



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.60.3

SEPTEMBER 13, 2021

EFFECTIVE DATE

(09-13-2021)

PURPOSE

- (1) This transmits a complete revision for IRM 4.60.3, Tax Treaty Related Matters.

BACKGROUND

- (1) This IRM provides guidance and technical information about International Income Tax Examination Procedures. Other Sections in this IRM contain information about the International Enforcement Program. These are issued under separate cover.

MATERIAL CHANGES

- (1) IRM 4.60.3.1: Added Program Scope and Objectives, in accordance with requirements described in IRM 1.11.2.2.5, Address Management and Internal Controls, and renumbered subsequent sections accordingly.
- (2) Updated IRM to reflect Rev. Proc. 2015-40 and Rev. Proc. 2015-41.
- (3) Completely revised and reorganized content to reflect current processes and procedures of the U.S. Competent Authority related to Mutual Agreement Procedure articles and other income tax treaty issues.
- (4) The following IRM sections were renamed, renumbered and existing content revised:

IRM Section	Title
4.60.3.1.14	Tax Treaty's Role/ACAP was renamed and renumbered to IRM 4.60.3.2.13, U.S. Competent Authority's Role in the Accelerated Competent Authority Procedure (ACAP), and content updated.
4.60.3.1.20	SACAP/When Filing For Competent Authority Assistance was renamed and renumbered to IRM 4.60.3.2.14, Simultaneous Appeals Procedure (SAP) When Filing for Competent Authority Assistance, and content was updated.

IRM Section	Title
4.60.3.1.21	SACAP/After Filing For Competent Authority Assistance was renamed and renumbered to IRM 4.60.3.2.15, SAP After Filing for Competent Authority Assistance, and content was completely revised.
4.60.3.1.22	SACAP/Cases Pending in Court was renamed and renumbered to IRM 4.60.3.2.16, SAP Cases Pending in Court, and content was updated.
4.60.3.1.25	SACAP/Appeals Role was renamed and renumbered to IRM 4.60.3.2.17, Appeals' Role in SAP, and content was updated.
4.60.3.1.26	SACAP/U.S. Competent Authority's Role was renamed and renumbered to IRM 4.60.3.2.18, U.S. Competent Authority's Role in SAP, and content was updated.
4.60.3.1.29	Advance Pricing Agreement (APA)/Overview was renumbered to IRM 4.60.3.2.19 and content was completely revised.
4.60.3.1.30	APA/Tax Treaty's Role was renamed and renumbered to IRM 4.60.3.2.20, APMA's Role in APA Process, and content was completely revised.
4.60.3.1.37	LOB/Tax Treaty's Role was renamed and renumbered to IRM 4.60.3.2.23, U.S. Competent Authority's Role in LOB Requests, and the content was completely revised.

(5) The following former IRM sections were removed:

IRM Section	Title
4.60.3.1.1	Domestic Tax Laws and Double Taxation
4.60.3.1.2	Tax Treaties and Double Taxation
4.60.3.1.10	MAP Request/Denial

IRM Section	Title
4.60.3.1.13	Taxpayer's Role/ACAP
4.60.3.1.15	Field Director's Role/ACAP
4.60.3.1.16	Administrative and Judicial Remedies
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4.60.3.1.36	LOB/Taxpayer's Role
4.60.3.1.38	LOB/Field Director's Role
4.60.3.2.1	Background

- (6) The following former IRM subsections were removed and existing content updated and incorporated into existing subsections as described here or new subsections described in (7) below:

IRM Section	Title
4.60.3.1.6	Tax Treaty/MAP
4.60.3.1.7	MAP/Process
4.60.3.1.8	Taxpayer's Role/MAP Process. Content was updated and incorporated into IRM 4.60.3.2, Competent Authority and the Mutual Agreement Procedure (MAP).
4.60.3.1.9	U.S. Competent Authority's Role/MAP Process
4.60.3.1.11	Field Director's Role/MAP Process
4.60.3.1.18	Judicial Consideration/MAP Request
4.60.3.1.32	APA/Field Director's Role

- (7) The following new sections and subsections were added. Where content from removed IRM subsections was incorporated, updated, or otherwise revised, such changes are noted:

IRM Section	Title
4.60.3.1.1	Background. This new section incorporates and updates content from previous IRM 4.60.3.1.7, MAP/Process.
4.60.3.2.1	U.S. Competent Authority's Role – U.S. Initiated Adjustments. This new section incorporates and updates content from previous IRM 4.60.3.1.9, U.S. Competent Authority's Role/MAP Process and from previous IRM 4.60.3.1.11, Field Director's Role/MAP Process.
4.60.3.2.2	U.S. Competent Authority's Role – Foreign Initiated Adjustments. This new section incorporates and updates content from previous IRM 4.60.3.1.9, U.S. Competent Authority's Role/MAP Process and from previous IRM 4.60.3.1.11, Field Director's Role/MAP Process.
4.60.3.2.3	U.S. Competent Authority's Coordination with Examination. This new section incorporates and updates content from previous IRM 4.60.3.1.9, U.S. Competent Authority's Role/MAP Process.
4.60.3.2.4	U.S. Competent Authority's Coordination with a Foreign Competent Authority. This new section incorporates and updates content from previous IRM 4.60.3.1.9, U.S. Competent Authority's Role/MAP Process.
4.60.3.2.5	U.S. Competent Authority's Coordination with the Taxpayer
4.60.3.2.6	U.S. Competent Authority's Documentation of a MAP Case
4.60.3.2.7	MAP Case Timeline
4.60.3.2.8	Arbitration

IRM Section	Title
4.60.3.2.9	Coordination with Litigation. This new section incorporates and updates content from previous IRM 4.60.3.1.18, Judicial Consideration/MAP Request.
4.60.3.2.10	Withholding Tax Issues
4.60.3.2.11	Multilateral MAP Requests
4.60.3.2.12	Informal Consultations
4.60.3.2.21	CBA and TPP's Role in APA Process. This new section incorporates and updates content from previous IRM 4.60.3.1.32, APA/Field Director's Role.
4.60.3.2.22	Discretionary Limitation on Benefits (LOB) Requests
4.60.3.2.24	Triennial Statement

- (8) The following sections were removed and the content revised and incorporated into new Exhibit listed in (10) below:

IRM Section	Title
4.60.3.1.3	U.S. Possessions and Double Taxation
4.60.3.1.4	Competent Authority
4.60.3.1.5	U.S. Competent Authority
4.60.3.1.12	Accelerated Competent Authority Procedure (ACAP)/Overview
4.60.3.1.19	Simultaneous Appeals Competent Authority Procedure (SACAP)/Overview
4.60.3.1.33	Limitation on Benefits Article (LOB)/Overview
4.60.3.3.1	Glossary of Terms

- (9) The following exhibits were removed:
- Exhibit 4.60.3-1, Income Tax Treaties
 - Exhibit 4.60.3-2, APA Invitation Letter
 - Exhibit 4.60.3-3, Limitation on Benefits Determination
- (10) Added Exhibit 4.60.3-1, Terms/Definitions/Acronyms.
- (11) Editorial changes made throughout.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 4.60.3, International Procedures, Tax Treaty Related Matters dated January 01, 2002.

AUDIENCE

All LB&I personnel.

