

# Tax Hotline

February 24, 2003

## CENTRAL BOARD OF DIRECT TAXES NOTIFIES PROCEDURE FOR MAP CASES

The Mutual Agreement Procedure ("MAP") as envisaged under the Double Tax Avoidance Agreements ("DTAA") entered into by India with other countries was to some extent handicapped by the absence of well-defined procedure under the Income Tax Act, 1961 ("ITA"). Notification 31 of 2003, dated February 6, 2003, issued by the Central Board of Direct Taxes is aimed at addressing this lacuna by laying down the procedure to be adopted by a resident taxpayer when making an application under MAP to the Indian Competent Authority ("ICA") as well as the procedure that the ICA is required to follow when it receives a reference from the Competent Authority of a country with which India has entered into a DTAA.

The Notification enjoins upon the ICA to resolve the case in accordance with the DTAA which has been conferred with the power to call for and examine the relevant records. The resolution arrived at would have to be communicated to the respective Chief Commissioner or the Director-General of Income-tax, as the case may be. The Assessing Officer would have to give effect to the resolution within ninety days of receiving the communication, if the assessee:

- accepts the resolution taken under mutual agreement procedure; and
- withdraws his appeal, if any, pending on the issue which was the subject matter for adjudication under MAP.

The amount of tax, interest or penalty already determined would be adjusted after incorporating the decision taken under MAP in the manner provided under the ITA or the Rules made thereunder, to the extent they are not contrary to the resolution arrived at.

It is pertinent to note that on September 25, 2002, the Competent Authorities of India and US entered into an agreement to facilitate efficient processing of MAP cases. Considering the difficulty faced by taxpayers pending settlement under MAP, this agreement provides for deferring assessment or suspending collection of tax, interest or penalties, for any taxable years, which are the subject of MAP proceedings.

Source: Notification 31 of 2003, dated February 6, 2003

## DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

## Research Papers

### Clinical Trials and Biomedical Research in India

April 22, 2025

### Structuring Platform Investments in India For Foreign Investors

March 31, 2025

### India's Oil & Gas Sector— at a Glance

March 27, 2025

## Research Articles

### 2025 Watchlist: Life Sciences Sector India

April 04, 2025

### Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

### INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

## Audio

### CCI's Deal Value Test

February 22, 2025

### Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia |

**Vaibhav Parikh, Partner, Nishith  
Desai Associate on Tech, M&A, and  
Ease of Doing Business**

March 19, 2025

**SIAC 2025 Rules: Key changes &  
Implications**

February 18, 2025

