

Nigeria Dispute Resolution Profile

(Last updated: 24 May 2023)

General Information

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

<https://www.firs.gov.ng/TaxResources/TaxTreatiesNew>

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

Director, Tax Policy and Advisory Department & Authorized Competent Authority for MAP matters.

Email Address: acatreatiesandmap@firs.gov.ng

Physical Office Address:

Federal Inland Revenue Service
3rd Floor, Revenue House Annex,
26 Sokode Crescent
Wuse Zone 5
Abuja, FCT.
Nigeria.

- **For all MAP cases, please copy requests to:**

Head, Tax Treaty & International Tax Policy Division, FIRS,
2nd Floor, Revenue House Annex,
26 Sokode Crescent
Wuse Zone 5
Abuja, FCT.
Nigeria.
Phone No: +2349070320115; +2348035512420
Email Address: kajesomo.kehinde@firs.gov.ng

- **For specific MAP cases involving transfer pricing, the request should also be copied to:**

Head, International Tax Department

3rd Floor, FIRS Building,
17B, Awolowo Road,
Ikoyi, Lagos.
Phone Nos: +2349070319922; +2348033093287
Email Address: abdullahi.aliyu@firs.gov.ng

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

Director, Tax Policy and Advisory Department & Authorized Competent Authority for MAP matters.

Email Address: acatreatiesandmap@firs.gov.ng

Physical Office Address:

Federal Inland Revenue Service
3rd Floor, Revenue House Annex,
26 Sokode Crescent
Wuse Zone 5
Abuja, FCT.
Nigeria.

→ **Please copy all Advance Pricing Agreement (APA) requests to:**

Head, International Tax Department
3rd Floor, FIRS Building,
17B, Awolowo Road,
Ikoyi, Lagos.
Phone Nos: +2349070319922; +2348033093287
Email Address: abdullahi.aliyu@firs.gov.ng

Head, Tax Treaty & International Tax Policy Division,
Federal Inland Revenue Service
26 Sokode Crescent
Wuse Zone 5
Abuja, FCT.
Nigeria.
Phone No: +2349070320115; +2348035512420
Email Address: kajesomo.kehinde@firs.gov.ng

Nigeria 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?	See detailed explanation	Nigeria has not published an interpretative notice on MAP of a general nature. However, the CA may issue a public notice where an agreement reached under MAP relates to issues of a general nature which concern or may concern a category of taxpayers.	Sections 7(1)(f) and 8(1)(u) of the Federal Inland Revenue Service (Establishment) Act 2007 (as amended)
2.	Are bilateral APA programmes implemented? If yes:	See detailed explanation	Nigeria does not currently have an APA Programme.	Not applicable
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	See detailed explanation	Nigeria does not currently have an APA programme, but when implemented, it will allow for roll back of APA.	Not applicable
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	See detailed explanation	Nigeria does not currently have an APA Programme.	Not applicable
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? 	No	Nigeria does not currently have an APA Programme.	Not applicable
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	No	Nigeria does not currently have an APA Programme.	Not applicable
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	See detailed explanation	Nigeria does not currently have an APA Programme.	Not applicable

Nigeria Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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>Trainings on tax treaties and international tax are conducted for relevant officers involved in the auditing /examination of taxpayers.</p> <p>Curriculum for Preliminary and Final Inspectors' of Taxes Course, as well as Advanced JTB Course</p>	-
4.	Is other information available on preventing tax treaty-related disputes?	Yes	Nigeria has issued Circulars and Guidelines on treaty related issues, including Circulars on Taxation of Non-Residents, Filing of tax returns by non-residents and claim of tax treaties benefits.	https://www.firs.gov.ng/tax-circulars-regulations-and-public-notice/ https://www.firs.gov.ng/treaty-related-guidelines-and-circulars/

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.

Nigeria 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	Transfer pricing cases are covered within the scope of MAP in Nigeria. All Nigerian tax treaties provide for consultation of the Competent Authorities in the resolution of corresponding adjustment issues under paragraph 2 of the Article on Associated Enterprises.	https://www.firs.gov.ng/treaty-related-guidelines-and-circulars/
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	Paragraph 1 of the Article on MAP of all Nigerian tax treaties did not limit the remedies available to taxpayers. Further, Paragraph 4.2.8 of the MAP Guidelines clarifies that the scope of MAP covers application of treaty anti-abuse provisions.	https://www.firs.gov.ng/treaty-related-guidelines-and-circulars/
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	The first sentence of Article 25(3), which is replicated in the Article on MAP in all Nigerian tax treaties, provides that the competent authorities shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the agreement . Further, Paragraph 4.2.8 of the MAP Guidelines clarifies that the scope of MAP covers application of domestic anti-abuse provisions.	https://www.firs.gov.ng/treaty-related-guidelines-and-circulars/
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	Nigeria does not have a special audit settlement process outside the regular assessment and objection processes. However, paragraph 1 of the Article on MAP of all Nigerian tax treaties allows for MAP, irrespective of the remedies provided by the domestic laws.	-

