

Spain Dispute Resolution Profile

(Last updated: 14 June 2023)

General Information

- Spain's tax treaties are available at:

<https://www.hacienda.gob.es/es-ES/Normativa%20y%20doctrina/Normativa/CDI/Paginas/CDI.aspx>

- MAP request should be made to:

- **TP MAP (Attribution/allocation MAPs):**

Mr. Luis Jones Rodríguez
Head of the International Taxation Office
Spanish Tax Agency (AEAT)
Address: Paseo de la Castellana 147. 3rd Floor. 28046 Madrid
Telephone: + 34 917498666
Fax: + 34 917498685
Email: onfi.map@correo.aeat.es

- **Any other MAP:**

Ms. Elena de las Morenas Ferrándiz
Deputy Director General for International Taxation
General Directorate for Taxation. Ministry of Finance
Address: C/ Alcalá 5. 28014 Madrid
Telephone: +34 915958085
Fax: +34 915958003
Email: fiscalidad.internacional@tributos.hacienda.gob.es

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

Mr. Luis Jones Rodríguez
Head of the International Taxation Office
Spanish Tax Agency (AEAT)
Address: Paseo de la Castellana 147. 4th Floor. 28046 Madrid
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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	This type of agreement is published at the Ministry of Finance's web page.	https://www.hacienda.gob.es/es-ES/Normativa%20y%20doctrina/Normativa/CDI/Paginas/CDI.aspx
2.	Are bilateral APA programmes implemented? If yes:	Yes	The possibility to request an APA was established in 1995, under Law 43/1995, of 27 December on Corporations Tax.	Art. 18.9 of Corporate Income Tax Law (Law 27/2014 of 27 November) and Chapter VII of Corporate Income Tax Regulations (CIT R), as drafted by Royal Decree 634/2015.
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	Yes	The period of coverage may roll-back the years immediately preceding the period which the APA is signed if the domestic time limit has not expired and there has not been a firm tax assessment related to these years.	Article 25.8 of Corporate Income Tax Regulations, as drafted by Royal Decree 634/2015.
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	See detailed explanation	The related persons or enterprises may make a request before the controlled transactions take place.	Article 22 of Corporate Income Tax Regulations, as drafted by Royal Decree 634/2015.
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 	Yes	The company may file a preliminary request, with the following contents: a) Identification of the parties.	Articles 21 and 22 of Corporate Income Tax Regulations, as drafted by Royal Decree 634/2015.

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	documentation that should be submitted in a taxpayer's request for bilateral APA assistance, publicly available?		<p>b) Brief description of the transactions.</p> <p>c) Basic elements of the intended pricing proposal.</p> <p>The request must be accompanied by a proposal that is consistent with the arm's length principle and contain a description of the method and the analysis followed to determine the market value. The request must be signed by the requesting persons. The request must be accompanied by the TP relevant documentation.</p>	
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? 	Yes	EU yearly submitted statistics.	EU Commission website
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	Specialist courses are organised periodically covering the international taxation field. Attendants are the Tax Administration officials.	Instituto de Estudios Fiscales periodically updates new courses.

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4.	Is other information available on preventing tax treaty-related disputes?	Yes	In 2009 the Foro de Grandes Empresas (Forum on Large Companies) was established to study in conjunction with the Tax Agency, transfer pricing, among other issues. The Code of Best Tax Practices was elaborated within the framework of this Forum.	https://sede.agenciatributaria.gob.es/Sede/colaborar-agencia-tributaria/relacion-cooperativa/foro-grandes-empresas.html

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.

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	Yes, they are covered even if there is no article equivalent to Article 9.2 of the OECD's model tax convention on income and on capital. This information can be found in the Spanish MAP Guidance (FAQs).	See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html Guide to mutual agreement procedures / Part two. FAQs / Can a mutual agreement procedure relating to transfer pricing be requested under a tax agreement when that convention does not include an article equivalent to Article 9.2 of the OECD's model tax convention on income and on capital?
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	Provided that the competent authority considers it an informed request. This information can be found in the Spanish MAP Guidance (FAQs).	See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html Guide to mutual agreement procedures / Part two. FAQs / Compatibility with anti-abuse clauses
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	Provided that the competent authority considers it an informed request. This information can be found in the Spanish MAP Guidance (FAQs).	See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html Guide to mutual agreement procedures / Part two. FAQs / Compatibility with anti-abuse clauses
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 information can be found in the Spanish MAP Guidance (FAQs).	See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html Guide to mutual agreement procedures / Part two. FAQs /

