

Dominican Republic Dispute Resolution Profile

(Last updated: 20.09.2019)

General Information

- **Dominican Republic tax treaties are available at:**

<https://dgii.gov.do/legislacion/acuerdos/Paginas/default.aspx>

<https://www.hacienda.gob.do/sobre-nosotros/marco-legal/#convenios>

- **MAP request should be made to:**

Mrs. Nieves Vargas,
Head of International Cooperation and Information Exchange.
Dirección General de Impuestos Internos - DGII
Av. México #48, Gascue,
Santo Domingo, Dominican Republic (10204)
Telf. 809-689-2181, ext: 2352 / Email: nvargas@dgii.gov.do

- **APA request should be made to:**

Dirección General de Impuestos Internos - DGII
Large Taxpayers Management
Transfer Pricing Department
Av. México #48, Gascue,
Santo Domingo, Dominican Republic (10204)

Dominican Republic Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
A. Preventing Disputes				
1.	Are agreements reached by your competent authority to resolve difficulties or doubts arising as to the interpretation or application of your tax treaties in relation to issues of a general nature which concern, or which may concern, a category of taxpayers published?	No	The consultations to solve interpretation doubts or relative application consultations of double taxation treaties made to the tax administration are not of public domain.	-
2.	Are bilateral APA programmes implemented? If yes:	Yes	Article 281 Bis of law 253-12, Anticipated Pricing Agreements (APA) allows that agreements are made in coordination with the other countries' administrations (Bilateral or multilateral APA).	<u>Ley 253-12 sobre el Fortalecimiento de la Capacidad Recaudadora del Estado y el Desarrollo Sostenible</u> – see Article 281 Bis.
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	No	Article 14 of the 78-14 regulation on transfer pricing indicates that the taxpayers will be able to request an APA within the first three (3) months of the fiscal year which they want to take in.	<u>Reglamento 78-14 sobre Precios de Transferencia</u> – see Article 14
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	Yes	Article 14 of the 78-14 regulation on transfer pricing indicates that the taxpayers will be able to request an APA within the first three (3) months of the fiscal year which they want to take in.	<u>Reglamento 78-14 sobre Precios de Transferencia</u> – see Article 14
c.	<ul style="list-style-type: none"> Are rules, guidelines and procedures on how taxpayers can access and use bilateral APAs, including the specific information and documentation that should be submitted in a taxpayer's 	Yes	Article 14 of the 78-14 regulation on transfer pricing details the necessary information that must be included in the APA request.	<u>Reglamento 78-14 sobre Precios de Transferencia</u> – see Article 14

Dominican Republic Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	request for bilateral APA assistance, publicly available?			
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	No	-	-
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	No	The Dominican Republic has not signed bilateral APAs.	-
3.	Is training provided to your officials involved in the auditing /examination of taxpayers to ensure that any assessments made by them are in accordance with the provisions of your tax treaties?	Yes	The Tax Administration has received training on international taxation and double tax treaties negotiation and administration. It has been mainly attended by lawyers, auditors, and transfer pricing staff.	-
4.	Is other information available on preventing tax treaty-related disputes?	No	-	-

Notes:

1. An APA is an “arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustments thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time”. (see definition of APA in the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (“Transfer Pricing Guidelines”).)

2. Situations may arise in which the issues resolved through an APA are relevant with respect to previous filed tax years not included within the original scope of the APA. The concept of “roll-back” is further elaborated in paragraph 4.136 of Section F (Advance pricing arrangement) of Chapter IV of the Transfer Pricing Guidelines and in paragraph 69 of Section D.4.2 (Possible retrospective application (“Roll back”)) of the Annex to Chapter IV (Guidelines for Conducting Advance Pricing Arrangements under the Mutual Agreement Procedure (“MAP APAs”)) of the Transfer Pricing Guidelines. Simply put, the “roll-back” of the APA is understood to mean that the outcome of the APA is applied to previous filed tax years not included within the original scope of the APA.

Dominican Republic Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
B. Availability and Access to MAP				
5.	Are transfer pricing cases covered within the scope of MAP?	Yes	Dominican Republic treaties to avoid double taxation contemplate the arm's length principle articles (Article 9 of the OECD Model Tax Convention) and the article on Mutual Agreement Procedure (MAP)	https://dgii.gov.do/legislacion/acuerdos/Paginas/default.aspx See international agreements section
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	The Double Taxation Agreement (DTA) signed with Spain establishes in the Protocol a benefit limitation clause to avoid treaty abuse. The DTA signed with Canada does not have treaty abuse related clauses, nonetheless, this will be covered in the Canada agreement reviewing process to include it.	https://www.hacienda.gob.do/wp-content/uploads/2018/12/DEJ-05-CE_DGII_espana_convenio-doble-imposicion-y-evasion-fiscal_anexo-1.pdf
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	Article 2 of the Dominican Tax Code establishes an anti-abuse clause on the substance over form that states “when the legal forms are manifestly inappropriate to the reality of the taxed facts and it leads to a decrease on the amount of the obligations, tax law will be applied disregarding such forms”.	https://dgii.gov.do/legislacion/codigoTributario/Cdigo%20Tributario/Titulo1.pdf See Article 2
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	Both conventions signed by the Dominican Republic establish that the submission of the cases with no regard of the foreseen resources.	Article 25 (1) of the Canada DTA: https://dgii.gov.do/legislacion/acuerdos/2Acuerdos%20internacionales/ConvenioCanada1976.pdf Article 24 (1) of the Spain DTA : https://www.hacienda.gob.do/wp-content/uploads/2018/12/DEJ-05-CE_DGII_espana_convenio-doble-imposicion-y-evasion-fiscal_anexo-1.pdf

