

Costa Rica Dispute Resolution Profile

(Last updated: 1 September 2016)

General Information

- **Costa Rica tax treaties are available at:**

<http://www.hacienda.go.cr/contenido/13855-listado-de-convenios-de-doble-imposicion-vigentes>

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

Mr. Carlos Luis Vargas Durán, Director of the Tax Administration.
San José-Costa Rica. Central and 1° Avenue 5° Streets. La Llacuna Building, 14th floor.
Telephone: (506)2522-9493 / Fax: (506) 2233-5918
Email: vargasdc@hacienda.go.cr

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

Mr. Carlos Luis Vargas Durán, Director of the Tax Administration.
San José-Costa Rica. Central and 1° Avenue 5° Streets. La Llacuna Building, 14th floor.
Telephone: (506)2522-9493 / Fax: (506) 2233-5918
Email: vargasdc@hacienda.go.cr

Costa Rica 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?	Yes	-	http://www.hacienda.go.cr/contenido/13855-listado-de-convenios-de-doble-imposicion-vigentes
2.	Are bilateral APA programmes implemented? If yes:	No	-	-
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? 	-	-	-
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?	Yes	There are colleagues who have received a lot of training. However, we must continue with this initiative to include other colleagues and to	-

Costa Rica Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			deepen the knowledge on this matter.	
4.	Is other information available on preventing tax treaty-related disputes?	Yes	-	http://www.hacienda.go.cr/contenido/13882-map-mutual-agreement-procedure

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.

Costa Rica 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	Additionally, the Costa Rican Congress is working on a bill to cover and fortify transfer pricing cases in our domestic law, including the specific reference to the possibility of access to MAP in transfer pricing cases.	-
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?	No	-	-
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	-	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	No	-	-
10.	Are there any other treaty related issues not covered under s/n 5 to 9 which are not within the scope of MAP?	Yes	If a dispute had been settled in the Court it is not eligible for a MAP request.	-
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	See detailed explanation	It is allowed to request MAP assistance provided that the dispute has not already been decided via judicial.	-

Costa Rica Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	law of your jurisdiction?			
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?	See detailed explanation	It is not allowed under domestic law, for a dispute already decided via judicial to be selected for a MAP request. However, taxpayers are allowed to request for MAP assistance in case where the issue under dispute has already been decided via administrative remedies.	-
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	We are in the process of adopting BEPS Action 14 Minimum Standard in our domestic regulations, so we are still working in the guidelines and procedures to access and use MAP.	-
14.	Are there specific timeline for the filing of a MAP request?	No	We are in the process of adopting BEPS Action 14 Minimum Standard and the establishment of the timeline for the filing of a MAP request.	-
15.	Are guidance on multilateral MAPs publicly available?	No	-	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	No	The Costa Rican Tax Administration maintains on its website and " <i>Digesto tributario</i> " a ruling that establishes the process to refund taxes due or paid by taxpayers.	http://www.hacienda.go.cr/contenido/130_11-devolucion-de-saldos-a-favor-de-impuestos "Resolución N° DGT-R-003-2016, Requisitos generales de la solicitudes de devolución de créditos fiscales"

Costa Rica Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
				http://196.40.56.20/SCIJ_MHDA/docjur/mhda_docjur.aspx?nBaseDato=1&nDocJur=17475
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	-	-

Costa Rica 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	We are in process of adopting BEPS Action 14 Minimum Standard in its domestic regulations and the establishment of timeframes for the resolution of a MAP request.	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	Yes	We had only two MAP cases.	http://www.hacienda.go.cr/contenido/13882-map-mutual-agreement-procedure
21.	Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure?	Yes	-	-
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	-	-
a.	• Are there any legal limitations in your domestic law (for example in your constitution) to include MAP arbitration in your tax treaties?	Yes	-	-
b.	• Does your treaty policy allow you to include MAP arbitration in your tax treaties?	No	-	-
24.	Is the explanation of the relationship between the MAP and domestic law administrative and judicial	No	We are in process of adopting BEPS Action 14 Minimum Standard in its	-

Costa Rica Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	remedies publicly available? If yes:		domestic regulations. As soon as we have the explanation of the relationship between the MAP and domestic law administrative and judicial remedies we will update the Profile.	
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.	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 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	-	-
27.	Is there any other information available on resolution of MAP cases?	No	-	-

Costa Rica 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	-	http://www.pgrweb.go.cr/SCIJ/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=6530&nValor3=106114&strTipM=TC <i>“Código de Normas y Procedimientos Tributarios (Código Tributario) Ley N° 4755”</i>
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?	Yes		http://www.pgrweb.go.cr/SCIJ/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=6530&nValor3=106114&strTipM=TC <i>“Código de Normas y Procedimientos Tributarios (Código Tributario) Ley N° 4755”</i>
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?	Yes	We are in process of adopting BEPS Action 14 Minimum Standard in its domestic regulations and the establishment of timeframes for the resolution of a MAP request.	<i>“Resolución N° DGT-R-003-2016, Requisitos generales de la solicitudes de devolución de créditos fiscales”</i> http://196.40.56.20/SCIJ_MHDA/docjur/mhda_docjur.aspx?nBaseDato=1&nDocJur=17475