

Bermuda Dispute Resolution Profile

(Last updated: 30 June 2021)

General Information

- **Bermuda's tax treaties are available at:**

[Update on Bermuda's Bilateral TIEAs and DTAs.pdf \(www.gov.bm\)](#)

Please note that the majority of Bermuda's tax treaties are TIEAs and not comprehensive Double Taxation Agreements (DTAs). Please note Bermuda has only 4 comprehensive DTAs, one each with Bahrain, Qatar, Seychelles, shown on the link provided, and the most recent is a DTA with the United Arab Emirates.

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

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or

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Ministry of Finance, Bermuda
with cc to treaty@gov.bm

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	Our tax treaties are bilateral and have a MAP Article which is binding on Bermuda and our tax treaty partners. Bermuda does not have domestic income tax laws thus such a situation should not arise.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
2.	Are bilateral APA programmes implemented? If yes:	No	Bermuda does not have domestic income tax laws thus Advance Pricing Agreements are not applicable.	-
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? 	-		
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	-	-	-

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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?	See detailed explanation	Bermuda does not have income tax laws.	-
4.	Is other information available on preventing tax treaty-related disputes?	See detailed explanation	Our tax treaties are self-explanatory, given that no situations of double taxation should arise as Bermuda has no income tax laws, there should be no or very few tax treaty related disputes. In disputes that do not involve double taxation they will be less complex and the aggrieved person will follow the text of the tax treaty when seeking our assistance.	-

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	Our tax treaties are bilateral and have a MAP Article which is binding on Bermuda and our tax treaty partners which sets out that persons have the right to seek assistance from the competent authority.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	Our tax treaties are bilateral and have a MAP Article which is binding on Bermuda and our tax treaty partners which sets out that persons have the right to seek assistance from the competent authority.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	Bermuda does not have income tax laws, but the MAP guidance clarifies that where issues arise relating to the application of treaty anti-abuse provisions or the application of domestic anti abuse provisions, Bermuda will engage in consultation with the Competent Authority of the other Contracting State.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	Bermuda does not have income tax laws, but the MAP guidance clarifies that audit settlement agreements between tax authorities and taxpayers do not preclude access to MAP.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)

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9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	Our tax treaties are bilateral and have a MAP Article which is binding on Bermuda and our tax treaty partners which sets out that persons have the right to seek assistance from the competent authority. Bermuda's MAP guidance clarifies that access to MAP will be available for issues arising from a bona fide taxpayer-initiated foreign adjustment.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
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	There is no issue excluded from MAP.	-
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	A taxpayer may request MAP assistance irrespective of the remedies provided by Bermuda's domestic law.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
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	A taxpayer can request MAP assistance in situations where a decision has been rendered by courts. However, the Competent Authority is not able to depart from judicial rulings. This is clarified in the MAP guidance.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)

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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	Bermuda competent authority will accept an application in whatever format it is made, based on the person has read the MAP Article in the tax treaty and is seeking assistance pursuant thereto and follows our published MAP Guidance.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
14.	Are there specific timeline for the filing of a MAP request?	Yes	Bermuda competent authority will accept an application in whatever format it is made, based on the person has read the MAP Article in the tax treaty and is seeking assistance pursuant thereto, provided it is in accordance with the provisions of the MAP Article in the DTA.	-
15.	Are guidance on multilateral MAPs publicly available?	See detailed explanation	Where a MAP issue involves more than two tax jurisdictions, the Ministry of Finance Treaty Unit will consider entering into a series of bilateral MAPs as a way of dealing with such multilateral situations.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
16.	Are tax collection procedures suspended during the period a MAP case is pending?	See detailed explanation	Bermuda does not have domestic income tax laws. Therefore, suspension of tax collection during the MAP process are not applicable.-	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)

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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	Bermuda competent authority will accept an application in whatever format it is made, based on the person has read and complies with the MAP Article in the tax treaty and is seeking assistance pursuant thereto and follows our published MAP Guidance.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf www.gov.bm

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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	We will treat such matters as a priority if they arise. There have been no MAP cases.	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	n/a	-	-
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	Bermuda has no domestic income tax laws. Therefore, no relief will be available.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
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	The competent authority staff handle MAP, there is no stand-alone MAP office.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
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	MAP arbitration is expressly included in our tax treaty with Bahrain and the Netherlands.	-

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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	The Bermuda competent authority has no legal impediment to prevent agreeing to arbitration when that tax treaty has no arbitration provision.	-
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	Bermuda’s MAP guidance describes the interaction between local remedies and MAP. The Bermuda competent authority has no legal impediment to prevent agreeing resolution to MAP cases, and Bermuda has no domestic income tax laws.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf www.gov.bm
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	The Competent Authority is not able to depart from judicial rulings.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf www.gov.bm
25.	<p>Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?</p>	Yes	Taxpayers may submit MAP requests that span multiple years, subject to the time limit in the relevant DTA.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf www.gov.bm

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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 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)?	No	Bermuda's MAP guidance clarifies that where a treaty does not include the equivalent of Article 9(2) of the OECD Model Tax Convention, the Ministry of Finance Treaty Unit is willing to consider a request in such cases for MAP (or correlative adjustment where it is applicable given that Bermuda does not have domestic income tax).	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
27.	Is there any other information available on resolution of MAP cases?	No	-	-

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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?	-	Bermuda has no income tax.	-
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	It is described in Bermuda's MAP guidance that in cases where a refund is due to the taxpayer (which can only be a refund due from a third country given that Bermuda has no domestic income tax) to the extent that the Ministry of Finance Treaty Unit has not received from the third country a refund of tax arising from the mutual agreement within 93 days of the receipt from a taxpayer of a valid claim for repayment of tax, the Ministry of Finance Treaty Unit will follow up with the third country and seek to obtain the refund that was agreed.	Guidelines-for-requesting-Mutual-Agreement-Procedure-Feb-2020.pdf (www.gov.bm)
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	Yes	No time limits would apply as Bermuda has no domestic income tax laws.	-
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-