

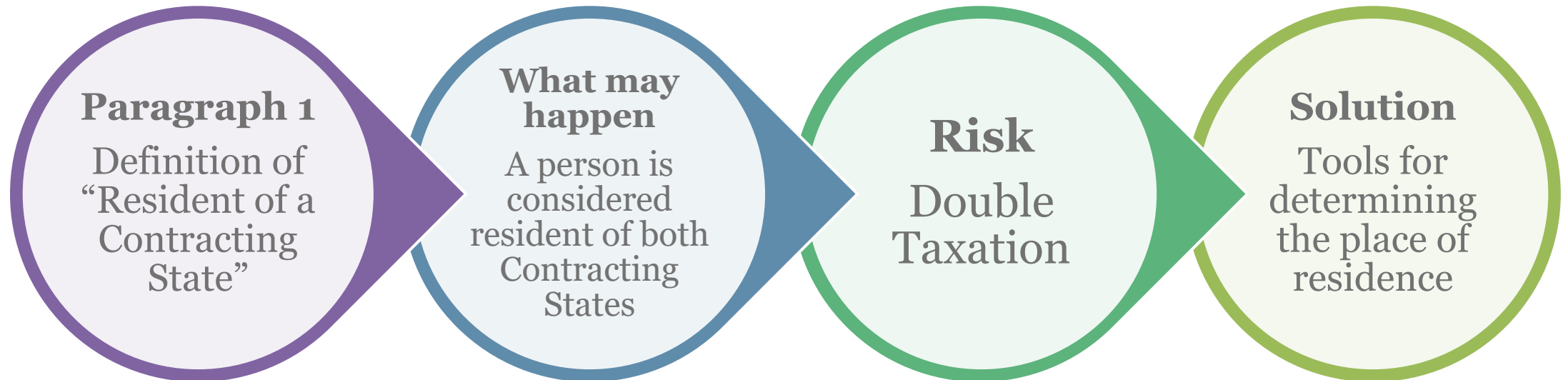


Navigating Tax Residency Challenges: Insights From The MAP Perspective

10 December 2025
IOTA digital workshop



Quick Overview: Article 4 of the OECD Model Tax Convention





Quick overview: What is a mutual agreement procedure (MAP)?



Art.
25(1)

« Where a person considers that the **actions** of one or both of the Contracting States result or will result for him in **taxation not in accordance** with the provisions of this Convention»

Art.
25(1)

« ... he may, **irrespective of the remedies** provided by the domestic law of those States, **present his case to the competent authority**»

Art.
25 (2)

« The competent authority shall endeavour [...] to **resolve the case** by mutual agreement [...] with a view to the **avoidance of taxation** which is **not in accordance** with the Convention»



Quick overview: What is a mutual agreement procedure (MAP)?



Art.
25(2)

« The **competent authority** shall endeavour [...] to resolve the case by mutual agreement »

Art.
25(4)