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
				Compatibility with audit settlement or assessments with the taxpayer's agreement
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	See detailed explanation	<p>Access to the mutual agreement procedure will not be granted by the mere submission of a self-assessment, supplementary to another submitted previously for the same period, amending the valuation of the related transactions. In such cases, the related persons or entities, resident in the other state, must request the amendment of the tax returns submitted in that state.</p> <p>Additionally, in general terms, access to the mutual agreement will not be granted for the multi-annual resolution of recurrent matters similar to those resolved in a mutual agreement procedure, which affect years following that procedure and have been corrected by the taxpayer by means of self-assessment. However, access will be granted, where applicable and provided that the other requirements for the initiation of the procedure are satisfied, where either of the states has taken measures that imply, or could imply, taxation not in accordance with the provisions of agreements and conventions that provide for the elimination of the double taxation of income and, where applicable, capital in the relevant years.</p> <p>This information can be found in the Spanish MAP Guidance (FAQs).</p>	<p>See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures / Part two. FAQs / Non-initiation of a mutual agreement procedure in the absence of a tax assessment, for example, on the basis of a self-assessment that “gives rise” to double taxation</p>
10.	Are there any other treaty related issues not covered under s/n 5 to 9 which are not within the scope of MAP?	See detailed explanation	The MAP may be rejected when dealing with internal law instead of a divergence in the application or interpretation of the Convention.	Art. 11 MAP on Direct Tax Matters Regulation, approved by Royal Decree 1794/2008, of 3rd November, amended by Royal Decree 399/2021, of 8th June.

