

Russia Dispute Resolution Profile

(Last updated: 18 August 2020)

General Information

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

in Russian www.minfin.ru/ru/performance/tax_relations/international/?id_57=124786&area_id=57&page_id=179&popup=Y

<http://publication.pravo.gov.ru/signatoryauthority/international>, http://cssi-ao.ru:82/pi_web/ (international treaties till 2014)

<http://www.consultant.ru/>

in English https://www.nalog.ru/eng/international_cooperation/dta/; <http://www.garant-center.ru/sistema-garant-na-angliyskom-yazyke/>

www.minfin.ru/ru/performance/tax_relations/international/?id_57=124786&area_id=57&page_id=179&popup=Y

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

Deputy Head of Tax and Customs Policy Department Alexander A. Smirnov
Ministry of finance of the Russian Federation, Ilyinka 9, 109097 Moscow, Russia
Email: Aleksandr.Smirnov@minfin.ru
Phone: +7495 225 43 56

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

Deputy Commissioner of Tax Service of the Russian Federation Julia V. Shepeleva
Tax Service of the Russian Federation, Neglinnaya str., 23, 127381 Moscow, Russia
Email: shepeleva@nalog.ru
Phone :+7 495 913 03 35

Russia Dispute Resolution 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?	Yes	Agreements reached on base of article MAP of a DTA containing issues of general nature as to the interpretation or application of a tax treaty	http://minfin.ru/ru/performance/tax_relations/international/
2.	Are bilateral APA programmes implemented? If yes:	-	Due to para 2 Article 105.20 of the Russian Tax Code (hereinafter – RTC) a taxpayer can apply for a bilateral APA in accordance with regulation of the Ministry of Finance of the Russian Federation. The Ministry of Finance issued Order № 60n dated 29.03.2018 regarding the BAPA process.	http://www.consultant.ru/document/cons_doc_LAW_19671/0a4a5495b27af9f5435f41171b72cd7a51995712/ http://publication.pravo.gov.ru/Document/View/0001201805030057
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	No	Roll-backs are not stipulated by the RTC	-
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	Yes	Pursuant to para 1 Article 105.21 of the RTC an APA request for a calendar year should be filled no later than December 31 of this year	http://www.consultant.ru/document/cons_doc_LAW_19671/9aaeef7f31107ccf62dff8dd28d6908771fc1caf/

Russia Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	<p>Article 105.22 of the RTC contains requirements for an APA request as well as procedure description.</p> <p>The information regarding the BAPA process can be found Order of the Ministry of Finance № 60n dated 29.03.2018</p>	<p>http://www.consultant.ru/document/cons_doc_LAW_19671/1c15cd7143ee3b88cf1e4fb4fc0ef_2ae6bd6ff85/</p> <p>http://publication.pravo.gov.ru/Document/View/0001201805030057</p>
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	No	-	-
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	No	-	-
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?	See the detailed explanation	Within the framework of OECD Global Relation Programme over five OECD workshops on TP issues, including APA issues, have been attended by Russian officials involved in the tax auditing since 2012.	-

Russia Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
4.	Is other information available on preventing 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.

Russia 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	Under a MAP provision of Russian tax treaties, a person can request for a MAP if that person considers that the actions of one or both of the contracting states result or will result for him/her in taxation not in accordance with the provisions of the applicable convention, including the transfer pricing adjustment, with fulfilling requisite conditions such as time limits for submitting a request.	-
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	MAP requests will not be rejected merely because the issues are related to the application of treaty anti-abuse provision. No such limitation is provided in the Tax Code of the Russian Federation and in the Order 102H of June 11, 2020.	-
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	MAP requests will not be rejected merely because the issues are related to the	-

Russia Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			<p>application of domestic anti-abuse provision.</p> <p>No such limitation is provided in the Tax Code of the Russian Federation and in the Order 102H of June 11, 2020.</p>	
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	Russia does not have any audit settlement in its tax system.	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	<p>MAP requests will not be rejected merely because double taxation is resulted from bona fide taxpayer-initiated foreign adjustments.</p> <p>Whether the bilateral MAPs are initiated or not will be determined with due consideration of the facts and circumstances.</p> <p>No such limitation is provided in the Tax Code of the Russian Federation and in the Order 102H of June 11, 2020.</p>	-
10.	Are there any other treaty related issues not covered under s/n 5 to 9 which are not within the scope of MAP?	See detailed explanation	MAP is available provided the requirements of the applicable treaty article on MAP are met.	-

Russia Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	Taxpayers may seek to resolve their cases through MAP, judicial and administrative remedies.	-
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?	-	<p>Where the issue under dispute has already been decided via the administrative remedies the taxpayers are allowed to request for MAP assistance.</p> <p>Where the issue under dispute has already been decided via the entered into force court decision, the Ministry of Finance of the Russian Federation issue the decision on refusal of mutual agreement procedure.</p>	Paragraph 10 of the Order of the Ministry of Finance of the Russian Federation “On the procedure and periods for submission and reviewing mutual agreement procedure request in accordance with international tax treaties of the Russian Federation” № 102Н of 11 June 2020.
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	See MAP Guidance referenced in the right column and the Order 102Н of June 11, 2020. On information and documentation that should be submitted, see points 7.1 and 7.2 of MAP Guidance and par. 5 of the Order.	http://www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601&area_id=57&page_id=179&popup=Y

