

Guide for the mutual agreement procedure pursuant to tax treaties (MAP)

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1 General information about the mutual agreement procedure (MAP)

- 1.1 A mutual agreement procedure is a legal arrangement that is based on the tax treaties. It is an instrument which shall ensure that states apply the tax treaties correctly. The term mutual agreement procedure is often abbreviated to MAP. The abbreviation MAP is used below.
- 1.2 MAP is a dispute resolution mechanism that taxpayers may invoke in individual cases. The main condition for using the mutual agreement procedure is that the taxpayer considers that the actions of one or both states result, or will result, for him in taxation not in accordance with the tax treaty.
- 1.3 The taxpayer himself must initiate the mutual agreement procedure by contacting the competent authority, i.e. those persons who have been authorised as competent authority under the treaty to enforce the procedure. For more information about the procedure and who is the competent authority in Norway see item 3. For the taxpayer a mutual agreement procedure is an alternative or a supplement to applying domestic remedies such as appeals or lawsuits.
- 1.4 There are several features that distinguish mutual agreement procedures from appeals and lawsuits. Mutual agreement procedures are a state-to-state process. It is the states that handle the issues through their competent authorities. The taxpayer is not directly involved in the process. The states are not obliged to resolve the issues dealt with under MAP. They are only obliged to endeavour to find a solution.
- 1.5 On the other hand a mutual agreement procedure may ensure that both states have the same understanding of and solution for the issue that is being handled. This will result in uniform tax treatment in both states and prevent double taxation.
- 1.6 This document provides guidance regarding the use of mutual agreement procedures in individual cases. The guidance is of a general nature, but it also provides specific guidance relevant for cases related to pricing of intra-group transactions and the attribution of profits to a permanent establishment.
- 1.7 Under the tax treaties the states may consult each other in order to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the tax treaty. These general MAP agreements are not dealt with here.
- 1.8 Most tax treaties also provide for the opportunity for the competent authorities to consult each other for the elimination of double taxation in cases not provided for in the tax treaty. This is not dealt with here either.
- 1.9 The provisions regarding MAP are contained in a separate article in the tax treaties. In general, the provisions are based on Article 25 in the OECD Model Tax Convention, although deviations occur. It is therefore important to examine the specific tax treaty. All exchanges of information and all discussions of the case between the competent authorities take place within the framework of the tax treaty's rules on the exchange of information.
- 1.10 An overview of Norway's tax treaties and some of the more recent general MAP agreements can be found here: www.fin.dep.no/skatteavtaler

2 Access to MAP

2.1 MAP is available when the taxpayer considers that the actions in one or both states result, or will result, in taxation that is not in accordance with the tax treaty. It is not a requirement for MAP that the action has resulted or will result in double taxation. MAP is not available when a taxpayer disagrees with the tax authorities' application of domestic tax legislation for reasons other than it being in conflict with the tax treaty. It is irrelevant whether the action has been carried out by the Norwegian tax authorities or by the tax authorities in the other state.

2.2 MAP may be relevant for obtaining a clarification of for instance the following issues:

- *Tax residence under the treaty:* In which state will the taxpayer be deemed to be resident according to the tax treaty when the taxpayer is resident and has worldwide tax liability in two states according to their domestic legislation, cf. Article 4 of the OECD Model Tax Convention.
- *The existence of a permanent establishment:* Does an enterprise that is resident in one state have a permanent establishment in the other state, cf. Article 5 of the OECD Model Tax Convention.
- *The attribution of profits to a permanent establishment:* How should profits be allocated to a permanent establishment that an enterprise resident in one state has in the other state, cf. Article 7 of the OECD Model Tax Convention.
- *The allocation of profits to associated enterprises:* How should the arm's length price of intra-group transactions between a Norwegian enterprise and an associated enterprise in the other state be determined, cf. Article 9 of the OECD Model Tax Convention.
- *Classification and taxation of profits and employment income:* Should income that an individual resident in one state earns in the other state be taxed as income from employment or as business profit, cf. Articles 7 and 15 of the OECD Model Tax Convention.
- *Taxation of pensions:* Is a pension that an individual resident in one state receives from the other state taxable in the state where the payment is made and/or the state of residence, cf. Articles 18, 19 and 21 of the OECD's Model Tax Convention.
- *Taxation of capital income:* Can income originating from one state and paid to a taxpayer in the other state be subject to withholding tax in the state where the payment is made.