Theodore D. Setzer
Acting Assistant Deputy Commissioner Compliance Integration
Large Business and International Division

4.60.3

Tax Treaty Related Matters

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4.60.3-1 Terms/Definitions/Acronyms

4.60.3.1
(09-13-2021)
Program Scope and Objectives

- (1) Purpose: The purpose of this IRM is to provide guidance on the Mutual Agreement Procedure (MAP) process and the responsibilities of the U.S. Competent Authority.
- (2) Audience: The intended audience is all Large Business & International (LB&I) personnel.
- (3) Policy Owner: LB&I Policy under the Strategy, Policy and Governance office in the Assistant Deputy Commissioner Compliance Integration organization.
- (4) Program Owner: TTPO
- (5) Primary Stakeholders: LB&I personnel

4.60.3.1.1
(09-13-2021)
Background

- (1) The Mutual Agreement Procedure (MAP) articles of U.S. tax treaties and tax coordination agreements grant taxpayers the right to request the assistance of the appropriate competent authority specified in the treaty/agreement when the taxpayer believes that the actions of the United States or the applicable U.S. treaty partner/U.S. territory result or will result in the taxpayer being subject to taxation not in accordance with the applicable treaty/tax coordination agreement. This situation typically arises from U.S.- or foreign-initiated adjustments resulting from an examination but can arise from other U.S. or foreign-initiated actions.

4.60.3.1.2
(09-13-2021)
Authority

- (1) Generally, the MAP articles of U.S. tax treaties and tax coordination agreements provide the authority for taxpayers to request, and competent authorities to provide, relief from taxation not in accordance with a tax treaty/tax coordination agreement. The U.S. Competent Authority procedural authority is provided by Treasury Order 150-10 and IRS Delegation Order 4-12 Rev. 4 (see also IRM 1.2.2.5.11, Delegation Order 4-12 (Rev. 4), Authority to Act as Competent Authority of Taxation Authority under Certain International Agreements, Authorize the Disclosure of Tax Information Under Mutual Legal Assistance Treaties, and Disclose Certain Tax Convention Information).

4.60.3.1.3
(09-13-2021)
Roles and Responsibilities

- (1) The roles and responsibilities of the U.S. Competent Authority in relation to the MAP process (as defined in Exhibit 4.60.3-1, Terms/Definitions/Acronyms) are provided for in this IRM.
- (2) Additional roles and responsibilities of the U.S. Competent Authority and Examination are provided for in IRM 4.60.2, Mutual Agreement Procedures and Report Guidelines.

4.60.3.1.4
(09-13-2021)
Terms/Definitions/Acronyms

- (1) See Exhibit 4.60.3-1, Terms/Definitions/Acronyms, for a list of commonly used acronyms and terms in this IRM.

4.60.3.2
(09-13-2021)
Competent Authority and the Mutual Agreement Procedure (MAP)

- (1) MAP, undertaken by the U.S. Competent Authority, provides taxpayers a means to secure relief from economic double taxation with respect to matters covered in the mutual agreement procedure provisions of tax treaties. Rev. Proc. 2015-40 sets forth the procedures that taxpayers should follow to request assistance from the U.S. Competent Authority, acting through the Advance Pricing and Mutual Agreement (APMA) Program and the Treaty Assistance and Interpretation Team (TAIT).

4.60.3.2.1
(09-13-2021)
**U.S. Competent
Authority's Role - U.S.
Initiated Adjustments**

- (1) For competent authority issues that arise from an examination by the IRS, the U.S. Competent Authority will not accept a competent authority request before the IRS has communicated the amount of the proposed adjustment to the taxpayer in writing (e.g., Form 5701, Notice of Proposed Adjustment or Form 4549, Income Tax Examination Changes).
- (2) The U.S. Competent Authority sends a request to the appropriate international referral recipient (IRR) to have an examiner assigned to the case and informs the examiner of any significant differences between the U.S. Competent Authority's proposed negotiating position and Examination's position.
- (3) The U.S. Competent Authority secures a MAP report from Examination. A MAP report contains factual and technical information on an adjustment that the U.S. Competent Authority may use to discuss the issue with a treaty partner and to develop a negotiating position for the issue. More information on the MAP report can be found in IRM 4.46.6, LB&I Examination Process, Workpapers and Reports Resources.
- (4) The U.S. Competent Authority presents a position paper to the foreign competent authority. A position paper states the U.S. Competent Authority's recommended course of action for a MAP request. The U.S. Competent Authority endeavors to provide an initial position paper to the foreign competent authority within six months of receipt from the taxpayer of all information necessary to analyze the case. This timeline may be exceeded or reduced depending upon the facts and circumstances of a particular case.
- (5) The U.S. Competent Authority's position paper contains:
 - a. The legal name, address and taxpayer identification number(s) of the taxpayer requesting assistance;
 - b. The taxpayer's related persons in the other country, if applicable, and the basis for determining the association;
 - c. The contact details of the TAIT competent authority analyst or APMA team leader assigned to the case;
 - d. An overview of the issue, transactions, business, and basis for adjustment;
 - e. The applicable taxation years;
 - f. The amount of income and tax adjusted for each taxable year, if applicable;
 - g. A summary of relevant information from the original tax return, if applicable;
 - h. A description of the exact nature of the issue or adjustment and the relevant domestic laws and treaty articles;
 - i. If relevant, calculations with supporting data (may include financial and economic data and reports relied upon and explanatory narratives as well as taxpayer documents and records where relevant and appropriate); and
 - j. In transfer pricing cases, an outline of comparable transactions and methods for adjusting differences, a description of the methodology employed for the adjustment, and an explanation of the appropriateness of the transfer pricing methodology employed for the adjustment (i.e., an explanation as to why the adjustment achieves an arm's length outcome; identification of tested party, if applicable; industry and functional analysis, if a relevant study is not already included elsewhere in the taxpayer's submission).

4.60.3.2.2
(09-13-2021)
**U.S. Competent
Authority's Role -
Foreign Initiated
Adjustments**

- (1) On a non-U.S. initiated action, the U.S. Competent Authority requests a position paper from the foreign competent authority in order to evaluate the competent authority request. The U.S. Competent Authority then presents a position paper to the foreign competent authority.
- (2) The U.S. Competent Authority endeavors to respond to the foreign competent authority (in writing or verbally) within six months of receipt of the foreign competent authority's initial position paper. This timeline may be exceeded or reduced depending upon the facts and circumstances of a particular case.
- (3) The U.S. Competent Authority typically engages in consultations with the foreign competent authority to determine the amount of correlative relief, if any, that should be granted. If the U.S. Competent Authority is satisfied that the foreign initiated action is justified, correlative relief may be granted without a consultation.
- (4) The U.S. Competent Authority requests an evaluation of the issue(s) from Examination, if necessary. An evaluation provides Examination's opinion about adjustments proposed by a foreign tax authority. Evaluations are not typically requested for recurring issues or small adjustments.

4.60.3.2.3
(09-13-2021)
**U.S. Competent
Authority's Coordination
with Examination**

- (1) The U.S. Competent Authority forwards a copy of the MAP request to the appropriate IRR, with a copy to the IRR's territory manager.
- (2) In cases where a competent authority request/issue did not arise from an open Examination proceeding, Examination has notice that the U.S. Competent Authority has jurisdiction over the related competent authority issue affecting a tax return by the competent authority analyst/team leader entering a 'TC 971 AC 080' activity code on the account/return in the Master File (i.e., this activity code indicates the return(s) has an accepted, unresolved/open competent authority request associated with it). The U.S. Competent Authority analyst/team leader makes a request to add this activity code by using Form 3177, Notice of Action for Entry on Master File. See IRS Document 6209 (IRS Processing Codes and Information), Section 8C (Master File Codes) Subsection 9 (TC 971 Action Codes) for additional information.
- (3) Additional information on the coordination of the U.S. Competent Authority and Examination can be found in IRM 4.60.2, Mutual Agreement Procedures and Report Guidelines.

