

ITALY Dispute Resolution Profile

(Last updated: 14 September 2023)

General Information

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

<https://www.finanze.gov.it/it/Fiscalita-dellUnione-europea-e-internazionale/convenzioni-e-accordi/convenzioni-per-evitare-le-doppie-imposizioni/>

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

- ***General issues arising from interpretation or application of DTCs***

Ministero dell'Economia e delle Finanze
Dipartimento delle Finanze
Direzione rapporti fiscali europei e internazionali
Via dei Normanni, 5 - 00184 – Roma (Italia)
E-mail: df.dri.segreteria@mef.gov.it

- ***MAPs and APAs requests***

Agenzia delle Entrate
Divisione Contribuenti
Direzione Centrale Grandi contribuenti e internazionale
Settore Controllo
Ufficio Risoluzione e prevenzione controversie internazionali
Via Giorgione n. 106
00147 Roma
E-mail: dc.gci.controversieinternazionali@agenziaentrate.it;
pec: dc.acc.accordi@pec.agenziaentrate.it

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

Agenzia delle Entrate
Divisione Contribuenti
Direzione Centrale Grandi contribuenti e internazionale
Settore Controllo
Ufficio Risoluzione e prevenzione controversie internazionali
Via Giorgione n. 106
00147 Roma
E-mail: dc.gci.controversieinternazionali@agenziaentrate.it;
pec: dc.acc.accordi@pec.agenziaentrate.it

Italy 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?	YES	Agreements reached on the basis of Article 25(3) are generally published on the website of the Department of Finance under the relevant Tax Treaty.	https://www.finanze.gov.it/it/Fiscalita-dellUnione-europea-e-internazionale/convenzioni-e-accordi/convenzioni-per-evitare-le-doppie-imposizioni/
2.	Are bilateral APA programmes implemented? If yes:	YES		Invest in Italy - Advance tax agreements for enterprises with international activities - Agenzia delle Entrate (agenziaentrate.gov.it)
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	YES	Following an amendment of the legislative framework, roll-back is available for APAs applications submitted as of 1 st January 2021.	
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	YES		Invest in Italy - Advance tax agreements for enterprises with international activities - Agenzia delle Entrate (agenziaentrate.gov.it)
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		Invest in Italy - Advance tax agreements for enterprises with international activities - Agenzia delle Entrate (agenziaentrate.gov.it)
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a 	YES	Payment of fees is requested only for bilateral and	

Italy Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	bilateral APA request?		multilateral APAs applications submitted as of 1 st January 2021.	
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	See detailed explanation	<p>APAs statistics available on the EU Commission website, annually supplied by Italy.</p> <p>From 2024 APAs statistics will also be available on the OECD website together with MAP Statistics.</p>	
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?	YES		<p>https://www.finanze.gov.it/it/Fiscalita-dellUnione-europea-e-internazionale/procedure-amichevoli-internazionali/</p> <p>Business - Mutual Agreement Procedure (MAP) - Agenzia delle Entrate (agenziaentrate.gov.it)</p>

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.

Italy 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		Business - Mutual Agreement Procedure (MAP) - Agenzia delle Entrate (agenziaentrate.gov.it)
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	See detailed explanation	Under the MAP article there is a legal obligation to open a MAP whenever a violation of the Convention has occurred or is likely to occur.	
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	See detailed explanation	Domestic anti-abuse provisions are within the scope of MAP if there is a violation of the Convention.	
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	YES	This case is expressly provided for in Legislative Decree No. 49 of June 10, 2020, implementing Directive (EU) 2017/1852.	
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	NO		
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		

Italy 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?	YES		Business - Mutual Agreement Procedure (MAP) - Agenzia delle Entrate (agenziaentrate.gov.it)
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		Business - Mutual Agreement Procedure (MAP) - Agenzia delle Entrate (agenziaentrate.gov.it)
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		Business - Mutual Agreement Procedure (MAP) - Agenzia delle Entrate (agenziaentrate.gov.it)
14.	Are there specific timeline for the filing of a MAP request?	YES		Business - Mutual Agreement Procedure (MAP) - Agenzia delle Entrate (agenziaentrate.gov.it)
15.	Are guidance on multilateral MAPs publicly available?	YES		Business - Mutual Agreement Procedure (MAP) - Agenzia delle Entrate (agenziaentrate.gov.it)
16.	Are tax collection procedures suspended during the period a MAP case is pending?	YES	Suspension of tax collection procedures pending MAP cases under Directive (EU) 2017/1852 is provided for, under certain conditions, by	

Italy Dispute Resolution Profile – Availability and access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			<p>Article 22, par. 3, of Legislative Decree no. 49 of 10 June 2020 implementing the Directive.</p> <p>Anyway, taxpayers may access remedies ordinarily available under domestic rules.</p>	
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?	YES		<p>https://www.finanze.gov.it/it/Fiscalita-dellUnione-europea-e-internazionale/procedure-amichevoli-internazionali/</p> <p>Business - Mutual Agreement Procedure (MAP) - Agenzia delle Entrate (agenziaentrate.gov.it)</p> <p>Archivio - Provvedimento del 16/12/2020 - Agenzia delle Entrate (agenziaentrate.gov.it)</p>

Italy 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		circularletter21-2012 (agenziaentrate.gov.it) Archivio - Provvedimento del 16/12/2020 - Agenzia delle Entrate (agenziaentrate.gov.it)
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	YES	Data available on the OECD MAP Statistics website, annually supplied by Italy.	https://www.finanze.gov.it/it/Fiscalita-dellUnione-europea-e-internazionale/procedure-amichevoli-internazionali/
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		
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	See: - Ministerial Decree of 30 September 2021, Article no. 4, point no. 5, (<i>Ufficio V</i>); - Convention between the Ministry of Economy and Finance and the Revenue Agency	https://www.finanze.gov.it/it/il-dipartimento/organigramma/ Documentazione Economica e Finanziaria - Dettaglio Articolo (finanze.it) https://www.finanze.gov.it/opencms/it/il-dipartimento/la-governance-sulle-agenzie-fiscali/convenzioni/
23.	Is MAP arbitration a mechanism currently available for	YES	A certain number of tax	https://www.finanze.gov.it/it/Fiscalita-

Italy Dispute Resolution Profile – Resolution of MAP cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	<p>the resolution of tax treaty related disputes in any of your tax treaties?</p> <p>If not:</p>		<p>treaties provides for MAP arbitration.</p> <p>Directive (EU) 2017/1852, implemented by Legislative Decree no. 49 of 10 June 2020, also provides for an arbitration process to resolve tax treaty related disputes between Member States.</p>	<p>dellUnione-europea-e-internazionale/convenzioni-e-accordi/convenzioni-per-evitare-le-doppie-imposizioni/</p>
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? 			
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 			
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		<p>circularletter21-2012 (agenziaentrate.gov.it)</p> <p>Archivio - Provvedimento del 16/12/2020 - Agenzia delle Entrate (agenziaentrate.gov.it)</p>
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		

Italy 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?	YES		
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)?	See detailed explanation	Article 9 paragraph 2 is not present in a certain number of the oldest treaties, but it is current treaty practice to include it.	
27.	Is there any other information available on resolution of MAP cases?	YES	Data available on the OECD MAP Statistics website, annually supplied by Italy.	https://www.finanze.gov.it/it/Fiscalita-dellUnione-europea-e-internazionale/procedure-amichevoli-internazionali/

Italy 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?	NO		
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	YES	Since 2017 Italy is no longer among the countries that reserve the right not to include the second sentence of Article 25, paragraph 2.	
31.	Is there any other information available on the implementation of MAP agreements?	NO		