



APA & MAP Country Guide 2019 – Finland

CONNECTING THE DOTS OF INTERNATIONAL TAX CONTROVERSY



Finland

APA Program

KEY FEATURES	
Competent authority	Finnish Tax Administration
Relevant provisions	Informal guidelines are available on the Finnish Tax Administration's website.
Types of APAs available	Unilateral, bilateral, and multilateral APAs are available. Taxpayers must rely on the MAP provisions in DTTs to which Finland is signatory to secure a bilateral or multilateral APAs. Unilateral advance rulings on tax treatment are also available from the Tax Administration or Central Tax Board.
Acceptance criteria	<p>There is no specific guidance on the acceptance criteria for bilateral or multilateral APAs. Advance rulings are more likely to be given in circumstances where:</p> <ul style="list-style-type: none"> • resolving the issue is important for the application of tax law in similar cases; • the ruling will provide consistency in the assessment of tax; and • the Taxpayer submits a sufficiently detailed description of the case with some uncertainty of the tax treatment.
Key timing requests, deadlines	There is no specific guidance for bilateral or multilateral APAs. Applications for advance rulings must be filed before the end of the filing due date of the tax return (within four months after the financial year end).

APA term limits	There is no specific guidance for bilateral or multilateral APAs. Advance rulings are granted for the period ending at the end of the tax year following the year in which the ruling was granted.
Filing fee	There is no filing fee for bilateral or multilateral APA applications. Fees for an advance rulings are payable upon receipt of the ruling and the amount will depend on the complexity of the ruling.
Rollback availability	There is no specific guidance on rollback availability for bilateral or multilateral APAs. Advance rulings are only issued to cover future years.
Collateral issues	No specific guidance.

PRE-FILING REQUIREMENTS

Overview	A pre-filing meeting is recommended for bilateral or multilateral APAs. For advance rulings, the issues to be covered under the ruling may be discussed between the Taxpayer and the Tax Administration for the purpose of coming to a mutual agreement.
Anonymous pre-filing availability	Anonymous pre-filing is not available.

APPLICATION REQUIREMENTS

<p>Content of application</p>	<p>The informal guidelines recommend the following to be included in a bilateral or multilateral APA application:</p> <ul style="list-style-type: none"> • functional analysis; • details of the proposed TP method; • relevant financial information; • relevant agreements; and • critical assumptions (national legislation, DTT terms, import restrictions, financial circumstances, market information, exchange rates, applicable interest rates, credit ratings and capital structure). <p>The Taxpayer files the application, after which it is at the discretion of the Tax Administration to decide on the procedure to be taken. For advance rulings, the Taxpayer is required to provide a written application, including:</p> <ul style="list-style-type: none"> • a precise question to which the ruling should give an answer; and • factual background and analysis of the question at hand. <p>Further information may be requested by the Tax Administration or Central Tax Board.</p>
<p>Language</p>	<p>Finnish and Swedish are official languages, but the informal guidelines recommend filing in English.</p>
<p>SME provisions</p>	<p>No specific guidance.</p>

OTHER PROCEDURAL CONSIDERATIONS

General	The Finnish Tax Administration follows a standard pre-filing, application and monitoring process. There are no unique procedural aspects.
Monitoring & compliance	There is no specific guidance for bilateral or multilateral APAs. For advance rulings, there are no annual compliance requirements.
Renewal procedure	There is no specific guidance for the renewal of bilateral or multilateral APAs. For advance rulings, an application for a renewal is treated as a new ruling request.

MAP Program

KEY FEATURES	
Competent authority	Large Taxpayers' Office of the Ministry of Finance (Tax authority)
Relevant provisions	Article 89 of the Act on Tax Procedure
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 Finland is signatory.
Key timing requests, deadlines	Most of Finland's DTTs permit a Taxpayers to present their case to the Tax authority of the Ministry of Finance within three years from the first notification to the taxpayer of the actions giving rise to taxation not in accordance with the DTT. However, time limits may vary, and the relevant DTT should be consulted for the applicable time limit. Taxpayers have three years to present a case to the Tax authority under the EU Arbitration Convention (90/436/EEC).

APPLICATION REQUIREMENTS	
Content of application	Taxpayers must submit a written application to the Tax authority. There is no prescribed form or documentation requirements for the application.
Language	Finnish and Swedish are official languages, but the informal guidelines recommend filing in English.

OTHER PROCEDURAL CONSIDERATIONS

Interaction with domestic proceedings	Taxpayers may simultaneously initiate domestic litigation proceedings and request a MAP; however, the Tax authority may put the MAP request on hold until there is a final resolution of the litigation in Finland.
Arbitration	As Finland 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. The EU Arbitration Convention (90/436/EEC) 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.

STATISTICS

APA	Starting from 2015, Finland has granted six APAs. Currently 13 applications are being processed.
MAP	Finland had a total of 114 active MAP applications as of December 31, 2017. The average time needed to close MAP cases is 37 months for transfer pricing cases, and 39 months for other cases.

Double Taxation Treaty Network

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

Argentina	Cyprus ^(iv)	Jersey
Armenia	Czech Republic	Kazakhstan
Australia	Denmark	Korea (Republic of)
Austria	Egypt	Kyrgyzstan
Azerbaijan	Estonia	Latvia
Barbados	France	Lithuania
Belarus	Germany	Luxembourg
Belgium	Georgia	Macedonia
Bermuda	Greece	Malaysia
Bosnia and Herzegovina	Guernsey	Malta
Brazil	Hungary	Mexico
British Virgin Islands	India	Moldova
Bulgaria	Indonesia	Montenegro
Canada	Ireland	Morocco
Cayman Islands	Israel	Netherlands
China	Italy	New Zealand
Croatia	Japan	Norway

Oman	South Africa	Ukraine
Pakistan	Spain ^(IV)	United Arab Emirates
Philippines	Sri Lanka	United Kingdom
Poland ^(IV)	Sweden	United States
Romania	Switzerland	Uruguay ^(IV)
Russia	Tajikistan ^(IV)	Uzbekistan
Serbia	Tanzania	Vietnam
Singapore	Thailand	Zambia
Slovakia	Turkey	
Slovenia	Turkmenistan ^(V)	

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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