

Malta Dispute Resolution Profile

(Last updated: 28 February 2025)

General Information

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

<https://cfr.gov.mt/en/inlandrevenue/itu/Pages/Double-Taxation-Conventions.aspx>

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

MAP request should be made to:

Andre Gialanze,

Chief Tax Officer, Directorate General for Legal, Technical & International Affairs

AM Business Centre

Triq il-Labour

Iż-Żejtun ZTN 2401

Malta

ca-map.mtca@gov.mt

- **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?	See detailed explanation	Competent authority agreements may be published on the website of the Commissioner for Tax and Customs if they are of a general nature or if they concern agreements that regard a category of taxpayers provided that there is agreement with the other Competent Authority. The outcome of a mutual agreement procedure for individual cases is not published.	https://cfr.gov.mt/en/inlandrevenue/itu/Document/MAP%20Guidelines.pdf
2.	Are bilateral APA programmes implemented? If yes:	Yes	In terms of the Transfer Pricing Rules that were enacted, bilateral and multilateral APA requests can be requested and implemented in terms of the rules (SL 123.207).	https://legislation.mt/eli/sl/123.207/eng
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	Yes	In terms of sub-rule 6 of Rule 12 of the Transfer Pricing Rules, a roll-back period of 3 basis years can be provided	-
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	Yes	A request for an advance pricing agreement may be made in connection with the tax treatment of a cross-border arrangement commencing on or after the date that the advance pricing agreement takes effect	-
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 	See detailed explanation	The subsidiary legislation referred to above, within rules 11 and 12, contains the basic parameters of the details that need to be submitted that must be accompanied to such request.	-

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	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? 	Yes	<p>Sub-rule 4 of Rule 12 of the Transfer Pricing Rules for the amount of EUR 5,000 for a new request</p> <p>Sub-rule 10 of Rule 12 provides an amount of EUR 2,000 for a renewal of a Request</p>	-
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	Yes	Statistics are reported to various International Fora and published on various websites.	
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	Training is being provided to all officials of MTCA. By way of an example, during 2023-2024 training sessions were made with the Technical Support Instrument (TSI), IOTA and with a leading university in the area.	-
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	Malta has entered into 81 tax treaties on income (and/or capital), 79 of which are in force. All Malta's 81 tax treaties have a 'Mutual Agreement Procedure' article.	-
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	-	https://cfr.gov.mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.pdf
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	-	https://cfr.gov.mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.pdf
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	-	https://cfr.gov.mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.pdf
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	-	https://cfr.gov.mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.pdf
10.	Are there any other treaty related issues not covered under s/n 5 to	No	-	-

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	9 which are not within the scope of MAP?			
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	The competent authority acknowledges, however, that a MAP request may be conditional upon the taxpayer having put in abeyance, exhausted, or rescinded its domestic objection, review, and appeal rights.	https://cfr.gov/mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.pdf
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	<p>It is important to note, however, that where the request for a MAP was prompted by action taken by the Commissioner for Tax & Customs under the Income Tax Acts, the Malta Competent Authority cannot derogate in the MAP from an assessment that has become final and conclusive in accordance with the provisions of Article 38 of the Income Tax Management Act. Such cases involve instances where</p> <ul style="list-style-type: none"> • the amount of the chargeable income has been agreed to under article 33(4) of the Income Tax Management Act (an “audit settlement at objection stage”); • A decision that has been rendered by the Administrative Review Tribunal following an appeal under article 35 of the Income Tax Management Act; • A decision that has been rendered by the Court of Appeal following an appeal under article 37 of the Income Tax Management Act; 	https://cfr.gov/mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.pdf

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			While access to MAP will be granted in above situations, Malta Competent Authority is not able to derogate from the final decision issued by the tribunal or the court. In these situations, Malta's competent authority will explain the position to the other competent authority concerned, which may provide for relief of double taxation.	
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	-	https://cfr.gov.mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.pdf
14.	Are there specific timeline for the filing of a MAP request?	Yes	A taxpayer must notify the Competent Authority within the time limits, if any, specified in the applicable tax convention. All of Malta's treaties contain a provision equivalent to Article 25(1), second sentence of the OECD Model Tax Convention, allowing taxpayers to submit a MAP request within a period of no less than three years from the first notification, except for 2 treaties.	-
15.	Are guidance on multilateral MAPs publicly available?	No	Malta follows OECD guidelines on multilateral MAPs. (multilateral MAP cases are dealt with by reference to existing MAP guidelines)	-

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16.	Are tax collection procedures suspended during the period a MAP case is pending?	Yes	-	https://cfr.gov.mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.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?	Yes	-	https://cfr.gov.mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.pdf

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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	-	https://cfr.gov.mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.pdf
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	No	Statistics are reported to various International Fora and published on various websites.	
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	-	https://cfr.gov.mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.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?	No	-	
23.	Is MAP arbitration a mechanism currently available for the resolution of tax treaty related	Yes	Malta has 7 tax treaties with an arbitration article and is a signatory to the EU Arbitration Convention. These exclude DTAs whose MAP article needs to be read in conjunction with MLI changes. The list does not also include the possibility of	-

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	disputes in any of your tax treaties? If not:		arbitration with respect to EU member states, wherein disputes in connection with such treaties seek to activate MAP provisions under the EU's Dispute Resolution Directive.	
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	-	-
24.	Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available? If yes:	Yes	-	https://cfr.gov/mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.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 	Yes	-	https://cfr.gov/mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.pdf

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	as a matter of administrative policy or practice?			
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	Yes	-	https://cfr.gov.mt/en/inlandrevenue/itu/Documents/MAP%20Guidelines.pdf
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	<p>Malta's tax treaty policy is to incorporate the equivalent of article 9(2) OECD Model Tax Convention in all its double tax conventions. Of Malta's 81 tax treaties, 4 do not have an Article 9(2) equivalent.</p> <p>However, even in the absence equivalent of article 9(2) OECD Model Convention, Malta believes that corresponding adjustments should be possible following the application of the mutual agreement procedure of article 25 OECD Model Tax Convention.</p>	-
27.	Is there any other information available on resolution of MAP cases?	No	-	-

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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?	See detailed explanation	The MAP guidelines provide that any such agreement reached will be implemented without delay.	https://cfr.gov/mt/en/inlandreview/itu/Documents/MAP%20Guidelines.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?	See detailed explanation	The MAP guidelines provide that any such agreement reached will be implemented without delay.	https://cfr.gov/mt/en/inlandreview/itu/Documents/MAP%20Guidelines.pdf
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	-	-