



EUROPEAN COMMISSION

DIRECTORATE-GENERAL

TAXATION AND CUSTOMS UNION

Direct taxation, Tax Coordination, Economic Analysis and Evaluation

Direct Tax Policy and Cooperation

Brussels, September 2018
Taxud/D2

DOC: JTPF/007b/2018/EN

EU JOINT TRANSFER PRICING FORUM

Statistics on APAs in the EU at the End of 2017

Meeting of 24 October 2018

	What types of Advance Pricing Agreement (APA) options are available?	Is there a filing fee for APA requests?	Total Number of all APAs in force at the end of 2017		Total Number of Bilateral and Multilateral APAs in force at the end of 2017		Total Number of Unilateral APAs in force at the end of 2017		Number of APA requests received in 2017		Number of APAs granted in 2017		Number of APA applications rejected in 2017		Number of APA applications where the taxpayer withdrew its request in 2017		Average time in months to negotiate bi- or multilateral APAs	
			EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU
Austria	Unilateral (Advance rulings); Bilateral; Multilateral	For unilateral yes, for bilateral/multilateral - no	20	24	1	2	19	22	12	8	3	2	0	0	0	0	-	17
Belgium	Unilateral (Advance rulings); Bilateral; Multilateral	No	569	245	13	4	556	241	348	186	568	243	-	1			30	30
Bulgaria	No regulations available at this moment																	
Croatia	Unilateral, Bilateral and Multilateral	Yes							1									
Cyprus	APAs are not available. Advance rulings on the interpretation/application of the tax laws are available on request																	
Czech Republic	Unilateral (Advance rulings legislation from 1st of January 2006); Bilateral and Multilateral (possible under MAP)	Yes CZK 10 000	77	14			77	14	23	1	24	1	2					
Denmark	Bilateral, Multilateral, Advance rulings	Yes Only for Advance Rulings; the filing fee is DKK 300.	3	16	3	16	-	-	1	10	-	5	-	-	-	1	-	22
Estonia	No APAs or advance rulings of any kind. Bilateral APAs in principle possible under MAP																	
Finland	Advance rulings (unilateral APA), bilateral and multilateral APAs.	Yes (unilateral only)	7	2	5	2	2	-	3	1	3	-	-	-	-	-	39	-
France	Unilateral; Bilateral; Multilateral	No	17	30	10	19	7	11	9	13	5	7	1	1	-	2	28	27

	What types of Advance Pricing Agreement (APA) options are available?	Is there a filing fee for APA requests?	Total Number of all APAs in force at the end of 2017		Total Number of Bilateral and Multilateral APAs in force at the end of 2017		Total Number of Unilateral APAs in force at the end of 2017		Number of APA requests received in 2017		Number of APAs granted in 2017		Number of APA applications rejected in 2017		Number of APA applications where the taxpayer withdrew its request in 2017		Average time in months to negotiate bi- or multilateral APAs	
			EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU
Germany	Bilateral; Multilateral (Unilateral rulings on transfer pricing are only available under exceptional circumstances specified in a 2006 Federal Ministry of Finance circular)	Yes Generally: EUR 20 000 (15 000 for prolongation/10.000 for amendment); Smaller enterprises: EUR 10 000 (7 500/5 000); In case of hardship and specific interest of tax administration in APA: 0 €	16	23	16	23	-	-	16	20	11	17	1	-	1	4	36 (average for APAs granted 2017) / 38 (overall average for APAs granted 2015, 2016 and 2017)	47 (average for APAs granted 2017) / 51 (overall average for APAs granted 2015, 2016 and 2017)
Greece	Unilateral, bilateral, multilateral APAs.	Yes. Upon filing of the application for preliminary consultation, a duty of EUR 1000 is paid. For filing the APA application the duty amounts to EURO 5000. In case consultations with foreign tax authorities take place, a duty of EURO 10,000 is paid for consultation procedure with each country involved.	1	-	1	-	-	-	5	-	-	-	-	-	-	-	20	
Hungary	Unilateral, bilateral, multilateral APAs.	Yes The filing fee for unilateral APA is HUF 500 000 - HUF 5 million, if the arm's length price can be determined with the CUP, Resale price method or Cost plus method and HUF 2 million - HUF 7 million if the arm's length price can be determined by using other methods. The fee for bilateral APA is HUF 3 million - HUF 8 million, for multinational APA HUF 5 million - HUF 10 million.	39	18	-	-	39	18	15	2	10	2	-	-	-	1	-	-
Ireland (Republic of)	Bilateral under treaties. Multilateral to the extent that they consist of a series of bilateral agreements	No	2	2	2	2	-	-	4	4	-	2	-	-	-	1		44
Italy	Unilateral, bilateral and multilateral APAs are available pursuant to Article 31-ter of the President Decree n° 633/1973, newly introduced by Legislative Decree n° 147/2015, and the MAP Article of the relevant Tax Treaty.	No	49	60	1	3	48	57	78	72	15	21	4	1	5	12	55	51
Latvia	Unilateral APAs	YES, 7'014 EUR	3	-	-	-	1	2	-	-	-	1	-	-	-	-	-	-
Lithuania	APA legislation from 01/01/2012. Unilateral, Bilateral or Multilateral APAs, Advance rulings	No	4	1	-	-	4	1	1	-	2	-	-	-	-	-	N/A	N/A