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			Access to MAP requested under the Arbitration Convention can be denied in cases involving final serious penalties. In addition to this, access to arbitration under the EU Directive and under certain DTA can be denied in cases involving final serious penalties.	See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html Guide to mutual agreement procedures / Part I. The procedure and its phases / 3. Acceptance/denial of the request / b. Grounds for denying the initiation of a mutual agreement procedure
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	<p>For mutual agreement procedures initiated on or after 12/10/2015, where a mutual agreement procedure takes place at the same time as a domestic appeal, when the request to initiate the mutual agreement procedure is accepted, the appeal or claim in question is suspended until the mutual agreement procedure is decided. However, where an appeal or claim has been brought against a serious penalty imposed in relation to the elements of the tax obligation which are the subject of the mutual agreement procedure, an exception to this general rule applies:</p> <ul style="list-style-type: none"> - In the case of a MAP requested under tax treaty in which the existence of serious penalties excludes access to the arbitration stage of the MAP, where an administrative or judicial appeal is brought against such a penalty, the mutual agreement and review procedures will be conducted in parallel. However, access, where applicable, to the arbitration committee in the mutual agreement procedure will be prevented until a final decision has been issued in the administrative or judicial proceedings cancelling the penalty in question. 	<p>1st Additional disposition of Non Resident Income Tax Law, approved by Royal Legislative Decree 5/2004, of 5th March and 9th Additional disposition of Act 29/1998, of 13th July, both modified by Act 3/2020, of 4th February.</p> <p>See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			<p>- In the case of a mutual agreement procedure requested under the Arbitration Convention, any administrative or judicial appeal brought against serious penalties would result in the suspension of the mutual agreement procedure from when the first relevant appeal was lodged until a final decision was issued regarding the penalties in the administrative or judicial proceedings.</p> <p>- In the case of a MAP requested under the EU Directive, where an administrative or judicial appeal is brought against such a penalty, the mutual agreement and review procedures will be conducted in parallel. However, access, where applicable, to the advisory commission under the mutual agreement procedure will be prevented until a final decision has been issued in the administrative or judicial proceedings cancelling the penalty in question.</p> <p>This information can be found in the Spanish MAP Guidance (FAQs).</p>	
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?	See detailed explanation	<p>Decisions of Spanish courts are binding on competent authorities as regards the mutual agreement procedure. That being the case, where a court has issued a decision affecting the elements of the tax obligation to which the mutual agreement procedure relates before an agreement is reached in the mutual agreement procedure, the Spanish competent authority will, without delay, notify the competent authorities of the other states concerned.</p> <p>Such a decision is grounds for the termination of any of the MAP provided for in the Regulation on Mutual</p>	<p>Article 118 Spanish Constitution</p> <p>See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			<p>Agreement Procedures (Articles 16 and 52 of the Regulation on Mutual Agreement Procedures), which may terminate with an agreement to fully or partly eliminate the double taxation or taxation not in accordance with the convention or treaty, if the other competent authority decides to make, in full or in part, the corresponding adjustment resulting from the final decision, or without an agreement to eliminate the double taxation or taxation not in accordance with the convention. This information can be found in the Spanish MAP Guidance (Part I.5.d.2)</p> <p>On the other hand, the Spanish Competent Authority is not bound by its Administrative Tribunal decisions, therefore MAP assistance can be provided.</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	<p>The MAP on direct tax matters Regulation deals with access thereto and processing, including a detailed description of the minimum documentation to be attached to the request.</p> <p>Additionally, a MAP Guidance has been published in the webpage of the Spanish Administration with the purpose to make the rules, guidelines and procedures on access to and use of the MAP available to the public in more simple language.</p>	<p>https://www.boe.es/buscar/act.php?id=BOE-A-2008-18544&p=20210609&tn=1#a12</p> <p>https://www.boe.es/buscar/doc.php?id=BOE-A-2021-9558</p> <p>See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures</p>
14.	Are there specific timeline for the filing of a MAP request?	Yes	<p>The timeline may vary under Article 25.1 of each tax treaty, however most follow the second sentence of Article 25.1 of the OECD Model Tax Convention.</p> <p>The MAPs Regulation determines the terms available for their request and the procedure for amending the errors</p>	<p>Arts 8 and 10 MAP on direct tax matters Regulation, approved by Royal Decree 1794/2008, of 3rd</p>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			the request may have or for providing additional information.	<p>November, amended by Royal Decree 399/2021, of 8th June.</p> <p>See</p> <p>https://www.hacienda.gob.es/Documentacion/Publico/NormativaDoctrina/Tributaria/Impuesto%20sobre%20la%20Renta%20de%20no%20Residentes/MAP-Regulation-Spain.pdf</p> <p>https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures /Part I. The procedure and its phases / Request for initiation</p> <p>See</p> <p>https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures / Part II. FAQs / Incomplete mutual agreement procedure request</p>
15.	Are guidance on multilateral MAPs publicly available?	See detailed explanation	This information can be found in the Spanish MAP Guidance (FAQs).	<p>EU Arbitration Convention and its Code of Conduct</p> <p>See</p> <p>https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.htm</p> <p>Guide to mutual agreement procedures / Part II. FAQs / Possibility</p>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
				of multilateral mutual agreement procedures
16.	Are tax collection procedures suspended during the period a MAP case is pending?	Yes	<p>MAPs' Regulations determines the suspension of the payment of the tax due and the conditions to qualify for it.</p> <p>The information on this regard can be also found in the Spanish MAP Guidance (FAQs).</p>	<p>Articles 58 to 63 MAP on direct tax matters Regulation, approved by Royal Decree 1794/2008, of 3rd November, amended by Royal Decree 399/2021, of 8th June.</p> <p>See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures / Part II. FAQs / Suspension of tax collection</p>
17.	Are there any fees charged to taxpayers for a MAP request?	See detailed explanation	<p>As a general rule, requesting a MAP does not involve any cost for the taxpayer, beyond the costs incurred by themselves submitting the request for initiation or to comply with any requests for information and documentation received from the competent authority. Nevertheless, it should be borne in mind that if the mutual agreement procedure is conducted under the mechanism established in Directive (EU) 2017/1852 and the taxpayer:</p> <ul style="list-style-type: none"> - withdraws from the mutual agreement procedure, or - requests the constitution of an advisory commission to determine whether initiation of the procedure should be allowed and that commission decides the competent authorities in question were correct in rejecting initiation, 	<p>See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures / Part II. FAQs / Cost of requesting a mutual agreement procedure</p>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			the competent authorities of the Member States concerned may agree that the taxpayer should bear the expenses and fees of the independent persons of standing who make up the advisory commission. This information can be found in the Spanish MAP Guidance (FAQs).	
18.	Is there any other information available on availability and access to MAP?	No	-	-

