

This document is a translation of the original Japanese-language FAQ. The Japanese original is the official text.

The Simplified and Streamlined Approach (FAQ)

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National Tax Agency, Japan

Corporate Number 7000012050002

Definition of Terms

The meanings of the terms used herein are as follows:

Term	Definition
ASMT	The Act on Special Measures concerning Taxation.
Foreign-related party	A foreign-related party prescribed in Article 66-4(1) of the ASMT.
Foreign-related transaction	A foreign-related transaction prescribed in Article 66-4(1) of the ASMT.
Arm's length price	Arm's length price prescribed in Article 66-4(1) of the ASMT.
Method of calculation of arm's length price	The calculation method listed in each Item of Article 66-4(2) of the ASMT.
Amount B Guidance	OECD/G20 Base Erosion and Profit Shifting Project Pillar One – Amount B , published in February 2024.
SSA	The simplified and streamlined approach prescribed in the Amount B Guidance.
covered jurisdiction	A jurisdiction that satisfies one or more of the criteria (a) through (c) set out below. (a) Low- and middle-income IF jurisdictions using the World Bank Group country classifications by income level, excluding EU, OECD, and G20 member countries. (b) Extend to low- and middle-income IF jurisdictions that are OECD and G20 member countries that otherwise satisfy the first criterion and that expressed to the Inclusive Framework a willingness to apply Amount B by March 2024. (c) Any non-IF member that meets the first criterion and expresses to the Inclusive Framework a willingness to apply Amount B and has received approval by the Inclusive Framework. The list of covered jurisdictions, as published on the OECD website, will be reviewed every 5 years. http://www.oecd.org/content/dam/oecd/en/publications/support-materials/2024/02/pillar-one-amount-b_41a41e1e/statement-covered-jurisdiction-definition-inclusive-framework-commitment-amount-b.pdf Note: The OECD website referenced above does not indicate which jurisdictions have implemented the SSA.
CDOTP	Commissioner's Directive on the Operation of Transfer Pricing (Administrative Guidelines)
APA	APA prescribed in Chapter 1-1(40) of the CDOTP.

Tax treaty	Convention or agreement Japan concluded for the avoidance of double taxation and/or prevention of fiscal evasion with respect to taxes on income, prescribed in the proviso to item 12-19 of Article 2 of the Corporation Tax Act.
MAP	Mutual agreement procedure prescribed in Chapter 1-1(39) of the CDOTP.
Transfer Pricing Document	Transfer Pricing Document prescribed in Chapter 3-5 of the CDOTP.

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Outline of the Simplified and Streamlined Approach

Q1. What is the simplified and streamlined approach (SSA)?

- A. The OECD/G20 Inclusive Framework on BEPS works on tax challenges arising from the digitalization of the economy. As one of the solutions, the SSA is designed to simplify the application of transfer pricing rules with regard to baseline marketing and distribution activities which satisfy certain criteria. In particular, it identifies in-scope baseline marketing and distribution transactions by applying quantitative criteria, and approximates an arm's length outcome based on the pricing matrix.

According to the Amount B Guidance, jurisdictions can choose to apply the SSA for in-scope transactions of tested parties in their jurisdictions for fiscal years commencing on or after 1 January 2025.

For the time being, Japan does not implement the SSA.

Calculation of arm's length price

Q2. In a case where a foreign-related transaction has been priced in accordance with the SSA for the purpose of the transfer pricing application in a foreign jurisdiction, can a foreign-related party located in Japan use the SSA in the same manner for the purpose of the application in Japan?

- A. No. Japan has not implemented the SSA. Accordingly, the arm's length price is supposed to be calculated with the methods of calculation of the arm's length price prescribed under the existing Japanese transfer pricing regulations, irrespective of the approach applied in the foreign jurisdiction.

This is regardless of whether the foreign jurisdiction is a covered jurisdiction or not.

Possibility of requesting an APA

Q3. Is it possible to request an APA in which the outcome under the SSA is treated as the arm's length price for a foreign-related transaction with a foreign-related party (such as a subsidiary) located in a foreign jurisdiction in which the SSA is implemented?

- A. No. Japan has not implemented the SSA. Accordingly, every single APA request is supposed to be made based upon the methods of calculation of the arm's length price prescribed under the existing Japanese transfer pricing regulations.

This is regardless of whether the foreign jurisdiction is a covered jurisdiction or not.

Request for MAP when double taxation arises due to the application of the SSA in a foreign Jurisdiction

Q4. When double taxation arises due to the application of the SSA to a foreign-related transaction with a foreign-related party (such as a subsidiary) located in a foreign jurisdiction, is it possible to request a MAP?

- A. Yes. When double taxation arises due to the application of the SSA in a foreign jurisdiction,

and if there is a bilateral tax treaty in effect between Japan and the foreign jurisdiction in which a foreign-related party is located, a request for MAP can be made pursuant to the provisions of the bilateral tax treaty.

This also applies in cases where the two entities - one in Japan and the other in the foreign jurisdiction - file their tax returns using different transfer pricing methods, causing double taxation, if there is a bilateral tax treaty in effect between Japan and the foreign jurisdiction.

The Japanese competent authority will deal with MAP consultations and make an effort to solve double taxation cases based upon the methods of calculation of the arm's length price prescribed under the existing Japanese transfer pricing regulations. This policy is applied regardless of whether the foreign jurisdiction is a covered jurisdiction or not.

Since the Amount B Guidance states that, subject to their domestic legislations and administrative practices, jurisdictions commit to respect the outcome determined under the SSA to in-scope transactions where such approach is applied by covered jurisdictions where there is a bilateral tax treaty in effect between the relevant jurisdictions, the Japanese competent authority will deal with cases in line with the aforementioned guidance, subject to the Japanese domestic legislations and administrative practices.

Transfer Pricing Documents

Q5. Do transfer pricing documents that have been prepared based on the SSA in a foreign jurisdiction where a foreign-related party (such as a subsidiary) is located meet the reporting requirements under the existing Japanese transfer pricing documentation rules?

A. No. Transfer pricing documents that have been prepared based on the SSA do not meet the reporting requirements under the existing Japanese transfer pricing documentation rules. Therefore, taxpayers are supposed to prepare/obtain and store documents consistent with the rules and submit them upon the Japanese tax authority's request.

However, even if the transfer pricing documents are prepared in a relevant country in which the SSA is implemented, such transfer pricing documents can be considered compliant with the requirements under the Japanese transfer pricing documentation rules if they also contain the analysis and determination of the arm's length price based upon the methods of calculation prescribed under the existing Japanese transfer pricing regulations, and if the outcomes of such determination are consistent with those obtained under the SSA.

This treatment is applied regardless of whether a foreign jurisdiction is a covered jurisdiction or not.