

Albania Dispute Resolution Profile

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General Information

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

<https://www.tatime.gov.al/c/6/125/marreveshje-nderkombetare>

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

General Directory of Taxation

Street; "Gjin Bue Shpata", Tirana, Albania

www.tatime.gov.al

e-mail; ilda.koja@tatime.gov.al

phone: +355693012113

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

General Directory of Taxation

Street; "Gjin Bue Shpata", Tirana, Albania

www.tatime.gov.al

e-mail; ilda.koja@tatime.gov.al

phone: +355693012113

Albania 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 information	Please, note that Albania doesn't have a lot of experience with MAP cases (only few cases from 1995 when the first DTA started its effects)	-
2.	Are bilateral APA programmes implemented? If yes:	YES	-	https://www.tatime.gov.al/c/6/70/tatimi-mbi-te-ardhurat-
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	NO	<p>Taxpayers cannot claim an APA for a covered period of several previous years (referred to as "back years")</p> <p>However, in the sense that the APA is signed and completed after the first fiscal year of the proposed APA, the fiscal year in which the APA is proposed, will be covered by the agreement.</p>	-
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	NO	The taxpayer must submit the application at the same time to the competent authorities of all foreign tax jurisdictions, in all cases.	-

Albania Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	-	https://www.tatime.gov.al/c/6/70/tatimi-mbi-te-ardhurat-
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	YES	At the moment when the official application of APA's procedure begins, the taxpayer must have paid the administrative fee of 1,200,000, ALL.	-
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	NO	There is only one multilateral APA in force in Albania	-
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	All agents of Albanian tax administration have received training related to tax treaties.	-
4.	Is other information available on preventing tax treaty-related disputes?	-	-	-

Albania Dispute Resolution Profile – Preventing Disputes

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.

Albania 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	-	-
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?	YES	Domestic anti-abuse provisions are dealt also in accordance with the domestic legislation and judicial proceedings. However, this does not restrict the access to MAP.	-
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	-	-
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	See detailed information	We believe that they should be covered within the scope of MAP (we are not able to provide the more precise answer because we have not experienced a lot of MAP cases so far)	-
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	-	-

Albania Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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?	See detailed information	We think that it is in accordance with the first sentence of article 25 of the OECD MTC which provides: „ ...irrespective of the remedies provided by the domestic law of those States ...” There is a treaty override in Albania.	-
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	We can mention that in Albania, if the decision has been taken via the judicial remedies with a final court judgment without the possibility of appeal, the tax administration cannot act anymore.	-
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 information	Albania is currently working on the development of a Guideline on MAP that will be publicly available.	-
14.	Are there specific timeline for the filing of a MAP request?	YES	We think this is provided through the article on mutual agreement procedure [(25(1)) of the DTAs.	-
15.	Are guidance on multilateral MAPs publicly available?	NO	-	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	NO		-

Albania Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
17.	Are there any fees charged to taxpayers for a MAP request?	See detailed information	At present, no fees are foreseen to be charged to taxpayers for a MAP request but Albania is currently working on a MAP Guideline and Albania hasn't decided yet to foresee or not this fee in the future.	-
18.	Is there any other information available on availability and access to MAP?	NO	-	-

Albania 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?	NO	Albania is currently working on this matter in order to develop a MAP guideline aligned with Action 14 BEPS.	-
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	NO	Statistics relating to the time taken to resolve MAP cases are not publicly available because Albania hasn't received or resolved any MAP case from 2019.	-
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	So far, Albania hasn't reached any MAP agreement. However, Albania is currently working on this matter in order to the develop a MAP Guideline.	-
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 report</i> of the organisation?	See detailed explanation	As mentioned above actually there are no Map cases in Albania, so there is no a specific office that deals only with MAP cases. However the duties and responsibilities regarding MAP cases are clear for the tax inspector that might deal with any case.	-

Albania Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	-	- No arbitration provision in our DTAs; - Albanian position with respect to Part VI (Arbitration) of the MLI--
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	-	- No arbitration provision in our DTAs; - Albanian position with respect to Part VI (Arbitration) of the MLI -
24.	Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available? If yes:	NO	Albania is currently working on this matter in order to develop a MAP Guideline aligned with Action 14 BEPS.	-
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? 	-	-	-

Albania Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	See detailed explanation	We think that each request should be dealt on a case by case basis.	-
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)?	Yes	-	-
27.	Is there any other information available on resolution of MAP cases?	NO	-	-

Albania 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?	See detailed explanation	Until now, Albania has not reached any MAP agreement. However, Albania is currently working on this matter in order to develop a MAP Guideline.	-
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?	YES	So far, Albania has not reached any MAP agreement. However, Albania is currently working on this matter in order to develop a MAP Guideline aligned with Action 14 BEPS.	-
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	See detailed explanation	So far, Albania has not reached any MAP agreement.	-
31.	Is there any other information available on the implementation of MAP agreements?	NO	-	-