

Peru Dispute Resolution Profile

(Last updated: November 2024)

General Information

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

https://www.mef.gob.pe/es/?option=com_content&language=es-ES&Itemid=100878&lang=es-ES&view=article&id=302

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

Peruvian competent authority: Mr. Victor Mejía Ninacónedor, National Superintendent of the National Superintendence of Customs and Tax Administration (SUNAT) | E-mail: map-peru@sunat.gob.pe; vmejia@sunat.gob.pe

Points of contact at SUNAT:

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Ms. Vilma Chávez Acero, Head of Negotiation and Mutual Administrative Assistance in Tax Matters Division of the National Intendancy of Strategies and Risks. Phone number: +511 6343300 - Ext: 22054. Email addresses: map-peru@sunat.gob.pe; vchaveza@sunat.gob.pe

s/n	Response	Detailed explanation	Where publicly available information and guidance can be found
A. Preventing Disputes			
1.	Yes	Even though there are not cases in which we have reached a mutual agreement which relates to general matters that affect the application of a tax treaty to all taxpayers or to a category of taxpayers, we have considered their publication in SUNAT's web page, when appropriate.	https://www.mef.gob.pe/es/?option=com_content&language=es-ES&Itemid=100878&lang=es-ES&view=article&id=302
2.	See detailed explanation If yes:	Even though article 32°-A(f) of the Income Tax Law and article 118°(II) of the Income Tax Law Regulation allows entering into bilateral APAs, at this point, Peru does not have a formal bilateral APA programme.	Income Tax Law (D.S. N° 179-2004-EF) Income Tax Law Regulation (D.S. N° 122-94-EF)
a.	• Are roll-back of APAs provided for in the bilateral APA programmes?	-	Legislative Decree No. 1662
b.	• Are there specific timeline for the filing of an APA request?	-	-
c.	• 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.	• Are there any fees charged to taxpayers for a bilateral APA request?	-	-

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e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	-	-
3.	<p>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?</p>	<p>Yes</p>	<p>SUNAT has as institutional policy, through the IAT [1], the continuous strengthening of the competences of operating Audit units regarding international taxation, among them, those related to tax treaties, transfer pricing and other Inclusive Framework on BEPS actions.</p> <p>[1] IAT is responsible for training the officers of the Tax Administration, promoting research and knowledge management, as well as promoting tax and customs culture among students and citizens.</p>

4.	Is other information available on preventing tax treaty-related disputes?	See detailed explanation	<p>Under article 93 of the Tax Code, SUNAT has attended various queries on topics related to the application of tax treaties, through reports. These reports have established binding criteria for the Tax Administration and are public knowledge according to article 94 of the Tax Code.</p>	<p>The mentioned reports can be found in the following websites:</p> <p>https://www.sunat.gob.pe/legislacion/oficios/2017/informe-oficios/i036-2017-7T0000.pdf</p> <p>https://www.sunat.gob.pe/legislacion/oficios/2016/informe-oficios/i070-2016.pdf</p> <p>https://www.sunat.gob.pe/legislacion/oficios/2016/informe-oficios/i167-2016.pdf</p> <p>https://www.sunat.gob.pe/legislacion/oficios/2015/informe-oficios/i094-2015.pdf</p> <p>https://www.sunat.gob.pe/legislacion/oficios/2012/informe-oficios/i008-2012a.pdf</p> <p>https://www.sunat.gob.pe/legislacion/oficios/2006/oficios/i0392006.htm</p> <p>https://www.sunat.gob.pe/legislacion/oficios/2019/informe-oficios/i057-2019-7T0000.pdf</p> <p>https://www.sunat.gob.pe/legislacion/oficios/2018/informe-oficios/i037-2018-7T0000.pdf</p> <p>https://www.sunat.gob.pe/legislacion/oficios/2015/informe-oficios/i187-2015.pdf</p> <p>https://www.sunat.gob.pe/legislacion/oficios/2009/oficios/i178-2009.htm</p> <p>https://www.sunat.gob.pe/legislacion/oficios/2008/oficios/i1192008.htm</p>
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			<p>Article 93 of the Tax Code establishes that Entities representing economic, labor, and professional activities, as well as entities of the National Public Sector, may submit reasoned inquiries regarding the meaning and scope of the tax regulations.</p> <p>Queries that do not comply with the provisions of the preceding paragraph will be returned and cannot generate a response from administrative body, either for informational purposes.</p> <p><u>Tax Code (D.S. N° 133-2013-EF)</u></p> <p>Article 94 of the Tax Code establishes that queries must be presented in writing before the competent body of the Tax Administration, which in turn must give a response to the consultant in a period no longer than ninety (90) working days counted from the working day following the presentation date. Failure to respond in the said timeframe will not imply the acceptance of the criteria contained in the consultation paper. The decision issued will be binding for the different bodies of the Tax Administration.</p> <p>Whenever queries, due to their significance, may require the body of the Tax Administration to issue a Superintendence Resolution or regulation of similar hierarchy, in respect to the issue under consultation, which in turn will be published in the Official Gazette. The term referred to in the first paragraph of this article</p>
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			will not apply to those cases in which the opinions of other entities other than the Tax Administration are needed. The procedure to attend written queries, including other exceptions to the term referred to in paragraph one of this article, will be established by means of a Supreme Decree.
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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	MAP access is provided in transfer pricing cases.	-
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	MAP access is provided in cases in which there is a disagreement as to whether the conditions for the application of a treaty anti-abuse provision have been met.	
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	See detailed explanation	Only when the taxation resulting from the application of a domestic anti-abuse provision is not in accordance with a provision of the tax treaty.	-
8.	Are issues where there is already an audit settlement between the tax authority and	See detailed explanation	This type of agreement does not exist in the Peruvian legal framework; therefore, it would be beyond the scope of MAP.	-

