

## Samoa Dispute Resolution Profile

(Last updated: 7<sup>th</sup> December 2023)

### General Information

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

The Ministry of Customs and Revenue's website <https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf>

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

Fonoti Talaitupu Li'a Taefu

Competent Authority

Chief Executive Officer/Commissioner

Ministry for Revenue

Level 4, DBS Building

Apia

SAMOA

[tlia@revenue.gov.ws](mailto:tlia@revenue.gov.ws)

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

As above

**[Jurisdiction] Dispute Resolution Profile – Preventing Disputes**

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>A. Preventing Disputes</b>				
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	We have not faced the situation in the past; however there would be no legal barriers in doing so.	-
2.	Are bilateral APA programmes implemented? If yes:	No	We have not seen the need to do so. No APA experience	-
a.	<ul style="list-style-type: none"> <li>Are roll-back of APAs provided for in the bilateral APA programmes?</li> </ul>	No	Not being applied in Samoa	-
b.	<ul style="list-style-type: none"> <li>Are there specific timeline for the filing of an APA request?</li> </ul>	No	Not being applied in Samoa	-
c.	<ul style="list-style-type: none"> <li>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?</li> </ul>	No	Not being applied in Samoa	-
d.	<ul style="list-style-type: none"> <li>Are there any fees charged to taxpayers for a bilateral APA request?</li> </ul>	No	Not being applied in Samoa	-
e.	<ul style="list-style-type: none"> <li>Are statistics relating to bilateral APAs publicly available?</li> </ul>	No	Not being applied in Samoa	-
3.	Is training provided to your officials involved in the auditing /examination of taxpayers to ensure that any	Yes	Samoa currently has only one Tax Treaty with New Zealand ("DTA"). Upon it signature and	Information can be found at Level 5, Development Bank Building, Apia, Samoa email

**[Jurisdiction] Dispute Resolution Profile – Preventing Disputes**

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	assessments made by them are in accordance with the provisions of your tax treaties?		domestication, training was provided to Tax Officers/Auditors on its implications.	<a href="mailto:atumua@revenue.gov.ws">atumua@revenue.gov.ws</a> for e-copy of awareness of tax treaty
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.

**[Jurisdiction] Dispute Resolution Profile – Availability and access to MAP**

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>B. Availability and Access to MAP</b>				
5.	Are transfer pricing cases covered within the scope of MAP?	Yes	Our DTA provides for an article 23 in relation to Mutual Agreement Procedure which is in line with the OECD model and therefore applies for taxation matters arising from the application of any provision of the DTA. In addition, our DTA also contains Article 9 on associated enterprises. Therefore, cases concerning transfer pricing are within the scope of MAP.	You can check the specific content of the DTA in the following link:  <a href="https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf">https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf</a>
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	Our DTA has similar article to that of paragraph 9 of Article 29 of the 2017 OECD Model Tax Convention and therefore covered within the scope of MAP.	You can check the specific content of the DTA in the following link:  <a href="https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf">https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf</a>
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	Issues surrounding the application of domestic anti-abuse provisions may be covered with the scope of MAP	You can check the specific content of the DTA in the following link:  <a href="https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf">https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf</a>

**[Jurisdiction] Dispute Resolution Profile – Availability and access to MAP**

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	Article 23 para (1) of the DTA. Concerning MAP requests filed by taxpayers in respect of actions of one or both of Samoa and/or the treaty partner result or will result for the taxpayer in taxation not in accordance with the provisions of the tax treaty, Samoa's competent authority would grant access to MAP where the conditions specified in the provision concerning access to MAP in the relevant tax treaty, as interpreted in the Commentary, are met. Section 9.1 of Samoa's MAP guidance notes that it is possible to request a MAP where double taxation arises from adjustments with respect to which the taxpayer has voluntarily settled. In this regard, it is clarified that the reference to "double taxation" in this section is intended to cover all situations of taxation not in accordance with Samoa's tax treaties, as covered by the MAP provisions contained therein.	You can check the specific content of the DTA in the following link:  <a href="https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf">https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf</a>

