

Nigeria Dispute Resolution Profile

(Last updated: 30 December 2016)

General Information

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

<http://www.firs.gov.ng/Tax-Management/Pages/Tax-Treaties.aspx>

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

Mr. Tunde Fowler
Executive Chairman – Delegated Competent Authority
Federal Inland Revenue Service
No. 20 Sokode Crescent
Wuse Zone 5, Abuja, FCT
Phone: +234802-225-2990
Email: tunde.fowler@firs.gov.ng

Mr. Peter Olayemi
Director – Tax Policy and Advisory Department/Authorized Competent Authority for MAP matters
Tax Policy and Advisory Department, Federal Inland Revenue Service Annex 1
No. 15 Sokode Crescent
Wuse Zone 5, Abuja, FCT
Phone(s): +2348115900016; +2348037118102
Email: canigeria@firs.gov.ng

For specific MAP cases involving transfer pricing, the request should be copied to:

Mr. Mathew Olusanya Gbonjubola
Head, International Tax Department
3rd Floor, FIRS Building
17B, Awolowo Road, Ikoyi, Lagos
Phone(s): +2348113955070; +2348033221109; +2348115900092
Email: sanya.gbonjubola@firs.gov.ng

For all other MAP cases, please copy requests to:

Mr. Chukwudi Ezeudeka
Head – Exchange of Information Unit, FIRS, Nigeria
Phone: +2348036757737
Email: chukwudi.ezeudeka@firs.gov.ng

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

Mr. Peter Olayemi
Director, Tax Policy and Advisory Department/Authorized Competent Authority for MAP matters.
Tax Policy and Advisory Department
Federal Inland Revenue Service (FIRS) Annex 1
No. 15 Sokode Crescent,
Wuse Zone 5, Abuja, FCT
Phone(s): +2348115900016; +2348037118102
Email: Peter.Olayemi@firs.gov.ng

Please copy all APA requests to:

Mr. Mathew Olusanya Gbonjubola
Head, International Tax Department
3rd Floor, FIRS Building
17B, Awolowo Road, Ikoyi, Lagos
Phone(s): +2348113955070; +2348033221109; +2348115900092
Email: sanya.gbonjubola@firs.gov.ng

Nigeria 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?	See detailed explanation	There have been no request relating to issues of a general nature which concern, or which may concern, a category of taxpayers	-
2.	Are bilateral APA programmes implemented? If yes:	See detailed explanation	Nigeria has not entered into any bilateral APA. Although, the Nigerian Income Tax (Transfer Pricing) Regulations allows for APA, none has been negotiated so far.	-
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	See detailed explanation	Nigeria has not entered into any bilateral APA.	-
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	See detailed explanation	There is no specific timeline but the Nigeria Income Tax (Transfer Pricing) Regulations provide that the APA would be for proposed controlled transactions only.	-
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 	Yes	The Nigerian Income Tax (Transfer Pricing) Regulations contain the required information.	http://www.firs.gov.ng/tax-legislations/

Nigeria Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	assistance, publicly available?		Detailed operational guidelines for APA are being prepared.	
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? 	See detailed explanation	Nigeria has not entered into any bilateral APA.	-

Nigeria 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	-	-
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.

Nigeria 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	All Nigerian tax treaties provide for consultation of the Competent Authorities in the resolution of corresponding adjustment issues under paragraph 2 of the Article on Associated Enterprises.	http://www.firs.gov.ng/Tax-Management/Pages/Tax-Treaties.aspx
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	Paragraph 1 of the Article on MAP of all Nigerian tax treaties did not limit the remedies available to taxpayers.	-
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	Paragraph 3 of the Article on MAP allows the competent authorities to consult together for the elimination of double taxation in cases not provided for in the treaties.	-
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	Paragraph 1 of the Article on MAP of all Nigerian tax treaties allows for MAP irrespective of the remedies provided by the domestic laws.	-

Nigeria Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	Paragraph 2 of the Article on Associated Enterprises in all Nigerian tax treaties and Regulation 8 of the Nigeria Income Tax (Transfer Pricing) Regulations allow for consultation of the competent authorities in the resolution of corresponding adjustment issues.	http://www.firs.gov.ng/tax-legislations/
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	The judicial procedure in Nigeria allows for out of court settlement before a final judicial ruling is made.	-
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?	No	-	-
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?	See detailed explanation	The rules as contained in the relevant Articles of the different tax treaties are publicly available. However, detailed operational guidelines including the specific information and	http://www.firs.gov.ng/Tax-Management/Pages/Tax-Treaties.aspx

Nigeria Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			documentation that should be submitted in a taxpayer's request for MAP assistance are to be developed soon. They would be made publicly available when they are ready	
14.	Are there specific timeline for the filing of a MAP request?	See detailed explanation	Yes, the timeline is as contained in Paragraph 1 of Treaty Articles on MAP.	-
15.	Are guidance on multilateral MAPs publicly available?	No	-	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	No	-	-
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	-	-

Nigeria 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?	See detailed explanation	Nigeria has not adopted a time frame for the resolution of MAP cases but is guided by the time frame in the OECD Manual on Effective MAP.	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	No	-	-
21.	Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure?	See detailed explanation	No adjustments have been made pursuant to a MAP agreement to necessitate computation of interest or penalties.	-
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:	No	-	-
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? 	See detailed explanation	The objection procedure and the dispute resolution procedure in the domestic tax laws do	-

Nigeria Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			not make provision for arbitration.	
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	No	-	-
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	-	-
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? 	No	-	-
25.	<p>Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?</p>	Yes	Taxpayers are allowed to request for MAP covering multiple years.	
26.	<p>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)?</p>	Yes	-	-

Nigeria Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
27.	Is there any other information available on resolution of MAP cases?	No	-	-

Nigeria 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	-	-
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	Section 23(3) of the Federal Inland Revenue Service (Establishment) Act 2007 provides that refund must be made within 90 days after the decision is arrived at.	http://www.firs.gov.ng/tax-legislations/
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	-	-