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## **EU Joint Transfer Pricing Forum**

### **2011 Statistics on the availability and number of APA in the EU**

**Meeting of 7 June 2012**

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APA Questionnaire 2011

MS	What types of Advance Pricing Agreement (APA) options are available?	Is there a filing fee for APAs requests?	Total Number of APAs in force at the end of 2011		Total Number of Bilateral and Multilateral APAs in force at the end of 2011		Total Number of Unilateral APAs in force at the end of 2011		Number of APA requests received in 2011		Number of APAs granted in 2011		Number of APA applications rejected in 2011		Number of APA applications where the taxpayer withdrew its request in 2011		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	N/A	N/A	0	0	N/A	N/A	1	1	0	0	0	0	0	0	N/A	N/A
Belgium	Unilateral (Advance rulings);Bilateral; Multilateral	No			23	3	N/A	N/A	4	0	2	0	0	0	0	0	24	24
Bulgaria	No regulations available at this moment	N/A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A	N/A
Cyprus	APAs are not available. Advance rulings on the interpretation/application of the tax laws are available on request	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Czech Republic	APA for procedure of price agreement (pricing method) introduced in 2006.	Yes CZK 10 000	21	8	0	0	21	8	14	3	14	0	4	0	1	0		
Denmark	Bilateral, Multilateral, Advance rulings	Yes Yes, but only for Advance Rulings. The filing fee is DKK 300	2	9	2	9	0	0	1	1	0	4	0	0	0	0	17	26
Estonia	No APAs or advance rulings of any kind. Bilateral APAs in principle possible under MAP	No	0	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A	N/A
Finland	Advance rulings (unilateral APA). Bilateral and multilateral APAs are possible according to the tax treaties concluded by Finland.	Yes Based on the complexity of the case and actual time needed to conclude the ruling, the filing fee can exceed to EUR 1.630 or EUR 2.440.	0	1	0	0	0	1	2	1	0	1	1	0	0	0		
France	Unilateral; Bilateral	No	26	22	16	14	10	8	13	4	13	6	7	2	1	0	20,7	28,6
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: 20.000 € (15.000 for prolongation/10.000 for amendment); Smaller enterprises: 10.000 € (7.500/5.000); In case of hardship and specific interest of tax administration in APA: 0 €	9	10	9	10			20	12	8	9			2	1	39	38
Greece	No APAs (unilateral, bilateral or multilateral) or advance rules of any kind, are available under the current legislation	N/A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A	N/A
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.	22	9	0	0	22	9	16	7	9	1	1	0	1	0		

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			EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU
Ireland (Republic of)	Bilateral under treaties. Multilateral to the extent that they consist of a series of bilateral agreements	NO	3	3	3	3	0	0	2	3	1	3	0	0	0	0	6	2
Italy	Unilateral, bilateral and multilateral APAs are available pursuant to Article 8 of Decree-Law no.269/2003, as converted into Law no.326 of 24th November 2003, and the MAP Article of the relevant Tax Treaty.	NO	12	9	0	0	12	9	17	11	7	4	1	0	0	0		
Latvia	No formal rules yet No practice	N/A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A	N/A
Lithuania	No formal rules yet	N/A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A	N/A
Luxembourg	Advance rulings. No special legal framework but possible under Tax Treaty provision	No	no statistical data available															
Malta	No formal rules yet	N/A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Netherlands	Unilateral; Bilateral; Multilateral; Advance rulings	No	not administered	not administered	not administered	not administered	not administered	not administered	388	No split EU & Non EU	248	No split EU & Non EU	7	No split EU & Non EU	64	No split EU & Non EU	18	No split EU & Non EU
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.	18	3	1	1	17	2	3	1	2	2	0	0	0	0	7,5	33,5
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 turnover. The minimum fee is € 3 152,40 and the maximum €34 915,85. Renewals fees are 50% of the amounts of the original fees.		1	0	0	0	1	1	0	0	1	0	0	0	0	N/A	N/A

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			EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU
Romania	Unilateral; Bilateral; Multilateral; Advance rulings.	Yes. <b>APA filing fee</b> 1) 20.000 euro for large tax payers (and for consolidate transactions to be covered by the APA over 4.000.000 euro.) 2) 10.000 euro for small and medium enterprises <b>Modification of an APA:</b> 1) 15.000 euro for large tax payers, and for other tax payers with consolidated transactions, covered by APA, is more than 4.000.000 euro. 2) 6.000 euro for small and medium enterprises <b>Advance rulings</b> - 1.000 euro	1	5	0	0	1	5	2	0	1	5	0	0	0	0		
Slovak Republic	Unilateral, bilateral, multilateral APAs.	No	3	3	0	0	4	3	4	3	3	1	0	1	0	1	0	0
Slovenia	No APAs or advance rulings of any kind	N/A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A	N/A
Spain	Unilateral; Bilateral; Multilateral	No	32	9	6		26	9	23	2	8	4	2	0	4	0		
Sweden	APA legislation from 1st of January 2010. Only bilateral or multilateral APAs.	Yes. 150.000 SEK per country (Prolongation fee 100.000-125.000 SEK)	0	0	0	0	0	0	0	4	0	0	0	0	0	0	40	40
UK	Unilateral; Bilateral	No	17	44	14	26	3	18	15	31	6	25	0	0	0	1	20	27
Sum			166	136	74	66	116	73	526	84	322	66	23	3	73	3		

### **Guidance for the completion of APAs**

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

The reference year for this document is the situation prevailing at the end of 2011.

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 in force"**: an APA is considered as "in force" when it was granted before the end of the reference year (e.g. 2011) 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 the addition of 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.

**"APA granted"**: an APA is considered as granted

- 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).

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 + 1<sup>2</sup>.

<sup>2</sup>) *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*

**"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.

**"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.