

Guernsey Dispute Resolution Profile

(Last updated: 12 July 2019)

General Information

- **Guernsey tax treaties are available at:**

<https://www.gov.gg/dta>

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

Nig Garland, Head of Policy (Deputy Director) [Primary Point of Contact]

States of Guernsey Revenue Service

PO Box 37, St Peter Port, GUERNSEY GY1 3AZ

Telephone: +44 (0) 1481 705700 | +44 (0) 1481 705741 | nig.garland@gov.gg

Nicky Forshaw, Director of the Revenue Service

States of Guernsey Revenue Service

PO Box 37, St Peter Port, GUERNSEY GY1 3AZ

Telephone: +44 (0) 1481 705700 | +44 (0) 1481 705743 | nicky.forshaw@gov.gg

Mandy Evans, Technical Head

States of Guernsey Revenue Service

PO Box 37, St Peter Port, GUERNSEY GY1 3AZ

Telephone: +44 (0) 1481 705700 | +44 (0) 1481 705738 | mandy.evans@gov.gg

General Information

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

Nig Garland, Head of Policy (Deputy Director) [Primary Point of Contact]

States of Guernsey Revenue Service

PO Box 37, St Peter Port, GUERNSEY GY1 3AZ

Telephone: +44 (0) 1481 705700 | +44 (0) 1481 705741 | nig.garland@gov.gg

Nicky Forshaw, Director of the Revenue Service

States of Guernsey Revenue Service

PO Box 37, St Peter Port, GUERNSEY GY1 3AZ

Telephone: +44 (0) 1481 705700 | +44 (0) 1481 705743 | nicky.forshaw@gov.gg

Mandy Evans, Technical Head

States of Guernsey Revenue Service

PO Box 37, St Peter Port, GUERNSEY GY1 3AZ

Telephone: +44 (0) 1481 705700 | +44 (0) 1481 705738 | mandy.evans@gov.gg

Guernsey Dispute Resolutions 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?	See detailed explanation	<p>The decision to publish agreements will be made on a case by case basis.</p> <p>However, in general, agreements which would relate to a category of taxpayers would be published as Statements of Practice. However, this may not occur if the category consisted of one or a small number of taxpayers and publication may lead to their identification.</p>	<p>Statements of Practice can be accessed at: https://gov.gg/taxationstatementsofpractice</p> <p>As Guernsey has not received any valid MAP requests to date, no Statements of Practice concerning MAP cases have been published.</p>
2.	Are bilateral APA programmes implemented? If yes:	No	<p>There is no formal APA programme established under Guernsey tax legislation, nor an informal procedure in practice.</p> <p>In the event a potential need arises in the future for an APA programme, this position would be reviewed accordingly.</p>	-
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	N/A	-	-
b.	<ul style="list-style-type: none"> Are there specific timelines for the filing of an APA request? 	N/A	-	-
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? 	N/A	-	-

Guernsey Dispute Resolutions Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
A. Preventing Disputes				
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	N/A	-	-
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	N/A	-	-
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	The Director has provided appropriate on the job training to all Revenue Staff likely to be involved in tax assessments in the auditing/examination of taxpayers with a cross-border element. This ensures that assessments are made in accordance with the provisions of Guernsey's tax treaties.	Guernsey does not publish internal training materials. Treaties are published (see link in General Information above).
4.	Is other information available on preventing tax treaty-related disputes?	See detailed explanation	No other information has been made available. This is against the background that, to date, Guernsey has not had a tax treaty-related dispute.	-

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.

Guernsey 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	-	Guernsey MAP guidance (s. 7.7.2)
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	-	Guernsey MAP guidance (s. 7.7.5)
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	-	Guernsey MAP guidance (s. 7.7.5)
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	-	Guernsey MAP guidance (s. 7.7.3)
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	-	Guernsey MAP Guidance (s. 7.7.2)
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	-	Guernsey MAP Guidance (s. 7.7.4)