4.60.3.2.4
(09-13-2021)
**U.S. Competent
Authority's Coordination
with a Foreign
Competent Authority**

- (1) The U.S. Competent Authority notifies the competent authority in the affected treaty country of the MAP request. The U.S. Competent Authority sends the foreign competent authority a copy of the MAP request and copies of all other documents received from the taxpayer throughout the duration of the MAP case.
- (2) The U.S. Competent Authority notifies and (where appropriate) consults with the foreign competent authority before making a decision to decline a MAP request.
- (3) The U.S. Competent Authority consults with the foreign competent authority, as necessary, to discuss or clarify specific issues throughout the MAP process. All such discussions are documented in the case file to provide a historical summary for ease of case administration and for record-keeping purposes.

- (4) The U.S. Competent Authority negotiates the case with the foreign competent authority or U.S. possession tax authority. The U.S. Competent Authority engages in discussions with other competent authorities in a principled, fair, and objective manner, with each case being decided on its own merits and not by reference to any balance of results in other cases.

4.60.3.2.5
(09-13-2021)

**U.S. Competent
Authority's Coordination
with the Taxpayer**

- (1) The U.S. Competent Authority communicates with taxpayers to provide an opportunity to correct or remedy any deficiencies in the MAP request or subsequent submissions during the MAP process.
- (2) The U.S. Competent Authority provides a status update to U.S. taxpayers (via telephone, email, or letter) after each substantial MAP discussion and at the conclusion of the case. The update does not provide details of the government-to-government discussions. Rather, the update gives the taxpayer a general sense of the direction of its case and some estimation, if possible, of the time to resolve it.

4.60.3.2.6
(09-13-2021)

**U.S. Competent
Authority's
Documentation of a MAP
Case**

- (1) The U.S. Competent Authority tracks the case status on IMS and, if applicable, coordinates with the foreign competent authority to track the case milestones (start date, milestone 1 (if applicable), end date, and outcome) for OECD MAP statistics reporting framework purposes. The U.S. Competent Authority reports its MAP statistics in accordance with the OECD reporting framework requirements no later than May 31st of the following calendar year, for publication on the OECD website. See OECD's BEPS Action 14 on More Effective Dispute Resolution Mechanisms, Peer Review Documents (October 2016) for additional information.
- (2) The U.S. Competent Authority staff submits all documentation requiring the signature of the U.S. Competent Authority for review by the TAIT/APMA manager(s) supervising the MAP case and by the U.S. Competent Authority or the U.S. Competent Authority's delegate. This review process is necessary in order to confirm the U.S. Competent Authority's review and approval of formal communications to other competent authorities, U.S. Competent Authority position papers, disposition memoranda, and MAP case closing letters to taxpayers and foreign competent authorities.
- (3) Upon the taxpayer's acceptance of the terms of a tentative competent authority resolution, the U.S. Competent Authority proceeds to formally close the case.
- (4) The U.S. Competent Authority prepares a disposition memorandum, which is forwarded to the appropriate IRR (or Examination office in some circumstances), with a copy to the IRR's territory manager, for implementation. A disposition memorandum is prepared for all MAP cases, even if there is no change to U.S. taxation. The disposition memorandum is signed by the U.S. Competent Authority or the U.S. Competent Authority's delegate. Examination and/or the taxpayer are responsible for implementing the terms of the resolution set out in the disposition memorandum. To the extent authorized under the applicable tax treaty, the competent authority resolution is implemented even if such implementation otherwise would be barred by an applicable domestic period of limitations or other procedural limitation. In certain circumstances, the IRS may request that the taxpayer execute a closing agreement reflecting the terms of the competent authority resolution.
- (5) The U.S. Competent Authority prepares and transmits closing letters summarizing the MAP agreement (including an explanation of the underlying

principles supporting an outcome) to the taxpayer and the foreign competent authority. The U.S. Competent Authority and the foreign competent authority exchange closing letters confirming the terms of the MAP agreement. In cases where the taxpayer is eligible for a refund of U.S. tax pursuant to the MAP agreement, the taxpayer may be required to submit an original or amended U.S. income tax return in order to claim the refund. The closing letter to the taxpayer provides implementation instructions, including, but not limited to, the address where the taxpayer should mail an original or amended U.S. income tax return in order to claim a refund of U.S. tax pursuant to a MAP agreement. A copy of the U.S. Competent Authority closing letter to the taxpayer must be attached to any U.S. income tax returns filed pursuant to the MAP agreement.

- (6) The U.S. Competent Authority seeks confirmation as to whether the taxpayer consents to the MAP agreement reached. In cases involving foreign taxpayers, the foreign competent authority seeks confirmation as to whether the foreign taxpayer consents to the MAP agreement. This confirmation is obtained as soon as possible after the MAP agreement is reached.

4.60.3.2.7
(09-13-2021)
MAP Case Timeline

- (1) The U.S. Competent Authority endeavors to complete a MAP case within two years from the date of acceptance of the taxpayer's MAP request. This timeline may be exceeded or reduced depending upon the facts and circumstances of a particular case.
- (2) The U.S. Competent Authority also aims to consider a MAP case as efficiently as possible. During the course of a MAP case, the U.S. Competent Authority may request information from a foreign competent authority. Before requesting information from a foreign competent authority, the U.S. Competent Authority first exhausts domestically available information. To facilitate more efficient communication, the U.S. Competent Authority engages in secure, electronic communication when possible, consistent with cybersecurity and privacy policies and considerations. When possible, the U.S. Competent Authority is proactive in attempting to negotiate and resolve MAP cases prior to face-to-face meetings with foreign competent authorities.
- (3) For a MAP case that has exceeded, or is likely to exceed, a reasonable period of time, delegates of the U.S. Competent Authority and the foreign competent authority may undertake a review of the case to determine the reasons for the delay and agree upon an approach to ensure the efficient completion of the case.

4.60.3.2.8
(09-13-2021)
Arbitration

- (1) If the U.S. Competent Authority and a foreign competent authority are unable to reach a competent authority resolution, the MAP case may be eligible for resolution through arbitration under the terms of the applicable U.S. tax treaty. In treaties with arbitration provisions, the MAP article requires that the competent authorities refer certain MAP cases to mandatory arbitration in the event direct consultation does not lead to a competent authority resolution within a prescribed time period. The MAP article in these treaties sets forth detailed procedures regarding the resolution of cases that are eligible for arbitration as prescribed by the relevant treaty. Section 10 of Rev. Proc. 2015-40 (and successor guidance) addresses general procedural issues associated with mandatory arbitration. See the Competent Authority Arrangements website at <https://www.irs.gov/individuals/international-taxpayers/competent-authority-arrangements> for the arbitration board operating guidelines for various countries.

