



# APA & MAP Country Guide 2019 – Albania

CONNECTING THE DOTS OF INTERNATIONAL TAX CONTROVERSY





|                              |   |
|------------------------------|---|
| <b>Rollback availability</b> | Rollback is not available.  |
| <b>Collateral issues</b>     | Collateral issues will not be dealt with within the APA. Where collateral issues, such as deductibility, applicability of withholding taxes, existence of and profit attribution to a PE, are identified during the APA process, these may be submitted to the GDT for consideration. |

## PRE-FILING REQUIREMENTS

|  |   |
|--|---|
| <b>Overview</b>                          | <p>A pre-filing meeting with the GDT is mandatory before the submission of an APA application. Pre-filing meetings must be initiated by the Taxpayer through filing of a 'Pre-filing Questionnaire' form, which requires the disclosure of the following information:</p> <ul style="list-style-type: none"> <li>• the Taxpayer's name and registration number (this can be left blank for anonymous pre-filing);</li> <li>• the Taxpayer representative's name and contact information;</li> <li>• proposed term of the APA;</li> <li>• type of APA requested;</li> <li>• any foreign jurisdictions involved in the transaction(s) covered;</li> <li>• the proposed tested party; and</li> <li>• proposed dates and times for a pre-filing meeting.</li> </ul> <p>The GDT will respond to the Taxpayer or representative and the pre-filing meeting will be held within 60 days from the receipt of the request. Any statement or representation made by the GDT in the pre-filing meeting is considered informal advice and will not be binding on the GDT.</p> |
| <b>Anonymous pre-filing availability</b> | Anonymous pre-filing is available.  |

**APPLICATION REQUIREMENTS**

**Content of application**

The formal APA application must contain the following:

- a declaration that the APA application contains all relevant facts and that they are true, correct and complete;
- the Taxpayer representatives name and contact information;
- the associated enterprises involved in the APA and organisational structure, place of business and tax residence;
- indication of the type of APA sought;
- the proposed term to be covered by the APA;
- the controlled transaction(s) to be covered by the APA;
- descriptions of the key agreements between the associated enterprises;
- the details of any significant TP arrangements or practices;
- a functional analysis of the Taxpayer entity's business;
- details of the economically significant functions performed by each party to the controlled transaction(s), assets used in the process and risks assumed, with a focus on the key factors for realising the controlled transaction(s) covered under the APA;
- an industry analysis and the market in which the Taxpayer operates;
- an explanation of the Taxpayer's position in the industry, including major competitors;
- a selection and application of the TP method;
- the tax and financial position of all associated enterprises involved in the APA for the last three years, including sales, cost of goods sold, operating expenses, profits before taxes, assets, liabilities, number of employees and any other relevant data;
- financial forecasts and budgeting for the term of the proposed APA; and
- a description of critical assumptions.

|                       |                       |
|-----------------------|-----------------------|
| <b>Language</b>       | No specific guidance. |
| <b>SME provisions</b> | No specific guidance. |

#### OTHER PROCEDURAL CONSIDERATIONS

|                                    |   |
|------------------------------------|---|
| <b>General</b>                     | The GDT follows a standard pre-filing, application and monitoring process. There are no unique procedural features.   |
| <b>Monitoring &amp; compliance</b> | Taxpayers are required to submit to the GDT a completed <b>'APA Annual Compliance Report'</b> for each of the tax periods covered by the APA.   |
| <b>Renewal procedure</b>           | An APA renewal request will go through the same stages as the initial APA request. In practice, it is expected that where there are no significant changes to facts or transaction(s), the evaluation and negotiation period will be significantly shorter. |

## MAP Program

### KEY FEATURES

|                                       |   |
|---------------------------------------|---|
| <b>Competent authority</b>            | No specific guidance.   |
| <b>Relevant provisions</b>            | There are no specific provisions for MAP in domestic law. Taxpayers must rely on the MAP provisions under DTTs. |
| <b>Acceptance criteria</b>            | No specific guidance.   |
| <b>Key timing requests, deadlines</b> | No specific guidance.   |

### APPLICATION REQUIREMENTS

|                               |                       |
|-------------------------------|-----------------------|
| <b>Content of application</b> | No specific guidance. |
| <b>Language</b>               | No specific guidance. |

### OTHER PROCEDURAL CONSIDERATIONS

|  |                       |
|--|-----------------------|
| <b>Interaction with domestic proceedings</b> | No specific guidance. |
| <b>Arbitration</b>                           | No specific guidance. |

### STATISTICS

|            |  |
|------------|--|
| <b>APA</b> | The GDT has had an APA program since 2015. |
| <b>MAP</b> | There are no publicly available statist    |

## Double Taxation Treaty Network

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

|                    |                            |                                     |
|--------------------|----------------------------|-------------------------------------|
| Austria            | India <sup>(IV)</sup>      | Poland                              |
| Belgium            | Ireland                    | Romania                             |
| Bosnia-Herzegovina | Italy                      | Russia                              |
| Bulgaria           | Korea (Republic of)        | Serbia                              |
| China              | Kosovo                     | Singapore                           |
| Croatia            | Kuwait <sup>(IV)</sup>     | Slovenia                            |
| Czech Republic     | Latvia                     | Spain                               |
| Egypt              | Macedonia                  | Sweden                              |
| Estonia            | Malaysia                   | Switzerland                         |
| France             | Malta                      | Turkey                              |
| Germany            | Moldova                    | United Kingdom <sup>(I), (IV)</sup> |
| Greece             | Montenegro                 |                                     |
| Hungary            | Netherlands <sup>(I)</sup> |                                     |
| Iceland            | Norway                     |                                     |

### 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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