

Aruba Dispute Resolution Profile

Last updated: 01 February 2020

General Information

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

<https://verdragenbank.overheid.nl/nl>

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

Coördinatie Bureau Fiscale Zaken (CBFZ), Camacuri 2, Oranjestad, Aruba
telephone number: +297 5227467
fax number: +297 5227429

APA request should be made to:

Coördinatie Bureau Fiscale Zaken (CBFZ), Camacuri 2, Oranjestad, Aruba
telephone number: +297 5227467
fax number: +297 5227429

Aruba 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?	No	Aruba has never received a MAP request, and therefore never reached such agreements.	N/A
2.	Are bilateral APA programmes implemented? If yes:	No	Aruba does not have any bilateral APA programme.	N/A
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	N/A	N/A	N/A
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	N/A	N/A	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	N/A	N/A
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	N/A	N/A	N/A
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	N/A	N/A	N/A

Aruba Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	These officials participate in various tax trainings, including international tax matters.	N/A
4.	Is other information available on preventing tax treaty-related disputes?	No	Please note that the various tax treaties to which Aruba is a party (apart from the tax arrangement for the Kingdom of the Netherlands) have a limited scope and very little practical effect.	N/A

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.

Aruba 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	This is relevant only for the Tax Arrangement for the Kingdom of the Netherlands and the treaty with Australia (the other treaties do not include transfer pricing rules).	N/A
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	This is relevant only for the Tax Arrangement for the Kingdom of the Netherlands (the other treaties do not include a treaty anti-abuse provision).	N/A
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	No restrictions in Guidelines.	N/A
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	No restrictions in Guidelines.	N/A
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	No restrictions in Guidelines.	N/A
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	N/A	N/A

Aruba 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	Aruba is set to publish guidelines (“the Guidelines”) in the months ahead describing and further specifying the MAP. The Guidelines do not include any restrictions for this matter.	The Guidelines will be published on the Aruba Tax Authorities’ website (www.impuesto.aw).
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	The Guidelines do not include any restriction for this matter.	N/A
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?	Guidelines will shortly be published.	The Guidelines further describe and specify the MAP, and list the information and documentation that should be submitted in a request for MAP (paragraph 3).	The Guidelines will be published on the Aruba Tax Authorities’ website (www.impuesto.aw).
14.	Are there specific timeline for the filing of a MAP request?	Yes	Within three years from the first notification of the action resulting in taxation not in accordance with the treaty, unless the treaty gives a different timeline.	This will be set out in the Guidelines (cf. paragraph 3).
15.	Are guidance on multilateral MAPs publicly available?	Guidelines will shortly be published.	N/A	The Guidelines will be published on the Aruba Tax Authorities’ website (www.impuesto.aw).

Aruba Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
16.	Are tax collection procedures suspended during the period a MAP case is pending?	Yes	The taxpayer may file a request for suspension. As a general rule, suspension is allowed for assessments that are subject to objection or appeal or that are subject to MAP. The Tax Collector may set conditions (such as security for payment).	Article 8 of the Ordinance on the collection of direct taxes (<i>Landsverordening invordering directe belastingen</i>) (this ordinance is published on the Aruba Tax Authorities' website: www.impuesto.aw). This has been confirmed in the Guidelines also (cf. paragraph 5).
17.	Are there any fees charged to taxpayers for a MAP request?	No	N/A	N/A
18.	Is there any other information available on availability and access to MAP?	Yes	The Guidelines will shortly be published.	The Guidelines will be published on the Aruba Tax Authorities' website (www.impuesto.aw).

Aruba 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	CBFZ will review the MAP request and ask further details, if necessary, within two months. Subsequently, CBFZ will inform the taxpayer whether it will start MAP or not. If so, it will inform the other treaty state within four months. CBFZ aims to finalize the MAP within two years from the request.	This will be set out in the Guidelines (cf. paragraphs 4 and 5).
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	No	No MAP requests have been made to date.	N/A
21.	Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure?	Yes	This applies to all reductions of tax assessments (either resulting from MAP or not)	N/A
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	CBFZ does not prepare any annual report with a mission statement. The roles of CBFZ are described in the Guidelines.	The Guidelines will be published on the Aruba Tax Authorities' website (www.impuesto.aw).

Aruba Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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>	No	N/A	N/A
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	N/A	N/A
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	Yes	N/A	N/A
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>The Guidelines state that objection and appeal do not impact the MAP; taxpayers can still appeal the tax assessment if the MAP request is denied or if the taxpayer disagrees with the resolution under MAP (paragraph 6 of the Guidelines).</p>	N/A
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 not legally bound to follow a domestic court decision in the MAP and can deviate from a court decision (paragraph 6 of the Guidelines).</p>	<p>The Guidelines will be published on the Aruba Tax Authorities' website (www.impuesto.aw).</p>

Aruba Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	Yes	The Guidelines state that the resolution can apply to future years also, if it concerns transfer pricing correction (paragraph 6 of the Guidelines).	The Guidelines will be published on the Aruba Tax Authorities' website (www.impuesto.aw).
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)?	No	N/A	N/A
27.	Is there any other information available on resolution of MAP cases?	No	N/A	N/A

Aruba 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	Additional tax assessments will generally be imposed within months.	N/A
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	Refunds will generally be paid within months.	N/A.
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	Yes	No time limits in the Guidelines. We refer to our response to question 5.1 of the questionnaire.	See our response to question 5.1 of the questionnaire.
31.	Is there any other information available on the implementation of MAP agreements?	Yes	We refer to the Guidelines.	The Guidelines will be published on the Aruba Tax Authorities' website (www.impuesto.aw).