislation¹⁸; and under the DTA signed with the Republic of Chile, no time limit is established for submitting the MAP request to the Competent Authority. In these treaties, the time limit is replaced by a three- (3-) year period to the extent that the provisions of the treaty are incompatible with those of the Multilateral Convention or MLI.

Finally, this time limit will not apply when the MAP request concerns a matter of general scope, that is, when the taxation not in accordance with the DTA arises from administrative

¹⁷ This time limit applies to the income taxes levied on the income earned by pension funds recognized under the Protocol between the Republic of Colombia and the Republic of Peru to avoid double taxation and prevent tax evasion, contained in Annex I to the Convention.

¹⁸ Brazil submitted its provisional list of reservations and notifications on 20 October 2025, with its ratification still pending.

acts of a general nature or acts of general application.

3.2. Role of the Requesting person

The requesting person does not have the status of a party in the MAP, as it is a procedure conducted between the Competent Authorities of the Contracting States. Therefore, the requesting person will not be informed of the negotiation terms exchanged during its processing. Nevertheless, since the requesting person is the one who requests the initiation of the MAP, they may request a meeting (in person or virtual) with the PCA or the MAP contact point when deemed necessary.

4. ACCESS TO THE MAP IN PERU

In accordance with Article 55 of the Political Constitution of Peru, treaties concluded by the State and in force form part of national law. Also, pursuant to Article 26 of the Vienna Convention on the Law of Treaties, which contains the principle of *pacta sunt servanda*, treaties in force are binding upon the parties and must be performed by them in good faith.

The DTAs signed by Peru have been incorporated into national law pursuant to the provisions of Law No. 26647. Accordingly, the PCA guarantees effective access to the MAP as a mechanism for resolving disputes arising from the application of the DTAs signed by Peru.

Therefore, in line with the obligations assumed in such agreements, access to the MAP is not conditioned on the prior exhaustion of the remedies established under domestic law¹⁹. Likewise, persons may access the MAP even when they have simultaneously or subsequently pursued such remedies, subject to the considerations set out in Section 8 of this guide.

5. GROUNDS FOR NON-ACCEPTANCE OF THE MAP

Without prejudice to the evaluation applicable in each case, and in accordance with the DTAs signed by Peru, a MAP request may be considered not accepted when, among other circumstances:

- (i) There is no applicable DTA.
- (ii) The request has been submitted after the time limit established in the DTA.
- (iii) The matter submitted to the MAP does not relate to a disagreement regarding the application of the provisions of the DTA.
- (iv) The request concerns tax years prior to the entry-into-force of the DTA.
- (v) The request refers to taxes not covered within the scope of application of the DTA.

6. CONCLUSION OF THE MAP

With respect to the unilateral MAP modality, it concludes with a decision issued by the PCA either granting or not relief to the international double taxation invoked by the requesting person.

¹⁹ Entre los recursos previstos en el derecho interno a que se refieren los citados CDI se encuentran aquellos que se interponen en la vía administrativa regulados por el Código Tributario como parte del procedimiento contencioso tributario, así como la demanda contenciosa-administrativa, la cual se sigue ante el Poder Judicial. Esta última se rige por las disposiciones del Código Tributario y por la Ley N.º 27584, Ley que regula el Proceso Contencioso Administrativo.

Regarding the bilateral MAP modality²⁰, it concludes with an agreement granting relief (in whole or in part) to the international double taxation invoked by the requesting person, or a non-agreement not granting such relief, as a result of the negotiation carried out between the Competent Authorities of the Contracting States.

The mutual agreement procedure may be concluded, among other circumstances, when

- (i) The MAP request is not accepted²¹.
- (ii) The Competent Authorities of the Contracting States reach an agreement, granting relief (in whole or in part) from the international double taxation invoked by the requesting person.
- (iii) The Competent Authorities of the Contracting States do not reach an agreement.
- (iv) It is no longer necessary to issue a decision because the matter under dispute in the MAP has ceased to exist.
- (v) The Competent Authority of the other Contracting State issues a decision regarding a MAP request that is linked to an ongoing judicial proceeding or for which a final decision already exists.²²

7. IMPLEMENTATION OF THE MAP AGREEMENT OR DECISION

Once the Peruvian Competent Authority has issued a decision unilaterally resolving the MAP or an agreement has been reached between the Competent Authorities of the Contracting States, the requesting person may expressly accept or reject such decision and/or agreement adopted by the Competent Authorities²³.

If accepted and provided that no judicial remedy exists regarding the matter of controversy resolved through the MAP, implementation will proceed. If rejected, the decision and/or agreement will not be implemented.

In this regard, it should be noted that with the entry into force and application of the MLI, certain DTAs signed by Peru may modify their provisions relating to the MAP.

