

The Republic of Azerbaijan Dispute Resolution Profile

(Last updated: 04.04.2023)

General Information

- **Azerbaijan tax treaties are available at:**
<https://www.taxes.gov.az/en/page/ikigat-vergitutmanin-aradan-qaldirilmasina-dair-beynelxalq-sazisler> the official web site of the State Tax Service of Azerbaijan

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

Jeyhun Ismayilov, Deputy-head of the International taxation and tax monitoring department, State Tax Service under the Ministry of the Economy, Ceyhun.Ismayilov@taxes.gov.az

Elkin Mammadov, Head of the International taxation division, State Tax Service under the Ministry of the Economy, Elkin.Memmedov@taxes.gov.az

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

Jeyhun Ismayilov, Deputy-head of the International taxation and tax monitoring department, State Tax Service under the Ministry of the Economy, Ceyhun.Ismayilov@taxes.gov.az

Emil Karimov, State tax inspector of the Transfer pricing and e-commerce division, State Tax Service under the Ministry of the Economy, Emil.Karimov@taxes.gov.az

The Republic of Azerbaijan 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	-	-
2.	Are bilateral APA programmes implemented? If yes:	Yes	Article 9 of the ' Rules for determination and application of transfer prices ' approved by the Resolution No. 171705000006200 of the Board of the Ministry of Taxes of the Republic of Azerbaijan on January 27, 2017 sets forth the terms and provisions for APA, including filing the APA request, the transactions the APAs cover, the cases for rejection to APA. The legislation of the Republic of Azerbaijan doesn't provide for any restrictions on this issue. Also, in the APA application form, the taxpayer can choose the type of APA (unilateral, bilateral, or multilateral).	https://www.taxes.gov.az/az/page/beynelxalq-vergi-munasibetleri
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programs? 	Yes	<p>According to Article 9.3-1 of the aforesaid Rules, the APA approval letter issued by the tax authority can also be applied in relation to the same but non-audited transactions carried out by the taxpayer in previous periods.</p> <p>Article 9.3-2 stipulates that the APA approved by the tax authority cannot be applied to taxpayer's</p>	https://www.taxes.gov.az/az/page/beynelxalq-vergi-munasibetleri

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s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			same transactions of previous period which is subject to a commenced and ongoing audit.	
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	Yes	Pursuant to the aforesaid Rules, APA request shall be made at least 3 months prior to the launch of controlled transaction to be implemented.	https://www.taxes.gov.az/az/page/beynelxalq-vergi-munasibetleri
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? 	Yes	The aforesaid Rules and APA request form which provide information on access and use of bilateral APAs, including the specific documentation, etc. are publicly available.	https://www.taxes.gov.az/az/page/beynelxalq-vergi-munasibetleri
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	Tax authority has not received any bilateral APA applications by now.	-
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	Seminars and training sessions on the application of tax treaties and the exchange of information are provided to our officials, including the auditors. Moreover, the tax officials have been trained within the Twinning project "Support to the Ministry of Taxes of the Republic of Azerbaijan in Transfer Pricing and Developing Anti-Tax Avoidance Measures" financially supported by the European Union, and also took ADIT exams and attended the	-

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s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			training courses by the IBFD and successfully passed APCIT.	
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 previously 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

The Republic of Azerbaijan 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	The legislation of the Republic of Azerbaijan doesn't provide for any restrictions on this issue. Consequently, the MAP procedure is carried out in all cases, subject to compliance with the necessary provisions of a specific agreement.	-
6.	Are issues relating to the application of treaty anti-abuse provisions covered within the scope of MAP?	Yes	The legislation of the Republic of Azerbaijan doesn't bring any restrictions. Therefore, MAP procedure is followed subject to compliance with the necessary provision of the specific DTA.	-
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	The legislation of the Republic of Azerbaijan doesn't bring any restrictions. Therefore, MAP procedure is followed subject to compliance with the necessary provision of the specific DTA	-
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	No	-	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	The legislation of the Republic of Azerbaijan doesn't bring any restrictions. Therefore, MAP procedure is followed subject to compliance with the necessary provision of the specific DTA	-
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	-	-

The Republic of Azerbaijan Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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?	Please see the detailed explanation	The development of specific Regulations on MAP is in progress now. However, the practical application of domestic legislation demonstrates that when a taxpayer makes a request to the tax authority and at the same time lodges an appeal to the court for the purpose of resolving a certain dispute, the tax authority keeps that request pending. The decision of the court prevails in this case.	-
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?	Please see the detailed explanation	The development of specific Regulations on MAP is in progress now. If the issue under dispute has already been decided as means of the judicial and administrative channels, MAP would only be accessible to help a correlative adjustment in the other State for the purposes of avoiding double taxation.	-
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	-	-
14.	Are there specific timeline for the filing of a MAP request?	Please see the detailed explanation	There are specific timelines for the filling MAP request in separate treaties	-

The Republic of Azerbaijan Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	-	-

The Republic of Azerbaijan 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?	No	-	-
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?	No	-	-
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	Only one existing agreement (San Marino) consists of arbitration clauses.	-
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? 	No	The new model tax treaty of the Republic of Azerbaijan approved by the Cabinet of Ministry doesn't include arbitration clauses.	

The Republic of Azerbaijan Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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 domestic court decision in the MAP or will not deviate from a domestic court decision as a matter of administrative policy or practice? 	No	-	-
25.	<p>Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?</p>	No	-	-
26.	<p>Do all your jurisdiction's tax treaties contain a provision that would oblige your jurisdiction 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)?</p>	Please see the detailed explanation	Only the tax treaties with Norway and Switzerland do not contain that provision.	
27.	<p>Is there any other information available on resolution of MAP cases?</p>	No	-	-

The Republic of Azerbaijan 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, 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 a refund of the tax paid?	No	-	-
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	Please see the detailed explanation	Most of our mutual agreements reached through MAP implemented notwithstanding any time limits in domestic law. Only the tax treaties with Georgia, Iran, Moldova, Poland, Qatar, Russia, Switzerland, Turkey, Ukraine, and the United Kingdom do not have the mentioned provision. And so, regarding the above-mentioned jurisdictions time limits provisions applicable by domestic law may apply in these cases.	-
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-