4.60.3.2.9

(09-13-2021)

**Coordination with
Litigation**

- (1) In general, the U.S. Competent Authority will not accept or continue to consider a taxpayer's competent authority request regarding any competent authority issue and taxable period designated for litigation with respect to the same taxpayer or any competent authority issue and taxable period that are pending in a U.S. federal court and that were under IRS Appeals jurisdiction with respect to the same taxpayer before the commencement of the litigation (see generally Rev. Proc. 2015-40 sections 6.04 and 7.02(3)(d)).
- (2) In other cases where a taxpayer has made a competent authority request with respect to a taxable period involved in pending litigation concerning the federal tax liability of the taxpayer, the U.S. Competent Authority may accept, or continue to consider, the competent authority request after consulting with the Associate Chief Counsel (International).
- (3) During the competent authority process, a taxpayer may be asked to join the IRS in a motion to sever any competent authority issues, delay trial, or stay proceedings pending the outcome of the taxpayer's competent authority case. A taxpayer may file a competent authority request with respect to a U.S. federal court's final determination of its tax liability, but only for the purpose of seeking correlative relief from a foreign competent authority. Such final determinations include litigation settlements with the Office of Chief Counsel or the Department of Justice. See Rev. Proc. 2015-40, section 6.05 (and successor guidance) for additional information.

4.60.3.2.10

(09-13-2021)

Withholding Tax Issues

- (1) If applicable, in cases with U.S. withholding tax at issue, the U.S. Competent Authority confirms amounts of U.S. tax withheld by requiring the taxpayer to furnish Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding or, if necessary, other documentation (e.g., bank statements) verifying

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4.60.3.2.11

(09-13-2021)

**Multilateral MAP
Requests**

- (1) Competent authority assistance may be available in cases of multilateral disputes involving three or more treaty countries. In order to proceed with a multilateral MAP request, the case must be accepted by the competent authorities of all affected treaty countries.

4.60.3.2.12

(09-13-2021)

Informal Consultations

- (1) TAIT and APMA are available for informal consultations with taxpayers (including consultations in which the taxpayer chooses to be anonymous) regarding any competent authority issue. Informal consultations may be conducted by telephone, email, letter, or in person. In informal consultations, only general information is provided to taxpayers (e.g., general guidance, procedural requirements, or best practices), not taxpayer-specific guidance, return filing instructions, or a U.S. Competent Authority position. Any advice provided through such consultations is general advice only and is not binding on the IRS. See Rev. Proc. 2015-40, section 2.03 (and successor guidance) for additional information.

4.60.3.2.13
(09-13-2021)

**U.S. Competent
Authority's Role in the
Accelerated Competent
Authority Procedure
(ACAP)**

- (1) A taxpayer may request that the terms of a competent authority resolution for a given taxable period be extended to include subsequent taxable periods. After reviewing the taxpayer's request, the U.S. Competent Authority:
 - a. Contacts Examination to recommend whether the issue should be resolved in a comparable manner for subsequent taxable periods.
 - b. Requests any additional information from Examination or the taxpayer needed to analyze or negotiate the case.
 - c. Prepares and presents a position paper to the foreign competent authority.
 - d. Negotiates the case with the foreign competent authority.
 - e. Prepares a disposition memorandum, which is forwarded to Examination for implementation.
 - f. Prepares and forwards closing letters to the taxpayer and the treaty partner.
- (2) The U.S. Competent Authority may also request that a taxpayer expand the scope of its competent authority request to include ACAP years.

4.60.3.2.14
(09-13-2021)

**Simultaneous Appeals
Procedure (SAP) When
Filing for Competent
Authority Assistance**

- (1) SAP will be initiated only upon a request made by a taxpayer in accordance with Rev. Proc. 2015-40 section 6.04(2)(b).
- (2) SAP may be used when:
 - a. The taxpayer applies for competent authority assistance after Examination has proposed an adjustment and before a protest is filed;
 - b. The taxpayer has filed a protest for proposed adjustments, but decides to seek competent authority assistance for one issue that has been severed from the protest in accordance with Rev. Proc. 2015-40, Section 6.04(3)(a), while the other issues are referred to Appeals; or
 - c. The taxpayer decides to request competent authority assistance with respect to an issue after the case has been assigned to Appeals and within 60 days after the date the taxpayer is first notified by Appeals that a potential competent authority issue exists. See Rev. Proc. 2015-40, Sections 6.04(2) and (3) for additional information.

4.60.3.2.15
(09-13-2021)

**SAP After Filing for
Competent Authority
Assistance**

- (1) After filing a competent authority request, a taxpayer may request SAP review in a separate written submission filed no later than 60 days after the taxpayer receives notification that the U.S. Competent Authority has accepted its competent authority request. See Rev. Proc. 2015-40, Section 6.04(2)(b) for additional information.
- (2) Rev. Proc. 2015-40 does not limit the ability of a taxpayer to obtain Appeals review of a competent authority issue that remains unresolved after the competent authority process has concluded. See Rev. Proc. 2015-40, section 6.04(4).

4.60.3.2.16
(09-13-2021)

**SAP Cases Pending in
Court**

- (1) The U.S. Competent Authority will not accept or continue to consider a request for SAP when:
 - a. The matter is pending before a U.S. federal court; or
 - b. The matter has been designated for litigation. Also see IRM 4.60.3.2.9 for details on competent authority requests involving issues designated for litigation.

4.60.3.2.17
(09-13-2021)

Appeals' Role in SAP

- (1) The Chief, Appeals forwards a copy of the SAP request to the appropriate Director, Appeals who assigns an Appeals Officer to the case. The assigned Appeals Officer will:
 - a. Review the positions previously taken on the competent authority issues by Examination and the taxpayer.
 - b. Consult with the taxpayer and the U.S. Competent Authority, using established Appeals procedures (except that the U.S. Competent Authority will participate in meetings held between Appeals and the taxpayer), in order to resolve the unagreed issue.
 - c. Coordinate the Appeals process with competent authority procedures.

4.60.3.2.18
(09-13-2021)

U.S. Competent Authority's Role in SAP

- (1) The U.S. Competent Authority has sole discretion to decide whether to accept the taxpayer's request for SAP.
- (2) The U.S. Competent Authority has jurisdiction for the issue when SAP is involved and is responsible for:
 - a. Notifying the taxpayer of an accepted request.
 - b. Coordinating with the taxpayer and Appeals on process and time frame.
 - c. Determining the manner in which the SAP review is conducted after consulting with Appeals.
 - d. Evaluating the points raised in SAP in determining its position to present to the foreign competent authority.
 - e. Determining whether to terminate SAP with regard to one or more competent authority issues after consulting with Appeals.

4.60.3.2.19
(09-13-2021)

Advance Pricing Agreement (APA) Overview

- (1) As defined in Rev. Proc. 2015-41, an advance pricing agreement (APA) is a binding agreement between the taxpayer and the Service on a method (or methods) ("covered method(s)") for resolving one or more issues ("covered issue(s)") eligible to be covered by such an agreement, including issues arising under IRC 482 and other issues for whose resolution transfer pricing principles are relevant, which in a particular case could include issues arising under IRC 367(d), issues arising under the business profits and associated enterprises articles of U.S. tax treaties, and the determination of the income effectively connected with the conduct of a trade or business within the United States.
- (2) The execution of an APA is designed to be a voluntary, problem-solving process, conducted in a principled and cooperative manner, for the resolution of covered issues on a prospective basis. The APA process increases the efficiency of tax administration by encouraging taxpayers to come forward and present all the facts necessary for a proper evaluation of their proposed covered issues and to work towards a resolution of such issues in a spirit of openness and cooperation. The voluntary and prospective nature of the APA process lessens the burden of compliance by giving taxpayers and the Service, greater certainty regarding covered issues and promotes the principled resolution of these issues by allowing for their discussion and resolution in advance, before the consequences of such resolution are fully known to either taxpayers or the Service. As such, the APA process is intended to address issues that are ongoing in nature or have already arisen (or, based on firm commitments, are expected to arise).
- (3) There are three types of APAs. A unilateral APA is one in which the covered issue(s), covered method(s), and APA terms and conditions are not premised upon an underlying competent authority resolution reached pursuant to nego-

tiations with one or more foreign competent authorities. A bilateral APA, which is the most common type of APA, is one in which the covered issue(s), covered method(s), and APA terms and conditions are premised on an underlying competent authority resolution reached between the U.S. competent authority and a foreign competent authority. A multilateral APA is different from a bilateral APA only in that more than one foreign competent authority is involved in reaching resolution.

