

Andorra Dispute Resolution Profile

(Last updated: 17 August 2021)

General Information

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

<https://www.finances.ad/regulations> (see section Double Taxation Agreements (DTA)- English and catalan version)

<https://www.impostos.ad/legislacio> (see section “Convenis per evitar la doble imposició internacional”- Catalan version)

- **MAP and APA requests should be made to:**

Designated competent authorities for the purposes of exchange of mutual agreement cases and arbitration procedure (under the tax treaties):

- Marc Ballestà Alias, Secretary of State for International Financial Matters
Phone: (+376) 875 606 | E-mail: marcballesta@govern.ad

- Albert HINOJOSA BESOLÍ, General director of the tax administration
Phone: (+376) 879 900 | E-mail: Albert.Hinojosa@govern.ad

Address: C. Prat de la Creu, 62-64 - Edif. Administratiu | AD500 Andorra la Vella (Principality of Andorra) | Fax (+376) 875 695

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

- Albert HINOJOSA BESOLÍ, General director of the tax administration
Phone: (+376) 879 900 | E-mail: Albert.Hinojosa@govern.ad

Address: C. Prat de la Creu, 62-64 - Edif. Administratiu | AD500 Andorra la Vella (Principality of Andorra) | Fax (+376) 875 695

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?	See detailed explanation	<p>Agreements reached by the competent authority to resolve difficulties or doubts arising as to the interpretation or application of our tax treaties should be published as circulars in the same way as other circulars in which the Andorra tax administration publishes its understanding of domestic tax law.</p> <p>So far, Andorra has only published binding consultations related to the interpretation or application of the tax treaties but no technical communiqués or specific agreements have been made/published.</p>	https://www.impostos.ad/comunicats-tecnics-i-consultes-vinculants
2.	Are bilateral APA programmes implemented? If yes:	No	-	-
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	-	-	-
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	-	-	-
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? 	-	-	-

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d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	-	-	-
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	-	-	-
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	<p>All agents of the Andorran tax administration have received training related to tax treaties.</p> <p>In 2020 it is planned to carry out a more specific and detailed training on tax treaties that will be addressed to agents specialised on these issues.</p>	-
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.

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B. Availability and Access to MAP				
5.	Are transfer pricing cases covered within the scope of MAP?	Yes	All Andorra's tax treaties have a 'Mutual Agreement Procedure' article and all of them includes article 9(2).	https://www.finances.ad/regulacions
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	Domestic anti-abuse provisions are dealt with based on the domestic legislation and judicial proceedings. However, the above mentioned does not restrict access to MAP.	-
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	Andorra is currently studying this matter in order to develop MAP regulations and guidance aligned with Action 14 BEPS.	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	See detailed explanation	Andorra is currently studying this matter in order to develop MAP regulations and guidance aligned with Action 14 BEPS.	-
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	See detailed explanation	Andorra is currently studying this matter in order to develop MAP regulations and guidance aligned with Action 14 BEPS. However, we can advance that in Andorra, while the judicial process is still ongoing,	-

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	dispute via the judicial and administrative remedies provided by the domestic law of your jurisdiction?		taxpayers would be allow to request MAP assistance as long as the proceedings remain suspended.	
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?	See detailed explanation	Andorra is currently studying this matter in order to develop MAP regulations and guidance aligned with Action 14 BEPS. However, we can advance that in Andorra, if the decision has been taken via the judicial remedies with a final judgment without the possibility of appeal, the tax administration cannot act anymore.	
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?	See detailed explanation	Andorra is currently working in the development of guidance and regulations on MAP that will be publicly available.	
14.	Are there specific timeline for the filing of a MAP request?	Yes	The Andorra's DTAs adhere to the three-year filing deadline for a request for mutual agreement procedure as provided in article 25(1) of the OECD Model Convention.	https://www.finances.ad/regulacions
15.	Are guidance on multilateral MAPs publicly available?	No		-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	See detailed explanation	Andorra is currently studying this matter in order to develop MAP regulations and guidance. However, we inform you that the Andorran Law 21/2014, of 16 October, on Taxation provides for the suspension of tax collection procedures in cases of appealing domestic administrative proceedings (as long as the	-

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			taxpayer provides of sufficient guarantee to cover the fee, interest, surcharges and penalties against which the appeal is being lodged) but MAP cases are not covered by this provision. We are studying the possibility of extending this provision to MAP cases, which would require the modification of Law 21/2014, of 16 October, on Taxation. In any case, we understand that the extension of this provision to MAP cases would need the same requirements as the domestic appealing (such as the provision of sufficient guarantee).	
17.	Are there any fees charged to taxpayers for a MAP request?	See detailed explanation	At present, no fees are provided to be charged to taxpayers for a MAP request but it could change as Andorra is currently studying this matter in the developing of MAP regulations and guidance.	-
18.	Is there any other information available on availability and access to MAP?	No	-	-

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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	Andorra is currently studying this matter in order to develop MAP guidance and regulations aligned with Action 14 BEPS.	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	No	As Andorra has never been involved in any MAP case, no statistics relating to the time to resolve MAP cases exist.	-
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	So far, Andorra has not reached any MAP agreement. However, Andorra is currently studying this matter in the developing of MAP regulations and guidance.	-
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	Andorra is currently studying this matter in order to develop MAP regulations aligned with Action 14 BEPS.	-
23.	Is MAP arbitration a mechanism currently available for the resolution of tax treaty related disputes in any of your tax treaties? If not:	See detailed explanation	None of Andorra's tax treaties contains an arbitration provision. However, Andorra chose to apply Part VI in its Multilateral Instrument Notification. On June 7th, 2017 Andorra signed the MLI and is currently working in the ratification process.	-
a.	<ul style="list-style-type: none"> Are there any legal limitations in your domestic law (for example in your constitution) to include MAP 	No	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	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? 	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>	No	Andorra is currently studying this matter in order to develop MAP regulations aligned with Action 14 BEPS.	-
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? 	-	-	-
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	Andorra is currently studying this matter in order to develop MAP guidance and regulations.	
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 may	Yes		https://www.finances.ad/regulations

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	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)?			
27.	Is there any other information available on resolution of MAP cases?	No	-	-

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	So far, Andorra has not reached any MAP agreement. However, Andorra is currently studying this matter in order to develop MAP guidance and regulations.	-
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?	See detailed explanation	So far, Andorra has not reached any MAP agreement. However, Andorra is currently studying this matter in order to develop MAP regulations aligned with Action 14 BEPS.	-
30.	Are all mutual agreements reached through MAP implemented	See detailed explanation	So far, Andorra has not reached any MAP agreement.	-

Andorra Dispute Resolution Profile – Resolution of MAP Cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	notwithstanding any time limits in your domestic law?			
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-