Guernsey 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				
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	-	Guernsey MAP Guidance (s. 7.7.4)
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	-	Guernsey MAP Guidance (s. 7)
14.	Are there specific timelines for the filing of a MAP request?	Yes	All of Guernsey's DTAs provide a 3 year time period, with the exception of the Qatar DTA which provides a 2 year time period (although this treaty is currently being renegotiated and will, inter alia, address this).	Guernsey MAP Guidance (s. 5)
15.	Are guidance on multilateral MAPs publicly available?	Yes	Notwithstanding that Guernsey at this current time does not have any treaties, which permit multilateral MAPs.	Guernsey MAP Guidance (s. 7.7.7)
16.	Are tax collection procedures suspended during the period a MAP case is pending?	See detailed explanation	A taxpayer may request the suspension of tax collection procedures. In general, requests are usually approved provided that the taxpayer has appealed against the relevant assessments(s) and paid any undisputed amount of tax due and the request appears reasonable on the facts.	Guernsey MAP Guidance (s. 7.7.1)

Guernsey 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				
17.	Are there any fees charged to taxpayers for a MAP request?	No	-	-
18.	Is there any other information publicly available on availability and access to MAP?	Yes	-	Guernsey MAP Guidance

Guernsey 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?	Yes	<p>The general timeframe for the resolution of MAP cases is within 2 years.</p> <p>Further detail is provided in Guernsey’s MAP guidance.</p>	Guernsey MAP guidance (s. 8)
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	See detailed explanation	<p>Guernsey submits MAP statistics to the OECD on an annual basis which are publically available.</p> <p>Guernsey has had no valid MAP cases to date.</p>	-
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	<p>Late payment surcharges are a statutory charge and would not be waived if they are due in accordance with Guernsey’s tax legislation</p> <p>Penalties can be mitigated, based on the circumstances in which they arise, therefore, in the case of a MAP procedure, the facts of the case would be taken into account.</p>	<p>Guernsey MAP guidance (s. 7.7.1)</p> <p>Statement of Practice on Penalties: https://gov.gg/taxationstatementsofpractice</p>

Guernsey 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				
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?	See detailed explanation	Guernsey has, to date, not received any valid MAP requests so it has not been necessary to establish a dedicated MAP unit. Any MAP requests received in the future would be dealt with by senior officers of the Revenue Service whom have the required knowledge and skill set with regards to Guernsey's MAP procedures and DTA obligations.	-
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	Guernsey's model tax agreement includes a provision for arbitration and inclusion of such a provision would be discussed with any prospective DTA partners. An arbitration clause is specifically included in the DTAs with Hong Kong, Isle of Man, Jersey, Liechtenstein, Luxembourg, United Kingdom and the limited DTA with Netherlands.	Treaties are published (see link in General Information above).
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? 	N/A	-	-
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	N/A		
24.	Is the explanation of the relationship between the MAP and the domestic law administrative and judicial remedies publicly available? If yes:	Yes	-	Guernsey MAP Guidance (s. 7.6)

Guernsey 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				
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? 	Yes	-	Guernsey MAP Guidance (s. 7.6)
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect of filed tax years?	See detailed explanation	Yes, to the extent that the matter was permitted/covered by the relevant treaty.	Guernsey MAP Guidance (s. 7.7.6)
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)?	See detailed explanation	Yes, except; <ul style="list-style-type: none"> -in the limited agreement with the Netherlands (and discussions are being held in connection with amending this agreement); and -there are variations in three comprehensive treaties. In the Qatar DTA there is an additional proviso that the adjusting party must agree with the adjustment made before it is obliged to do so, and in the Seychelles and Singapore DTAs, where the Competent Authorities must concur through consultation. 	-
27.	Is there any other information available on resolution of MAP cases?	Yes	-	Guernsey MAP guidance

Guernsey 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?	See detailed explanation	<p>The MAP guidelines provide that any such agreement reached will be implemented without delay.</p> <p>If additional tax becomes payable, after a MAP adjustment is made, the tax due will be payable in accordance with the Income Tax Law. The due date(s) for payment will be detailed in the statement that accompanies the relevant assessment(s). If difficulties are encountered in making payment in full by the due date(s), contact should be made with the Revenue Service Collection Section, in order to discuss the payment options.</p>	Guernsey MAP guidance (s. 7.7.1)
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?	See detailed explanation	The MAP guidelines provide that any such agreement reached will be implemented without delay.	Guernsey MAP guidance (s. 7.5.2.1)

Guernsey 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				
30.	Are all mutual agreements reached through MAP implemented, notwithstanding any time limits in your domestic law?	Yes	-	Guernsey MAP guidance (s. 7.5.2.1)
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-