4.60.3.2.20
(09-13-2021)
**APMA's Role in APA
Process**

- (1) APA requests and the APA process are governed by Rev. Proc. 2015-41. A taxpayer's APA request will include one or more covered issues, as applied to certain proposed taxable years, and (in the case of bilateral and multilateral APA requests) involving one or more foreign competent authorities.
- (2) APMA is responsible for the following:
 - a. Reviewing and determining whether to accept a taxpayer's APA request, including whether to accept taxpayer's covered issue(s) as proposed or whether to request that covered issue(s) be modified.
 - b. Coordinating the APA process, which includes all steps involved in reaching an APA.
 - c. Forming the APA team, comprising members of APMA and one or more revenue agents, tax law specialists, or economists from the TTPO or CBA practice areas ("Field team members").
 - d. Evaluating the covered issue(s) and covered method(s) proposed by the taxpayer and developing APMA's position on the taxpayer's proposed covered issue(s) and proposed covered method(s) for submission to foreign competent authority(ies) in the case of bilateral or multilateral APAs.
 - e. Conducting negotiations with applicable foreign competent authority(ies) towards resolution of a bilateral or multilateral APA or discussing and resolving APA terms directly with the taxpayer in the case of a unilateral APA.
 - f. Preparing closing documents for disposition of the case to the applicable IRRs in TPP and CBA.

4.60.3.2.21
(09-13-2021)
**CBA and TPP's Role in
APA Process**

- (1) Field team members are integral to APA teams and to the successful handling of APA requests. The exact scope of the participation that an assigned Field team member will have on an APA team will depend upon the specifics of the case and coordination and collaboration between APMA and Field team member management.
- (2) A Field team member will be assigned to an APA team pursuant to a request made by the APMA team leader at the outset of the APA process. The request will be made by the APMA team leader through a communication to the appropriate IRRs for CBA and TPP.
- (3) The assigned Field team member will be invited to participate in all phases of the APA process. For example, in some cases, the APA process may begin with an APA pre-filing conference, which is held before the taxpayer has filed its APA request. More commonly, the APA process will begin with an opening conference after the taxpayer has filed its APA request. Whether for a pre-filing or opening conference, the assigned Field team member will be invited to attend and participate in the meeting.

- (4) Ways in which the Field team member can be involved in and contribute to the APA process as part of the APA team include providing their perspective on procedural matters, such as the taxpayer's current or past audit history, on the taxpayer's proposed covered issue(s) and method(s), and on any interrelated issues or matters, such as taxpayer's involvement in transactions with other affiliates that are similar to, or impacted by, those proposed to be covered by the APA. The Field team member will also play an important role in coordinating and following through with TPP and CBA in the rare instance in which the APA process ends without an executed agreement.
- (5) As noted in Rev. Proc. 2015-41, throughout the APA process, the taxpayer and the IRS will execute consent agreements as necessary to extend the period of limitations for assessment of tax for each proposed APA year. As the APA process progresses, the taxpayer must submit executed consents to the IRS to extend the period of limitations for assessment of tax. The APMA team leader will coordinate and collaborate with the taxpayer and the assigned Field team member to ensure that the requirements of Rev. Proc. 2015-41 are fulfilled throughout the APA process.

4.60.3.2.22
(09-13-2021)
**Discretionary Limitation
on Benefits (LOB)
Requests**

- (1) TAIT is responsible for requests for discretionary tax treaty benefits submitted to the U.S. Competent Authority under a tax treaty's LOB article. The taxpayer's request must comply with the procedures set forth in Rev. Proc. 2015-40 (or successor guidance).

4.60.3.2.23
(09-13-2021)
**U.S. Competent
Authority's Role in LOB
Requests**

- (1) With respect to discretionary LOB requests, TAIT:
 - a. Reviews the applicant's request for discretionary treaty benefits.
 - b. Sends an acknowledgement letter to the applicant stating that the applicant's competent authority request has been received. The acknowledgement letter indicates whether the competent authority request is complete and provides the name and contact information of the assigned competent authority analyst and any supplemental instructions.
 - c. Requests additional information and representations from the applicant, if necessary.
 - d. Accepts or denies the applicant's request for consideration. An LOB request will be accepted for consideration if the applicant represents that, and explains why, it does not qualify for the requested benefits under the relevant LOB provisions. Furthermore, an LOB request will be accepted only if the ownership or organizational structure at issue is or was in place already and is not merely prospective. The U.S. Competent Authority will not issue a determination regarding whether an applicant satisfies an objective LOB test. See Rev. Proc. 2015-40, section 3.06(2) for additional information.
 - e. If the LOB request is accepted for consideration, the U.S. Competent Authority sends an acceptance letter to the applicant notifying the applicant of the acceptance and requesting a user fee in accordance with Rev. Proc. 2021-1 (and successor guidance). See Rev. Proc. 2021-1 (and successor guidance) and Rev. Proc. 2015-40, section 14.02 for additional information.
 - f. Notifies the appropriate IRR, with a copy to the IRR's territory manager, of the application and, if necessary, requests input before a determination is made.

- g. Makes a determination as to whether to grant or deny the requested discretionary treaty benefits. To obtain a favorable determination, the applicant must demonstrate to the satisfaction of the U.S. Competent Authority that it does not qualify for the requested benefits under the relevant LOB provisions of the applicable U.S. tax treaty, that the applicant has a substantial non-tax nexus to the treaty country, and that, if benefits are granted, neither the applicant nor its direct or indirect owners will use the treaty in a manner inconsistent with its purposes. See Rev. Proc. 2015-40, section 3.06(2)(d) for additional information.
- h. Prepares a disposition memorandum describing the request, the facts at issue, and the principles underlying the decision to grant or deny the requested treaty benefits.
- i. Sends a proposed disposition memorandum to the Office of Associate Chief Counsel (International) for its review and concurrence.
- j. Consults with each affected foreign competent authority prior to grant or denial of the requested treaty benefits.
- k. After concluding whether to grant or deny the requested treaty benefit, transmits a determination letter to the applicant, a notification letter to each affected foreign competent authority, and a disposition memorandum to the appropriate IRR, with a copy to the IRR's territory manager.

