

## St. Kitts and Nevis Dispute Resolution Profile

(Last updated: 24 January 2020)

### General Information

- **St. Kitts and Nevis tax treaties are available at:**

[http://mof.gov.kn/?page\\_id=3689](http://mof.gov.kn/?page_id=3689) and <https://www.sknird.com/tax-treaties-sknird-page-20260.aspx>

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

Name: Mrs. Hilary Hazel

Designation: Competent Authority

Organisation: Ministry of Finance

Email: [skncompetentauthority@gmail.com](mailto:skncompetentauthority@gmail.com) and [finsec@govt.kn](mailto:finsec@govt.kn)

Telephone: 869-467-1092

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

Same as above.

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	-	-
2.	Are bilateral APA programmes implemented? If yes:	No	-	-
a.	<ul style="list-style-type: none"> <li>Are roll-back of APAs provided for in the bilateral APA programmes?</li> </ul>	-	-	-
b.	<ul style="list-style-type: none"> <li>Are there specific timeline for the filing of an APA request?</li> </ul>	-	-	-
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>	-	-	
d.	<ul style="list-style-type: none"> <li>Are there any fees charged to taxpayers for a bilateral APA request?</li> </ul>	-	-	-
e.	<ul style="list-style-type: none"> <li>Are statistics relating to bilateral APAs publicly available?</li> </ul>	-	-	-

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	Training is provided, however, continuous training is required.	-
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>B. Availability and Access to MAP</b>				
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	Saint Kitts and Nevis' MAP procedures do not specifically address treaty anti-abuse provisions. Saint Kitts and Nevis intends to grant access to MAP in cases of perceived treaty abuse.	-
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	Saint Kitts and Nevis intends to grant access to MAP in cases of perceived domestic abuse.	-
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	A taxpayer can choose to access MAP, regardless of any audit settlements made by the Inland Revenue Department.	See Section 10 page 12 in SKN's MAP Guidelines
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	-	See Section 5 page 6 in SKN's MAP Guidelines
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	Yes	Where domestic legal remedies are still available, the St Kitts and Nevis Competent Authority (SKNCA) would encourage the taxpayer to agree to the suspension of these remedies; if the taxpayer	See Section 4 page 5 in SKN's MAP Guidelines

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	provided by the domestic law of your jurisdiction?		disagrees, the SKNCA would delay the MAP until these remedies are exhausted.	
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 SKNCA would be legally bound by the decision of a court of competent jurisdiction and would be limited in its ability to settle the MAP in a way that is inconsistent with that court decision. In some cases, the SKNCA may also be prevented from providing relief through MAP based on the decision of the court. However, the SKNCA may still be able to enter into bilateral discussions with the other Contracting State to see if relief could still be granted. Any relief for double taxation or taxation not in accordance with the Tax Convention may be possible only in the other Contracting State at the discretion of its Competent Authority (CA).	See Section 4 page 5 in SKN's MAP Guidelines
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	-	-
14.	Are there specific timeline for the filing of a MAP request?	Yes	-	See Section 6.2 page 8 in SKN's MAP Guidelines
15.	Are guidance on multilateral MAPs publicly available?	No	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
16.	Are tax collection procedures suspended during the period a MAP case is pending?	Yes	Collection procedures would be suspended for the assessed amount under dispute. Any amounts not disputed would follow the established collection guidelines.	See Section 12 page 12 in SKN’s MAP Guidelines
17.	Are there any fees charged to taxpayers for a MAP request?	No	-	See Section 6.3 on page 8 in SKN’s MAP Guidelines
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
<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?	Yes	-	See Section 8 on page 10 in SKN's MAP Guidelines
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	See detailed explanation	To date Saint Kitts and Nevis has not received any MAP cases. When cases are received the statistical information would be publicly available.	-
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	The SKNCA may waive interest and penalties depending on the resolution of the MAP case and the nature of the circumstances which gave rise to the imposition of that interest and penalty.	See Section 11 on page 12 in our MAP Guidelines
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.	<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</li> </ul>	-	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	in your tax treaties?			
b.	<ul style="list-style-type: none"> <li>Does your treaty policy allow you to include MAP arbitration in your tax treaties?</li> </ul>	-	-	-
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 section 4 page 5 in SKN’s MAP Guidelines
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>	Yes	-	See section 4 page 5 in SKN’s MAP Guidelines
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	Yes	Taxpayers may submit MAP requests that span multiple years, subject to the time limits specified in the applicable DTAs.	-
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	See detailed explanation	<ul style="list-style-type: none"> <li>There are three (3) treaties that have an article 9(2) which would allow for these types of cases to be submitted under MAP.</li> <li>The CARICOM Multilateral agreement concluded with 11 treaty partners also provides for MAP but does not have an Article 9(2). However, St. Kitts</li> </ul>	<a href="https://sknird.com/tax-treaties-sknird-page-20260.aspx">https://sknird.com/tax-treaties-sknird-page-20260.aspx</a>

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	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)?		and Nevis operates on the basis that corresponding adjustments should be granted based on the interpretation described in paragraphs 10 to 12 of the Commentary on Article 25 of the OECD Model Tax Convention.	
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
<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?	Yes	<p>- If the taxpayer confirms in writing its acceptance of the mutual agreement, the Inland Revenue Department will be instructed in writing to give effect to the mutual agreement and seek to ensure its implementation without delay. The taxpayer would also be contacted in writing to advise how the additional payment should be made.</p> <p>- Amended returns would be required. Please be advised that the due date for the payment was the date of the original Notice of Assessment.</p> <p>- Where the applicable DTA so provides, the agreement shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.</p>	See section 9.1 page11 in SKN’s MAP Guidelines
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	<p>In cases where a refund is due to the taxpayer, the taxpayer would be duly informed, and they would be required to make an application to the Inland Revenue Department (IRD) to begin the process of obtaining the refund.</p> <p>The taxpayer would be required to submit amended returns for the affected accounting periods to IRD.</p> <p>The tax refund would be paid within 30-60 days. The Competent Authority reserves the right to request an extension. Please be advised that prior to payment, all the tax accounts of the taxpayer</p>	See section 9.1 page 11 in SKN’s MAP Guidelines

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			would be cleared.	
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	See detailed explanation	<p>The second sentence of Article 25(2) of the Model Tax Convention allows Competent Authorities to implement agreements reached notwithstanding any time limits in the domestic law. Only three (3) of the Federation’s DTAs include this second sentence.</p> <p>St. Kitts and Nevis is currently working with the technical officials to bring the remaining treaties in line with International Standards.</p>	<a href="https://sknird.com/tax-treaties-sknird-page-20260.aspx">https://sknird.com/tax-treaties-sknird-page-20260.aspx</a>
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-