Nigeria Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	Paragraph 4.2.8 of the Nigerian MAP Guidelines clarifies that double taxation cases resulting from bona fide taxpayer initiated foreign adjustments are covered within the scope of MAP.	https://www.firs.gov.ng/transfer-pricing/
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	Not applicable	Not applicable
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	The judicial procedure in Nigeria allows for out of court settlement before a final judicial ruling is made.	-
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	Access to MAP is provided to taxpayers whether or not an administrative or judicial decision has been made. However, if a court or Tribunal decision has been made concerning a tax matter, the decision becomes final and binding, hence the Nigerian authorised CA cannot deviate from that decision under MAP. The CA of the treaty partner may provide unilateral relief in that instance.	https://www.firs.gov.ng/treaty-related-guidelines-and-circulars/
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	Nigeria has issued MAP Guidelines which provides the rules, guidelines and procedures on how taxpayers can access and use MAP.	https://www.firs.gov.ng/treaty-related-guidelines-and-circulars/

Nigeria Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
14.	Are there specific timeline for the filing of a MAP request?	See detailed explanation	Yes, the timeline is as contained in Paragraph 1 of the Article on MAP in the respective treaties. Where the timeline is not specified in the treaty, the provision in sub paragraph 4.3.2 of the MAP guidelines will apply.	-
15.	Are guidance on multilateral MAPs publicly available?	See detailed explanation	Nigeria's has no distinct guidance on multilateral MAPs. Furthermore, no request has been received for multilateral MAP. MAP Guideline is not restricted to bilateral or multilateral MAP; it works for both.	https://www.firs.gov.ng/treaty-related-guidelines-and-circulars/
16.	Are tax collection procedures suspended during the period a MAP case is pending?	See detailed explanation	Suspension of tax collection is to the extent of the amount of tax that is in dispute and only during the period of dispute.	Section 77(2) of the Companies Income Tax Act, CAP C21 LFN 2004 (as amended)
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	-	-

Nigeria 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?	See detailed explanation	Nigeria has not adopted a time frame for the resolution of MAP cases but is guided by the time frame in the OECD Manual on Effective MAP.	-
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?	See detailed explanation	Penalties and Interest resulting from adjustments made pursuant to MAP will be dealt with as part of the MAP	-
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:	No	-	-

Nigeria Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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? 	Yes	Section 251 of the Constitution of the Federal Republic of Nigeria confers exclusive jurisdiction on the Federal High Court on issues of revenue of the government of the Federation. This position has been confirmed in the Court of Appeal case of Shell Nigerian Exploration and Production Co. Ltd & 3ors vs FIRS Anor (2021) LCN/15563(CA), where the Court confirmed that tax matters relating to the Federal Government revenue is not arbitrable.	-
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	No	-	-
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	See paragraph 5.0 of the MAP guidelines	-
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	Paragraph 5.3 of the MAP guideline clarifies that court decisions are binding and the CA cannot deviate from the decision of the Court.	-
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 are allowed to request for MAP covering multiple years. Where the facts and circumstances are the same. See clause 4.2.6 of the MAP guidelines.	-

Nigeria Dispute Resolution Profile – Resolution of MAP cases

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)?	Yes	-	https://www.firs.gov.ng/treaty-related-guidelines-and-circulars/
27.	Is there any other information available on resolution of MAP cases?	No	-	-

Nigeria 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?	Yes	The guideline on MAP provides that reassessment will be done not later than 6 months of the taxpayer presenting the MAP agreement to the relevant tax authority. See Paragraph 8.1 of MAP Guidelines.	https://www.firs.gov.ng/treaty-related-guidelines-and-circulars/
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	Section 23(3) of the Federal Inland Revenue Service (Establishment) Act 2007 provides that refund must be made within 90 days after the decision for refund is arrived at. The procedure to make request for the refund is contained in paragraphs 8.1(4) and 8.2 of the MAP guidelines.	https://www.firs.gov.ng/TaxResources/TaxLaws
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	Yes	Implementation of MAP agreements is as provided for in specific tax treaty. Paragraph 8.3 of the MAP guideline contains provisions on the implementation of MAP agreements.	-
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-