

Colombia Dispute Resolution Profile

(Last updated: September 25 2023)

General Information

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

<https://www.dian.gov.co/normatividad/convenios/Paginas/ConveniosTributariosInternacionales.aspx>

<http://apw.cancilleria.gov.co/tratados/sitepages/menu.aspx>

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

General Commissioner

Dirección de Impuestos y Aduanas Nacionales - DIAN

dirgen_map@dian.gov.co

Tel:6079999 ext 901060

Carrera 8 No. 6C-38 piso 6, Bogotá - Colombia

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

General Commissioner

Dirección de Impuestos y Aduanas Nacionales - DIAN

dirgen_map@dian.gov.co

Tel:6079999 ext 901060

Carrera 8 No. 6C-38 piso 6, Bogotá - Colombia

Colombia 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	So far, Colombia has only received two MAP request related to the interpretation or application of tax treaties and have not been published.	https://www.dian.gov.co/normatividad/doctrina/Paginas/DireccionGestionJuridica.aspx
2.	Are bilateral APA programmes implemented? If yes:	Yes	Pursuant to article 260-10 of the Colombian Tax Code and articles 1.2.2.4.1 to 1.2.2.4.10 of the Decree 1625 of 2016, the Colombian Tax Administration has the legal authority to conclude bilateral APAs.	Decreto Único Reglamentario en Materia Tributaria “ <u>Título 2 Precios de Transferencia – Artículos 1.2.2.4.1 a 1.2.2.4.10</u> ”
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	Yes	According to article 260-10 of the Colombian Tax Code and articles 1.2.2.4.1 to 1.2.2.4.10 of the Decree 1625 of 2016, a bilateral APA may have effects the year in which it is signed, the previous year (rollback), and up to the three following years.	Decreto Único Reglamentario en Materia Tributaria “ <u>Título 2 Precios de Transferencia – Artículos 1.2.2.4.1 a 1.2.2.4.10</u> ”

Colombia Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	No		-
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	<p>Information on guidelines related to the APA program are publicly available in the webpage of the Colombian Tax Administration.</p> <p>In 2019 the Colombian Tax Administration, with the collaboration of the World Bank and the OECD, published an APA administrative guidance including the explanation of its main features and the procedure to request it.</p>	<p style="text-align: center;"><u>General information:</u></p> <p style="text-align: center;">https://www.dian.gov.co/Transaccional/GuaServiciosLinea/CT-GM-0106%20Cartilla%20APA%20Español%20v1.pdf</p> <p style="text-align: center;">https://www.dian.gov.co/tramitesservicios/Tramites_Impuestos/Autorizaciones/Paginas/default.aspx</p> <p style="text-align: center;"><u>Procedure step-by-step:</u></p> <p style="text-align: center;">https://www.dian.gov.co/aduanas/aspectecmercancias/Documents/Pasos%20Acuerdo%20anticipado%20de%20precios%20APA.PDF</p> <p style="text-align: center;"><u>FAQ:</u></p> <p style="text-align: center;">Information on the website for public services – GOV.CO:</p> <p style="text-align: center;">https://www.gov.co/ficha-tramites-y-servicios/T174</p> <p style="text-align: center;"><u>Guideline APA in Spanish:</u></p> <p style="text-align: center;"><u>Guideline APA in English:</u></p> <p style="text-align: center;">https://www.dian.gov.co/Transaccional/GuaServiciosLinea/CT-GM-0106%20Cartilla%20APA%20Ingles%20v1.pdf</p>
d.	<ul style="list-style-type: none"> Are there any fees charged to 	No		Information on the website for public services – GOV.CO:

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s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	taxpayers for a bilateral APA request?			https://www.gov.co/ficha-tramites-y-servicios/T174
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	No.	To date Colombia has received two bilateral APA request, which are still under review and have not been finalized.	-
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	The Colombian Tax and Customs Authority has a specialized division (“ <i>Escuela de la DIAN</i> ”), which is in charge of providing continuing training to tax officials. Training is not restricted to domestic law and it also focuses on issues of international taxation, including tax treaties.	-
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.

