

# Implementation of Bilateral Advance Pricing Agreement (BAPA)

Date of Presentation: Day-Month-Year

**46<sup>th</sup> SGATAR Meeting**

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# Agenda

- ❑ Why Implements APA or BAPA?
- ❑ Ruling
- ❑ Procedure of Application and Auditing
- ❑ Case Illustration
- ❑ Controlled Transactions
- ❑ Assessment and Negotiation
- ❑ Conclusion



# Why Implements APA or BAPA ?

## Tax Administration

- Reduction of administration and audit cost

## Taxpayer

- Certainty of tax outcome
- Removal of an audit threat
- Reduction of compliance cost

# Ruling

## Criteria

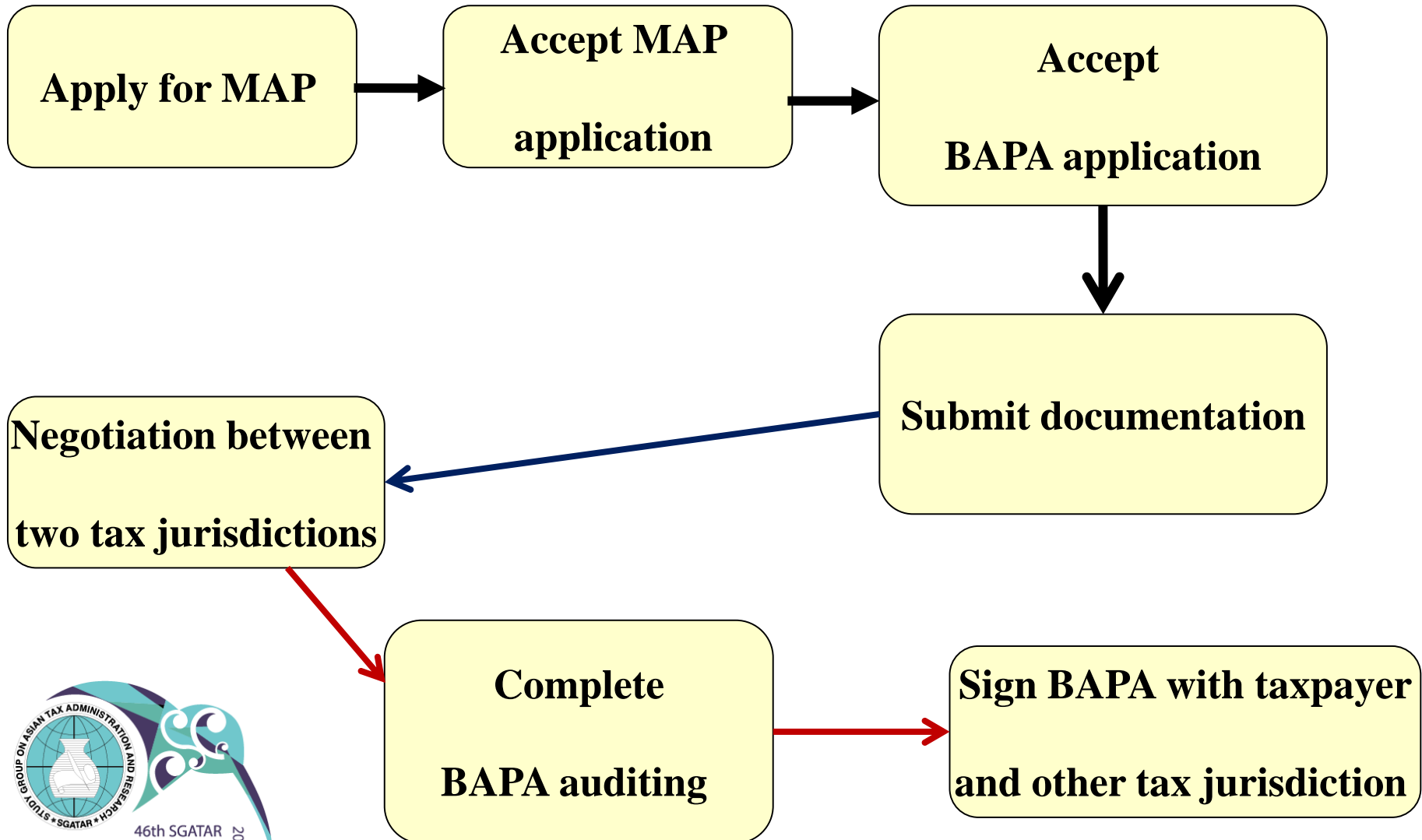
- Total amount of transaction over the APA term
- Annual amount of transaction

No significant tax evasion for the past 3 yrs

Submission of documentation required

Pre-filing meeting is available

# Procedure of Application and Auditing



# Case Illustration

- ❑ Corp S: MNE in country S
  - Providing world-famous S system machine
  - Taking 80% market share around the world
  - Global R&D centers, including Chinese Taipei
- ❑ Corp T: Subsidiary in Chinese Taipei
  - Providing technical service for Asian customers

