

## Barbados Dispute Resolution Profile

(Last updated: 28 July 2020)

### General Information

- Barbados tax treaties are available at:

<https://www.investbarbados.org/dtas.php>

- MAP request should be made to:

Janelle Jones-Carter  
General Counsel  
Barbados Revenue Authority  
4<sup>th</sup> Floor, Weymouth Corporate Centre  
Roebuck Street  
Bridgetown  
St. Michael  
Barbados W.I  
Phone: (246) 535-8294  
Email: [janelle.jones-carter@bra.gov.bb](mailto:janelle.jones-carter@bra.gov.bb)

- APA request should be made to:

Currently, there are no provision for APAs.

## Barbados Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>A. Preventing Disputes</b>				
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		
2.	Are bilateral APA programmes implemented? If yes:	No	Barbados currently has no bilateral APA programmes.	
a.	<ul style="list-style-type: none"> <li>Are roll-back of APAs provided for in the bilateral APA programmes?</li> </ul>	N/A		
b.	<ul style="list-style-type: none"> <li>Are there specific timeline for the filing of an APA request?</li> </ul>	N/A		
c.	<ul style="list-style-type: none"> <li>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?</li> </ul>	N/A		
d.	<ul style="list-style-type: none"> <li>Are there any fees charged to taxpayers for a bilateral APA request?</li> </ul>	N/A		
e.	<ul style="list-style-type: none"> <li>Are statistics relating to bilateral APAs publicly available?</li> </ul>	N/A		
3.	Is training provided to your officials involved in the auditing /examination of taxpayers to ensure that any	Yes		

### Barbados Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	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?	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 4.136 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.

**Barbados Dispute Resolution Profile – Availability and access to MAP**

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>B. Availability and Access to MAP</b>				
5.	Are transfer pricing cases covered within the scope of MAP?	Yes		
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes		
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	N/A	Barbados has no domestic anti-abuse provisions. It has however adopted Article 7 of the MLI without any reservations, which therefore applies to all of its DTAs (which are all also CTAs).	
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	No		
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	Yes	The Barbados Revenue Authority will not deny access to MAP in cases where the issue presented by the taxpayer for MAP has already been resolved	

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	remedies provided by the domestic law of your jurisdiction?		through an audit settlement between the taxpayer and the Barbados Revenue Authority or where the case has been adjudicated by the Barbados Revenue Authority Appeals Tribunal. While Sections 59 to 63 of Barbados' Income Tax Act Cap. 73 outline the appellate process and the limitations relating thereto, Sections 83 (1) and 83 (4) respectively of the Act also serve to transpose Barbados' DTA's into law and in the event of an inconsistency between the provisions of the particular DTA and the Income Tax Act, the provisions of the DTA prevail to the extent of the consistency. Therefore, regardless of the appellate procedure and limitations provided under Sections 59 to 63, a taxpayer would not be denied access to MAP because the equivalent of Article 25(1) in Barbados' DTA's, which states that MAP access should be allowed irrespective of domestic remedies, would prevail over Sections 59 to 63 of the Income Tax Act.	
12.	Are taxpayers allowed to request for MAP assistance in cases where the issue under dispute has already	Yes	However, the Barbados Revenue Authority will be bound by any	

**Barbados Dispute Resolution Profile – Availability and access to MAP**

	been decided via the judicial and administrative remedies provided by the domestic law of your jurisdiction?		decision issued by a domestic court or tribunal.	
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?	No	However, the Barbados Revenue Authority is currently in the process of drafting its MAP guidelines which will soon be made publicly available to both taxpayers and treaty partners.	
14.	Are there specific timeline for the filing of a MAP request?	Yes	Yes, the timeframe is three (3) years from the date of the first notification as provided in paragraph 1 of Article 16 of the MLI. Since Barbados has signed the MLI, the provisions of Article 16 have replaced all other shorter timeframes contained in Barbados' original DTAs, by virtue of paragraph 4 a) ii).	
15.	Are guidance on multilateral MAPs publicly available?	No	However, the Barbados Revenue Authority is currently in the process of drafting its MAP guidelines which will soon be made publicly available to both taxpayers and treaty partners.	
16.	Are tax collection procedures suspended during the period a MAP case is pending?	Yes		
17.	Are there any fees charged to taxpayers for a MAP request?	No		

**Barbados Dispute Resolution Profile – Availability and access to MAP**

18.	Is there any other information available on availability and access to MAP?	No		
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## Barbados Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>C. Resolution of MAP Cases</b>				
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?	No	While the Barbados Revenue Authority has received three (3) requests for MAP, none of these cases has been decided as yet.	
21.	Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure?	Not Automatically	The Barbados Revenue Authority would be required to write to the Ministry of Finance recommending that the penalties and interest be waived and seeking the Ministry's permission to waive the same.	
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	There is no designated MAP office within the Barbados Revenue Authority. MAP requests are processed by the Legal Department of the Barbados Revenue Authority, which also carries out a multitude of other domestic and international legal functions. There is therefore no dedicated staff, office or department to deal specifically	



**Barbados Dispute Resolution Profile – Resolution of MAP cases**

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			with MAP requests within the Barbados Revenue Authority.	
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>	See detailed explanation	Barbados only has (1) DTA which contains provisions for arbitration. However, since Barbados has signed the MLI, the provisions of Article 19 will be read into all of its existing DTAs which are all also CTAs.	
a.	<ul style="list-style-type: none"> <li>Are there any legal limitations in your domestic law (for example in your constitution) to include MAP arbitration in your tax treaties?</li> </ul>	No		
b.	<ul style="list-style-type: none"> <li>Does your treaty policy allow you to include MAP arbitration in your tax treaties?</li> </ul>	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>	No	However, the Barbados Revenue Authority is currently in the process of drafting its MAP guidelines which will soon be made publicly available to both taxpayers and treaty partners.	
a.	<ul style="list-style-type: none"> <li>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?</li> </ul>	No	The Barbados Revenue Authority is currently in the process of drafting its MAP guidelines which will soon be made publicly available to both taxpayers and treaty partners. However, the Barbados Revenue Authority will be bound by its domestic court	

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s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			decisions and therefore will not deviate from them.	
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 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	Not all of Barbados' DTAs contain the provision. However, this provision is now read into all of Barbados' DTAs as a result of Barbados having signed the MLI.	
27.	Is there any other information available on resolution of MAP cases?	No		

## Barbados Dispute Resolution Profile – Implementation of MAP Agreements

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
<b>D. Implementation of MAP Agreements</b>				
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	However, the Barbados Revenue Authority is currently in the process of drafting its MAP guidelines which will soon be made publicly available to both taxpayers and treaty partners.	
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	However, the Barbados Revenue Authority is currently in the process of drafting its MAP guidelines which will soon be made publicly available to both taxpayers and treaty partners.	
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	Yes		
31.	Is there any other information available on the implementation of MAP agreements?	No		