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	the taxpayer covered within the scope of MAP?		-	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	See detailed explanation	We have at present not dealt with this issue in our legal framework.	-
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?	See detailed explanation	<p>The taxpayer may file a MAP request even when the administrative procedures (claim or appeal) are pending resolution.</p> <p>Under current legal framework, if a legal action is filed and simultaneously a MAP request is submitted, MAP access will not be granted, since the Peruvian competent authority shall refrain from issuing a pronouncement in conformity with article 139(2) of the Political Constitution of Peru and article 4 of the Single Revised Text of the Organic Law of the Judicial Branch approved by Supreme Decree 017-93-JUS.</p>	Article 139 of the Political Constitution of Peru The principles and rights of the jurisdictional function are the following: (...) 2. The Independence in the exercise of the jurisdictional function. No authority shall take up cases pending before a jurisdictional body or interfere in the exercise of its functions. (...) Political Constitution of Peru Article 4 of the Single Revised Text of the Organic Law of the Judicial Branch.

			<p>(...)</p> <p>No authority, regardless of his rank or denomination, outside the hierarchical organization of the Judicial Branch, may take up cases pending before a jurisdictional body. (...)</p> <p><u>Organic Law of the Judicial Branch</u></p>
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s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	<p>Taxpayers will be able to request the Peruvian Competent Authority, assistance to solve taxation situations not in conformity with tax treaties when such situations have been decided through administrative resources established in the domestic legislation.</p> <p>However, as set forth in article 139(2) of the Political Constitution of Peru and article 4 of the Single Revised Text of the Organic Law of the Judicial Branch, approved by Supreme Decree 017-93-JUS, a situation or dispute solved through legal resources cannot be reviewed through a MAP.</p>	<p>Article 139 of the Political Constitution of Peru</p> <p>The principles and rights of the jurisdictional function are the following:</p> <p>(...)</p> <p>2. The Independence in the exercise of the jurisdictional function.</p> <p>No authority shall take up cases pending before a jurisdictional body or interfere in the exercise of its functions. Neither shall they void judicial decisions that have the status of res judicata, halt proceedings underway, nor amend judicial decisions or delay their execution. (...)</p> <p>Article 4 of the Single Revised Text of the Organic Law of the Judicial Branch.</p> <p>All authorities and persons are required to meet and comply with judicial decisions or those of administrative nature, issued by competent judicial authorities, in its own terms, without being able to qualify its content or foundations, to restrict its effects or to interpret its arguments under the civil, criminal, or administrative responsibility stated by law.</p> <p>No authority, regardless of his rank or denomination, outside the hierarchical</p>

				organization of the Judicial Branch, may take up cases pending before a jurisdictional body. Neither shall they void judicial decisions that have the status of res judicata, amend their content, delay their execution or halt proceedings underway, under political, administrative, civil and criminal responsibility determined by law in each case.
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	Orientation rules to access and use the mutual agreement procedure including information and documentation that should be enclosed to the request is found in the Guidelines on MAP, version 1.0.	https://orientacion.sunat.gob.pe/3263-04-convenios-para-evitar-doble-imposicion
14.	Are there specific timeline for the filing of a MAP request?	See detailed explanation	MAP requests must be filed within the timeframe provided for in the relevant tax treaty.	https://www.mef.gob.pe/es/?option=com_content&language=es-ES&Itemid=100878&lang=es-ES&view=article&id=302
15.	Are guidance on multilateral MAPs publicly available?	No	-	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	No	Current regulations do not allow the suspension of tax collection procedures during the period in which a MAP is pending resolution. However, it is planned to adopt this international best practice.	-

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	-	-

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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?	Yes	Available data on the OECD's MAP statistics website, provided annually by Peru.	https://www.oecd.org/en/data/datasets/mutual-agreement-procedure-statistics.html
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	Under Tax Code, interests are ancillary to the tax. Consequently, the competent authority is of the opinion that these should be eliminated or reduced in the same proportion as agreed upon in the MAP regarding the tax. The same applies to administrative penalties directly related to the tax if they are calculated on the basis of the tax.	https://orientacion.sunat.gob.pe/3263-04-convenios-para-evitar-doble-imposicion