# Case Illustration (continued)

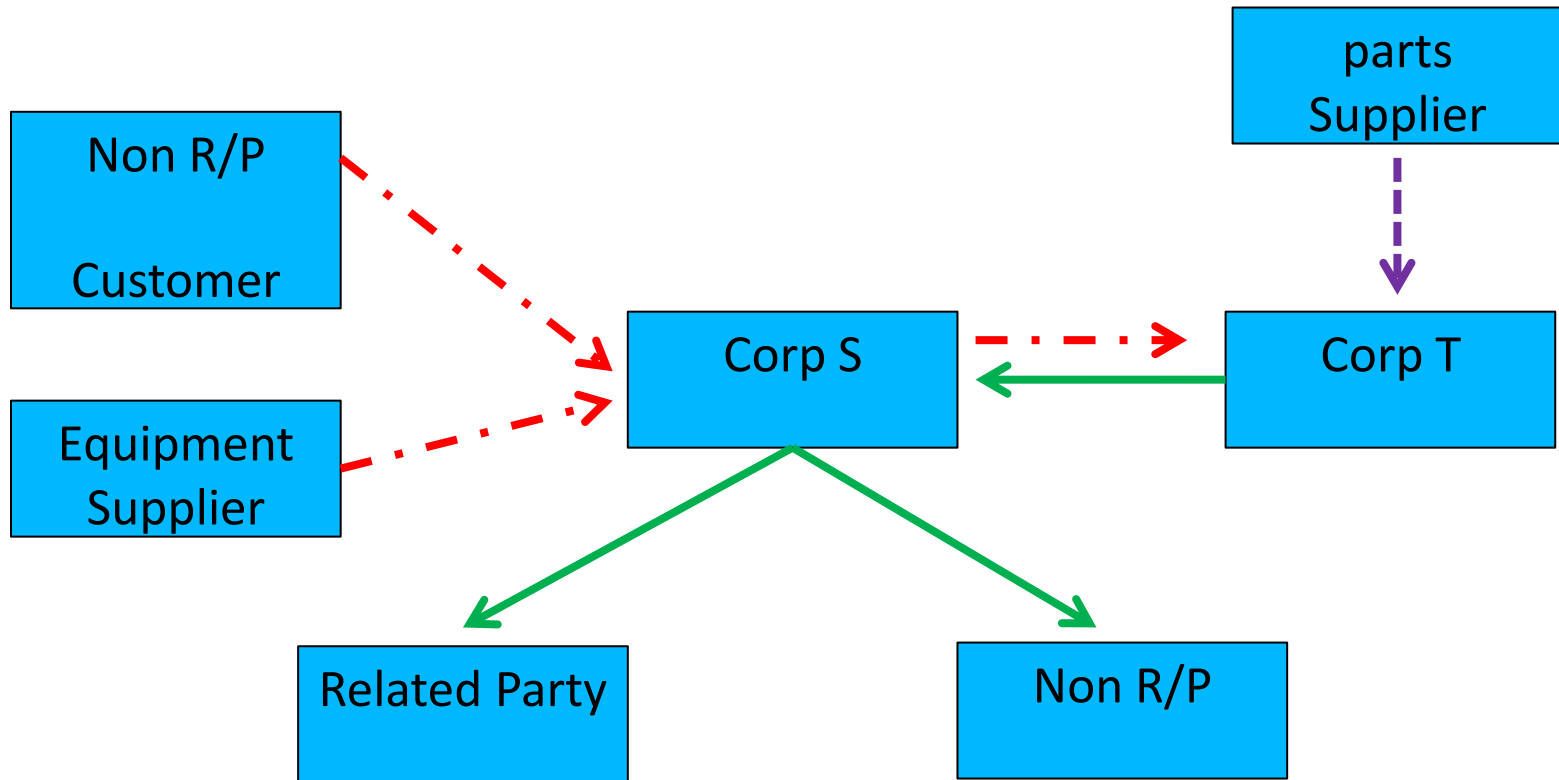
Name of company	Function performed	status
<p><b>Corp S</b></p>	<p>Perform main function</p> <p>Bear main risk</p> <p>IP owner of MNE group</p> <p>Asset owner (equipment &amp; parts)</p>	<p>Full-fledged</p>
<p><b>Corp T</b></p>	<p>Simply technical service provider</p> <p>Not engaging in R&amp;D</p>	<p>Service provider</p>

# Controlled Transactions

Transactions		TP method used and range of arm's length	Benchmark of tested party	Outcome
Provision of services- Corp T's BAPA report	Renovation of second-hand equipments	TNMM (2.5, 7.5) (median : 4.5)	5.0% (term test) Markup on total cost	In line with Arm's Length Principle
	Renovation of parts	TNMM (2.5, 7.5) (median : 4.5)	5.0% (term test) Markup on total cost	In line with Arm's Length Principle



# Function Analysis-Transaction of Renovation of Equipments



---> Second-hand Equipment

---> Parts Outsourced

—> Renovated Equipment

R/P : Related Party

# Assessment and Negotiation

- ❑ Tax authorities in Chinese Taipei
  - 5% mark-up not in line with ALP
  - Cost base not consistent with non-R/P transaction practice, including cost of parts outsourced
  - Unreliable comparables with inappropriate standard industrial classification (SIC) code
- ❑ Tax authorities in country S
  - Cost of parts outsourced is financed by Corp S
  - Unreliable comparables

# Conclusion

- ❑ Tax authorities in Chinese Taipei
  - Replace comparables
  - Range of arm's length: (14%, 19%)
- ❑ Tax authorities in country S
  - Replace comparables
  - Range of arm's length: (5%, 13%)
- ❑ Deal done
  - Mark-up rate: 10%



# Thank You

