

Luxembourg Dispute Resolution Profile

(Last updated: 31st March 2021)

General Information

- Luxembourg's tax treaties are available at:

<https://impotsdirects.public.lu/fr/conventions/luxembourg.html>

- MAP request should be made to:

for all MAP cases (Transfer Pricing MAP cases and Other MAP cases):

Comité de direction
Administration des contributions directes – Direction
Address: 45, boulevard Roosevelt, L-2450 Luxembourg
Postal address: L-2982 Luxembourg
Fax: +352 247-52440
E-mail: comite_de_direction@co.etat.lu

OR:

for Transfer Pricing MAP cases:

Division économique
Administration des contributions directes – Direction
Address: 45, boulevard Roosevelt, L-2450 Luxembourg
Postal address: L-2982 Luxembourg
Fax: +352 247-52441
E-mail: diveco@co.etat.lu

for Other MAP cases:

Division relations internationales
Administration des contributions directes – Direction
Address: 45, boulevard Roosevelt, L-2450 Luxembourg
Postal address: L-2982 Luxembourg
Fax: +352 247-52444
E-mail: divrelint@co.etat.lu

- APA requests should be made to:

In accordance with the ruling procedure introduced by the Grand-Ducal Decree dated 23rd December 2014, unilateral APA requests should be addressed to the Head of the relevant tax office or to the Director of taxes in case no or several tax offices are concerned. Bilateral APA requests should be addressed to the “Comité de direction”, to the attention of the Director of taxes (see address above).

Luxembourg 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?	Yes	Such agreements are in principle published as circulars in the same way as other circulars in which the Luxembourg tax administration publishes its understanding of Luxembourg tax law.	http://www.impotsdirects.public.lu/fr/legislation/circulaires.html
2.	Are bilateral APA programmes implemented? If yes:	See detailed explanation	No formal program has been implemented. Luxembourg considers that bilateral APAs can be concluded by its competent authority based on article 25(3), first sentence of the OECD Model Tax Convention.	-
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	See detailed explanation	Roll-backs of bilateral APAs may be provided. However, the term of an APA is limited to five years.	-
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	See detailed explanation	An APA request should be submitted before the covered transactions take place.	-

Luxembourg Dispute Resolution Profile – Preventing Disputes

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 request for bilateral APA assistance, publicly available? 	See detailed explanation	As regards information and documentation to be submitted, taxpayers should refer to the general MAP guidance (Circular L.G. - Conv. D.I. n° 60).	https://impotsdirects.public.lu/fr/conventions/map.html
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	See detailed explanation	An administrative fee of 10.000 EUR is generally applicable for an APA request.	-
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	Yes	Statistics are reported to various international fora and published on their respective websites.	-
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	-	-
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 4.150 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.

Luxembourg 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	-	-
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	-	-
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	-	-
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	See detailed information	Audit settlement processes are not available in Luxembourg. Access to MAP will not be refused on the sole basis that the taxpayer is engaged in an audit settlement abroad.	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	-	-
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	-	-

Luxembourg 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	-	-
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?	Yes	Detailed MAP guidance is published and updated on the website of the Luxembourg tax administration. Circular L.G. - Conv. D.I. n° 60	https://impotsdirects.public.lu/fr/conventions/map.html
14.	Are there specific timeline for the filing of a MAP request?	Yes	-	-
15.	Are guidance on multilateral MAPs publicly available?	Yes	-	-
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?	Yes	Further information on availability and access to MAP may be found in the MAP guidance.	https://impotsdirects.public.lu/fr/conventions/map.html

Luxembourg 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	-	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	Yes	Statistics are reported to various international fora and published on their respective websites.	-
21.	Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure?	No	-	-
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?	Yes	Information on the MAP office is published on the website of the Luxembourg tax administration as well as in the MAP guidance.	https://impotsdirects.public.lu/fr/conventions/map.html
23.	Is MAP arbitration a mechanism currently available for the resolution of tax treaty related disputes in any of your tax treaties? If not:	Yes	In Luxembourg MAP arbitration is provided in a certain number of tax treaties, either through an arbitration clause directly in the treaty or via part IV of the MLI. MAP arbitration can also be provided under the European Arbitration Convention or the Council Directive (EU) 2017/1852 of 10 th October 2017 on tax dispute resolution	-

Luxembourg Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			mechanisms in the European Union.	
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	-	-
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	Yes	-	-
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>	Yes	-	-
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 domestic court decision in the MAP or will not deviate from a domestic court decision as a matter of administrative policy or practice? 	See detailed information.	Where a final judicial decision is taken before an agreement is reached, the Luxembourg competent authority shall be able to continue the mutual agreement procedure but has to take account of the judgment reached.	-
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	Yes	-	-
26.	Do all your jurisdiction's tax treaties contain a provision which would oblige your jurisdiction to make corresponding adjustments or to grant access to the MAP with respect to the economic double taxation that	No	There is no paragraph based on the text of Article 9(2) of the OECD Model Tax Convention or the UN Model Double Taxation	-

Luxembourg Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	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)?		Convention included in the following tax treaties: Brazil, Italy, Morocco, Norway and Thailand.	
27.	Is there any other information available on resolution of MAP cases?	Yes	Further information on the resolution of MAP cases may be found in the MAP guidance.	https://impotsdirects.public.lu/fr/conventions/map.html

Luxembourg 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?	Yes	-	-
31.	Is there any other information available on the implementation of MAP agreements?	Yes	Further information on the implementation of MAP agreements may be found in the MAP guidance.	https://impotsdirects.public.lu/fr/conventions/map.html