

Serbia Dispute Resolution Profile

Last update: 4 December 2020

General Information

- **Serbia's tax treaties (in Serbian, only) are available at:**
<https://www.mfin.gov.rs/propisi/ugovori-o-izbegavanju-dvostrukog-oporezivanja/>

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

Ministry of Finance
Fiscal System Department
20, Kneza Milosa str.
11000 Belgrade
Phone: +381 11 3642 851
Email: fiskalni.sektor@mfin.gov.rs
www.mfin.gov.rs

Requests for information should be made to:

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

N/A

Serbia 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?	See detailed explanation	Please, note that we don't have a lot of experience with the MAP cases (only few cases in last more than 40 years - since a first tax treaty was concluded in 1975)	Information not available
2.	Are bilateral APA programmes implemented? If yes:	See detailed explanation	An APA programme has never been agreed and implemented (this, because it is not possible to make APA request under our domestic tax legislation)	Information not available
a.	• Are roll-back of APAs provided for in the bilateral APA programmes?	See detailed explanation	An APA programme has never been agreed and implemented (this, because it is not possible to make APA request under our domestic tax legislation)	-
b.	• Are there specific timeline for the filing	See detailed	An APA programme has never been agreed and implemented	-

Serbia Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	of an APA request?	explanation	(this, because it is not possible to make APA request under our domestic tax legislation)	
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? 	See detailed explanation	<p>An APA programme has never been agreed and implemented</p> <p>(this, because it is not possible to make APA request under our domestic tax legislation)</p>	-
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	See detailed explanation	<p>An APA programme has never been agreed and implemented</p> <p>(this, because it is not possible to make APA request under our domestic tax legislation)</p>	-
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	See detailed explanation	<p>An APA programme has never been agreed and implemented</p> <p>(this, because it is not possible to make APA request under our domestic tax legislation)</p>	-
3.	Is training provided to your officials involved in the auditing /examination	YES	There are internal trainings organised by the Serbian Tax Administration	-

Serbia Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	of taxpayers to ensure that any assessments made by them are in accordance with the provisions of your tax treaties?			
4.	Is other information available on preventing tax treaty-related disputes?	YES	There are official rulings of the Ministry of Finance	Bulletin (official rulings) of the Ministry of Finance (in Serbian, only) https://www.mfin.gov.rs/vrsta-aktivnosti/strucna-misljenja/

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.

Serbia 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?	See detailed explanation	We believe that they are (and should be) covered within the scope of MAP	-
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	See detailed explanation	We believe that they are (and should be) covered within the scope of MAP	-
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	See detailed explanation	We believe that they are (and should be) covered within the scope of MAP	-
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	We believe that they are (and should be) 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 believe that they are (and should be) covered within the scope of MAP (we are not able to provide the more precise answer - this is because, as mentioned above, we have not experienced a lot of MAP cases so far)	-

Serbia Dispute Resolution Profile – Availability and Access to MAP

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?	See detailed explanation	At least, we believe so	-
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	We believe that it is in accordance with the first sentence of the OECD MTC which provides: „ ... irrespective of the remedies provided by the domestic law of those States ...” There is a treaty override in Serbia	-
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	We believe that it is in accordance with the first sentence of the OECD MTC which provides: „ ... irrespective of the remedies provided by the domestic law of those States ...” There is a treaty override in Serbia	-
13.	Are rules, guidelines and procedures on how taxpayers can access and	YES	There is a Serbia's MAP guidance	https://www.mfin.gov.rs/wp-content/uploads/2019/09/SERBIAN-MAP-

Serbia Dispute Resolution Profile – Availability and Access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	use MAP, including the specific information and documentation that should be submitted in a taxpayer's request for MAP assistance, publicly available?			GUIDANCE-Serbian.pdf https://www.mfin.gov.rs/wp-content/uploads/2020/12/SERBIAN-MAP-GUIDANCE-English.pdf
14.	Are there specific timeline for the filing of a MAP request?	YES	As provided in a respective tax treaty or in Serbia's MAP guidance	https://www.mfin.gov.rs/wp-content/uploads/2019/09/SERBIAN-MAP-GUIDANCE-Serbian.pdf https://www.mfin.gov.rs/wp-content/uploads/2020/12/SERBIAN-MAP-GUIDANCE-English.pdf
15.	Are guidance on multilateral MAPs publicly available?	NO	-	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	NO	It is in accordance with the general provisions provided by the domestic law (Art 147 paragraph 1 of the Law on Tax Procedure and Tax Administration) The same is provided in the Serbia's MAP guidance	www.poreskauprava.gov.rs/en https://www.mfin.gov.rs/wp-content/uploads/2019/09/SERBIAN-MAP-GUIDANCE-Serbian.pdf https://www.mfin.gov.rs/wp-content/uploads/2020/12/SERBIAN-MAP-GUIDANCE-English.pdf