2.3 As mentioned, MAP is available in transfer pricing cases between associated enterprises regulated by a tax treaty provision corresponding to Article 9 (1) of the OECD Model Tax Convention. The Norwegian competent authority will not refuse a request for MAP on the grounds that the tax treaty does not contain a provision regarding corresponding adjustment, cf. Article 9 (2) of the OECD Model Tax Convention.

2.4 The taxpayer may request for MAP and at the same time make use of domestic judicial remedies such as appeals and lawsuits. To avoid that the same issues are handled in parallel, the MAP process and the handling of an appeal or lawsuit must be co-ordinated. See item 10.

2.5 A taxpayer is not entitled to have a case handled in MAP if the request has been

submitted too late, when the taxpayer does not provide sufficient information or there are other procedural or substantive restrictions in the access to the MAP. This is described below. Other states may have different rules that prevent access to MAP. The taxpayer himself must check what applies in other states.

- 2.6 The Norwegian competent authority will not deny access to MAP where a taxpayer claims that an anti-abuse provision in a tax treaty is applied incorrectly by the tax authorities. The same applies when the taxpayer claims that the tax authorities have applied a domestic anti-abuse provision contrary to the treaty.
- 2.7 The fact that the administrative penalty has been imposed will not restrict the access to MAP. However, if the taxpayer wilfully or by gross negligence has submitted incorrect or incomplete information or failed to submit information, which as such satisfy the conditions for imposing increased additional tax, the Norwegian competent authority may, after a specific assessment, nevertheless deny access to MAP.
- 2.8 The Norwegian competent authority will not deny access to MAP when the tax assessment in one of the states is a result of a unified solution between the taxpayer and the tax authorities.

3 Where to submit a MAP request

- 3.1 A MAP request must be submitted to the competent authority in the state where the taxpayer is resident.
- 3.2 If the taxpayer is resident in both states according to domestic legislation, the request must be submitted to the state where the taxpayer considers himself resident according to the tax treaty. If the taxpayer considers he is being taxed in conflict with the provision on non-discrimination in the tax treaty, the MAP request may be submitted to the state where he is a national/citizen.
- 3.3 This can be illustrated with some examples:
- A Norwegian takes up permanent residence abroad and, according to domestic regulations, is considered to be resident and to have a worldwide tax liability both in Norway and in the state to which he has moved. A request for MAP must be submitted to the competent authority in the state where the taxpayer himself considers he is resident according to the provisions in the tax treaty, cf. Article 4 (2) of the OECD Model Tax Convention.
 - A person who moves abroad from Norway or moves to Norway from abroad must submit a MAP request to the competent authority in the state where he was resident in the year that concerns the case at hand.
 - A foreign enterprise is considered to have a permanent establishment in Norway, cf. Article 5 of the OECD Model Tax Convention. The enterprise disagrees. A MAP request must be submitted to the competent authority in the state where the enterprise is resident.
 - A foreign enterprise has a permanent establishment in Norway. Norwegian tax authorities increase the profits of the permanent establishment, cf. Article 7 of the OECD Model Tax Convention. The enterprise disagrees. A MAP request must be submitted to the competent authority in the state where the enterprise is resident.

