

The Republic of Azerbaijan Dispute Resolution Profile

(Last updated: 28.02.2024)

General Information

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

<https://www.taxes.gov.az/en/page/ikiqat-vergitutmanin-aradan-qaldirilmasina-dair-beynelxalq-sazisler>

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

*Director, International Taxation and Tax Monitoring department
State Tax Service under the Ministry of Economy,
Address: 155, Heydar Aliyev Ave., Keshla village, Nizami district, AZ1029, Baku
Tel: (+99412) 403 89 70 / Fax:(+99412) 403 89 71 / map@taxes.gov.az*

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

*Director, International Taxation and Tax Monitoring department
State Tax Service under the Ministry of Economy,
Address: 155, Heydar Aliyev Ave., Keshla village, Nizami district, AZ1029, Baku
Tel: (+99412) 403 89 70 / Fax:(+99412) 403 89 71 / apa@taxes.gov.az*

The Republic of Azerbaijan 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?	No	-	-
2.	Are bilateral APA programmes implemented? If yes:	Yes	Article 9 of the ' Rules for determination and application of transfer prices ' approved by the Resolution No. 171705000006200 of the Board of the Ministry of Taxes of the Republic of Azerbaijan on January 27, 2017 sets forth the terms and provisions for APA, including filing the APA request, the transactions the APAs cover, the cases for rejection to APA. The legislation of the Republic of Azerbaijan doesn't provide for any restrictions on this issue. Also, in the APA application form, the taxpayer can choose the type of APA (unilateral, bilateral, or multilateral).	https://www.taxes.gov.az/az/page/beynelxalq-vergi-munasibetleri
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programs? 	Yes	<p>According to Article 9.3-1 of the aforesaid Rules, the APA approval letter issued by the tax authority can also be applied in relation to the same but non-audited transactions carried out by the taxpayer in previous periods.</p> <p>Article 9.3-2 stipulates that the APA approved by the tax authority cannot be applied to taxpayer's</p>	https://www.taxes.gov.az/az/page/beynelxalq-vergi-munasibetleri

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s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			same transactions of previous period which is subject to a commenced and ongoing audit.	
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	Yes	Pursuant to the aforesaid Rules, APA request shall be made at least 3 months prior to the launch of controlled transaction to be implemented.	https://www.taxes.gov.az/az/page/beynelxalq-vergi-munasibetleri
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	The aforesaid Rules and APA request form which provide information on access and use of bilateral APAs, including the specific documentation, etc. are publicly available.	https://www.taxes.gov.az/az/page/beynelxalq-vergi-munasibetleri
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? 	No	Tax authority has not received any bilateral APA applications by now.	-
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	Seminars and training sessions on the application of tax treaties and the exchange of information are provided to our officials, including the auditors. Moreover, the tax officials have been trained within the Twinning project "Support to the Ministry of Taxes of the Republic of Azerbaijan in Transfer Pricing and Developing Anti-Tax Avoidance Measures" financially supported by the European Union, and also passed ADIT exams and attended the	-

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s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			training courses by the IBFD and successfully passed APCIT.	
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 previously 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

The Republic of Azerbaijan 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		https://www.taxes.gov.az/uploads/2024/Guidance.pdf
6.	Are issues relating to the application of treaty anti-abuse provisions covered within the scope of MAP?	Please see the detailed explanation	<p>“A case where the provisions of Double Tax Treaty are misinterpreted and misapplied” (reflected on MAP Guidance)</p> <p>The above-mentioned circumstance covers anti-abuse provisions as well.</p>	https://www.taxes.gov.az/uploads/2024/Guidance.pdf
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	<p>In circumstances when a domestic anti-abuse rule contrasts with a provision of the treaty, we provide access to MAP.</p> <p>Treaty provisions supersede domestic law.</p>	
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	If taxpayer-initiated adjustment is considered as final by other competent authority, double taxation cases resulting from bona fide taxpayer-initiated foreign adjustments are covered within the scope of MAP.	-