Serbia Dispute Resolution Profile – Availability and Access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
				GUIDANCE-English.pdf
17.	Are there any fees charged to taxpayers for a MAP request?	NO	As provided in Serbia's MAP guidance	https://www.mfin.gov.rs/wp-content/uploads/2019/09/SERBIAN-MAP-GUIDANCE-Serbian.pdf https://www.mfin.gov.rs/wp-content/uploads/2020/12/SERBIAN-MAP-GUIDANCE-English.pdf
18.	Is there any other information available on availability and access to MAP?	YES	As provided in Serbia's MAP guidance	https://www.mfin.gov.rs/wp-content/uploads/2019/09/SERBIAN-MAP-GUIDANCE-Serbian.pdf https://www.mfin.gov.rs/wp-content/uploads/2020/12/SERBIAN-MAP-GUIDANCE-English.pdf

Serbia 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	As provided in Serbia's MAP guidance	https://www.mfin.gov.rs/wp-content/uploads/2019/09/SERBIAN-MAP-GUIDANCE-Serbian.pdf https://www.mfin.gov.rs/wp-content/uploads/2020/12/SERBIAN-MAP-GUIDANCE-English.pdf
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	We believe that interest or penalties resulting from adjustments made pursuant to a MAP agreement should be dealt with as part of the MAP procedure	-
22.	Are the roles and responsibility of the MAP office publicly available, for example, is the mission statement of the MAP office available in	NO	-	-

Serbia Dispute Resolution Profile – Resolution of MAP Cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	the annual report of the organisation?			
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	We don't include arbitration in our tax treaties	- Serbian reservation in OECD MTC (2017); - Serbian position with respect to Part VI (Arbitration) of the MLI
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	We don't include arbitration in our tax treaties	- Serbian reservation in OECD MTC (2017); - Serbian position with respect to Part VI (Arbitration) of the MLI
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	NO	We don't include arbitration in our tax treaties	- Serbian reservation in OECD MTC (2017); - Serbian position with respect to Part VI (Arbitration) of the MLI
24.	Is the explanation of the relationship between the MAP and domestic law administrative and judicial	YES	There is a treaty override (in general) in Serbia (Art. 16 of the Serbian Constitution)	https://www.mfin.gov.rs/wp-content/uploads/2019/09/SERBIAN-MAP-GUIDANCE-Serbian.pdf

Serbia Dispute Resolution Profile – Resolution of MAP Cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	remedies publicly available? If yes:		As, also, provided in Serbia's MAP guidance	https://www.mfin.gov.rs/wp-content/uploads/2020/12/SERBIAN-MAP-GUIDANCE-English.pdf
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>There is no obligation of the competent authority to follow a domestic court decision ...</p> <p>See our previous answer regarding the treaty override.</p>	<p>https://www.mfin.gov.rs/wp-content/uploads/2019/09/SERBIAN-MAP-GUIDANCE-Serbian.pdf</p> <p>https://www.mfin.gov.rs/wp-content/uploads/2020/12/SERBIAN-MAP-GUIDANCE-English.pdf</p>
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	<p>We believe that taxpayers should be allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years</p> <p>(we are not able to provide the more precise answer - this is because, as mentioned above, we have not experienced a lot of MAP cases so far)</p>	-
26.	Do all your jurisdiction's tax treaties contain a provision which would	NO	Article 9 paragraph 2 of the OECD Model Tax Convention and the UN Model Double Taxation Convention is not included in our tax treaties with the	Please, see Serbian position (notifications) with respect to the MLI

Serbia Dispute Resolution Profile – Resolution of MAP Cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	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)?		<p>following countries:</p> <p>Belgium, Cyprus, Czech Republic, Finland, France, Germany, Hungary, Italy, Netherlands, Slovakia, Sri Lanka, Sweden, Switzerland, United Kingdom and Vietnam</p>	
27.	Is there any other information available on resolution of MAP cases?	NO	-	-

Serbia 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?	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	NO		-

Serbia Dispute Resolution Profile – Implementation of MAP Agreements

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	position to be amended to reflect the agreement reached by the competent authority and/or for a refund of the tax paid?			
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	NO	<p>Tax Treaties with the following countries don't contain provision providing that any mutual agreements reached through MAP shall be implemented notwithstanding any time limits in our domestic law:</p> <p>Belgium, France, Indonesia, Italia, Netherlands, Slovakia, Sweden, Switzerland, United Kingdom</p>	Please, see Serbian position (notifications) with respect to the MLI
31.	Is there any other information available on the implementation of MAP agreements?	YES	As provided in Serbia's MAP guidance	<p>https://www.mfin.gov.rs/wp-content/uploads/2019/09/SERBIAN-MAP-GUIDANCE-Serbian.pdf</p> <p>https://www.mfin.gov.rs/wp-content/uploads/2020/12/SERBIAN-MAP-GUIDANCE-English.pdf</p>