



APA & MAP Country Guide 2019 – Croatia

CONNECTING THE DOTS OF INTERNATIONAL TAX CONTROVERSY



Croatia

APA Program

KEY FEATURES	
Competent authority	Croatian Tax Administration (TA)
Relevant provisions	Ordinance No. 42/2017, as published in the Official Gazette.
Types of APAs available	Unilateral, bilateral, and multilateral APAs are available.
Acceptance criteria	No specific guidance.
Key timing requests, deadlines	Pre-filing meeting requests must be filed no later than six months prior to the transaction(s) intended to be covered.
APA term limits	There is a five-year maximum term for an APA.
Filing fee	The filing fee for unilateral APAs range from HRK15,000 to HRK150,000 (approx. USD2,400 to USD24,000) depending on the Taxpayer's turnover as stated in the most recent tax return. For bilateral APAs, an additional HKR50,000 (approx. USD8,000) is payable, and for multilateral APAs an additional HRK100,000 (approx. USD16,000) is payable.
Rollback availability	Rollback to prior years is not available.
Collateral issues	No specific guidance.

PRE-FILING REQUIREMENTS**Overview**

Taxpayers are required to request a pre-filing meeting with the TA in a written statement containing the following information:

- name of the Taxpayer, tax number and contact person for communication with the TA;
- name of the tax advisor that will be involved in the APA application process;
- a list of the related parties to be the subject of the APA, and the countries in which they are established or resident;
- type of APA sought;
- a brief outline of the organisational structure and business of the Taxpayer and related parties;
- a brief description of the transaction(s) that will be the subject of the APA and the value of the transaction(s);
- anticipated date that the transaction(s) will occur; and
- proposed TP method.

The TA will schedule a pre-filing meeting if it determines an APA is appropriate in the circumstances of the Taxpayer. The pre-filing meeting will involve a discussion of the following:

- the purpose of the APA;
- the selection process used to determine the TP method;
- the likelihood that difficulties or doubts regarding the interpretation or application of the APA will significantly increase the risk of double taxation or non-payment;
- the scope of the documentation and the analysis required for the conclusion of the APA;

	<ul style="list-style-type: none"> • whether the APA could affect the tax treatment of transactions from previous periods if the facts and transaction(s) that is the subject of the APA is equivalent to those of previous tax periods; • whether the Taxpayer or a related party is currently subject to a TP audit for previous years for the same or similar issues as those intended to be covered by the APA; • the details of the transaction(s), business forecasts and plans; • critical assumptions; • key deadlines of the APA application process; • the time required to conclude the APA; and • the proposed validity period of the APA. <p>The TA may request further meetings before making a decision as to whether to invite the Taxpayer to submit a formal APA application.</p>
<p>Anonymous pre-filing availability</p>	<p>Anonymous pre-filing is not available.</p>

APPLICATION REQUIREMENTS

Content of application

Taxpayers are required to submit a **Statement of intent to conclude an APA** to the TA, including the following information:

- name of the Taxpayer, tax number and contact person for communication with the TA;
- name of the tax advisor that will be involved in the APA application process;
- type of APA sought;
- general information on the transaction(s) with related parties (e.g. description, type, amount, values, and terms);
- data on all related parties to the APA (e.g. name, location of headquarters, and tax number);
- a description of the transaction(s) to be the subject of the APA and a description of the products, works or contracts which are the basis for the transaction(s) to be the subject of the APA; and
- the proposed period of validity of the APA.

If the Taxpayer requests a bilateral or multilateral APA, the following additional information must be included:

- information on the appropriate legal basis for the conclusion of the APA (a tax treaty or other international agreement);
- whether the Taxpayer or related parties have been or are currently subject to any audits, where the transactions involved are similar to those that are the subject of the APA application;
- an indication of whether the APA may affect related parties from non-participating countries;

- whether the Taxpayer or related parties have informed any relevant foreign tax authorities of the intention to conclude the APA;
- whether the Taxpayer or related parties have concluded an APA in another country that is related to the transactions covered by the APA; and
- translation of the formal APA application into English.