3.4 As of 2020 there will be a change in several of Norway's tax treaties which will allow the taxpayer to choose which state (residence state or source state) to submit the MAP

3.5 In cases relating to transfer pricing between associated enterprises, the Norwegian enterprise can always submit a MAP request to the Norwegian competent authority. This applies irrespective of whether the income adjustment is made in Norway for the Norwegian enterprise or for the associated enterprise in the other state. The Norwegian competent authority will handle a transfer pricing case in MAP even if the MAP request has been submitted only to the other state in accordance with the regulations that request apply there. However, in transfer pricing cases it is good practice to send the MAP request to both states at the same time. A Norwegian enterprise can submit a MAP request to Norway regardless of whether the enterprise wants:

- an income adjustment in Norway to be waived or reduced;
- a corresponding income adjustment for the associated enterprise in the other state;
- an income adjustment in the other state to be waived or reduced; or
- a corresponding income adjustment for the Norwegian enterprise.

3.6 In cases relating to transfer pricing between associated enterprises other states may require that enterprises resident of that state must submit the MAP request to that state. The taxpayer must check what applies in the other state.

3.7 A MAP request to the Norwegian competent authority must be submitted to the following entities, which act as competent authority according to the type of case:

- MAP requests concerning transfer pricing between associated enterprises or the attribution of profit to permanent establishments, cf. Articles 9 and 7 of the OECD Model Tax Convention, must be submitted to:

The Norwegian Tax Administration
Large Business
Section MAP/APA
P.O. Box 9200 Grønland
NO - 0134 Oslo

- MAP requests concerning transfer pricing between associated enterprises that involve enterprises liable to the special tax under the Petroleum Tax Act, must be submitted to:

Ministry of Finance
Tax Law Department
P.O. Box 8008 Dep, NO - 0030 Oslo
Tel.: (+47) 22 24 44 31/33, e-mail: postmottak@fin.dep.no

- All MAP requests other than those mentioned above must be sent to the Ministry of Finance (Finansdepartementet) or the Directorate of Taxes (Skattedirektoratet):

Ministry of Finance
Tax Law Department
P.O. Box 8008 Dep, NO - 0030 Oslo

Tel.: (+47) 22 24 42 87 or (+47) 22 24 44 52, e-mail:
postmottak@fin.dep.no

Directorate of Taxes
Legal Department
P.O. Box 9200 Grønland
NO - 0134 Oslo
Tel.: (+47) 800 80 000 when calling from Norway. (+47) 22 07 70 00
when calling from abroad

- 3.8 If the MAP request relates to issues that fall under the responsibility of more than one Norwegian competent authority, the request must be submitted to the entity responsible for the main issue of the case. The most practical example of a case that are under the responsibility of different competent authorities, concerns whether a permanent establishment exists as well as the attribution of profit to such permanent establishment. If it is not clear where to send the MAP request, it should be submitted to the Ministry of Finance. The Ministry will ensure the co-ordination of the case in Norway.

4 The content of a MAP request

- 4.1 A MAP request must be submitted in writing. It can be sent by letter or e-mail or by any other available and approved channel for electronic communication.

- 4.2 The taxpayer must provide information about all circumstances that can be of significance to the case and give sufficient information to ensure that the case can be handled properly. What constitutes sufficient information will vary in different types of cases and from one case to another. As a minimum the MAP request must contain the information mentioned in 4.3 and 4.4. Less information is required for protective MAP requests, see 4.5-4.8. If the taxpayer does not provide sufficient information that ensure that the case can be handled properly, the request will be rejected. See item 6.

- 4.3 In all MAP requests the following information must be provided:

- a) The taxpayer's name and tax identification number and/or organisation number.
- b) The taxpayer's address and other contact information, and, if applicable, the power of attorney authorising a representative to act on behalf of the taxpayer.
- c) The income year(s) to which the case relates.
- d) The income that has been taxed not in accordance with the tax treaty.
- e) The applicable tax treaty and which treaty provision(s) that regulate(s) the issue concerned.
- f) An description of what the issues are.
- g) Relevant documentation from both states, for instance tax returns, tax assessments, amending decisions, appeals, administrative and court decisions.
- h) Necessary information to enable the Norwegian competent authority to decide whether the MAP request is received within the time limit, cf. item 5.

