

Ireland Dispute Resolution Profile

(Last updated: 11 September 2018)

General Information

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

[Ireland's Double Taxation Agreements](#)

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

For Transfer Pricing MAPs (including claims for correlative adjustment¹):

Director, Transfer Pricing Branch, International Tax Division
Office of the Revenue Commissioners, Dublin Castle, D02 F342, Dublin 2, Ireland
Tel: +353 1 858 9712 or +353 1 858 9377 / Fax: + 353 1 679 3314 / Email: transferpricing@revenue.ie

For other MAPs:

Director, Tax Treaties Branch, International Tax Division
Office of the Revenue Commissioners, Dublin Castle, D02 F342, Dublin 2, Ireland
Tel: +353 1 858 9885 or + 353 1 858 9862 / Email: taxtreaties@revenue.ie

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

As above (Transfer Pricing).

¹ For cases dealt with by Large Cases Division (“LCD”) a copy should also be sent to the case manager. For all other cases a copy should be sent to the Revenue District dealing with the taxpayer’s affairs.

Ireland 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	To the extent that an agreement is reached on an issue that would impact on other taxpayers, details of the issue and the resolution reached will be published.	-
2.	Are bilateral APA programmes implemented? If yes:	Yes	Ireland has bilateral APA guidelines which are effective from 1 July 2016 and apply to bilateral APA applications made on or after this date. Prior to the introduction of the APA guidelines in 2016, Ireland accepted requests for bilateral APAs on an <i>ad hoc</i> basis in situations where a treaty partner had agreed to enter into a bilateral APA negotiation.	Ireland's Bilateral APA Guidelines
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	Yes	Ireland will provide for the roll-back of APAs in appropriate cases. This will be subject to the applicable time limits of both countries which are party to the APA. Additionally, the relevant facts and circumstances in the roll-back period must be the same and this will be subject to verification by Revenue.	Ireland's Bilateral APA Guidelines See Part 3

Ireland 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? 	Yes	The formal APA application should be submitted by the taxpayer before the beginning of the first accounting period to be covered by the APA. Revenue may, depending on the circumstances, be prepared to accept applications after this time.	Ireland’s Bilateral APA Guidelines See Part 4
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	Revenue has published guidelines that provide information for taxpayers with respect to the process involved in applying for a bilateral APA and the ongoing reporting and administrative requirements once an APA has been entered into.	Ireland’s Bilateral APA Guidelines
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	No	Revenue does not charge a fee with respect to the bilateral APA programme.	Ireland’s Bilateral APA Guidelines See Part 2
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	Yes	Revenue reports statistics on APAs in its annual report. Revenue also reports statistics relating to APAs to the EU, through the Joint Transfer Pricing Forum (“JTPF”). The statistics reported by Revenue are published on the JTPF website. The information is reported in aggregate and no taxpayer information is disclosed to the JTPF.	Revenue’s Annual Report Statistics published on the JTPF Website

Ireland Dispute Resolution Profile – Preventing Disputes

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
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?	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.

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	-	Ireland's MAP guidance
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	Ireland will engage in consultation with the competent authority of the other contracting state on such cases.	Ireland's MAP guidance
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	See response to question 6 above.	Ireland's MAP guidance
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	Yes	-	Ireland's MAP guidance
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	<p>Where a taxpayer submits a request for MAP assistance arising from a bona fide taxpayer initiated foreign adjustment, such cases will be within the scope of MAP.</p> <p>Where a taxpayer does not request MAP assistance arising from a foreign adjustment, Ireland's domestic legislation prevents a taxpayer from claiming, a deduction for the foreign adjustment in their tax return under self assessment. Taxpayers are required to present such cases to Revenue for</p>	Ireland's MAP guidance

Ireland Dispute Resolution Profile – Availability and Access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			consideration.	
10.	Are there any other treaty related issues not covered under s/n 5 to 9 which are not within the scope of MAP?	Yes	<p>The second sentence of Article 25(3) of the OECD’s Model Convention on Income and on Capital (“MTC”) allows competent authorities to consult together for the elimination of double taxation in cases not provided for in the Double Taxation Agreement. However, some of Ireland’s treaties do not include the second sentence of Article 25(3) of the MTC which would prevent the competent authorities from discussing cases not specifically provided for by the treaty.</p> <p>Ireland has also included Article 9(3) of the United Nations Model Double taxation Convention in some of our treaties, which provides that correlative relief will not be available in cases of fraud, gross negligence or wilful default.</p>	<u>Ireland's Double Taxation Agreements</u>
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>Revenue does not envisage the parallel undertaking of a MAP where the taxpayer is simultaneously pursuing judicial or administrative remedies.</p> <p>A case may be accepted into MAP while judicial or administrative proceedings are ongoing. However, in such cases, the competent authority will generally request that the taxpayer agrees to the</p>	<u>Ireland’s MAP guidance</u>