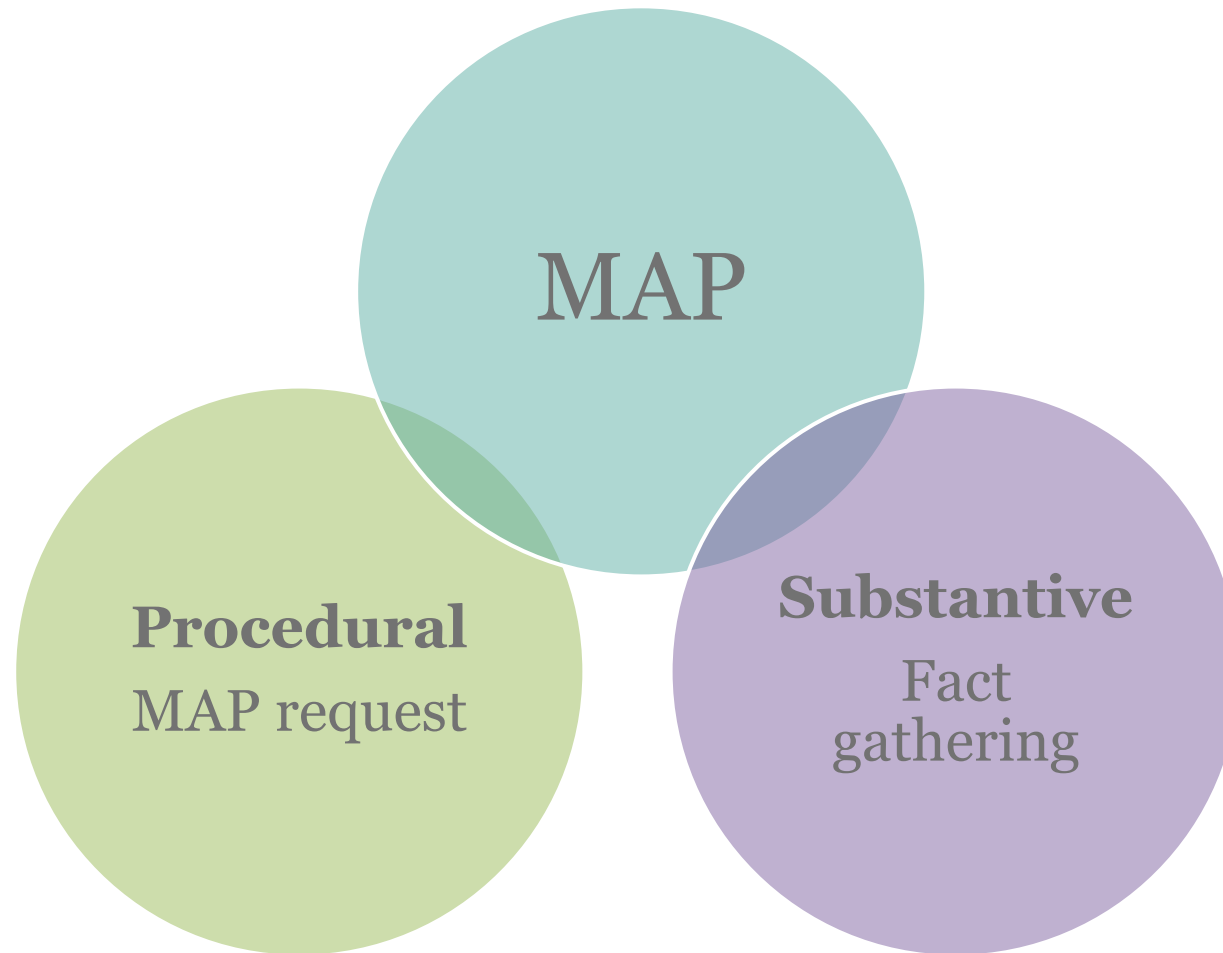
« The competent authority [...] may **communicate** with each other **directly** »

Art. 3
(1)(f)

« The term “competent authority” means: [...]” generally the Minister of Finance or authorise representative



Main issues faced by jurisdictions in MAP





Procedural issue: Requirement for a taxpayer-initiated MAP?

Art. 4, § 2,
(d) DTC

- Competent authorities “*shall settle*” the question of residence by mutual agreement

§ 24.2
Comm. Art 4

- **Article 4, § 3:** « A determination under § 3 will *normally* be requested by the person concerned... »

Article 25
DTC

- MAP initiated by a person presenting his case to the competent authority(ies)

Issue

- Some jurisdictions do not require a MAP request from the taxpayer
- While others stick to the usual requirements under Article 25 OECD MTC

Consequence

- No mutual agreement reached
- Double taxation maintained



How to prevent these issues?



Think and communicate early



Try and reach a common understanding of the requirements under the DTA



List the information needed to discuss the case



React quickly when issues arise



Substantive issue: Gathering evidence



Article 4 § 2 (individuals)

- Permanent home
- Personal and economic ties
- Habitual abode
- Nationality



Article 4 § 3 (legal entities)

- Place of effective management
- Place of incorporation or constitution



Substantive issue: Gathering evidence

Challenges in accessing information

- Limited exchange of information between jurisdictions
- Competent authority's limited power
- Difficulty in obtaining foreign records
- Non cooperative taxpayer

Complexity of residency criteria

- Tie-breaker rules rely on subjective elements
- Need for detailed personal and economic facts hard to gather and verify
- Multiple factors to be considered at the same time



How to cope with this issue?

Cooperate with tax auditors

- Main source of information
- Limit: Competent authorities must stay independent from the tax audit department

Cooperate more with treaty partners

- Build trust, open communication and reciprocity with treaty partners
- Cooperating with counterparts facilitates information sharing

Provide clarity on residency criteria

- Agreement on standardised documentation requirements with main treaty partners
- Agreement on specific issues



THANK YOU!