Russia 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?	Yes	<p>Almost all treaties contain specific time limits for MAP requests.</p> <p>Most follow Article 25 paragraph 1, second sentence, of the OECD Model Tax Convention, but some do not.</p> <p>According to paragraph 6 of the Order taxpayers should submit an a MAP request within three year period from the day of deliver a tax audit report, reasoned opinion of a tax authority under tax monitoring, act based on the decision of tax authority of other state - the side of applicable international tax treaty, if the taxpayer considers that such actions result or will result in taxation of its income, profit or property not in accordance with provisions of the international tax treaty.</p>	Paragraph 6 of the Order of the Ministry of Finance of the Russian Federation “On the procedure and periods for submission and reviewing mutual agreement procedure request in accordance with international tax treaties of the Russian Federation” № 102Н of 11 June 2020.
15.	Are guidance on multilateral MAPs publicly available?	No	-	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	See detailed explanations	Depends on MAP case.	-

Russia Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
17.	Are there any fees charged to taxpayers for a MAP request?	No	The Contracting States bear the costs arising from the mutual agreement procedure themselves. The costs incurred by the party covered by the agreement will not be refunded.	Paragraph 7 of the Guidance on Mutual Agreement Procedure pursuant to the provisions of Double Taxation Agreements. http://www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601&area_id=57&page_id=179&popup=Y
18.	Is there any other information available on availability and access to MAP?	Yes	MAP Guidance provides the following information regarding MAP requests: purpose; legal basis for the procedure; qualified persons; time limit for submission; how to submit a request; fees (no charge); attachments; a requesting form prescribed (in free form); the office in charge; where to consult for MAP requests.	The Guidance on Mutual Agreement Procedure pursuant to the provisions of Double Taxation Agreements. http://www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601&area_id=57&page_id=179&popup=Y

Russia 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	Within 90 days from the day of the receipt of the application for mutual agreement procedure the Ministry of Finance of the Russian Federation consider it and make a decision whether to start the MAP procedure or not and informs the taxpayer and the other competent authority of its decision.	Paragraph 9 of the Order of the Ministry of Finance of the Russian Federation “On the procedure and periods for submission and reviewing mutual agreement procedure request in accordance with international tax treaties of the Russian Federation” № 102Н of 11 June 2020.
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	Yes	Statistics for Russia are available on the OECD MAP Statistics website.	http://www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm
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	Interests and penalties are not the subject to MAP.	Paragraph 1 of the Guidance on Mutual Agreement Procedure pursuant to the provisions of Double Taxation Agreements. http://www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601&area_id=57&page_id=179&popup=Y

Russia Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	It is proposed to modify the Guidance to make it publicly available that arbitration mechanism is not available.	-
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? 	No	The recommendations of the Ministry of Foreign Affairs of the Russian Federation.	-
24.	Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available? If yes:	Yes	Where the issue under dispute has already been decided via the entered into force court decision, the Ministry of Finance of the Russian Federation issue the decision on motivated refusal of mutual agreement procedure.	Paragraph 10 of the Order of the Ministry of Finance of the Russian Federation “On the procedure and periods for submission and reviewing mutual agreement procedure request in accordance with international tax treaties of the Russian Federation” № 102Н of 11 June 2020.

Russia Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	Where the issue under dispute has already been decided via the entered into force court decision, the Ministry of Finance of the Russian Federation issue the decision on motivated refusal of mutual agreement procedure.	Paragraph 10 of the Order of the Ministry of Finance of the Russian Federation “On the procedure and periods for submission and reviewing mutual agreement procedure request in accordance with international tax treaties of the Russian Federation” № 102Н of 11 June 2020.
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	Requests for multi-year resolution of recurring issues with respect to filed tax years are possible, provided the general requirements of the applicable treaty article on MAP are met.	Currently not explicitly mentioned in public guidance.
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	Most treaties contain a provision corresponding to Article 9 paragraph 2 of the OECD Model Tax Convention, but some older treaties do not.	The tax treaties Russia has entered into are available at: www.minfin.ru/ru/performance/tax_relations/international/?id_57=124786&area_id=57&page_id=179&popup=Y

Russia Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
27.	Is there any other information available on resolution of MAP cases?	Yes	For general see the Guidance on Mutual Agreement Procedure pursuant to the provisions of Double Taxation Agreements.	http://www.minfin.ru/ru/performance/tax_relations/international/?id_57=126601&area_id=57&page_id=179&popup=Y

Russia 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>MAP agreements rarely lead to additional tax to be paid, generally they either reduce tax previously assessed or confirm tax previously assessed (or partly reduce and partly confirm). In most cases an agreement reached by the competent authorities will be subject to the taxpayer's acceptance.</p> <p>General domestic rules on payment deadlines after amended tax assessments and on the end of a suspension of collection apply.</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 to reflect the agreement reached by the competent authority and/or for a refund of the tax paid?	Yes	<p>In most cases an agreement reached by the competent authorities will be subject to the taxpayer's acceptance.</p> <p>Amended tax assessments will generally be issued shortly after receipt of such acceptance (and, in some cases, a corresponding</p>	Articles 78, 79 of the Tax Code of the Russian Federation

Russia Dispute Resolution Profile – Implementation of MAP Agreements

			<p>acceptance of the taxpayer in the other jurisdiction).</p> <p>Any refunds, where applicable, are generally paid shortly after the issuance of the amended tax assessment.</p>	
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	Yes	<p>Most of Russian tax treaties contain the provision equivalent to the second sentence in paragraph 2 of Article 25 of the OECD Model Tax Convention.</p> <p>Russian domestic laws provide the legal basis for mutual agreements to be implemented notwithstanding time limits.</p>	Articles 78, 79 and 105.18-1 of the Tax Code of the Russian Federation
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-