Ireland Dispute Resolution Profile – Availability and Access to MAP

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			suspension of its domestic legal remedies pending the outcome of the MAP. If the taxpayer does not agree to suspend the administrative or judicial remedies, the competent authority will delay the MAP pending the outcome of these proceedings.	
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	<p>A taxpayer can request MAP assistance in situations where a decision has been rendered by a court or the appeal commissioners.</p> <p>However, the competent authority cannot derogate in the MAP from a final court decision or a decision of the Appeal Commissioners.</p>	Ireland's MAP guidance
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>Rules, guidelines and procedures on how taxpayers can access and use MAP are included within Ireland's MAP Profile on the Revenue website.</p> <p>A country profile for Ireland is also available on the EU Joint Transfer Pricing Forum ("JTPF") website.</p>	Ireland's MAP guidance Irish MAP profile on the EU JTPF website
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.	Ireland's MAP guidance
15.	Are guidance on multilateral MAPs publicly available?	Yes	-	Ireland's MAP guidance

Ireland 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?	See detailed explanation	Under Irish domestic legislation there is no suspension of tax collection unless the taxpayer has appealed against an assessment, and has paid the undisputed amount of tax.	<u>Ireland's MAP guidance</u>
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	-	-

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	Revenue is committed to seeking to resolve MAP cases within an average timeframe of 24 months. However, the time taken to resolve a MAP case will vary according to its complexity.	Ireland's MAP guidance
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	Yes	Ireland reports MAP statistics, including details of the time taken to resolve MAP cases, to the OECD which are published on the OECD website. Additionally, Ireland reports MAP statistics, including details of the time taken to resolve MAP cases, to the EU Joint Transfer Pricing Forum ("JTPF") which are published on the EU JTPF website.	Statistics published on the OECD website Statistics published on the EU JTPF website
21.	Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure?	See detailed explanation	Ireland adopts a case by case approach to the mitigation of interest and penalties during a MAP procedure.	-
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	Revenue has published a document setting out the role of the competent authority.	The Role of the Competent Authority
23.	Is MAP arbitration a mechanism currently available for the resolution of tax treaty related disputes in any	Yes	MAP arbitration provisions are included in four of Ireland's tax treaties (Canada, Israel, Mexico and the US) but are	-

Ireland Dispute Resolution Profile – Resolution of MAP Cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	<p>of your tax treaties?</p> <p>If not:</p>		<p>subject to an exchange of notes to establish procedures and, some cases, to bring MAP arbitration into effect. No notes have been exchanged.</p> <p>Ireland has indicated its willingness to accept mandatory binding arbitration and will seek to implement this policy through the multilateral instrument currently being developed by the OECD.</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>Revenue does not envisage the parallel undertaking of a MAP where the taxpayer is simultaneously pursuing judicial or administrative remedies.</p> <p>A case may be accepted into MAP while judicial or administrative proceedings are ongoing. However, in such cases, the competent authority will generally request that the taxpayer agrees to the suspension of its domestic legal remedies pending the outcome of the MAP. If the taxpayer does not agree to suspend the administrative or judicial remedies, the competent authority will</p>	<p><u>Ireland's MAP guidance</u></p>

Ireland Dispute Resolution Profile – Resolution of MAP Cases

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			delay the MAP pending the outcome of these proceedings.	
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 competent authority cannot derogate from a final court decision or a decision of the Appeal Commissioners.	Ireland's MAP guidance
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	Yes	Taxpayers may submit MAP claims that span multiple years.	Ireland's MAP guidance
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	A small number of Ireland's Double Taxation Agreements do not contain an equivalent to Article 9(2). Where a Double Taxation Agreement does not include an equivalent of Article 9(2), Revenue regards economic double taxation as being implicitly within the scope of the Double Taxation Agreement by virtue of the inclusion of Article 9(1).	Ireland's MAP guidance
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?	Yes	Revenue will seek the timely implementation of the agreement reached through the MAP process.	<u>Ireland's MAP guidance</u>
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?	Yes	Revenue will seek to ensure the timely implementation of the agreement reached through the MAP process. To the extent that Revenue does not process the refund within 93 days of the MAP agreement, interest will become due and payable.	<u>Ireland's MAP guidance</u>
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	Yes	-	<u>Ireland's MAP guidance</u>
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-