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?	Yes	OECD and EU yearly-submitted statistics.	https://www.oecd.org/tax/dispute/2020-map-statistics-spain.pdf https://taxation-customs.ec.europa.eu/resolution-tax-disputes-european-union_en
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	In line with paragraph 49 of the Commentary on Article 25 of the OECD Model Tax Convention and paragraph 4 of the Commentary on Article 2, Spain does not consider interests and administrative penalties accessory to the taxes covered by the Tax Conventions to be covered by such convention. Therefore, those interests and administrative penalties are not covered by a mutual agreement procedure. However, if the Spanish tax authority applies interest or an administrative penalty calculated on the basis of an eligible underlying tax and, afterwards, under an agreement reached in the course of a mutual agreement procedure, reduces or eliminates the eligible underlying tax, it will reduce or eliminate the amount of the interest or the administrative penalty in the same proportion.	See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html Guide to mutual agreement procedures / Part two. FAQs / Mutual agreement procedure for discussing the interest and penalties

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			Conversely, the imposition of other administrative penalties not directly related to the underlying tax will not be affected by agreements reached between competent authorities in the context of a mutual agreement procedure. This information can be found in the Spanish MAP Guidance (FAQs).	
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	<p>Article 2 of the Regulation on Mutual agreement procedures confers competence for conducting and deciding on mutual agreement procedures as follows:</p> <p>1) In relation to transfer pricing and the attribution of profits to permanent establishments, solely and exclusively to the Spanish Tax Agency (Agencia Estatal de Administración Tributaria, AEAT).</p> <p>Within the AEAT, this function is carried out by the National Office for Intentional Taxation, following Order HAP/1431/2015, of 16th July the competencies on MAPs on transfer pricing and attribution of profits to PEs are specifically mandated to this Office.</p> <p>2) In all other cases, the General Directorate of Taxation, which also has competence to coordinate mixed procedures (that is, concerning other matters in addition to transfer pricing). In this context, Article 3 of Royal Decree 256/2012, of 27th January develops the basic reporting structure of the Ministry of Finance and Public Administrations;</p>	<p>Regulations mentioned are publicly available.</p> <p>See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures / Part I. The procedure and its phases / 1. Introduction / g. Who is the Spanish competent authority for mutual agreement procedures?</p>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			<p>thereby, the General Directorate for Taxes is vested with the powers to apply double tax conventions.</p> <p>Within the General Directorate of Taxation, the Deputy General Directorate for International Taxation carries out this function.</p> <p>This information can be found in the Spanish MAP Guidance.</p>	
23.	<p>Is MAP arbitration a mechanism currently available for the resolution of tax treaty related disputes in any of your tax treaties?</p> <p>If not:</p>	See detailed explanation	<p>MAP arbitration mechanism is available under Title IV of the Regulation on Mutual Agreement Procedures (which regulates the mechanism established in the EU Directive), the Arbitration Convention and, with the entry into force in Spain of the Multilateral Convention under project BEPS, under certain tax treaties signed by Spain.</p>	<p>https://www.hacienda.gob.es/es-ES/Normativa%20y%20doctrina/Normativa/CDI/Paginas/CDI_Alfa.aspx</p> <p>https://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf</p> <p>See</p> <p>https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures / Part I. The procedure and its phases / 5. Bilateral stage / e. Arbitration stage / e.1 General matters</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? 	No	-	-
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	Yes	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
24.	Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available? If yes:	Yes	The relationship between the MAP and domestic law administrative and judicial remedies (see answer to question 11) is covered by a FAQ of the Spanish MAP Guidelines.	1st Additional disposition of Non Resident Income Tax Law, approved by Royal Legislative Decree 5/2004, of 5th March and 9th Additional disposition of Act 29/1998, of 13th July, both modified by Act 3/2020, of 4th February. See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html Guide to mutual agreement procedures / Part two. FAQs / Compatibility with appeals/claims
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? 	See detailed explanation	<p>The competent authority is legally bound to follow a domestic court decision to comply with a constitutional requirement.</p> <p>This information can be found in the Spanish MAP Guidance (Part I.5.D.2).</p>	<p>Art. 118 Spanish Constitution.</p> <p>See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures / Part I. The procedure and its phases / 5. Bilateral stage / d. Other ways in which the mutual agreement procedure may terminate</p>
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	Access to the MAP will not be granted for the multi-annual resolution of recurrent matters similar to those resolved in a MAP and which affect years following that procedure, except, where applicable and provided that the other requirements for the initiation of the procedure are satisfied, where either of the states has taken measures that imply,	<p>See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures / Part two. FAQs / Non-initiation of a mutual agreement procedure in the absence of a tax assessment, for</p>