Dominican Republic Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	See detailed explanation	The double taxation agreements signed by the Dominican Republic are not specific in this aspect. Nevertheless, both DTAs establish that the Contracting States will agree to avoid double taxation in the cases not foreseen by the Convention.	https://dgii.gov.do/legislacion/leyesTributarias/Documents/Codigo%20Tributario%20y%20Leyes%20que%20lo%20modifican%20y%20complementan/11-92.pdf Paragraph 5 of article 25, agreement signed with Canada and Paragraph 3 of article 24, agreement signed with Spain.
10.	Are there any other treaty related issues not covered under s/n 5 to 9 which are not within the scope of MAP?	No	-	-
11.	Are taxpayers allowed to request MAP assistance in cases where the taxpayer has sought to resolve the issue under dispute via the judicial and administrative remedies provided by the domestic law of your jurisdiction?	Yes	Because International Treaties (including double taxation agreements), have a constitutional rank superior to national laws, the taxpayer under these agreements always has the possibility of requesting MAP assistance within a judicial/administrative procedure, since such assistance is seen as a friendly process, which seeks a better interpretation among the Tax Administrations that are part of the agreement. The interpretation in question can help the taxpayer, since it would include the point of view and opinion of the Tax Administration that it is part of the judicial/administrative procedure, committing the administration if the friendly procedure response favors the taxpayer.	-

Dominican Republic Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
12.	Are taxpayers allowed to request for MAP assistance in cases where the issue under dispute has already been decided via the judicial and administrative remedies provided by the domestic law of your jurisdiction?	Yes	As in the last question and based on the same precepts, in accordance with Article 46 of Law No. 107-13 on the Rights of Persons in their Relations with the Administration and Administrative Procedure, the taxpayer always has the possibility of requesting MAP assistance , even after having a final decision by the judicial / administrative route, since the Tax Administration may revoke at any time acts that are unfavorable to the taxpayer, provided that such revocation does not constitute a waiver or exemption not permitted by law, that is, contrary to equality, to the public interest or to the legal system, product of a taxpayer-friendly response of the proceeding, regardless of whether there is a contrary ruling issued by a court.	<p>https://dgii.gov.do/legislacion/leyesTributarias/Documents/Otras%20Leyes%20de%20Inter%C3%A9s/107-13.pdf</p> <p>See Article 46.</p>
13.	Are rules, guidelines and procedures on how taxpayers can access and use MAP, including the specific information and documentation that should be submitted in a taxpayer’s request for MAP assistance, publicly available?	No	Dominican Republic is in the implementation process of BEPS Action 14 including the procedures that apply for MAPs.	-
14.	Are there specific timeline for the filing of a MAP request?	Yes	In the case of the Spain convention, it should be raised within the next three (3) years after the first notification of the decision. In the Canada convention, it should be made within the next two (2) years after the first notification of the decision.	<p>Article 25 (1) in the Canada DTA: https://dgii.gov.do/legislacion/acuerdos/2Acuerdos%20internacionales/ConvenioCanada1976.pdf</p> <p>Article 24 (1) in the Spain DTA: https://www.hacienda.gob.do/wp-content/uploads/2018/12/DEJ-05-CE_DGII_espana_convenio-doble-</p>

Dominican Republic Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
				imposicion-y-evasion-fiscal_anexo-1.pdf
15.	Are guidance on multilateral MAPs publicly available?	No	-	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	No	-	-
17.	Are there any fees charged to taxpayers for a MAP request?	No	-	-
18.	Is there any other information available on availability and access to MAP?	No	-	-

Dominican Republic Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
C. Resolution of MAP Cases				
19.	Are there any model timeframes for the steps taken by your competent authority from the receipt of a MAP case to the resolution of the case provided to taxpayers?	No	Dominican Republic is in the implementation process of BEPS Action 14 including the procedures that apply for MAPs.	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	No	The received MAP cases have not been finalized yet.	-
21.	Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure?	See detailed explanation	Dominican Republic is in the implementation process of BEPS Action 14 including the procedures that apply for MAPs.	-
22.	Are the roles and responsibility of the MAP office publicly available, for example, is the mission statement of the MAP office available in the <i>annual</i> report of the organisation?	No	Dominican Republic is in the implementation process of BEPS Action 14 including the procedures that apply for MAPs.	-
23.	Is MAP arbitration a mechanism currently available for the resolution of tax treaty related disputes in any of your tax treaties? If not:	No	-	-
a.	<ul style="list-style-type: none"> Are there any legal limitations in your domestic law (for example in your constitution) to include MAP arbitration in your tax treaties? 	No	The law does not establish limitations to foresee the arbitration in any of the agreements, nonetheless, in numeral 4 of Article 26 of the Dominican Constitution, it is established that when it comes to international relations the Dominican Republic will maintain equality with the conditions with other States, therefore, in agreement with this constitutional	Dominican Republic Constitution promulgated in June 13 of 2015: http://www.consultoria.gov.do/Documents/GetDocument?reference=3f3df819-9415-44db-a5fb-983016818f68

