

Austria Dispute Resolution Profile

(Last updated: 22 August 2024)

General Information

- **Austria's tax treaties are available at:**

<https://www.bmf.gv.at/en/topics/taxation/double-taxation-agreements/the-austrian-tax-treaty-network.html>

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

Mr. Harald PÖLZL
Head of MAP/APA Team
Tax Authority for Large Traders

Address: Post office box 251, 1000 AUSTRIA
Phone: +43 (0)1 502 33 556451
E-mail: Post.FAG-Verstaendigungsverfahren@bmf.gv.at

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

As above.

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	Such agreements are based on tax treaty provisions that follow paragraph 3 of Article 25 of the OECD Model Tax Convention and are an important source for the interpretation of the tax treaty the agreement relates to.	Agreements are published at: https://findok.bmf.gv.at .
2.	Are bilateral APA programmes implemented? If yes:	Yes	The proceedings for the conclusion of bilateral APAs are the same as those for reaching a mutual agreement.	See also Austrian MAP Guidance, section D. The original version of Austrian MAP Guidance: https://www.bmf.gv.at/themen/steuern/internationales-steuerrecht/verstaendigungsverfahren.html Verständigungs- und Schiedsverfahren nach Doppelbesteuerungsabkommen, dem EU-Schiedsübereinkommen und dem EU-Besteuerungsstreitbeilegungsgesetz - Findok Internet (bmf.gv.at) The unofficial translation of Austrian MAP Guidance into English:

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
				https://www.bmf.gv.at/en/topics/taxation/double-taxation-agreements/Mutual-Agreement-Procedures-(MAPs).html
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	Yes		
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	No		
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		See also Austrian MAP Guidance, section D.
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? 	Yes	As part of the EU MAP and APA Statistics.	EU Statistics: https://taxation-customs.ec.europa.eu/taxation/statistics-apas-and-maps-eu_en
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		

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4.	Is other information available on preventing tax treaty-related disputes?	No		

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 4.147 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 II 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		See also Austrian MAP Guidance, especially section B.1.1.1.
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes		See also Austrian MAP Guidance, for instance, section B.2.1.
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes		See also Austrian MAP guidance, for instance, section B.2.1.
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	N.a.	There is no audit settlement process under Austrian domestic law.	
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes		
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	However, the Austrian competent authority is – in these cases – restricted by the requirement of compliance with the decisions of domestic courts on the basis of domestic law.	See also Austrian MAP guidance, especially section B.1.1.1.
12.	Are taxpayers allowed to request for MAP assistance in cases where the issue under dispute has already	Yes	See above	

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	been decided via the judicial and administrative remedies provided by the domestic law of your jurisdiction?			
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 also Austrian MAP guidance, especially section B.1.3.
14.	Are there specific timelines for the filing of a MAP request?	Yes	The applicable timeline depends on the respective tax treaty (or other applicable legal instrument).	See also Austrian MAP guidance, especially Annex 2.
15.	Is guidance on multilateral MAPs publicly available?	Yes		See also Austrian MAP guidance, especially section A.2.1.
16.	Are tax collection procedures suspended during the period a MAP case is pending?	Yes	Upon request.	See also Austrian MAP guidance, especially section B.3.
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?	Yes		See Austrian MAP guidance.

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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?	Yes	The Austrian CA follows the timeframes suggested by the OECD as part of the MEMAP and Action 14 (or timeframes envisioned in other applicable legal instrument) .	
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	Yes	As part of the OECD statistics and EU statistics.	
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	Interest and penalties are dealt with as part of the MAP. Any agreement reached will result in either a repayment of interest and penalties or additional interest and penalties, depending on the result.	See also Austrian MAP guidance, especially section B.3.
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:	Yes	Austria has several tax treaties which include an arbitration clause. Several more have been or will be modified to include arbitration due to the MLI.	See Austrian MAP guidance, especially section C.

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			(Arbitration is also envisioned in other applicable legal instruments.)	
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? 	Yes	It is Austria's treaty policy to always propose an arbitration clause during the negotiations.	
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		See also Austrian MAP guidance, especially section B.1.1.
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		
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	Yes		
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	No	Nevertheless, Austria considers that this obligation is implicit and will grant corresponding adjustments and allow cases	See Austrian MAP guidance, especially section B.1. and Annex 2.

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	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)?		concerning such adjustments to go to MAP.	
27.	Is there any other information available on resolution of MAP cases?	Yes		See Austrian MAP guidance.

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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?	Yes		See Austrian MAP guidance, especially section B.6.
31.	Is there any other information available on the implementation of MAP agreements?	Yes		See Austrian MAP guidance, especially section B.6.