- i) Whether the case has been appealed by means of an administrative appeal or is subject to legal proceedings in Norway or the other state, as well as the status of any ongoing administrative or legal proceedings.
- j) Confirmation that the taxpayer has submitted all relevant information and will assist with further information if required.

4.4 Additional information in MAP cases relating to transfer pricing:

In addition to the information mentioned in 4.3, in cases relating to pricing of transactions between associated enterprises and cases regarding the attribution of profits to a permanent establishment, cf. Article 9 and Article 7 of the OECD Model Tax Convention respectively, the taxpayer must also provide the following information:

- a) Name and address, as well as organisation number or similar identification of the foreign taxpayer(s).
- b) An account of income adjustments in Norway and/or the other state, allocated by income year. All amounts must be stated in Norwegian kroner with specified exchange rates.
- c) A description of the intra-group transaction(s) to which the MAP request relates, as well as information about other intra-group transactions that can be of significance for the case.
- d) A copy of the taxpayer's transfer pricing documentation, including the master file (if prepared) and local files for affected entities. If there is no transfer pricing documentation according to the rules in § 8-11 in the Tax Administration Act (for instance because the taxpayer is exempted from this particular documentation requirement) the Norwegian competent authority may impose on the taxpayer an obligation to provide information corresponding to what would have been required under these rules.
- e) A functional and comparability analysis, including an overview and description of functions, significant assets and risks that each of the parties in the transaction(s) perform, own or control as well as specific information about intangible assets owned, transferred or of significance to the business.
- f) An account of the selection of transfer pricing method, including lists or extracts from accounts that substantiate the selected transfer pricing method.
- g) A short presentation of the taxpayer's/group's value chain.
- h) An overview of the group structure and an account of the affected enterprises' legal and operational relationships.
- i) Whether a MAP request has been sent to the other state in respect of the same case. A copy of that request must be attached.
- j) A copy of the financial accounts for the MAP years in both states, including financial accounts for a permanent establishment.
- k) Information on any bilateral or unilateral agreements on advance transfer pricing – Advance Pricing Agreements (APAs) – or any other agreement, advance ruling, etc., that is of significance to the case.
- l) Copy of any valuation reports, valuations etc. of significance to the case.
- m) Copy of intra-group or external agreements etc. of significance to the case.
- n) Information on whether the taxpayer in Norway has initiated an amendment

of the credit deduction for taxes paid abroad, an income deduction for foreign paid tax or a corresponding adjustment of the income comprised by the MAP request as a result of an increase abroad of the taxpayer's or the associated enterprise's income.

- 4.5 When a taxpayer (or an associated enterprise in the other state) has initiated national judicial remedies like appeal or court proceedings in Norway or abroad, the MAP request must include information on whether the taxpayer wants these processes carried out before starting the MAP. If this is the case, the taxpayer may submit a protective MAP request.
- 4.6 The taxpayer may also submit a protective MAP request when it is likely that taxation not in accordance with the tax treaty will occur even before the taxation has been carried out by way of a tax assessment. This is particularly relevant where national statutes of limitation may limit access to MAP or the implementation of MAPs and the tax treaty does not have provisions that override these statutes. In Norway there are no such national limitations, see 5.5 and 9.6.
- 4.7 When submitting a protective MAP request it is sufficient to give an account of the issue and the information mentioned in 4.3 a)-e). In transfer pricing cases between associated enterprises the MAP request must also include the information mentioned in 4.4 a). The Norwegian competent authority will inform the competent authority in the other state about the protective MAP request.
- 4.8 When the circumstances that justify a protective MAP request no longer exist, the taxpayer must either submit a complete MAP request fulfilling the requirements mentioned in 4.2-4.4 or inform the competent authority that the MAP request is withdrawn. The competent authority will assess whether the conditions for handling the case are met, see 6.1, when they have received a complete MAP request.
- 4.9 In Norway, MAP requests and documents are accepted in Norwegian, English, Danish or Swedish. If the request or the documents are in another language, the taxpayer may be required to have them translated and that an authorised translator performs the translation.

