

# New option to handle double taxation disputes (1/51/19)

From 23 October 2019, taxpayers have a new means of preventing double taxation in their cross-border transactions: the mutual agreement procedure (MAP). The Taxes and Duties Act has been amended to incorporate rules laid down by EU Directive 2017/1852 and the Arbitration Convention.

## The Taxes and Duties Act

This piece of legislation enables taxpayers to approach the tax authority if the taxation of income and capital results in one or more of the following circumstances:

1. an additional tax charge;
2. an increase in the tax charge;
3. the tax authority either does not recognise or reduces a loss the taxpayer could use to reduce taxable income.

Any taxpayer (a business or an individual) acquires this right after they have suffered double taxation, for example, following a tax audit decision.

An MAP is based on a claim the taxpayer files with the competent authorities of all the countries whose interpretation has caused double taxation. Only a claim that deals with matters and interpretations arising from double tax treaties or the Arbitration Convention will be accepted.

A claim may also be filed if the taxpayer plans to challenge or has already challenged the tax authority's decision according to Latvia's administrative procedure rules. A claim is to be filed within three years. The tax authority has six months after receiving a claim that relates to a matter in dispute, or if more details are sought, after receiving such details, to decide about accepting or refusing the claim. If the competent authorities of all the countries agree to start an MAP, the procedure is to be completed within two years after the claim was accepted by the last country concerned. This period may be extended by another year if the competent authority of the claimant's country requires this.

## An advisory commission

In certain cases, an advisory commission may be set up and help settle the dispute. The advisory commission is made up of the competent authorities' representatives and independent authoritative persons duly listed by the member states. The advisory commission has six months to examine the issue and issue an opinion on how it should be resolved.

This procedure is expected to be used for settling disputes over the application of treaties and conventions, for example, where an appropriate split of profits between countries (a transfer pricing issue) is involved.