The Republic of Azerbaijan Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	Subject to compliance with the necessary provision of the specific DTA – (the second sentence of Article 25(3) of OECD’s Model convention on Income and Capital)	-
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?	Please see the detailed explanation	Taxpayers are allowed to request MAP assistance in the mentioned cases. However, the competent authority cannot derogate in the MAP from the final court decision and is bound by judicial decisions.	https://www.taxes.gov.az/uploads/2024/Guidance.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?	Please see the detailed explanation	Taxpayers are allowed to request MAP assistance in the mentioned cases. However, the competent authority cannot derogate in the MAP from the final court decision and is bound by judicial decisions.	-
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	Procedures to access and use MAP are included within Azerbaijan’s MAP Guidance on the State Tax Service website.	https://www.taxes.gov.az/uploads/2024/Guidance.pdf
14.	Are there specific timeline for the filing of a MAP request?	Yes	The time limits for the filing of MAP requests are governed by the applicable Double Taxation Agreement.	https://www.taxes.gov.az/uploads/2024/Guidance.pdf
15.	Are guidance on multilateral MAPs publicly available?	No	-	-

The Republic of Azerbaijan Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
16.	Are tax collection procedures suspended during the period a MAP case is pending?	No	There is no suspension of tax collection in the domestic legislation.	-
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	-	-

The Republic of Azerbaijan 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?	Yes	The competent authority is committed to seeking to resolve MAP cases no later than 24 months. However, this period is not restricted to 24 months and may be extended until resolution of the issue is reached by parties.	https://www.taxes.gov.az/uploads/2024/Guidance.pdf
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	Yes	Azerbaijan reports MAP statistics to the OECD, as well as the time taken to resolve MAP cases, published on the OECD website.	https://www.oecd.org/tax/dispute/map-statistics-azerbaijan.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?	No	-	-
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:	Yes	Only one existing agreement (San Marino) consists of arbitration clauses.	-
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	-	-

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s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	No	The new model tax treaty of the Republic of Azerbaijan approved by the Cabinet of Ministry doesn't include arbitration clauses.	
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>	Yes	Article 3 ("Stages of the MAP process and interaction with domestic remedies") of MAP Guidance addresses explanation of the relationship between the MAP and domestic law administrative and judicial remedies.	https://www.taxes.gov.az/uploads/2024/Guidance.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? 	Yes.	The State Tax Service postpones taking appropriate measures when the MAP request is heard at an administrative body or court. Because the State Tax Service cannot derogate in the MAP from the final court decision and is bound by judicial decisions.	https://www.taxes.gov.az/uploads/2024/Guidance.pdf
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	Yes	There are no any restrictions in domestic legislation, and MAP Guidance.	-
26.	Do all your jurisdiction's tax treaties contain a provision that 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)?	Please see the detailed explanation	Only the tax treaties with Norway and Switzerland do not contain that provision.	

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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?	Yes	-	https://www.taxes.gov.az/uploads/2024/Guidance.pdf (Section 5)

The Republic of Azerbaijan 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?	Yes	<p>The State Tax Service ensures implementation of agreements pursuant to the mutual agreement and takes appropriate measures in this regard.</p> <p>According to Article 65.1 of the Tax Code of Azerbaijan Republic, if the taxpayer fails to fulfil the tax obligation within the period specified by this Code, the tax authority shall send a notice to the taxpayer on the payment of taxes, interest and financial sanctions calculated or recalculated in accordance with this Code within 5 days.</p>	<p>https://www-taxes-gov-az.translate.google.com/az/page/ar-vergi-mecellesi? x tr sl=az& x tr tl=en& x tr hl=ru& x tr pto=wapp</p>
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, 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 a refund of the tax paid?	Yes	<p>The State Tax Service ensures implementation of agreements pursuant to the mutual agreement and takes appropriate measures in this regard.</p> <p>Pursuant to procedures established by Decision # 48 of the Cabinet of Ministers of the Republic of Azerbaijan dated February 23, 2001, on "Regulations about the refund of overpaid taxes, interest rates, and financial sanctions to the taxpayer", the timeframe for a refund of taxes paid is 45 days.</p>	-
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	Please see the detailed	Most of our mutual agreements reached through MAP implemented notwithstanding any time limits in domestic law, pursuant to relevant tax treaties (Article 25(2), second sentence). Only the	-

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		explanation	tax treaties with Georgia, Iran, Moldova, Poland, Qatar, Russia, Switzerland, Turkey, Ukraine, and the United Kingdom do not have the mentioned provision. And so, regarding the above-mentioned jurisdictions, time limits are set by domestic law.	
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-