4.60.3.2.24
(09-13-2021)
Triennial Statement

- (1) An applicant that received a favorable discretionary LOB determination must file a triennial statement to keep that determination in force.
- (2) The statement must declare that:
 - a. There has not been a material change with respect to any relevant facts as set forth in the discretionary LOB request (or in any supplemental requests, submissions (including past triennial statements), or oral representations made with respect to that request). Examples of a material change in fact may include changes in ownership structure, assets or activities of the applicant or relevant related entities.
 - b. There has not been a material change in law relevant to the benefits being sought. Examples of a material change in law may include the enactment of a special tax regime that materially alters the applicant's tax liability.
 - c. The applicant is not claiming any benefits different from those granted.
- (3) The statement must contain the following declaration: "Under penalties of perjury, I declare that I have examined this statement and accompanying documents, if any, and that, to the best of my knowledge and belief, this statement contains all relevant information relating to the triennial reporting requirement, and that the representations in this statement are true, correct, and complete." The statement also must include any other representations or items that the U.S. Competent Authority may instruct the applicant to include.
- (4) The applicant must file the first triennial statement with TAIT no later than three years from the date of the letter notifying the applicant of the U.S. Competent Authority's determination to grant discretionary benefits, or by such other date to which the U.S. Competent Authority and the applicant may agree. The applicant must file each additional triennial statement with TAIT no later than three years after the most recent triennial statement, or by such other date to which the U.S. Competent Authority and the applicant may agree.

- (5) The U.S. Competent Authority will review each triennial statement and notify the applicant if any information must be clarified or supplemented. Any request the applicant receives to clarify or supplement information in a triennial statement does not constitute an examination or the commencement of an examination for purposes of IRC 7605(b) or any other provision of the Code. Failure to timely file a triennial statement will result in a termination of the grant of discretionary benefits from the due date of the triennial statement. See Rev. Proc. 2015-40, section 3.06(2) for additional information.

4.60.3.3
(01-01-2002)
Rev. Proc. 99-32

- (1) Rev. Proc. 99-32, which superseded Rev. Proc. 65-17, addresses situations where an adjustment is made under IRC 482 ("primary adjustment") that requires a secondary adjustment to conform the taxpayer's accounts to reflect the primary adjustment. This Rev. Proc. allows U.S. taxpayers to avoid the Federal income tax consequences of a secondary adjustment that would otherwise result from a primary adjustment.

4.60.3.3.1
(09-13-2021)
Purpose

- (1) Rev. Proc. 99-32 accomplishes the following:
- a. Outlines the technical policy and procedure governing the adjustment of accounts.
 - b. Allows taxpayers to elect treatment under this Rev. Proc. regarding a primary adjustment under IRC 482 without the adverse tax consequences of the secondary adjustment .
- (2) The provisions of Rev. Proc. 99-32 apply to U.S. taxpayers in the following situations:
- a. Where the primary adjustment was initiated by either the taxpayer or the Service;
 - b. Where there is a secondary adjustment under IRC 482;
 - c. Where the Service initiated a primary adjustment under IRC 61 or IRC 162, but the adjustment also could have been made under IRC 482; or
 - d. Where the adjustment relates to a domestic corporation or a foreign corporation engaged in a trade or business within the U.S, or to controlled transactions between a controlled foreign corporation of a domestic corporation and a related foreign corporation.

4.60.3.3.2
(09-13-2021)
General

- (1) The relevant office within the IRS with jurisdiction over the case is responsible for determining:
- a. The amount of the adjustment allowable under Rev. Proc. 99-32.
 - b. Whether the taxpayer qualifies under Section 3 of Rev. Proc. 99-32.
- (2) A U.S. taxpayer seeking the benefits of Rev. Proc. 99-32 must file a written request with the Director of Field Operations before closing action is taken on the primary adjustment.
- (3) In applying the provisions of Section 5.01 of Rev. Proc. 99-32, the term "closing action" includes the first occurrence of any of the following:
- a. Execution and acceptance of Form 870-AD, Offer to Waive Restrictions on Assessment and Collection of Tax Deficiency and to Accept Overassessment.
 - b. Execution of a closing agreement relative to the allocation under IRC 482, IRC 61, or IRC 162, as appropriate .

- c. Stipulation of an IRC 482 allocation in the United States Tax Court.
- d. Expiration of the statute of limitations for the taxable year of the allocation.
- e. Final determination of tax liability for the year to which the allocation relates by an offer in compromise, a closing agreement, or a court action.

4.60.3.3.3
(09-13-2021)

Procedures

- (1) When an international specialist proposes an IRC 61, 162 or 482 adjustment, the taxpayer will be advised of the following:
 - a. The taxpayer may be eligible for benefits allowed by Rev. Proc. 99-32.
 - b. If the taxpayer agrees tentatively to the IRC 482 allocations, it may submit a request to the field director for Rev. Proc. 99-32 benefits.
 - c. To the extent applicable in the case, the taxpayer must submit to the Director of Field Operations the data listed in Sections 5.01(4) (a) through (c) of Rev. Proc. 99-32. The Director of Field Operations is responsible for verifying the information submitted.

If the international specialist concludes:	Then the international specialist will:
The taxpayer qualifies for Rev. Proc. 99–32 treatment.	a. Prepare a closing agreement.
	b. Secure concurrence of the Director, Field Operations, Transfer Pricing Practice by forwarding: 1. The taxpayer's written request for Rev. Proc. 99-32 relief; and 2. The closing agreement proposed to the taxpayer.
	Note U.S. Competent Authority will provide concurrence within 30 days.
	c. Process the case under established procedures.
The taxpayer qualifies for treatment but the proposed adjustments are erroneous.	a. Discuss the matter with the taxpayer.
	b. If the international specialist and taxpayer are not able to reach an agreement, the taxpayer is entitled to the normal appeal rights.

4.60.3.3.3.1
(09-13-2021)

Joint Committee Cases

- (1) The Joint Committee Case procedures will be implemented for cases involving a refund or credit greater than \$2,000,000 (or \$5,000,000 for C corporations).
 - a. The international specialist will process the case to the point of having the necessary closing agreement executed by the taxpayer.
 - b. The international specialist will forward the case to Director of Field Operations for review and tentative approval.
 - c. The Director of Field Operations will forward the case to the Joint Committee for review.
- (2) After the Joint Committee approves the case, it will be returned to the Director of Field Operations for closing.

4.60.3.3.3.2
(09-13-2021)
Tax Avoidance Cases

- (1) If an international specialist determines that the taxpayer does not qualify for Rev. Proc. 99-32 benefits due to the application of the penalty provisions of IRC 6662(e)(1)(B) and 6662(h), the international specialist will submit a memorandum explaining this determination to the International Territory Manager for review.
- (2) The CBA Territory Manager will consider the international specialist's recommendation and indicate concurrence or disagreement. The international specialist will adopt the CBA Territory Manager's position.

If	Then
The taxpayer qualifies for treatment under Rev. Proc. 99-32.	The international specialist follows Rev. Proc. 99-32 procedures, Section (4) or (5).
The taxpayer does not qualify for the benefits of Rev. Proc. 99-32 due to the application of the penalty provided by IRC 6662(e)(1)(B) or IRC 6662(h).	<p>The taxpayer may:</p> <ol style="list-style-type: none"> 1. Withdraw the tentative agreement to the IRC 482 allocation and exercise its appeal rights for the issue; or 2. Tentatively agree to the IRC 482 allocation and appeal the issue regarding its qualification for the Rev. Proc. 99-32 benefits.

- (3) The benefits provided by Rev. Proc. 99-32 are subject to administrative discretion. Accordingly, the decision whether a particular taxpayer qualifies for relief is a matter within the discretion of the Service.
- (4) The international specialist will close the case using established procedures.