	What types of Advance Pricing Agreement (APA) options are available?	Is there a filing fee for APA requests?	Total Number of all APAs in force at the end of 2017		Total Number of Bilateral and Multilateral APAs in force at the end of 2017		Total Number of Unilateral APAs in force at the end of 2017		Number of APA requests received in 2017		Number of APAs granted in 2017		Number of APA applications rejected in 2017		Number of APA applications where the taxpayer withdrew its request in 2017		Average time in months to negotiate bi- or multilateral APAs	
			EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU
Luxembourg	Unilateral, bilateral, multilateral APAs.	Yes, new tax policy has been introduced in 2015. Filing fee of 10,000 EUR per APA request has been introduced	5	-	4	-	1	-	3	-	1	-	-	-	-	-	0*	-
Malta	No formal rules yet	No																
Netherlands	Netherlands * see explanation note	Unilateral; Bilateral; Multilateral; Advance rulings	No								176	132		4		40		2 years
Poland	Unilateral; Bilateral; Multilateral	Yes The filing fee is 1% of the value of a transaction with the following provisions: for domestic unilateral agreement (i.e. involving only domestic related entities) - no less than PLN 5,000 and no more than PLN 50,000; for unilateral agreement concerning foreign entities no less than PLN 20,000 and no more than PLN 100,000; for foreign bilateral or multilateral the fee amounts should be no less than PLN 50,000 and no more than PLN 200,000. Renewal fees are half of the amount of the original filing fee.	17	6	2	3	15	3	10	2	6	2*	-	-	-	-	22	34
Portugal	The Tax Code on CIT (Art. 138) and the Ministerial Order n.º 620-A/2008, 16 July, allow unilateral, bilateral and multilateral APAs	Yes The filing fee is variable according to the taxpayer's turnover. The minimum fee is EUR 3 152,40 and the maximum - EUR 34 915,85. Renewal fees are 50 % of the amounts of the original fees.	7	3	1	1	6	2	5	1	3	3						
Romania	Unilateral; Bilateral; Multilateral	Unilateral; Bilateral; Multilateral; The filing fees are:- large taxpayers 20.000 Euro 15.000 Euro for the modification of the APA in force - other types of taxpayers (small, medium size taxpayers) 10.000 Euro 6.000 Euro for the modification of the APA in force Yes. The filing fee is 15.000 Euro and	10	3	-	3	10	-	6	1	5	-	-	-	-	-	18 months	18 months
Slovenia	Unilateral, bilateral, multilateral APAs.	7.500 Euro for the extension of the APA in force							1	1								
Slovak Republic	Unilateral, bilateral, multilateral APAs.	Yes. In case of unilateral APA it is 10 000 EUR. In case of bilateral/multilateral it is 30 000 EUR	7	-	-	-	7	-	11	1	4	-	-	-	-	-		
Spain	Unilateral; Bilateral; Multilateral	No	46	14	6	2	40	12	19	9	10	3	1	1	3	2	24	26,5
Sweden	APA legislation from 1 January 2010. Only bilateral or multilateral APAs.	Yes 150,000 SEK per country (Prolongation fee 100,000-125,000 SEK)	9	9	9	9	-	-	6	5	3	4	-	1	1	-	37	37
UK	Unilateral; Bilateral	No	17	73	17	40	-	33	5	21	2	21	-	6	-	10	53	35
Total			902	519	90	127	812	392	570	526	672	461	9	15	10	73		

Explanations from Member States:

