



APA & MAP COUNTRY GUIDE 2018 – SWITZERLAND

New paths ahead for international tax
controversy





SWITZERLAND

APA PROGRAM

KEY FEATURES	
Competent authority	State Secretariat for International Financial Matters ('SIF'), and cantonal tax authorities (for unilateral APAs) ('Tax authorities')
Relevant provisions	There are no specific APA provisions under Swiss domestic law. The legal foundations for the APA process are the MAP provisions contained in the relevant Swiss DTTs.
Types of APAs available	Unilateral, bilateral, and multilateral APAs are available.
Acceptance criteria	No specific guidance.
Key timing requests, deadlines	An application for an APA can be submitted at any time, including after an audit.
APA term limits	There is a five-year maximum term for an APA. Longer or shorter periods may be covered depending on the complexities and critical assumptions involved. Bilateral and multilateral APAs may be extended through negotiation with the relevant foreign CA(s).
Filing fee	There is no filing fee.
Rollback availability	No specific guidance.
Collateral issues	No specific guidance.
PRE-FILING REQUIREMENTS	
Overview	No specific guidance.
Anonymous pre-filing availability	No specific guidance.



SWITZERLAND (cont'd)

APPLICATION REQUIREMENTS

Content of application

For bilateral and multilateral APAs, the 'Request for Mutual Agreement Procedures (MAP)/Advance Pricing Agreements (APA) regarding Transfer Pricing' application form available on the SIF website should be submitted to the SIF and include the following information:

- the Swiss and foreign entities and/or PE(s) involved;
- financial years intended to be covered;
- type(s) of transaction intended to be covered;
- foreign CA(s) with which SIF should negotiate;
- TP method and demonstration of application; and
- collateral issues.

Language

No specific guidance.

SME provisions

No specific guidance.

OTHER PROCEDURAL CONSIDERATIONS

General

The Tax authorities follow a standard pre-filing, application and monitoring process. There are no unique procedural aspects.

Monitoring & compliance

No specific guidance.

Renewal procedure

No specific guidance.



SWITZERLAND (cont'd)

MAP PROGRAM

KEY FEATURES	
Competent authority	State Secretariat for International Financial Matters ('SIF')
Relevant provisions	There are no specific provisions for the MAP procedure in domestic law. Taxpayers must rely on the MAP provisions under DTTs.
Acceptance criteria	Taxpayers may request a MAP if taxation has or is likely to occur that is not in accordance with the provisions of a DTT to which Switzerland is signatory.
Key timing requests, deadlines	Most of Switzerland's DTTs permit Taxpayers to present a case to the SIF within three years from the first notification to the Taxpayer of the actions giving rise to taxation not in accordance with the DTT. It is prudent to consult the relevant DTT to determine the time limit that applies and to ensure that the deadline for presenting a case is not missed.
APPLICATION REQUIREMENTS	
Content of application	<p>The following information should be contained in the MAP request:</p> <ul style="list-style-type: none">■ name, address, and tax identification number of the Taxpayer concerned, and relevant related parties;■ if the Taxpayer has an authorised representative, a valid power of attorney;■ the Swiss Tax authorities concerned, including the contact person if known;■ the other relevant jurisdiction(s) concerned;



SWITZERLAND (cont'd)

APPLICATION REQUIREMENTS (cont'd)

Content of application (cont'd)

- description of the facts and circumstances of the specific case, including the tax amounts in question in Swiss francs and in the foreign currency, details of any relationships between the Taxpayer making the request and the other persons directly affected by the case, as well as the annual financial statements for the tax periods concerned in the case of companies;
- if the MAP request was also submitted to another authority based on another international treaty with a dispute resolution mechanism, the date of that request, the name of the person and the authority to which it was submitted, as well as a copy of that other request and all enclosures to be included if not identical to the other request;
- if available, detailed information on any legal remedies sought in Switzerland or abroad;
- if applicable, copies of any advance ruling, APA, or a court ruling;
- any other pertinent details or documents for resolving the case; and
- a declaration confirming that all information and all documents in the MAP request are accurate and that the Taxpayer will assist the SIF by diligently supplying any other pieces of information or any other document required by the authority.

Language

No specific guidance.

OTHER PROCEDURAL CONSIDERATIONS

Interaction with domestic proceedings

No specific guidance.

Arbitration

No specific guidance.

STATISTICS

APA

There are no statistics publicly available.

MAP

Switzerland had a total of 349 active MAP applications as of 31 December 2016. The average time needed to close MAP cases is 31 months for transfer pricing cases, and 19 months for other cases.



SWITZERLAND (cont'd)

DOUBLE TAXATION TREATY NETWORK

The following treaties include MAP provisions which are the basis for bilateral and multilateral APA negotiations:

Albania	Czech Republic	Italy	New Zealand	St Vincent and the Grenadines
Algeria	Denmark ^(I)	Ivory Coast	Norway	Sweden ^(IV)
Anguilla	Dominica	Jamaica	Oman ^(VI)	Taiwan ^(III)
Antigua	Ecuador	Japan ^(VI)	Pakistan	Tajikistan
Argentina ^(VI)	Egypt	Kazakhstan	Peru	Thailand
Armenia	Estonia	Korea (Republic of)	Philippines	Trinidad and Tobago
Australia ^{(I), (IV)}	Faroe Islands	Kuwait	Poland ^(I)	Tunisia
Austria	Finland	Kyrgyzstan	Portugal ^(VI)	Turkey
Azerbaijan	France	Latvia	Qatar	Turkmenistan
Bangladesh	Gambia	Liechtenstein ^(VI)	Romania	Ukraine
Barbados	Georgia	Lithuania	Russia	United Arab Emirates
Belarus	Germany ^(I)	Luxembourg ^{(I), (VI)}	Saudi Arabia	United Kingdom ^(I)
Belgium	Ghana	Macedonia	Serbia and Montenegro	United States
Belize	Greece	Malawi	Singapore ^(IV)	Uruguay
British Virgin Islands	Grenada	Malaysia	Slovak Republic	Uzbekistan
Bulgaria	Hong Kong ^{(I), (IV)}	Malta	Slovenia	Venezuela
Canada ^(I)	Hungary ^(IV)	Mexico	South Africa	Vietnam
Chile	Iceland	Moldova	Spain ^(I)	Zambia
China ^(IV)	India	Mongolia	Sri Lanka	
Colombia	Indonesia	Montserrat	St Kitts and Nevis	
Croatia	Iran	Morocco	St Lucia	
Cyprus ^(VI)	Ireland	Netherlands ^(I)		
	Israel			

NOTES

- I denotes treaties with MAP arbitration provisions.
- II denotes treaties with the USSR that remain applicable until a separate tax treaty is concluded.
- III denotes treaties between the countries' representative office in Taipei and the Taipei Economic and Cultural Office in the relevant country.
- IV denotes treaties that became effective within the last five years.
- V denotes treaties that are awaiting ratification.
- VI denotes MAP provisions identical to para 3, art 25 of the OECD Model Convention with respect to Taxes on Income and on Capital.
- VII arbitration is to be conducted under the statutes of the ECJ.
- VIII arbitration is to be conducted under the statutes of the ICJ.

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