5 Time limits for requesting a MAP

- 5.1 Most of Norway's tax treaties contain a time limit for requesting a MAP, cf. Article 25 (1), final sentence, of the OECD Model Tax Convention. The time limit is generally three years from the first notification of the action resulting in taxation not in accordance with the treaty. Some tax treaties do not include a time limit, while others contain other time limits than three years. In the Nordic tax treaty the time limit is five years. The taxpayer must check the time limit in the applicable tax treaty. If the taxpayer submits a MAP request after the expiry of the time limit, the request will be rejected.
- 5.2 In Norway the time limits for requesting MAP are described in 5.3-5.5. Other states may have other time limits. The taxpayer must comply with the time limits in both states involved in the MAP case.
- 5.3 The following principles apply for calculating when the time limits for requesting a MAP start:
- The time limit is calculated from the time the taxpayer became aware or

should have been aware that the income in question has been taxed in a manner that is not in accordance with the tax treaty. This is normally when the taxpayer receives notification of the tax assessment in Norway or similar information from another state. If the tax assessment is finalised at a later point in time than the regular tax assessment (for example as a result of an amendment case), the time limit will be calculated from the date the taxpayer became aware or should have become aware of the decision.

- The starting point for determining the time limits for requesting a MAP is not postponed where a taxpayer has filed an amended tax return. However, if the taxpayer has loyally (bona fide) submitted an amended tax return in order to increase his taxable income in Norway, the time limit will be calculated from when he receives a decision or a tax assessment notice corresponding to the amendment.
- If the taxpayer appeals the tax office's decision or files a lawsuit against the decision, the time limit is calculated as from the tax authorities' decision in the first instance. Administrative appeal or court proceedings will therefore not postpone the starting point for the time limit.
- In cases concerning taxes deducted at source on dividends, interest or royalties the time limit is calculated from the time when the payer has deducted the withholding tax.

5.4 The time limit is cut off when the MAP request has been received by the competent authority in accordance with the provisions in the tax treaty on where a MAP request may be submitted. See item 3. A protective MAP request as described in 4.5 and 4.6 also cut off the time limit. In transfer pricing cases between associated enterprises the Norwegian competent authority will consider the time limit cut off when the MAP request has been received by the competent authority in one of the states.

5.5 If there is no time limit in the tax treaty MAP provision, no time limit applies.

6 Initiating a MAP

6.1 When the Norwegian competent authority receives a MAP request, it will assess whether the conditions for handling the case are met. This includes an assessment of whether:

- the case relates to an issue that is regulated by the tax treaty;
- the request is made by the correct taxpayer;
- the request has been sent to the correct competent authority;
- the request has been received within the applicable time limit; and/or
- the request contains sufficient information and relevant documentation.

6.2 Before the competent authority denies a MAP request because of insufficient information, the taxpayer will be given the opportunity to provide the additional information and documentation that is considered necessary in order for the case to be handled properly. The competent authority will set a reasonable time frame for providing the information. This time frame will reflect the complexity of the case and the amount of the information requested.

- 6.3 After the request has been assessed, the Norwegian competent authority will inform the taxpayer whether or not the case will be handled in a MAP.
- 6.4 The Norwegian competent authority will generally notify the other state's competent authority when receiving a MAP request. A MAP request will not be rejected as unjustified or as having insufficient information without the other state's competent authority being informed.
- 6.5 When the MAP request is caused by an action taken by Norwegian tax authorities, the Norwegian competent authority will not normally start the MAP before the tax authorities have reached a decision in the case. If a MAP request is submitted before such a decision is reached, this will cut off the time limit for requesting a MAP (see 4.6), even though the MAP process does not start until after the decision is made.
- 6.6 When the Norwegian competent authority has decided that the case can be handled in a MAP, it must first assess whether the taxation not in accordance with the tax treaty can be solved unilaterally in Norway. If this is possible, the competent authority will ensure that the Norwegian tax assessment is amended accordingly. If the case cannot be resolved unilaterally in Norway, the Norwegian competent authority and the competent authority in the other state shall endeavour to agree on how to avoid the taxation not in accordance with the tax treaty.