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			<p>or could imply, taxation not in accordance with the provisions of agreements and conventions that provide for the elimination of the double taxation of income and, where applicable, capital in the relevant years.</p> <p>This information can be found in the Spanish MAP Guidance (FAQs)</p>	<p>example, on the basis of a self-assessment that “gives rise” to double taxation-</p>
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>Tax treaties not including paragraph 2 of Article 9: Brazil, Ecuador, Italy, Morocco, the Netherlands, Norway, Thailand and Tunisia.</p> <p>Tax treaties not including Article 9: Bulgaria, Kirgizstan, Tajikistan, Turkmenistan and Ukraine.</p> <p>In any case, even if an applicable tax treaty with a mutual agreement procedure clause does not contain an article equivalent to Article 9.2 of the OECD’s Model Tax Convention on Income and on Capital, the initiation of a mutual agreement procedure relating to transfer pricing will be allowed if the necessary requirements are satisfied.</p> <p>The information stated in the last paragraph can be found in the Spanish MAP Guidance (FAQs)</p>	<p>https://www.hacienda.gob.es/es-ES/Normativa%20y%20doctrina/Normativa/CDI/Paginas/CDI_Alfa.aspx</p> <p>See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html / All manuals, videos and brochures / Practical manuals / Other: Guide to mutual agreement procedures / Part two. FAQs / Can a mutual agreement procedure relating to transfer pricing be requested under a tax agreement when that convention does not include an article equivalent to Article 9.2 of the OECD's model tax convention on income and on capital?-</p>
27.	Is there any other information available on resolution of MAP cases?	No	-	-

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	The Spanish domestic law does not establish a specific timeframe for the implementation of MAP Agreements. In general terms, the general 6-month rule for the resolution of tax procedures would apply.	Article 104 of the General Tax Law, approved by Act 58/2003, of 17th December.
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?	See question 28	-	-
30.	Are all mutual agreements reached through MAP implemented notwithstanding	No	The mutual agreements reached under the MAP provision of the applicable tax treaty are implemented irrespective of the time limits set in the domestic law only when the said tax treaty	http://www.minhap.gob.es/es-ES/Normativa%20y%20doctrina/Normativa/CDI/Paginas/CDI.aspx

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	any time limits in your domestic law?		<p>includes the last sentence of paragraph 2 of Article 25 of the OECD Model Tax Convention.</p> <p>Nowadays almost all of the tax treaties signed by Spain include the equivalent of the second sentence of article 25(2) OECD Model Convention, however treaties not containing that sentence are Bolivia, Brazil, Bulgaria, Chile, Ecuador, Italy, Kirgizstan, México, Morocco, the Netherlands, Philippines, Tajikistan, Thailand, Tunisia and Turkmenistan and Ukraine.</p> <p>The mutual agreements reached under the Title IV of the Regulation on Mutual Agreement Procedures (which regulates the mechanism established in the Directive) and the Arbitration Convention are implemented notwithstanding any time limits in Spanish domestic law.</p> <p>This is indicated in the Spanish MAP Guidance (FAQs).</p>	<p>https://www.hacienda.gob.es/es-ES/Normativa%20y%20doctrina/Normativa/CDI/Paginas/CDI_Alfa.aspx See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures / Part two. FAQs / Implementation of mutual agreements regardless of the expiration of domestic statute of limitation</p>
31.	Is there any other information available on the implementation of MAP agreements?	Yes	The information related to the implementation of the MAP agreements can be found in the Spanish MAP Guidance (Part I.6)	<p>Art. 17 MAP on direct tax matters Regulation, approved by Royal Decree 1794/2008, amended by Royal Decree 399/2021, of 8th June.</p> <p>See https://sede.agenciatributaria.gob.es/Sede/en_gb/inicio.html</p> <p>Guide to mutual agreement procedures / Part I. The procedure and its phases / 6. Implementation of the agreement</p>