Colombia 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	<p>Under domestic law: according to article 9 of Resolution 85 of 2020 (MAP Guidance), transfer pricing cases are covered within the scope of MAP.</p> <p>Under tax treaties: all tax treaties signed by Colombia contain paragraphs 1 and 2 of Article 25 of the OECD Model Tax Convention. The text of all of them follows paragraph 1 of Article 25 of the OECD Model Tax Convention, enabling a person who considers that the actions of one or both Contracting States result or will result for him/her in taxation not in accordance with the provisions of the Convention, to present his/her case to the competent authority of the Contracting State of which he/she is a resident or, if he/her comes under paragraph of Article 24, to that of the Contracting State of which he/her is a national.</p> <p>Furthermore, all tax treaties signed by Colombia contain Paragraphs 1 and 2 of Article 9 of the OECD Model Tax Convention.</p>	<p>https://www.dian.gov.co/normatividad/Normatividad/Resolución%20000085%20de%2021-08-2020.pdf</p> <p style="text-align: center;">and</p> <p>https://www.dian.gov.co/normatividad/convenios/Paginas/ConveniosTributariosInternacionales.aspx</p> <p style="text-align: center;">or</p> <p>http://apw.cancilleria.gov.co/tratados/SitePages/EstadosBilaterales.aspx</p>
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	<p>Under domestic law: according to article 9 of Resolution 85 of 2020 (MAP Guidance), the application of treaty anti-abuse provisions, whether PPT, LOB or domestic GAARs, are covered within the scope of MAP.</p> <p>Under tax treaties: The text of all of tax treaties signed by Colombia follows paragraph 1 of Article 25 of the OECD Model Tax Convention. Therefore, MAP access is provided</p>	<p>https://www.dian.gov.co/normatividad/Normatividad/Resolución%20000085%20de%2021-08-2020.pdf</p> <p style="text-align: center;">and</p> <p>https://www.dian.gov.co/normatividad/convenios/Paginas/ConveniosTributariosInternacionales.aspx</p>

Colombia Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			in cases in which there is disagreement between the taxpayer and the Colombian tax administration as to whether the conditions for the application of a treaty anti-abuse measure have been met.	<p style="text-align: center;">or</p> <p style="text-align: center;">http://apw.cancilleria.gov.co/tratados/SitePages/EstadosBilaterales.aspx</p>

Colombia Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	Under domestic law: according to article 9 of Resolution 85 of 2020 (MAP Guidance), the application of domestic anti-abuse provisions are covered within the scope of MAP.	https://www.dian.gov.co/normatividad/Normatividad/Resolución%20000085%20de%2021-08-2020.pdf
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	See detailed explanation	<p>As a general rule, Colombian law does not provide for “audit settlements” (understood as instances where the tax authority and the taxpayer give up part of their rights in order to reach an agreement).</p> <p>Exceptionally, in the past, some Colombian tax reforms allowed taxpayers to settle their on-going administrative tax disputes, as a temporary measure, provided (i) the taxpayer had initiated the administrative process before the law allowing for the settlement entered into force, (ii) he/she paid the tax under dispute and certain percentage of the penalties and interest accrued, and (iii) he/she filed for having the dispute settled before certain date. The aforementioned settlement agreements were definite and could not be challenged after having been executed.</p> <p>In any case, if settlements or equivalent agreements are reached, they will be treated as final judicial rulings and thus access to MAP is provided only to relief any remaining double taxation.</p>	-
s/n		Response	Detailed explanation	Where publicly available information and guidance can be found

Colombia Dispute Resolution Profile – Availability and access to MAP

9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	As a general rule, Colombian competent authority gives access to MAP in double taxation cases resulting from bona fide taxpayer initiated foreign adjustments, following the guidance and interpretation set for on the issue in the Commentaries on Article 25 of the OECD Model Tax Convention, and provided the taxation resulting in such cases “is not in accordance with the provisions” of the Convention. However, this situation should be disclosed in the taxpayer’s MAP request, as indicated under article 14 (14) of Resolution 85 of 2020 (MAP Guidance).	https://www.dian.gov.co/normatividad/Normatividad/Resolución%20000085%20de%2021-08-2020.pdf
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	Taxpayers are allowed to request a MAP if they seek to resolve issues under dispute through judicial or administrative remedies. Resolution 85 of 2020 (MAP Guidance) provides for the possibility of requesting MAP assistance at any time after the taxpayer has been notified of a proposed adjustment in writing, provided the filing period for the treaty has not expired.	Colombian Tax Code article 869-3 https://www.dian.gov.co/normatividad/Normatividad/Resolución%20000085%20de%2021-08-2020.pdf

Colombia Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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	According to article 32 of Resolution 85 of 2020 (MAP Guidance) taxpayers may request MAP assistance, but when a final judicial ruling has been issued, the Colombian Competent Authority will only provide MAP assistance to obtain the appropriate adjustment in the other Contracting State to relieve double taxation.	“Código General del Proceso”, Article 303, and “Estatuto Tributario”, Articles 720 and 829 https://www.dian.gov.co/normatividad/Normatividad/Resolución%20000085%20de%2021-08-2020.pdf
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	Rules, detailed guidelines and procedures on how taxpayers can access and use MAP are codified in Resolution 85 of 2020 (MAP Guidance), published in August, 2020.	https://www.dian.gov.co/normatividad/Normatividad/Resolución%20000085%20de%2021-08-2020.pdf
14.	Are there specific timeline for the filing of a MAP request?	Yes	Under domestic law: according to article 10 of Resolution 85 of 2020 (MAP Guidance), MAP requests must be filed within the timeframe provided for any relevant tax treaty, which in line with the MLI is within 3 years from the notification of the action resulting in taxation not in accordance with the treaty.	https://www.dian.gov.co/normatividad/Normatividad/Resolución%20000085%20de%2021-08-2020.pdf