NL	Columns 1-6 not administered; Columns 8, 10, 12, and 14: Split EU and non-EU not administered. Numbers align with APA 2017 annual report.
LU	Note that in the case of Luxembourg the average time to negotiate bi- or multilateral APAs is set to 0 due to the fact that the 3 mentioned bilateral APAs were the result of a Multilateral Control (or MLC) and/or MAP. The relevant terms of the APAs have been negotiated during the meetings of the MLC (before any APA request was made). (*) Implementation in 2017 of the outcomes of significant parts of BEPS Actions 8-10 into domestic law has triggered a reset of the domestic APA practice rendering existing APA's, due to a change in legislation, void of legal force.
PL	* In Poland it is possible to grant an unilateral APA which covers a transaction consisted of several identical transactions with several related entities in different countries (for example service centre in Poland). To issue a single APA instead of many, such transactions should be identical in kind and share the merits, facts and circumstances (one of the features is for example identical wording of the contracts). The reason is not to multiply fees and APA decisions for the minor – in terms of value – identical transactions conducted with many related entities (if treated separately such transactions will not be the subject of APA examination because of the value/fee ratio). In 2017, two such unilateral APAs were granted. In both transactions several EU and non-EU countries were involved. For the purpose of JTPF statistics, those APAs were identified as granted for non-EU countries only, to prohibit the multiplication of the records.
UK	(1) Given the nature and complexity of some unilateral APA's the UK does not record central data on the how each covered transaction is split across EU and non-EU member states. Allocated to non-EU categories. (2) Average time in months: this is data for the APA's granted in the year.

The questionnaire aims to collect information about APAs for companies and PEs.

The reference year for this document is 2017 (situation prevailing at the end of 2017).

Most of the columns are broken down into APAs between EU MS and non-EU countries.

The terms used in the table should be understood as follows:

"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.

"APA in force": an APA is considered as "in force" when it was granted before the end of the reference year (e.g. 2017) and the agreement's term covers the reference year. Therefore, an APA granted during the reference year (N year) but starting in N+1 year is not counted as "in force at the end of the reference period". The figure in the column "total number of APAs in force" should be the result of adding the following two columns: bi- and multilateral APAs in force and unilateral APAs in force.

Counting of APAs: If an APA covers transactions with more than one company of the MNE in the respective MS (e.g. Subsidiaries A and B in MS X each having transactions with parent company P in State Y covered by the APA), each APA should be counted (here 2 APAs in MS X).

Counting of multilateral APAs: A multilateral APA should be considered as several bilateral APAs and should also be counted that way for statistical purposes, i.e. a multilateral APA signed by member State A, member State B and member State C is counted, from the perspective of State A, as a bilateral APA between A and B, a bilateral APA between A and C and therefore as two APAs. Likewise, a request for such a multilateral APA is counted as two requests.

"Requests received": an APA request should be counted as received in the year the formal written APA request was filed. The term "APA request" has a meaning in line with section 4.52 and 4.53 of the EU JTPF APA Guidelines, i.e. a formal application supplemented with appropriate information. Pre-filing requests are therefore not considered.

<p>"APA granted": an APA is considered as granted</p> <ul style="list-style-type: none"> • when the Competent Authority(ies) has (have) formally agreed to the APA, whatever form this formal agreement takes (exchange of letters, signature of the agreement, ...) and • all the subsequent formal proceedings that may be required are fulfilled (e.g. a formal agreement by the taxpayer or an advance ruling granted to the taxpayer). <p>That is, if a bilateral APA was signed by the Competent Authorities in year N and e.g. the implementing domestic advance ruling or the taxpayer's agreement was only granted in N + 1, the APA is counted as granted in N +1².</p> <p><i>2) Mismatches may result both from different member States' approaches (e.g. one MS' reference date is that of the closing letter and for the other MS, it is that of the taxpayer's agreement) and also from the internal implementation in a different year of the proposed approach. Although these discrepancies are considered as tolerable for the purpose of these statistics, CAs may want to avoid them by informing each other about subsequent proceedings and agree on the date they consider the APA as finally granted.</i></p>
<p>"APA applications rejected": an APA is considered as rejected when an APA application is not accepted by the tax administration or negotiations to reach a bilateral or multilateral APA failed and therefore no APA was granted.</p>
<p>"Average time in months to negotiate the APAs": this column indicates on average the period between the time an APA request was received and the formal agreement of the APA. Unilateral APAs are excluded from the calculations.</p>