**[Jurisdiction] 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	If bona fide initiated foreign adjustments may lead to double taxation they are covered within the scope of MAP pursuant to Article 23(1) of the DTA.	<a href="https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf">https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf</a>
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	This is in line with our Article 23 on MAP which is based on the OECD Model	You can check the specific content of the DTA in the following link:  <a href="https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf">https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf</a>
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	The Samoan Competent Authority will be able to explain the decision which had been issued or decided upon by the Court but the Samoan Competent Authority cannot alter the decision which has been made.	You can check the specific content of the DTA in the following link:  <a href="https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf">https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf</a>
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	Yes, Samoa's Mutual Agreement Procedure Guidelines are published online on the Ministry's website and is publicly available.	The Samoa MAP Guidelines can be accessed on the following link.  <a href="#">Base Erosion and Profit Shifting Inclusive Framework – Ministry of Customs &amp; Revenue</a>

**[Jurisdiction] 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?	Yes	Article 23(1) in DTA has a 3-year time limit from first notification of the action resulting in taxation not in accordance with the provision of the Agreement.	You can check the specific content of the DTA in the following link:  <a href="https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf">https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf</a>
15.	Are guidance on multilateral MAPs publicly available?	No	Yet to be produced	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	Yes	A taxpayer who has presented a MAP request may request to the Commissioner to stay collection of tax. There conditions to be met.	Please refer to Samoa's MAP Guideline under Chapter 6 for further information  <a href="#">Base Erosion and Profit Shifting Inclusive Framework – Ministry of Customs &amp; Revenue</a>
17.	Are there any fees charged to taxpayers for a MAP request?	No	No fees charged for submission of a MAP request	<a href="#">Base Erosion and Profit Shifting Inclusive Framework – Ministry of Customs &amp; Revenue</a>
18.	Is there any other information available on availability and access to MAP?	No	No detailed explanation needed	-

[Jurisdiction] Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>C. Resolution of MAP Cases</b>				
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	Samoa endeavours to resolve MAP cases within a period of 12 months.	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	No	No details available at the moment	-
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	MAP does not cover interest and other penalties.	Please refer to Samoa's MAP Guidelines for further information on the following link: <a href="#">Base Erosion and Profit Shifting Inclusive Framework – Ministry of Customs &amp; Revenue</a>
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	Yet to be produced	-
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	We have adopted the OECD standard and have not gone beyond this.	-
a.	<ul style="list-style-type: none"> <li>Are there any legal limitations in your domestic law (for example in your constitution) to include MAP arbitration in your tax treaties?</li> </ul>	No	No further detailed required	-
b.	<ul style="list-style-type: none"> <li>Does your treaty policy allow you to include MAP arbitration in your tax treaties?</li> </ul>	Yes	However, it is noted that this would have to go	-



**[Jurisdiction] Dispute Resolution Profile – Resolution of MAP cases**

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			through our usual checks and balances to weigh up pros and cons.	
24.	Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available?  If yes:	Yes	This is covered under Samoa's DTA with New Zealand, specifically Article 23 (1).	You can check the specific content of the DTA in the link below:  <a href="https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf">https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf</a>
a.	<ul style="list-style-type: none"> <li>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?</li> </ul>	No	The Guidance recognizes domestic court decision in so far as it is a requirement for a person requesting for a MAP, however, it does not cover if the competent authority is bound by the domestic court decision.	Paragraph 3.3 of the Samoa Mutual Agreement Procedure – Requirements of a MAP request  <a href="#">Base Erosion and Profit Shifting Inclusive Framework – Ministry of Customs &amp; Revenue</a>
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	Yes	Taxpayers are allowed requests for multi-year resolution of recurring issues. This is provided in the Samoa MAP Guideline.	This is covered under instances whereby a MAP can be requested. Full text is found under paragraph 1.3 of the Samoa MAP Guideline.  <a href="#">Base Erosion and Profit Shifting Inclusive Framework – Ministry of Customs &amp; Revenue</a>
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	Yes	Article included in DTA	You can check the specific content of the DTA in the following link:

**[Jurisdiction] Dispute Resolution Profile – Resolution of MAP cases**

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	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)?			<a href="https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf">https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf</a>
27.	Is there any other information available on resolution of MAP cases?	No	No details available at the moment	-

**[Jurisdiction] Dispute Resolution Profile – Implementation of MAP Agreements**

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>D. Implementation of MAP Agreements</b>				
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	No details	-
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?	No	Not at this stage	-
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	Yes	Para (2) of Article 23 of DTA	You can check the specific content of the DTA in the following link:  <a href="https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf">https://www.revenue.gov.ws/images/DTA-with-New-Zealand.pdf</a>
31.	Is there any other information available on the implementation of MAP agreements?	No	No details apart from the information contained in Samoa's Mutual Agreement Procedure	-