

Switzerland Dispute Resolution Profile

(Last updated: 9 November 2018)

General Information

- **Switzerland tax treaties are available at:**

<https://www.admin.ch/opc/fr/classified-compilation/0.67.html#0.67> (in French)

<https://www.admin.ch/opc/de/classified-compilation/0.67.html> (in German) and

<https://www.admin.ch/opc/it/classified-compilation/0.67.html> (in Italian)

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

Requests for the initiation of a mutual agreement procedure from a private individual or legal entity that do not concern transfer pricing have to be sent to the following address:

Federal Department of Finance

State Secretariat for International Finance (SIF), Tax Division

Section BS

Bundesgasse 3

CH-3003 Bern | Email: dba@sif.admin.ch

Requests for the initiation of a mutual agreement procedure from an enterprise that concern transfer pricing have to be sent to the following address:

Federal Department of Finance

State Secretariat for International Finance (SIF), Tax Division

Section VP

Bundesgasse 3

CH-3003 Bern | Email: transferpricing@sif.admin.ch

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

Request for the initiation of an APA procedure have to be sent to the following address:

Federal Department of Finance

State Secretariat for International Finance (SIF), Tax Division

Section VP

Bundesgasse 3

CH-3003 Bern | Email: transferpricing@sif.admin.ch

Switzerland 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		The competent authority agreements are published in the original language on the following webpage: German: https://www.estv.admin.ch/estv/de/home/internationales-steuerrecht/fachinformationen/laender.html French: https://www.estv.admin.ch/estv/fr/home/internationales-steuerrecht/fachinformationen/laender.html
2.	Are bilateral APA programmes implemented? If yes:	Yes	-	-
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	Yes	-	-
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	No	-	-
c.	<ul style="list-style-type: none"> Are rules, guidelines and procedures on how 	Yes		https://www.sif.admin.ch/sif/en/home/bilateral/verstaendigun-gsverf.html (in English)

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	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?			
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? 	Yes		https://www.sif.admin.ch/sif/en/home/bilateral/verstaendigun_gsverf.html
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?	See detailed explanation	Tax officials involved in the auditing/examination of taxpayers are generally trained to be tax experts. Transfer pricing principles are part of the courses that are taught.	-
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.

Switzerland 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?	See detailed explanation	Yes, provided such provision impacts the application of a treaty in the specific case.	-
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 explanation	There is no audit settlement process available in Switzerland.	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	-	-

Switzerland Dispute Resolution Profile – Availability and Access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	-	-
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	Yes	-	https://www.sif.admin.ch/sif/en/home/bilateral/verstaendigungsverf.html (in English)

Switzerland Dispute Resolution Profile – Availability and Access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	use MAP, including the specific information and documentation that should be submitted in a taxpayer's request for MAP assistance, publicly available?			
14.	Are there specific timeline for the filing of a MAP request?	See detailed explanation	<p>According to the OECD Model Tax Convention on Income and on Capital of 2017, the taxpayer has to request the initiation of a mutual agreement procedure within three years from the first notification of the action resulting in double taxation.</p> <p>Most of Switzerland's double taxation agreements contain this time limit of three years. However, some of them do not specify a deadline or contain a different time limit. In such cases, it is also in the taxpayer's interests to request the initiation of a mutual agreement procedure as quickly as possible.</p>	-
15.	Are guidance on multilateral MAPs publicly available?	Yes	-	https://www.sif.admin.ch/sif/en/home/bilateral/verstaendigungsverf.html

Switzerland Dispute Resolution Profile – Availability and Access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
16.	Are tax collection procedures suspended during the period a MAP case is pending?	See detailed explanation	Rules for suspension of domestic law apply.	-
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	-	-

Switzerland 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?	Yes	The Swiss competent authority work is based on a detailed internal process with numerous timeframes in order to seek to resolve MAP cases within an average timeframe of 24 months.	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	Yes	-	Competent Authority website: https://www.sif.admin.ch/sif/en/home/bilateral/verstaendigungsverf.html OECD website: http://www.oecd.org/tax/dispute/switzerland-2016-mutual-agreement-procedure-statistics.pdf (in English)
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	In transfer pricing cases interest or penalties resulting from adjustments made pursuant to a MAP agreement could be part of the MAP procedure.	-
22.	Are the roles and responsibility of the MAP office publicly available, for	No	-	-

Switzerland Dispute Resolution Profile – Resolution of MAP Cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	example, is the mission statement of the MAP office available in the <i>annual</i> report of the organisation?			
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	-	-
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? 	-	-	-
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	-	-	-
24.	Is the explanation of the relationship between the MAP and domestic law	Yes	-	https://www.sif.admin.ch/sif/en/home/bilateral/verstaendigungsverf.html (in English)

Switzerland Dispute Resolution Profile – Resolution of MAP Cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	administrative and judicial remedies publicly available? If 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? 	Yes	-	-
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	See detailed explanation	Paragraph 2 of Article 9 of the OECD Model Tax Convention is included in most but not all Swiss tax treaties. Switzerland, nevertheless, grants relief of economic	-

Switzerland Dispute Resolution Profile – Resolution of MAP Cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	<p>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)?</p>		<p>double taxation in the course of MAP with respect to all treaty partners.</p>	
27.	<p>Is there any other information available on resolution of MAP cases?</p>	No	-	-

Switzerland 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	No	-	-

Switzerland Dispute Resolution Profile – Implementation of MAP Agreements

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	and/or for a refund of the tax paid?			
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?	No	-	-