

St. Kitts and Nevis Dispute Resolution Profile

(Last updated: 09 May 2018)

General Information

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

<http://www.mof.govt.kn>

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

Name: Mrs. Hilary Hazel

Designation: Competent Authority

Organisation: Ministry of Finance

Email: skncompetentauthority@gmail.com and 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
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?	See detailed explanation	St. Kitts and Nevis has not had any such disagreements.	-
2.	Are bilateral APA programmes implemented? If yes:	See detailed explanation	St. Kitts and Nevis has not had any such bilateral APA programme.	-
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	See 2 above	-	-
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	See 2 above	-	-
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? 	Yes	Information required to facilitate an APA request is set out in Section 49 of the Tax Administration and Procedures Act (TAPA) on advance rulings.	
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	Yes	Section 49 (4) of TAPA provides for the Comptroller of Inland Revenue to charge a reasonable fee for the issue of rulings.	-
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs 	See detailed	See 2 above.	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	publicly available?	explanation		
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	Some training provided, however tax officials would require additional training.	-
4.	Is other information available on preventing tax treaty-related disputes?	See detailed explanation	St. Kitts and Nevis has not had any such tax treaty-related disputes.	-

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.

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	St. Kitts and Nevis’ TIEAs and DTCs provide for MAP however there is no explicit reference to transfer pricing cases.	-
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	See detailed explanation	St Kitts and Nevis’ exchange mechanisms do not specifically address anti-abuse provisions, however generally the MAP allows for the contracting parties to address any disputes including anti-abuse issues. Any attempts to abuse treaty provisions would be considered as a violation of the principles of fair taxation.	-
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	See detailed explanation	St Kitts and Nevis’ exchange mechanisms do not specifically address anti-abuse provisions, however generally the MAP allows for the contracting parties to address any disputes including anti-abuse issues. Any attempts to abuse domestic provisions would be considered as a violation of the principles of fair taxation.	-
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	See detailed explanation	A request for MAP assistance can be made even if an audit settlement has been agreed domestically.	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	-	-
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	-	-
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?	See detailed explanation	<p>While there are no specific rules, guidelines and procedures published to guide taxpayers on access and use of MAP, the Mutual Agreement Procedure in some Double Taxation Agreements provide taxpayers with general information on MAP usage and access. The content of the information therein includes the following:</p> <ul style="list-style-type: none"> Competent authority for whom the MAP requests should be submitted; Persons who can request for MAP; Time limits to fill a MAP request and the relationship between the MAP and the domestic remedies. 	-

St. Kitts and Nevis 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?	No	-	-
15.	Are guidance on multilateral MAPs publicly available?	No	-	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	Yes	-	-
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	-	-
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 St. Kitts and Nevis tax regime provides for penalties and interest to be deferred if an assessment is challenged.	-
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:	Yes	The St Kitts and Nevis Treaties do not specifically mention arbitration, however the Competent Authorities of the Contracting States may communicate with each other directly, or through a joint commission consisting of themselves or their representatives for the purpose of reaching an agreement.	-
a.	<ul style="list-style-type: none"> Are there any legal limitations in your domestic law (for example in your 	-	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	constitution) to include MAP arbitration in your tax treaties?			
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	-	-	-
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?	See detailed explanation	St. Kitts and Nevis is open to MAP of recurring issues using the advance rulings provisions in TAPA.	-
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	No	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	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?	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?	See detailed explanation	St. Kitts and Nevis has not had such mutual agreements reached through MAP.	-
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-