7 The taxpayer's role in the MAP process

- 7.1 A MAP is an intergovernmental arrangement where the competent authorities in both states will try to agree on how to avoid taxation not in accordance with the tax treaty. The taxpayer is not involved in this process. However, it is the taxpayer who initiates a MAP case by requesting assistance and the taxpayer who can request termination of the process at any time. In addition the taxpayer must contribute by providing sufficient information in order for the process to run effectively. The taxpayer may be asked to provide further information, both before the case is accepted as a MAP case and after the process has started.
- 7.2 When the competent authorities have agreed on how to avoid the taxation not in accordance with the tax treaty, the taxpayer will be presented with the results for approval, see item 9.

8 Arbitration in MAP cases

- 8.1 The competent authorities are not obliged to agree on a solution in a MAP case. They are only obliged to endeavour to reach agreement. In some tax treaties the MAP provision has been extended with regulations on arbitration allowing the taxpayer to require that unresolved issues be determined through arbitration. This applies if the competent authorities cannot agree on a solution in MAP within a specified time limit.
- 8.2 As of today there are provisions on arbitration in Norway's tax treaties with the Netherlands, the UK and Switzerland. The provisions on arbitration in the different tax treaties may differ with respect to time limits, access to arbitration etc. The taxpayer must check whether the relevant tax treaty include a provision on arbitration and the conditions for applying it.

9 Conclusion of a MAP agreement and implementation of the solution

- 9.1 When the competent authorities have reached agreement on a solution, the result will be presented to the taxpayer. The taxpayer can choose to accept or reject the agreed solution.
- 9.2 If the taxpayer accepts the solution, the tax assessment in Norway and/or the other state will be amended. If the amendment concerns the Norwegian tax assessment, the Norwegian competent authority will inform the tax office on how the assessment should be amended in order for it to correspond with what has been agreed under MAP.
- 9.3 If additional tax has been imposed in Norway and the agreed solution results in an elimination of or a partial reduction of the Norwegian income adjustment, the additional tax will either be dropped or reduced correspondingly.
- 9.4 As a condition for implementing an agreed MAP solution, the Norwegian competent authority will require that the taxpayer withdraws any appeal or lawsuit in the case.
- 9.5 If the taxpayer does not accept the solution, it will not be implemented. The taxpayer can then choose to pursue the case further through regular administrative and/or legal proceedings in Norway or the other state, as far as these options are still available.
- 9.6 According to most of Norway's tax treaties any MAP agreement reached shall be implemented notwithstanding any national statutes of limitation. If the tax treaty does contain such a provision, Norway may still implement the MAP solution regardless our national statutes of limitation. However, national statutes of limitation in the other state may prevent implementation of the MAP solution in that other state.

10 The interaction between MAP and administrative appeals and lawsuits

- 10.1 The taxpayer can request a case to be handled in MAP even if the taxpayer has also taken steps to make use of national judicial remedies such as administrative appeals or lawsuits. A MAP request will not prevent the taxpayer from having appeals and court proceedings conducted in Norway. Statutes of limitation for appeals or lawsuits are not cut off when the taxpayer requests a MAP. Neither do appeals nor lawsuits cut off the time limit for requesting a MAP. It is not a requirement for requesting MAP that the case has been appealed or that the taxpayer has taken steps for court proceedings.
- 10.2 It is neither desirable nor appropriate to handle the same issue in parallel under MAP and through administrative appeals or lawsuits. It is therefore necessary to co-ordinate the processes. This is managed according to two main principles:
- The taxpayer determines his choice of judicial remedy;
 - Competent authorities determine what an appropriate process in MAP cases is, including when the MAP process should start.
- 10.3 When a taxpayer requesting a MAP has **appealed** against the Norwegian tax

