

British Virgin Islands Dispute Resolution Profile

Last updated: September 23, 2024

General Information

- **British Virgin Islands tax treaties are available at:**

The relevant tax treaties can be found in the Income Tax Act of the Virgin Islands and will be made available on the website of the ITA which can be accessed via the following link:

<https://bviita.vg/library/legislation/>

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

La Toya James

Director

International Tax Authority

Peace House, Pickering Drive

Road Town, Tortola

British Virgin Islands

Telephone: (284) 394-4415

Website: <https://bviita.vg/>

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

Same as for MAP requests.

| 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 | There have been no disputes in the past and because of the classification of the Virgin Islands it is not believed that these disputes will arise. | - |
| 2. | Are bilateral APA programmes implemented? If yes: | No | - | - |
| a. | <ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? | - | - | - |
| b. | <ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? | - | - | - |
| 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? | - | - | - |
| d. | <ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? | - | - | - |
| e. | <ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? | - | - | - |

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| 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 detailed explanation | Persons within the International Cooperation Unit responsible for MAP related matters have attending OECD meetings insofar as Action 14 is concerned. | - |
| 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.

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| B. Availability and Access to MAP | | | | |
| 5. | Are transfer pricing cases covered within the scope of MAP? | Yes | See guidance notes | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 6. | Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP? | Yes | See guidance notes | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 7. | Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP? | Yes | See guidance notes | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 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 | See guidance notes | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 9. | Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP? | Yes | See guidance notes | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 10. | Are there any other treaty related issues not covered under s/n 5 to 9 which are not within the scope of MAP? | n/a | - | - |
| 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 | Yes | There is no prohibition in requesting MAP assistance in cases where the taxpayer has sought to resolve the issue | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |

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| | administrative remedies provided by the domestic law of your jurisdiction? | | under dispute via the judicial and administrative remedies provided by the domestic laws of the Virgin Islands. However, this is unlikely to occur because the BVI does not have a tax system as such it is unlikely that there will be a domestic tax dispute the resolution of which would be sought via the judicial and administrative remedies of the BVI. | |
| 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 | See response to 11 above. | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 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 | - | |
| 14. | Are there specific timeline for the filing of a MAP request? | Yes | Timelines application in the relevant Convention or where not present no less than three | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |

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| | | | years from the first notification. | |
| 15. | Are guidance on multilateral MAPs publicly available? | n/a | See guidance notes | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 16. | Are tax collection procedures suspended during the period a MAP case is pending? | n/a | The BVI does not have a tax system as such this option is not applicable | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 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? | No | - | - |

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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 | See MAP guidance on processing timelines. | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 20. | Are statistics relating to the time taken to resolve MAP cases publicly available? | Yes | No MAP cases have been received by the Virgin Islands. However, if any cases are received they will be made publicly available on the website of the ITA | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 21. | Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure? | n/a | The BVI does not have a tax system as such this option is not applicable | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 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? | Yes | These are available on the website of the ITA and also in the annual report of the ITA. The MAP office is a part of the ITA. | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 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 | The British Virgin Islands has not incorporated an arbitration clause in any of its tax treaties but it is possible to reach an agreement through | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |

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| | | | arbitration as there are no limitations in domestic law that would prevent the same. | |
| 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 BVI would decide to include MAP arbitration in its tax treaties on treaty-by-treaty basis. | - |
| 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> | n/a | The BVI does not have a tax system as such this option is not applicable | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.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? | n/a | The BVI does not have a tax system as such this option is not applicable | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 25. | Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years? | n/a | The BVI does not have a tax system as such this option is not applicable | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |

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| 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 | - | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 27. | Is there any other information available on resolution of MAP cases? | No | | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |

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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? | n/a | The BVI does not have a tax system as such this option is not applicable | https://bviita.vg/wp-content/uploads/2024/09/MAP-Guidance-updated-9.24.2024.pdf |
| 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? | n/a | The BVI does not have a tax system as such this option is not applicable | - |
| 30. | Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law? | n/a | The BVI does not have a tax system as such this option is not applicable | - |
| 31. | Is there any other information available on the implementation of MAP agreements? | No | - | - |