Colombia 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?	Yes	According to section (17) of article 14 of Resolution 85 of 2020 (MAP Guidance), a taxpayer may request for a multilateral MAP, case in which he/she has to indicate it expressly. Rules, guidelines and procedures codified in the MAP Guidance will be equally applicable to multilateral cases.	https://www.dian.gov.co/normatividad/Normatividad/Resolución%20000085%20de%2021-08-2020.pdf
16.	Are tax collection procedures suspended during the period a MAP case is pending?	Yes	Articles 30, 34 and 35 of Resolution 85 of 2020 (MAP Guidance), provide for a suspension of tax coercive collection procedure and interest during the period a MAP case is pending.	https://www.dian.gov.co/normatividad/Normatividad/Resolución%20000085%20de%2021-08-2020.pdf
17.	Are there any fees charged to taxpayers for a MAP request?	See detailed explanation	Colombia does not charge fees for a MAP request. However, pursuant to article 5 of Resolution 85 of 2020 (MAP Guidance), expenses related to special circumstances arising during the MAP analysis, different from daily routine expenses linked to human or material resources, may be charge to the taxpayer.	https://www.dian.gov.co/normatividad/Normatividad/Resolución%20000085%20de%2021-08-2020.pdf
18.	Is there any other information available on availability and access to MAP?	No		-

Colombia 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	Chapters III and IV of Resolution 85 of 2020 (MAP Guidance) provide the steps that the Colombian Competent Authority must take from the receipt of a MAP case to the resolution of the case.	https://www.dian.gov.co/normatividad/Normatividad/Resolucion%20000085%20de%2021-08-2020.pdf
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	Article 35 of Resolution 85 of 2020 deals with interest or penalties resulting from adjustments made pursuant to a MAP agreement. According to this provision, the Colombian Competent Authority may reduce interest or penalties as part of a MAP agreement.	https://www.dian.gov.co/normatividad/Normatividad/Resolucion%20000085%20de%2021-08-2020.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?	Yes	Pursuant to article 12(6) of Decree 1742 of 2020, published on 22 December 2020, the Office for International Taxation at DIAN is responsible for all the activities related to MAP agreements following the MAP procedure in accordance with the Guidance.	https://dapre.presidencia.gov.co/normativa/normativa/DECRETO%201742%20DEL%2022%20DE%20DICIEMBRE%20DE%202020.pdf
23.	Is MAP arbitration a mechanism currently available for the resolution of tax treaty related	See detailed explanation	Only two of the tax treaties entered into by Colombia that are in force include an arbitration clause. These two tax treaties provide for voluntary arbitration (i.e. where	https://www.dian.gov.co/normatividad/convenios/Paginas/ConveniosTributariosInternacionales.aspx or

Colombia Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	disputes in any of your tax treaties? If not:		arbitration can only be initiated with the agreement of the competent authorities).	http://apw.cancilleria.gov.co/tratados/SitePages/EstadosBilaterales.aspx
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	MAP arbitration may be included in Colombia's tax treaties and a decision whether to include the same would be taken on a treaty-by-treaty basis.	-
24.	Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available? If yes:	Yes	Articles 31 and 32 of Resolution 85 of 2020 provide explanations on the relationship between the MAP and domestic law administrative and judicial remedies, respectively.	https://www.dian.gov.co/normatividad/Normatividad/Resolucion%20000085%20de%2021-08-2020.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 	Yes	According to article 32 of Resolution 85 of 2020 (MAP Guidance), once a final judicial decision has been issued, Colombia will only be able to seek relief from double taxation without worsening the situation of the taxpayer in Colombia.	https://www.dian.gov.co/normatividad/Normatividad/Resolucion%20000085%20de%2021-08-2020.pdf

Colombia Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	domestic court decision 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	According to article 14(16) of Resolution 85 of 2020 (MAP Guidance), taxpayers may request for a multi-year resolution through MAP.	https://www.dian.gov.co/normatividad/Normatividad/Resolucion%20000085%20de%2021-08-2020.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)?	Yes	All tax treaties entered into by Colombia provide for paragraph 2 of Article 9 of the OECD Model Tax Convention.	-
27.	Is there any other information available on resolution of MAP cases?	No	-	

Colombia 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	No timeframe is provided in our domestic law or guidance to inform the taxpayer when its tax position is expected to be amended.	-
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	No		-

Colombia Dispute Resolution Profile – Implementation of MAP Agreements

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	to reflect the agreement reached by the competent authority and/or for a refund of the tax paid?			
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	No	All, except tax treaties entered into by Colombia with Chile, Switzerland and Mexico does not include such provision. However, pursuant to the Notifications provided by Colombia in connection with the MLI, Colombia is intending to adopt the second sentence of Article 16(2) of the MLI in all of the abovementioned three DTTs.	-
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-