

Barbados Dispute Resolution Profile

(Last updated: 14 April 2022)

General Information

- Barbados tax treaties are available at:

<https://www.investbarbados.org/investing-in-barbados/double-taxation-agreements-dtas/>

- MAP requests should be made to:

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- APA requests should be made to:

Currently, there are no provisions for APAs.

Barbados Dispute Resolution Profile – Preventing Disputes

| s/n | | Response | Detailed explanation | Where publicly available information and guidance can be found |
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| 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: | No | Barbados currently has no bilateral APA programmes. | |
| a. | <ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? | N/A | | |
| b. | <ul style="list-style-type: none"> Are there specific timelines for the filing of an APA request? | N/A | | |
| 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? | N/A | | |
| d. | <ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? | N/A | | |
| e. | <ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? | N/A | | |
| 3. | Is training provided to your officials involved in the auditing /examination of taxpayers to ensure that any | Yes | | |

Barbados Dispute Resolution Profile – Preventing Disputes

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| | assessments made by them are in accordance with the provisions of your tax treaties? | | | |
| 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 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 previously filed tax years not included within the original scope of the APA.

Barbados Dispute Resolution Profile – Availability and access to MAP

| s/n | | Response | Detailed explanation | Where publicly available information and guidance can be found |
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| 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 provisions covered within the scope of MAP? | Yes | | |
| 7. | Are issues relating to the application of domestic anti-abuse provisions 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 Explanation | Barbados does not have an audit settlement programme as contemplated by the FTA MAP Forum, however, Barbados will provide MAP access for issues where there is already an audit settlement between a foreign tax authority and a taxpayer. | |
| 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 | Yes | The Barbados Revenue Authority will not deny access to MAP in cases where the issue presented by the taxpayer for MAP has not been resolved | |

Barbados Dispute Resolution Profile – Availability and access to MAP

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| | remedies provided by the domestic law of your jurisdiction? | | <p>between the taxpayer and the Barbados Revenue Authority or where the case is being adjudicated by the Barbados Revenue Appeals Tribunal. While Sections 59 to 63 of Barbados' Income Tax Act Cap. 73 outline the appellate process and the limitations relating thereto, Sections 83 (1) and 83 (4) respectively of the Act also serve to transpose Barbados' DTAs into law and in the event of an inconsistency between the provisions of the particular DTA and the Income Tax Act, the provisions of the DTA prevail to the extent of the inconsistency. Therefore, regardless of the appellate procedure and limitations provided under Sections 59 to 63, a taxpayer would not be denied access to MAP because the equivalent of Article 25(1) in Barbados' DTAs, which states that MAP access should be allowed irrespective of domestic remedies, would prevail over Sections 59 to 63 of the Income Tax Act.</p> | |
| 12. | Are taxpayers allowed to request MAP assistance in cases where the issue under dispute has already been | Yes | The Barbados Revenue Authority will be bound by any | |

Barbados Dispute Resolution Profile – Availability and access to MAP

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| | decided via the judicial and administrative remedies provided by the domestic law of your jurisdiction? | | decision issued by a domestic court or tribunal. | |
| 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 | | Link: https://bra.gov.bb/About/Exchange-of-Information/Mutual-Agreement-Procedures-MAP.aspx |
| 14. | Are there specific timelines for the filing of a MAP request? | Yes | The timeframe is three (3) years from the date of the first notification as provided in Paragraph 1 of Article 16 of the MLI. Since Barbados has signed the MLI, the provisions of Article 16 have replaced other shorter timeframes contained in Barbados' original DTAs, by virtue of Paragraph 4 a) ii). | |
| 15. | Is guidance on multilateral MAPs publicly available? | Yes | | Link: https://bra.gov.bb/About/Exchange-of-Information/Mutual-Agreement-Procedures-MAP.aspx |
| 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 | Barbados' MAP guidance suggests that Barbados' competent authority may deny access to MAP where its | See Map Guidance |

Barbados Dispute Resolution Profile – Availability and access to MAP

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| | | | <p>competent authority, either alone or jointly with the other competent authority, has agreed to not consider the issue in question based on policy reasons. However, Barbados would grant MAP access to all eligible cases under the tax treaty, but that this condition would only be applicable where an objection raised by a taxpayer is considered as not justified based on Barbados' tax treaty policy and interpretation as allowed under the equivalent of Article 25(2) contained in Barbados' tax treaties and as interpreted by the Commentary on Article 25 of the OECD Model Tax Convention.</p> | |
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Barbados Dispute Resolution Profile – Resolution of MAP cases

| s/n | | Response | Detailed explanation | Where publicly available information and guidance can be found |
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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? | Yes | | See MAP Guidance |
| 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? | Not Automatically | The Barbados Revenue Authority would be required to write to the Ministry of Finance recommending that the penalties and interest be waived and seeking the Ministry's permission to waive the same. | |
| 22. | Are the roles and responsibilities 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 | There is no designated MAP office within the Barbados Revenue Authority. MAP requests are processed by the International Relations Unit of the Barbados Revenue Authority, which also carries out a multitude of other international tax functions. | |

Barbados Dispute Resolution Profile – Resolution of MAP cases

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| 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 Barbados' Arbitration Profile | | See: https://www.oecd.org/tax/treaties/beps-mli-arbitration-profile-barbados.pdf |
| 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. | Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available? If yes: | 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 or to grant access to the | No | Not all of Barbados' DTAs contain the provision. | |

Barbados Dispute Resolution Profile – Resolution of MAP cases

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| | 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)? | | | |
| 27. | Is there any other information available on resolution of MAP cases? | Yes | Barbados' MAP guidance suggests that Barbados' competent authority may propose to terminate discussions on a MAP case for any other reasons not mentioned above. However, this discretion would be used in a manner that is in line with the obligation placed on the competent authority to endeavour to resolve MAP cases under the equivalent of Article 25(2) contained in Barbados' tax treaties and as interpreted by the Commentary on Article 25 of the OECD Model Tax Convention. | |

Barbados 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? | Yes | | |
| 31. | Is there any other information available on the implementation of MAP agreements? | No | | |