4.60.3.3.3.3
(01-01-2002)
Unagreed and Miscellaneous

- (1) Determinations about the issues listed below are made during the examination, even when the case is unagreed. This eliminates the need to reopen the examination at a later date.
 - The tax avoidance purpose test
 - The dividends excludable under Section 4.01(4) of the Rev. Proc. 99-32, and the foreign tax credit attributable to such dividends

4.60.3.4
(09-13-2021)
Correlative Taxpayers – IRC 482

- (1) Treas. Reg. 1.482-1(a)(2) provides for making primary adjustments to the income of one member of a controlled group of taxpayers. International specialists also make the appropriate correlative adjustments to the income of any other member of the controlled group affected by the primary adjustment.

4.60.3.4.1
(09-13-2021)**Examination Procedures**

- (2) Reports for the primary and correlative taxpayers, whether agreed or not, are prepared concurrently, and remain together after the case is closed and transmitted to the review staff, appeals office, or service center.
- (1) If the examination of the primary taxpayer results in adjustments under IRC 482, the examination of the correlative U.S. taxpayer is conducted concurrently by the international specialist.
 - a. The correlative U.S. taxpayer should be notified in writing as early as possible that proposed adjustments may affect the tax liability of the correlative taxpayer.
 - b. The correlative U.S. taxpayer should be advised of the period of limitations under IRC 6511.
 - c. If the period for filing a claim for refund expires in less than 180 days, a Form 1040-X, Amended U.S. Individual Income Tax Return, or Form 1120-X, Amended U.S. Corporation Income Tax Return, should be solicited from the correlative U.S. taxpayer.
 - (2) If the correlative adjustment affects the U.S. tax liability of the correlative taxpayer for any pending tax year, a separate report covering those years should be prepared by the international specialist. The report should be prepared concurrently with the primary report, with the understanding that it may be sent to the correlative taxpayer.
 - (3) The examiner will attach Form 3198, Special Handling Notice for Examination Case Processing, to the case jacket of the correlative adjustment taxpayer to ensure that overpayments resulting from the correlative adjustments are not scheduled and refunded to the taxpayer. The Form 3198 will note the need to delay making a refund to the correlative adjustment taxpayer until the primary adjustment taxpayer has paid the deficiency resulting from the IRC 482 adjustment.
 - (4) Rules regarding the unauthorized disclosure of information apply to IRC 482 adjustments, despite the relationship between primary and correlative taxpayers. The correlative report should not disclose tax return information of the primary taxpayer except to the extent necessary to explain the correlative adjustment.
 - (5) The report to the primary taxpayer will include one of the following statements:
 - a. A separate examination report reflects correlative adjustments to the taxable income of the correlative taxpayers.
 - b. A correlative adjustment is deemed to have been made since it does not affect the U.S. income tax liability of the correlative taxpayer for any pending tax year.
 - (6) Taxpayers who seek correlative relief for foreign initiated adjustments should make a request to the U.S. Competent Authority for assistance. However, if the adjustment involves years under the jurisdiction of Examination or Appeals, taxpayers should seek to obtain relief from these offices. If the adjustment involves a reallocation of income or deductions involving a related person in a country that has a tax treaty with the U.S., the taxpayer should be advised to contact U.S. Competent Authority. Failure to request assistance from the U.S. Competent Authority may result in denial of correlative relief with respect to the issue, including any otherwise available foreign tax credits.

4.60.3.4.1.1
(01-01-2002)
**Processing Agreed
Cases**

- (1) After review and approval of the examination reports for the primary and correlative taxpayers, the reviewer issues a special preliminary (30-day) letter to the correlative taxpayer. The letter advises the correlative taxpayer of the following:
 - a. Nature of the adjustment(s)
 - b. Reason the overpayment cannot be processed at this time
 - c. Possible need to protect the statute of limitations from expiring
- (2) The case is then processed according to established procedures.

4.60.3.4.1.2
(09-13-2021)
**Processing Unagreed
Cases**

- (1) If the correlative adjustment is the only adjustment affecting the correlative taxpayer, the taxpayer receives the examination report with the appropriate 30-day letter. An agreement will not be solicited from the correlative taxpayer until the primary adjustments are agreed.
- (2) If there are adjustments in addition to the correlative adjustment, the taxpayer will receive the appropriate 30-day letter and a report reflecting all of the adjustments. The taxpayer will have the option to agree to the non-correlative adjustments only. If this occurs, the Form 870 (Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment) must specifically state that the correlative adjustment is not reflected in the computation of the deficiency or overassessment.
- (3) If a statutory notice of deficiency is issued to the correlative taxpayer (for non-correlative adjustments), the correlative adjustments that decrease income will not be included in the deficiency computation. However, the statutory notice of deficiency must include an explanation of any correlative adjustments.
- (4) If the primary taxpayer's case goes to Appeals, Examination Support and Processing will also send the correlative taxpayer's case to Appeals.
- (5) If possible, the Examination office having jurisdiction over the primary taxpayer should manage the examination of the correlative taxpayer. If this is not possible, the Examination office with jurisdiction over the correlative taxpayer will manage the examination related to the proposed allocation.

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Exhibit 4.60.3-1 (09-13-2021)**Terms/Definitions/Acronyms**

The following table lists terms, acronyms, and corresponding definitions used in this IRM:

Term	Definition
ACAP request	Under ACAP (accelerated competent authority request procedure), a taxpayer may request that the terms of a competent authority resolution for a given taxable period be extended to cover subsequent taxable periods for which it has filed tax returns. In appropriate cases, the U.S. Competent Authority may request that the taxpayer expand the scope of its competent authority request to include ACAP years, even if the taxpayer has not filed an ACAP request. See Rev. Proc. 2015-40 sec. 4.01, for additional information.
APA	Advance pricing agreement.
APMA	The Advance Pricing and Mutual Agreement Program, a representative office of the U.S. Competent Authority within LB&I's TTPO Practice Area. APMA has primary responsibility for cases arising under the Business Profits and Associated Enterprises articles of tax treaties. An example of a competent authority issue handled by APMA is the double tax that could be incurred as a result of an allocation made by the IRS under IRC 482 or by a foreign tax authority under an equivalent provision in its domestic law. APMA and TAIT each can consider cases arising under the Permanent Establishment articles of tax treaties, and both offices will coordinate and collaborate on such cases and on any other cases as appropriate.
Appeals	For purposes of IRM 4.60.3, Appeals generally refers to the appropriate IRS office or officer responsible for appeals function having administrative jurisdiction over the issue.
Competent Authority	A tax treaty requires the designation of a competent authority for each country that is a party to the treaty. The respective competent authorities administer the provisions of the treaty. This authority may be delegated to one or more subordinate officials.
Competent authority case	A case initiated by a competent authority request involving one or more competent authority issues.

Exhibit 4.60.3-1 (Cont. 1) (09-13-2021)**Terms/Definitions/Acronyms**

Term	Definition
Competent authority issue(s)	An issue that can be resolved by the U.S. Competent Authority, typically under the MAP article of a tax treaty or tax coordination agreement (generally, double taxation or other taxation not in accordance with a tax treaty/tax coordination agreement). A competent authority issue will usually arise from an action proposed by the United States or the U.S. treaty partner/U.S. territory that results or is likely to result in taxation not in accordance with a tax treaty/tax coordination agreement).
Competent authority process	All steps in the process of initiating and resolving a competent authority case, including steps in relation to pre-filing procedures. The competent authority process is generally addressed in paragraphs 1 and 2 of the MAP article in most tax treaties. See also Rev. Proc. 2015-40, section 2.01(2), and Rev. Proc. 2006-23, section 2.03, which provide a summary of the competent authority process.
Competent authority resolution	The resolution of competent authority issues constituting a competent authority case reached either: (i) unilaterally by a competent authority; (ii) between the U.S. Competent Authority and one or more foreign competent authority(ies) (as reflected in a signed mutual agreement and any additional agreements or understandings achieved through the competent authority process); or, (iii) through arbitration. The terms of a competent authority resolution are generally provided in the following documents: a signed mutual agreement between the competent authorities which is subject to the restrictions of IRC 6105; a closing letter to the taxpayer, which must be attached to any U.S. income tax returns filed on the basis of the competent authority resolution; and/or an IRS-internal disposition memorandum, which explains the terms of the resolution to IRS personnel charged with its implementation. See IRM 4.60.3.2.6 for additional information.