22.	<p>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 organization?</p>	<p>See detailed explanation</p>	<p>The Regulation on the organization and functions (ROF) of SUNAT established, among other functions of the National Intendency of Strategies and Risks, to conduct the evaluation and resolve mutual agreement procedure requests. This function is exercised through the International Taxation Management and within this, the Division of Negotiation and Mutual Administrative Assistance in Tax Matters.</p>	<p><u>Article 49 paragraph p) of the first section of the ROF of SUNAT, approved by Supreme Decree No. 040-2023-EF.</u> <u>Articles 173 and 402 paragraph m) of the second section of the aforementioned ROF, approved by Resolution of Superintendence No. 000081-2023/SUNAT.</u> <u>https://www.sunat.gob.pe/institucional/quien_essomos/igo/rof/rof.html</u></p>
23.	<p>Is MAP arbitration a mechanism currently available for the resolution of tax treaty related disputes in any of your tax treaties?</p> <p>If not:</p>	<p>See detailed explanation</p>	<p>Under tax treaties signed with Chile and Canada, the competent authorities can agree to submit a case under voluntary arbitration. The procedure will be established in an exchange of notes between the Contracting States.</p> <p>The corresponding MAP arbitration provisions can be found in article 25(6) of Perú- Canada tax treaty and in article 25 (5) of Peru- Chile tax treaty.</p>	<p><u>https://www.mef.gob.pe/es/?option=com_content&language=es-ES&Itemid=100878&lang=es-ES&view=article&id=302</u></p>

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.	<p>The constitutional framework does not expressly prohibit or prevent from arbitration on tax matters. Furthermore, the Legislative Decree N° 1071 that regulates arbitration establishes the possibility of submitting to this mechanism of dispute resolution those matters authorized by treaties. However, for being effective MAP arbitration (either voluntary or mandatory) would require the prior approval of a domestic legal provision with the rank of law that regulates terms and conditions of such a form of dispute resolution in tax matters regarding two or more states.</p>	-
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	No.	<p>Peru's treaty policy is not to include a mandatory binding arbitration provision in its tax treaties.</p>	-
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	<p>An explanation of the relationship between the MAP and administrative and judicial remedies can be found in the MAP Guide version 1.0.</p>	<p>https://orientacion.sunat.gob.pe/3263-04-convenios-para-evitar-doble-imposicion</p>
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	<p>The competent authority is legally bound to follow a judicial decision.</p>	<p>Article 139 of the Political Constitution of Peru The principles and rights of the jurisdictional function are the following: (...) 2. The Independence in the exercise of the jurisdictional function. No authority shall take up cases pending before a jurisdictional body or interfere in the exercise of its functions. Neither shall they void judicial decisions that have the status of res judicata, halt</p>

			<p>proceedings underway, nor amend judicial decisions or delay their execution. (...)</p> <p>Article 4 of the Single Revised Text of the Organic Law of the Judicial Branch.</p> <p>All authorities and persons are required to meet and comply with judicial decisions or those of administrative nature, issued by competent judicial authorities, in its own terms, without being able to qualify its content or foundations, to restrict its effects or to interpret its arguments under the civil, criminal, or administrative responsibility stated by law.</p> <p>No authority, regardless of his rank or denomination, outside the hierarchical organization of the Judicial Branch, may take up cases pending before a jurisdictional body. Neither shall they void judicial decisions that have the status of res judicata, amend their content, delay their execution or halt proceedings underway, under political, administrative, civil and criminal responsibility determined by law in each case.</p> <p>(...)</p>
25.	Are taxpayers allowed to request for multi- year resolution through the MAP of recurring issues with respect to filed tax years?	No	-
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	No	<p>Annex I of the Convention to Standardize the Tax Treatment established in Conventions for the Avoidance of Double Taxation signed between the States that are Parties to the Framework Agreement of the Pacific Alliance (hereinafter referred to as "Annex I of the Pacific Alliance</p> <p><small>Unclassified - Non classifie</small></p>

	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)?		<p>Convention) does not include a provision equivalent to article 9 of the OECD Model Tax Convention. Therefore, economic double taxation that may result from transfer pricing adjustment is not covered by it.</p> <p>The others tax treaties, except the one signed with Brazil, contain a provision equivalent to article 9(2) of the OECD Model Tax Convention. Notwithstanding that, Peruvian competent authority shall provide access to the MAP for transfer pricing cases to provide relief from economic double taxation, if applicable.</p>	
27.	Is there any other information available on resolution of MAP cases?	Yes	<p>The MAP Guide version 1.0 includes provisions referring to the resolution of the MAP.</p> <p>https://orientacion.sunat.gob.pe/3263-04-convenios-para-evitar-doble-imposicion</p>	

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	The mutual agreements reached will be implemented irrespective of the time limits set in the domestic law only when the applicable tax treaty has a provision equivalent to article 25(2), second sentence of the OECD Model Tax Convention.	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
31.	Is there any other information available on the implementation of MAP agreements?	No	Peru is in process of adopting BEPS Action 14 minimum standard in its legal and regulatory framework for the resolution of MAP cases and implementation of MAP agreements.	-