Dominican Republic Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			<p>disposition and considering the Reciprocity Principle, Dominican Republic would accept the arbitration process in a MAP.</p> <p>Likewise, through sentence No. TC/0315/15, dated September 25 of 2015, the Constitutional Court has pronounced the Reciprocity Principle as follows:</p> <p><i>“On the subject of international agreements or treaties, the reciprocity principle, as said by the Colombian court, “alludes to the correspondence that must exist between two States”. Likewise, regarding the equality principle, it is useful to remember that the moment in which a State is ready to enter an agreement with another State, it must warn that one of the purposes that sponsor the promotion of international relations is that both nations, both contracting parties, obtain, with equal conditions -or in the other case, in reasonably similar or balanced conditions, as many obligations as benefits.”</i></p>	<p>Sentence No. TC/0315/15, submitted by the Constitutional Court on September 25 of 2015: https://www.tribunalconstitucional.gob.do/consultas/secretar%C3%ADa/sentencias/tc031515/</p>
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	Yes	Yes, as long as it is based on reciprocity.	-
24.	<p>Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available?</p> <p>If yes:</p>	No	-	-
a.	<ul style="list-style-type: none"> Does the guidance specifically address whether the competent authority considers that it is legally bound to follow a 	N/A	-	-

Dominican Republic Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	domestic court decision in the MAP or will not deviate from a domestic court decision as a matter of administrative policy or practice?			
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	See detailed explanation	<p>There are no defined procedures for the MAP cases. Nonetheless, the signed DTAs signed by the Dominican Republic do not limit the periods that are to be required. In that sense, it is established that:</p> <p>“In the case that a person considers that the adopted measures by one or both contracting states imply or may imply an imposition that is not in accordance with the dispositions of the new agreement, independently of the foreseen resources by the States internal Law, that person could submit the case to the competent authority of the contracting State that person is a resident or, if Paragraph 1 of article 23 is applicable, the contracting State in which the person is a national. The case must be presented within the three years next to the first notification of the measure that implies an imposition that does not comply with the agreement dispositions” according to the DTA signed with Spain. In the case of Canada, the request must be presented within the next two years of the first notification of the measure that motivated the taxation in disagreement with the agreement.</p>	<p>Article 25 in the Canada DTA: https://dgii.gov.do/legislacion/acuerdos/2Acuerdos%20internacionales/ConvenioCanada1976.pdf</p> <p>Article 24 in the Spain DTA: https://www.hacienda.gob.do/wp-content/uploads/2018/12/DEJ-05-CE_DGII_espana_convenio-doble-imposicion-y-evasion-fiscal_anexo-1.pdf</p>
26.	Do all your jurisdiction’s tax treaties contain a provision which would oblige your jurisdiction	Yes	-	Article 9 of the Canada DTA: https://dgii.gov.do/legislacion/acuerdos/2Acue

Dominican Republic Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	to make corresponding adjustments or to grant access to the MAP with respect to the economic double taxation that may otherwise result from a primary transfer pricing adjustment (i.e. is paragraph 2 of Article 9 of the OECD Model Tax Convention or the UN Model Double Taxation Convention included in all of your jurisdiction's tax treaties)?			rdos%20internacionales/ConvenioCanada1976.pdf Article 9 of the Spain DTA: https://www.hacienda.gob.do/wp-content/uploads/2018/12/DEJ-05-CE_DGII_espana_convenio-doble-imposicion-y-evasion-fiscal_anexo-1.pdf
27.	Is there any other information available on resolution of MAP cases?	No	-	-

Dominican Republic Dispute Resolution Profile – Implementation of MAP Agreements

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
D. Implementation of MAP Agreements				
28.	Where the agreement reached by your competent authority through the MAP process leads to additional tax to be paid by your taxpayer, is there publicly available information on the timeframe the taxpayer could expect its tax position to be amended to reflect the agreement reached by the competent authority and/or for the additional tax to be paid?	No	-	-
29.	Where the agreement reached by your competent authority through the MAP process leads to a refund of the tax due or paid by your taxpayer, are there publicly available information on the timeframe the taxpayer could expect its tax position to be amended to reflect the agreement reached by the competent authority and/or for a refund of the tax paid?	No	-	-
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	See detailed explanation	Dominican Republic is in the implementation process of BEPS Action 14 including the procedures that apply for MAPs.	-
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-