

Seychelles Dispute Resolution Profile

(Last updated: 28 December 2016)

General Information

- **Seychelles tax treaties in force are available on the following email address:**

<http://www.src.gov.sc/pages/resources/dtas.aspx>

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

Georgette Capricieuse, Seychelles Revenue Commissioner

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georgette.capricieuse@src.gov.sc

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

As above.

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?	No	We never faced the situation in the past; however there would be no legal barriers for us to do so.	-
2.	Are bilateral APA programmes implemented? If yes:	No	We have not seen the need to engage in any so far.	-
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	Yes	-	-

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?			
4.	Is other information available on preventing tax treaty-related disputes?	No	The only other information we have available would be those provided by OECD.	-

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 DTAA's provide for an article in relation to mutual agreement procedure which is in line with the OECD model and which therefore applies for taxation matters arising from the application of any provision of the convention. In addition, all our conventions also contains Article 9 on associated enterprises.	On the website from SRC where you could check the DTAA's content.
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	For as long as those anti-abuse rules are contained in our DTAA's which are based on OECD Model, then it is covered under the MAP.	-
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	It will be the result of the audit which will determine the notification from which the delay to request a MAP will be	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			applicable.	
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	For as long as the DTAA contains a provision about how to deal with double taxation, then this is covered under the MAP.	-
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	-	-
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 in line with our provision on mutual agreement procedure which is based on the OECD Model.	-
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	Same reason as above.	-
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	No	We have no experience and would use the DTAA provision and commentaries.	-

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	assistance, publicly available?			
14.	Are there specific timeline for the filing of a MAP request?	Yes	3 year or 2 years from the time the notification of the decision which makes the taxpayer believed the provision of the convention have not been applied correctly.	-
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	-	-

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?	No	-	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	No	No experience.	-
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	In our domestic law the commissioner cannot waive any interest, however for penalties, this will be possible, but it will be under our domestic law and not under 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	No resources have been allocated to such work as the need has not occurred yet.	-
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 model OECD standard so we have not gone to a further extent.	DTAA.

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? 	No	-	-
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>	No	-	-
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	It is our interpretation of the OECD Model clause that this should be the case if a request was made.	-
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	Yes	-	See DTAs.

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	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)?			
27.	Is there any other information available on resolution of MAP cases?	No	-	-

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	<p>The article on the MAP in our DTAA states that should an agreement be reached, this former should be implemented irrespective of any time limits in the domestic law of the taxpayer (exception with few of our DTAA). The DTAA are available as published in the official gazette and also available on the SRC website.</p> <p>For the second part of the question, with regards to timeframe within which the taxpayer is expected to pay, it is based on the domestic law provision, and the timeframe is stated under the notice of assessment. The law is public.</p>	-
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	Yes	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	to reflect the agreement reached by the competent authority and/or for a refund of the tax paid?			
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	No	The paragraph 2 of the model article for MAP is present in almost all our DTAAAs but the oldest ones do not include it.	-
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-