

The Independent State of Papua New Guinea Dispute Resolution Profile

(Last updated: 15.03.2024)

General Information

- **Papua New Guinea tax treaties are available at:**

Internal Revenue Commission

Revenue Haus

Downtown Port Moresby

P O Box 777

Port Moresby

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

Mr Steven Sinen,

Acting Assistant Commissioner,

Legal Services Division, Internal Revenue Commission

9th Floor, Revenue Haus

Downtown Port Moresby

National Capital District

Papua New Guinea

Phone; (+675) 322 6719

Email: sinens@irc.gov.pg

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

PNG does not have bilateral APA programmes with any of our treaty partners.

The Independent State of Papua New Guinea 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	<p>We answered 'NO' because we have not had any cases where agreement was reached between Cas.</p> <p>We envisage that if we ever have a case where agreement is reached, we will endeavour to publish such agreements where it relates to a category of taxpayers.</p>	
2.	Are bilateral APA programmes implemented? If yes:	NO	We do not have bilateral APA programmes with any of our treaty partners	
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? 			

The Independent State of Papua New Guinea Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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? 			
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?	NO		
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.

The Independent State of Papua New Guinea 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	The MAP Articles of some of our bilateral treaties refer to remedies provided by our domestic laws.	
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	YES		
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	YES		
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	YES	No specific mention of this scenario in our MAP Article. Our MAP Guideline indicates that taxpayers can request MAP	https://irc.gov.pg/pages/downloadable-resources/tax-forms Refer to Other Tax Forms tab for copy of the

The Independent State of Papua New Guinea Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	law of your jurisdiction?		<p>regardless of the remedies provided by domestic law.</p> <p>However, the competent authority has the discretion to defer progressing a MAP request, pending the outcome of an administrative or judicial review, where the taxpayer has utilised either of those dispute resolution avenues.</p>	MAP Guideline.
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	No specific mention of this scenario in our MAP Article.	<p>https://irc.gov.pg/pages/downloadable-resources/tax-forms</p> <p>Refer to Other Tax Forms tab for copy of the MAP Guideline.</p>
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	We have issued a MAP Guideline.	<p>https://irc.gov.pg/pages/downloadable-resources/tax-forms</p> <p>Refer to Other Tax Forms tab for copy of the MAP Guideline.</p>
14.	Are there specific timeline for the filing of a MAP request?	YES	Most of our double tax agreements specify a period of 2 years within which a MAP request can be filed. Some indicate three years.	

The Independent State of Papua New Guinea Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
15.	Are guidance on multilateral MAPs publicly available?	NO		
16.	Are tax collection procedures suspended during the period a MAP case is pending?	NO	The PNG CA does have discretion to suspend tax collection in the event that doing so may result in a case of double taxation. This scenario is outlined in our MAP Guideline.	https://irc.gov.pg/pages/downloadable-resources/tax-forms Refer to Other Tax Forms tab for copy of the MAP Guideline.
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		https://irc.gov.pg/pages/downloadable-resources/tax-forms Refer to Other Tax Forms tab for copy of the MAP Guideline.

[Jurisdiction] 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		
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?	YES	We answered 'YES' because our MAP Guideline vests a discretionary power on the PNG CA to consider requests for remission of interest or penalties resulting from adjustment made pursuant to a MAP request.	https://irc.gov.pg/pages/downloadable-resources/tax-forms Refer to Other Tax Forms tab for copy of the 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</i> report of the organisation?	NO	We do not have a MAP Office/Team. The MAP function is attended to on an ad-hoc basis by the Legal Service Division of the PNG tax administration, the Internal Revenue Commission.	
23.	Is MAP arbitration a mechanism currently available for the resolution of tax treaty related disputes in any of	YES	Available in all our 10 bilateral tax treaties which	

[Jurisdiction] Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	your tax treaties? If not:		are in force because we have opted for arbitration in our MLI Position.	
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	We have opted for arbitration in our MLI Position.	
24.	Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available? If yes:	YES	It is outlined in our MAP Guideline.	https://irc.gov.pg/pages/downloadable-resources/tax-forms Refer to Other Tax Forms tab for copy of the MAP Guideline.
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.		https://irc.gov.pg/pages/downloadable-resources/tax-forms Refer to Other Tax Forms tab for copy of the MAP Guideline.
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	NO	Our MAP Guideline does not provide guidance regarding this scenario.	https://irc.gov.pg/pages/downloadable-resources/tax-forms Refer to Other Tax Forms tab for copy of the MAP Guideline.

[Jurisdiction] Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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>Our bilateral treaties with Malaysia & Germany do not contain Article 9(2) of the OECD Model Tax Convention.</p> <p>The PNG-Singapore DTA leaves it open to the CAS from both jurisdictions to mutually agree regarding the amount to be taxed.</p>	
27.	Is there any other information available on resolution of MAP cases?	YES		<p>https://irc.gov.pg/pages/downloadable-resources/tax-forms</p> <p>Refer to Other Tax Forms tab for copy of the MAP Guideline.</p>

[Jurisdiction] 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	Our MAP Guideline does not provide specific timelines. It leaves it open to the CAs to implement MAP agreements.	
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?	NO	Our MAP Guideline does not provide specific timelines. It leaves it open to the CAs to implement MAP agreements.	
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	NO	Mutual agreements reached through MAP will not be implemented notwithstanding any time limits in your domestic law for our DTAs with the following countries: Malaysia United Kingdom Korea Fiji	

[Jurisdiction] Dispute Resolution Profile – Implementation of MAP Agreements

			Indonesia	
31.	Is there any other information available on the implementation of MAP agreements?	NO		