Exhibit 4.60.3-1 (Cont. 2) (09-13-2021)**Terms/Definitions/Acronyms**

Term	Definition
Competent authority request	A taxpayer request for relief from double taxation or other taxation inconsistent with a tax treaty or tax coordination agreement, under the MAP article of such tax treaty or tax coordination agreement (for tax treaties, the request is typically made under paragraph (1) of the MAP article). The process for requesting competent authority assistance from the U.S. Competent Authority under a tax treaty is described in Rev. Proc. 2015-40 (or its successor). The process for requesting competent authority assistance from the U.S. Competent Authority under a tax coordination agreement is described in Rev. Proc. 2006-23.
Controlled group	The actions of two or more taxpayers with a common goal or purpose owned directly or indirectly by the same interest.
Correlative Adjustment	Adjustment that creates a corresponding decrease in the income of another member of the group of controlled taxpayers.
Correlative Taxpayer	Taxpayer whose taxable income is affected by a correlative adjustment.
Examination	For purposes of IRM 4.60.3, Examination generally refers to the appropriate IRS office or officer responsible for the examination function that has administrative jurisdiction over the issue.
Foreign-initiated	For purposes of IRM 4.60.3, “foreign-initiated” includes actions taken by another country or a U.S. territory. Most references to “foreign-initiated” in IRM 4.60.3 refer to a U.S. treaty partner or U.S. territory, unless the context indicates otherwise.
IMS	Issue Management System. Software utilized by the IRS to track the status of cases.
IRR	International Referral Recipient. Additional information about IRR can be found at IRM 4.46.3, Planning the Examination.
LOB	Limitation on Benefits. A LOB article contains anti-treaty-shopping provisions that are primarily intended to prevent residents of third countries from benefiting from what is intended to be a reciprocal agreement between the two countries party to a tax treaty. The LOB article contains both objective and subjective tests. See IRM 4.60.2.7.1, Limitation on Benefits (LOB) Requirement for additional information.

Exhibit 4.60.3-1 (Cont. 3) (09-13-2021)**Terms/Definitions/Acronyms**

Term	Definition
MAP	Mutual Agreement Procedure. MAP generally refers to the Mutual Agreement Procedure article of a tax treaty/tax coordination agreement. Note that “MAP” and “competent authority” are frequently used interchangeably when acting as modifiers (e.g., MAP request and competent authority request).
MAP Report	Certain documentation developed by Examination which the U.S. Competent Authority may use in a competent authority case. See IRM 4.46.6, LB&I Examination Process, Workpapers and Reports for additional information.
OECD	Organisation for Economic Co-operation and Development.
Primary Adjustment	The initial adjustment, which generally increases the taxable income of a member of a group of controlled taxpayers, and creates a corresponding decrease in the taxable income of one or more members of the same group.
Primary Taxpayer	Taxpayer whose taxable income is affected by the primary adjustment.
SAP	The Simultaneous Appeals Procedure (SAP) is a process that allows taxpayers to request the services of Appeals and the U.S. Competent Authority simultaneously. The procedure is intended to facilitate the U.S. Competent Authority's unilateral consideration of a resolution of the competent authority issue before it presents a position on the issue to the foreign competent authority. The U.S. Competent Authority in its sole discretion will decide whether to accept the taxpayer's request for SAP review after consulting with IRS Appeals and after considering whether SAP review would unduly burden tax administration, including the competent authority process. The U.S. Competent Authority may choose to accept SAP review with respect to only certain competent authority issues. See Rev. Proc. 2015-40, Section 6.04(2) for additional information.

Exhibit 4.60.3-1 (Cont. 4) (09-13-2021)

Terms/Definitions/Acronyms

Term	Definition
TAIT	The Treaty Assistance and Interpretation Team, a representative office of the U.S. Competent Authority within APMA. TAIT has primary responsibility for cases arising under all articles of tax treaties other than the Business Profits and Associated Enterprises articles. TAIT also has primary responsibility for cases arising under tax treaties with respect to estate and gift taxes. APMA and TAIT each can consider cases arising under the Permanent Establishment articles of tax treaties, and both offices will coordinate and collaborate on such cases and on any other cases as appropriate.
Tax Coordination Agreement	An agreement (tax coordination or tax implementation) for coordinating tax administration between the IRS and a U.S. territory tax agency (i.e., American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands). Tax coordination agreements contain provisions allowing the competent authorities of the United States and the applicable U.S. territory to resolve by mutual agreement inconsistent tax treatment by the two jurisdictions. For additional information, see Rev. Proc. 2006-23 (or its successor).
Tax treaty	A convention governing income taxes to which the United States is a party and that has entered into force, together with its protocols, exchanges of diplomatic notes, memoranda of understanding, and competent authority arrangements. U.S. estate and gift tax treaties fall outside the scope of IRM 4.60.3. Any questions related to estate and gift tax treaties should be directed to TAIT or the Treaties Practice Network (as applicable, see IRM 4.60.2.3.3, Contacting the U.S. Competent Authority).
Treaties Practice Network	Practice Networks are communities of LB&I employees seeking to collaborate in areas of international tax compliance. Practice Networks are designed to provide Examination the technical assistance they need to manage their cases more efficiently, consistently, and with the highest degree of technical proficiency. The Treaties Practice Network provides Examination tools and resources to assist in identifying and analyzing tax treaty and tax coordination agreement issues. The Treaties Practice Network is managed by TAIT.

Exhibit 4.60.3-1 (Cont. 5) (09-13-2021)**Terms/Definitions/Acronyms**

Term	Definition
Treaty notification period	Under the MAP articles of certain tax treaties, notification to a competent authority is required within a specified period of time, that a request for competent authority assistance has been made to the other competent authority. See Rev. Proc. 2015-40, section 12, (or its successor) for additional information.
TTPO Practice Area	Treaty and Transfer Pricing Operations Practice Area
U.S. Competent Authority	Tax treaties and tax coordination agreements designate a competent authority for each country/ U.S. territory that is a party to the treaty/ agreement. The respective competent authorities administer the provisions of the tax treaty/tax coordination agreement. The U.S. Competent Authority is the LB&I Commissioner who, in matters relating to MAP, primarily acts pursuant to applicable delegation orders through two offices, APMA and TAIT. Generally, references in IRM 4.60.3 to the “U.S. Competent Authority” refer to APMA or TAIT (as appropriate) unless the context indicates otherwise.
U.S. territory	For purposes of this IRM, “U.S. territory” refers to a U.S. territory which has a tax coordination agreement in effect with the United States; specifically, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, and Puerto Rico (collectively, “U.S. territories”).
U.S. treaty partner	A country party to a tax treaty with the United States.