

Argentina Dispute Resolution Profile

(Last updated: 6 August 2018)

General Information

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

www.afip.gov.ar/institucional/acuerdos.asp

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

Secretaría de Ingresos Públicos, Ministerio de Hacienda
Hipólito Yrigoyen 250, of. 921, Buenos Aires, Argentina
Tel: +54 11 4349 6901

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?	Yes	They are published at the Ministry of Foreign Affairs webpage.	http://tratados.mrecic.gov.ar
2.	Are bilateral APA programmes implemented? If yes:	No	The law allows to celebrate bilateral APAs, however, for this to be implemented a regulation is needed. The Tax Administration is currently preparing it.	-
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	Yes	Roll-backs implementation is not addressed by law.	-
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	No	The regulation will clarify this item.	-
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	Guidelines are to be published when all regulations are finalized.	-
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	No	No fees are expected.	-
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	No	There have been no APAs presented to the authorities yet.	-

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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	-	-
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.

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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 provision covered within the scope of MAP?	Yes	-	-
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	Only if there is a dispute on whether a tax treaty provision may be affected by the application of the domestic anti-abuse rule.	-
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	No	Audit settlements are not allowed by domestic laws.	-
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	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	The law allows to present a MAP case and an administrative or judicial remedy simultaneously.	-

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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	Although the Competent Authority is not able to depart from judicial rulings, MAP cases can be opened and discussed with the other Competent Authority. When a domestic court case is presented before a MAP, the competent authority would accept the case and analyse it. Neither the procedure nor the judicial case are suspended. In the event that a final judicial ruling is issued before the opening of a MAP case (in practice this quite unlikely since judicial remedies take several years before a final decision is issued, taking into account that decisions are normally appealed.), the competent authority would not deny formal access to MAP, but it won't be able to deviate from the court decision. If the other competent authority considers that the judicial decision is not in accordance with the tax treaty, probably the case would be closed not fully eliminating the 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	The procedural regulation on MAP has not been approved yet.	-

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14.	Are there specific timeline for the filing of a MAP request?	Yes	Three years or the time limit provided for in the tax treaty, from the notification of the measure that cause or might cause taxation not in accordance with the tax treaty.	-
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	-	-

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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	-	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	Yes	-	http://www.oecd.org/tax/dispute/argentina-2016-mutual-agreement-procedure-statistics.pdf
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	Penalties and interest may be waived as long as the result of the MAP on the principal is favourable to the taxpayer, we do not foresee a case that interest and penalties could be addressed independently from the principal. If factual circumstances show that the taxation in Argentina was not in accordance with the tax treaty, no interest or penalties might be applied.	-
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	-	-

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23.	<p>Is MAP arbitration a mechanism currently available for the resolution of tax treaty related disputes in any of your tax treaties?</p> <p>If not:</p>	No	As a general policy Argentina is not prepared to provide an extension of jurisdiction in any international agreement that involves State affairs, because of that, it is not possible for us to accept arbitration in tax treaties.	-
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	-	-
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	There is no explanation but the law provides that both procedures may coexist and maps are binding for the tax administration.	-
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? 	-	-	-
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	-	-

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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	Tax treaties concluded with Bolivia, Brazil, Germany, France, Italy, and Switzerland do not include a provision which oblige the Competent Authority to make corresponding adjustments. It is expected to be amended by the Multilateral Instrument once it has entered into force for Argentina.	-
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?	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, 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	-	-
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	No	Tax treaties concluded with Belgium, Bolivia, Brazil, Canada, Chile, Denmark, Germany, Italy, Mexico, United Kingdom, Russia, and Switzerland do not overrule the time limits provided for in the domestic laws. In most cases, it is expected to be amended by the Multilateral Instrument once it has entered into force for Argentina.	-
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-