8. RELATIONSHIP BETWEEN THE MAP AND REMEDIES PROVIDED UNDER DOMESTIC LAW

(i) Interaction between the MAP and tax dispute procedures

The MAP operates in an independent manner from the remedies provided under the domestic law of the Contracting States. Accordingly, the same dispute may be submitted to the MAP as well as to the tax dispute procedures (administrative claim or appeal).

(ii) Interaction between the MAP and administrative contentious proceedings

Pursuant to paragraph 1 of Article 24 or 25, as applicable, of the MAP provisions in the DTAs signed by Peru, a case may be submitted to the competent authority of the Contracting State of residence, irrespective of the remedies available under its domestic

²⁰ With respect to the DTAs concluded with the Republic of Chile and the Government of Canada, the Competent Authorities may agree to submit the case to arbitration if both Competent Authorities so agree, with the procedure to be established through an exchange of notes between the Contracting States.

²¹ The provisions set out in paragraph 5 of this document must be taken into consideration.

²² In accordance with the circumstances set out in subparagraph (ii) of paragraph 8 of this document

²³ The provisions of this paragraph do not apply to the cases set out in subparagraph (ii) of paragraph 8.

law. Therefore, access to MAP would be granted by the PCA to all eligible cases²⁴; even where there is a court case in progress or concluded for the same issue with final decision, the CAO would be notified of the MAP request along with the status of such court case and the corresponding documentation taking into consideration the aspects mentioned below.

Nevertheless, it must be considered that, in accordance with Article 139(2) of the Political Constitution of Peru²⁵: "No authority may intervene in cases pending before the judiciary or interfere with the exercise of its functions. Nor may it invalidate decisions that have become final and binding, interrupt ongoing proceedings, modify judgments, or delay their execution. (...)" This constitutional provision is binding on the PCA.

Consequently, while the MAP case would not be concluded, the PCA would not intervene to resolve a MAP case as long as a court case is ongoing in accordance with the provisions of the constitutional regulations stated in the previous paragraph.

While the choice of remedies established in the domestic law is in the hands of the taxpayer, should the person requesting the MAP withdraw the ongoing court case^{26 27} and it is accepted by the Judiciary, the PCA would then be able to start the substantive MAP discussions. Conversely, if the court case results in a final decision, the PCA would be bound by its outcome and consequently, any relief from taxation not in accordance with the DTA may only be granted by the CAO, within the scope of its powers and authority.

9. TREATMENT OF INTEREST AND ADMINISTRATIVE PENALTIES

If the MAP decision or agreement involves adjustments to the determination of the tax liability, interest and administrative penalties may be reduced, provided that such interest and administrative penalties are directly related to the matter submitted to the MAP.

10. BILATERAL ADVANCE PRICING AGREEMENTS

Within the framework of the MAP, the National Superintendent of SUNAT may also enter into bilateral advance pricing agreements (BAPAs) with other Competent Authorities of countries with which the Republic of Peru has concluded a DTA.

In such cases, it may be agreed that the BAPA will apply to transactions of taxable years prior to those covered by the agreement (rollback)²⁸, provided that it is verified that the relevant facts and circumstances of those years are the same as those of the years covered by the advance pricing agreements. It must also be verified that SUNAT's authority to determine the income tax liability under the transfer pricing rules for those transactions has not expired.

It should be noted that the rollback does not apply when, in relation to the determination of the value of such transactions, a tax determination has been issued as a consequence

²⁴ Cases comprised in section 1 of article 24 or 25 (MAP), as appropriate, of the DTAs signed by Peru.

²⁵ In conformity with the provisions of article 4 of the Single Revised Text of the Organic Law of the Judiciary, approved by Supreme Decree 017-93-JUS.

²⁶ In conformity with the provisions of articles 340 and 343 of the Civil Procedural Code, supplementary application rule as set forth in the First Final Provision of the Single Revised Text of Law 27584, Law regulating the Administrative Contentious Process.

²⁷ Concerning the same matter subject to the MAP.

²⁸ In line with paragraph 35 of the comments on article 25 of the OECD Model.

of the application of the transfer pricing rules.

11. USEFUL LINKS

- (i) DTAs in force and applicable in Peru
https://www.mef.gob.pe/es/?option=com_content&language=es-ES&Itemid=100878&lang=es-ES&view=article&id=302
- (ii) MAP case statistics
https://www.oecd.org/en/data/datasets/mutual-agreement-procedure-statistics.html?utm_term=ctp&utm_medium=social&utm_source=linkedin&utm_content=CTPcampaign%2CTaxCertaintyDay2025
- (iii) Consolidated MAP information that includes the Peruvian Competent Authority
<https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/dispute-resolution/consolidated-information-on-mutual-agreement-procedures-2025.pdf>