The Taxpayer is required to submit the following supporting documentation in the formal APA application:

- a graphical representation of the legal and ownership structure of the group of related parties with which the Taxpayer is involved;
- a description of the business and business strategy of the group of related parties, together with a general description of the capital, assets, significant contracts, financial activities within the group, and a description of the group's transfer pricing policy;
- consolidated annual financial statements of the group of related parties for the previous three tax periods;
- annual financial statements of related parties participating in transactions covered by the APA, including tax returns for the previous three tax periods
- a proposal and explanation of the selected TP method, as well as documentation supporting the justification of the selection, accompanied by detailed analysis, and information on comparable prices;
- financial and economic analysis to demonstrate the appropriateness of the selected TP method, including the development of the planned transaction(s) that are the subject of the APA;
- critical assumptions;

(cont.)	<ul style="list-style-type: none"> • a proposal to make any adjustments should there be a change to the critical assumptions on which the APA is based, where the actual outcome is different from the one provided for in the APA; and • any other information that may have an impact on the selected TP method for determining the transfer pricing for the transaction(s) that will be the subject of the APA. <p>The TA may invite the Taxpayer to provide additional information or explanations before making a decision to accept or reject the APA application. The Taxpayer will be notified in writing the outcome of the APA application.</p>
Language	Documentation must be submitted in Croatian. Bilateral and multilateral APA applications must be accompanied by English translations.
SME provisions	No specific guidance

OTHER PROCEDURAL CONSIDERATIONS

<p>General</p>	<p>The TA follows a standard pre-filing, application and monitoring process. There are no unique procedural aspects</p>
<p>Monitoring & compliance</p>	<p>The Taxpayer is required to submit annual reports on the implementation of the APA within the time limit for submitting an annual income tax return. The annual report must establish the following:</p> <ul style="list-style-type: none"> • whether the Taxpayer has complied with the terms of the APA; • whether the information stated in the APA application, annual reports and any accompanying documentation still apply; • whether there have been any significant changes in the facts or circumstances affecting the anticipated result of the APA; • whether the TP method is applied accurately and consistently in accordance with the terms of the APA; and • whether the critical assumptions underlying the TP method still apply.
<p>Renewal procedure</p>	<p>The Taxpayer may apply for the renewal of an APA by submitting a request for the extension of the APA six months prior to the expiry of the initial APA term.</p>

MAP Program

KEY FEATURES

Competent authority	Croatian Tax Administration (TA)
Relevant provisions	There are no specific provisions for MAP in domestic law. Taxpayers must rely on the MAP provisions under DTTs or the EU Arbitration Convention (90/436/EEC).
Acceptance criteria	No specific guidance.
Key timing requests, deadlines	There is no specific guidance in domestic law. Taxpayers have three years to present a case to the TA under the EU Arbitration Convention.

APPLICATION REQUIREMENTS

Content of application	No specific guidance.
Language	No specific guidance

OTHER PROCEDURAL CONSIDERATIONS

Interaction with domestic proceedings	No specific guidance.
Arbitration	<p>As Croatia is a member of the EU, Taxpayers may initiate the arbitration procedure under the Tax Dispute Resolution Mechanism Directive on October 10, 2017. The Directive is applicable to matters submitted after July 1, 2019, on issues related to the tax year starting on or after January 1, 2018.</p> <p>The EU Arbitration Convention also imposes a binding obligation on EU member states to eliminate double taxation under DTTs including, if necessary, by reference to the opinion of an independent advisory body.</p>

STATISTICS

APA	Statistics on APAs have not been made publicly available.
MAP	Croatia has a total of 12 active MAP applications as of December 31, 2017.

Double Taxation Treaty Network

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

Albania	Indonesia	Poland
Armenia	Iran	Portugal
Austria	Ireland	Qatar
Azerbaijan ^(IV)	Israel	Romania
Belarus	Italy	Russia
Belgium	Jordan	San Marino ^(IV)
Bosnia-Herzegovina	Korea (Republic of)	Serbia
Bulgaria	Kosovo	Slovakia
Canada	Kuwait	Slovenia
Chile	Latvia	South Africa
China	Lithuania	Spain
Czech Republic	Luxembourg	Sri Lanka ^(IX)
Denmark	Macedonia	Sweden ^(IX)
Estonia	Malaysia	Switzerland
Finland ^(IX)	Malta	Syria
France	Mauritius	Turkey
Georgia ^(IV)	Moldova	Turkmenistan ^(IV)
Germany	Montenegro	Ukraine
Greece	Morocco ^(IV)	United Arab Emirates ^(IV)
Hungary	Netherlands	United Kingdom ^(IV)
Iceland	Norway ^(IX)	
India ^(IV)	Oman ^(IV)	

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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