assessment, the taxpayer himself may choose whether the appeal process or the MAP should be carried out first, see 4.5. An exemption applies in cases according to the Petroleum Tax Act where the Petroleum Tax Appeal Board is the appeals' body. In such cases, the Norwegian competent authority will normally require that the appeal proceedings are completed before the MAP procedure can start. In exceptional cases, the Norwegian competent authority can also on other occasions determine that the appeal proceedings must be completed before the MAP procedure starts. This is particularly relevant when it appears probable that the factual aspects of the case will be significantly better illustrated through the appeal.

- 10.4 If the taxpayer wants to proceed with the MAP first, the appeal will be put on hold until the MAP case has been processed. If the case is resolved under MAP, the competent authority will require the taxpayer to withdraw the appeal in order for the MAP solution to be implemented. If the MAP does not resolve the case or the taxpayer does not accept the outcome of the MAP, the appeal proceedings can be resumed. In this case, the competent authority will notify the appeals' body that the MAP has been completed without achieving a solution.
- 10.5 If the appeal is conducted first, the MAP will be put on hold until a decision is reached in the appeal case. If the taxpayer, after the appeal decision, still maintains he is subject to taxation not in accordance with the tax treaty, the Norwegian competent authority will launch the MAP in the normal manner. If the taxpayer has submitted a protective MAP request, see 4.5, the taxpayer must submit a complete MAP request before it can be assessed for further treatment.
- 10.6 If the taxpayer **brings a case before the court** in Norway in order to amend or repeal a tax assessment decision that relates to the same issues as those forming the basis for a MAP request, the taxpayer must decide whether the court proceedings or the MAP should be completed first.
- 10.7 If the taxpayer wishes to pursue the MAP first, the legal case can be suspended in accordance with the rules on suspension in the Civil Procedure Act. If the case is resolved in the MAP, the taxpayer will be required to withdraw the legal proceedings in the court as a condition for the implementation of the agreed MAP solution in Norway. If the case is not resolved through the MAP procedure, the taxpayer can request that the legal proceedings be resumed.
- 10.8 If the taxpayer chooses to pursue a case in the Norwegian courts resulting in a decision on the issues covered by the MAP request, the Norwegian competent authority will not deviate from the result of the court proceedings in a subsequent MAP regarding the same issues. The same applies where the taxpayer has initiated court proceedings and, based on the lawsuit, settles the case through a judicial or non-judicial agreement with the tax authorities. In such cases the Norwegian competent authority will inform the competent authority of the other state on the outcome in Norway. It is up to the competent authority of the other state to decide whether the outcome in Norway gives rise to amendments in that other state.

11 Recurrent issues and Advance Pricing Agreements

- 11.1 In connection with a MAP case that initially is restricted to one or more income years the taxpayer may wish at the same time to obtain clarification of the same issue regarding subsequent income years for which the taxpayer has already submitted tax returns (recurrent issues). This is particularly relevant when the factual circumstances are unchanged. The Norwegian competent authority can, at the

taxpayer's request and following a concrete assessment, agree to also handle such subsequent income years in the MAP process provided that the competent authority of the other state agrees to such a procedure.

- 11.2 In cases on transfer pricing between associated enterprises or allocation of profits to a permanent establishment the taxpayer can also ask the Norwegian competent authority to enter into an Advance Pricing Agreement (APA) with the competent authority in the other state. This requires that APAs are also available in the other state. A bilateral APA will provide an advance clarification of which prices and conditions between associated enterprises that will be accepted by the tax authorities in both states for a set future time period. In certain cases, an APA can also cover previous income years ("roll-back").