



**EUROPEAN COMMISSION**

DIRECTORATE-GENERAL

TAXATION AND CUSTOMS UNION

Direct taxation, Tax Coordination, Economic Analysis and Evaluation

Direct Tax Policy and Cooperation

Brussels, October 2016

Taxud/D2

**DOC: JTPF/015/2016/EN**

# **EU JOINT TRANSFER PRICING FORUM**

## **Statistics on APAs in the EU at the End of 2015**

**Meeting of 20 October 2016**

Contact:

Hartmut Förster, Telephone (32-2) 29.55.511

Morgan Guillou, Telephone (32-2) 29.54.146

E-mail: [taxud-joint-transfer-pricing-forum@ec.europa.eu](mailto:taxud-joint-transfer-pricing-forum@ec.europa.eu)

### Statistics on APAs: situation prevailing on 31/12/2015

MS	What types of Advance Pricing Agreement (APA) options are available?	Is there a filing fee for APA requests?	Total Number of APAs in force at the end of 2015		Total Number of Bilateral and Multilateral APAs in force at the end of 2015		Total Number of Unilateral APAs in force at the end of 2015		Number of APA requests received in 2015		Number of APAs granted in 2015		Number of APA applications rejected in 2015		Number of APA applications where the taxpayer withdrew its request in 2015		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
Belgium	Unilateral (Advance rulings); Bilateral; Multilateral	No	395	16	14	1	381	15	326	196	494	108			6	2	8 months	
Bulgaria	No regulations available at this moment																	
Czech Republic <sup>(1)</sup>	Unilateral (Advance rulings legislation from 1st of January 2006); Bilateral and Multilateral (possible under MAP)	Yes CZK 10 000	43	4	1	0	42	4	31	9	22	5	2		1	33		
Denmark	Bilateral, Multilateral, Advance rulings	Yes Only for Advance Rulings; the filing fee is DKK 300.	3	13	3	13			2	5	3	5					35	21
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 €	12	13	12	13		0	36	25	6	3			0		38 (average for APAs granted 2015) / 33 (overall average for APAs granted 2013, 2014 and 2015)	53 (average for APAs granted 2015) / 37 (overall average for APAs granted 2013, 2014 and 2015)
Estonia	No APAs or advance rulings of any kind. Bilateral APAs in principle possible under MAP																	
Ireland (Republic of)	Bilateral under treaties. Multilateral to the extent that they consist of a series of bilateral agreements	No	4	4	4	4			2	2	1	1					45	22
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	1				1											
Spain	Unilateral; Bilateral; Multilateral	No	45	15	14	1	31	14	25	12	12	4	3	-	4	1	32	69
France	Unilateral; Bilateral; Multilateral	No	22	33	16	24	6	9	14	14	7	11	2	1	1	0	25	28
Croatia	No APAs or advance rulings available at this moment																	

Statistics on APAs: situation prevailing on 31/12/2015

MS	What types of Advance Pricing Agreement (APA) options are available?	Is there a filing fee for APA requests?	Total Number of APAs in force at the end of 2015		Total Number of Bilateral and Multilateral APAs in force at the end of 2015		Total Number of Unilateral APAs in force at the end of 2015		Number of APA requests received in 2015		Number of APAs granted in 2015		Number of APA applications rejected in 2015		Number of APA applications where the taxpayer withdrew its request in 2015		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
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	36	32	3	4	33	28	86	57	13	14	7	-	1	1	39	41
Cyprus	APAs are not available. Advance rulings on the interpretation/application of the tax laws are available on request																	
Latvia	Unilateral APAs	Yes. The filing fee is 7 114 EUR. 20% is paid at submission of application and 80% after decision is made to start APA.	1			-	1		1									
Lithuania	APA legislation from 01/01/2012. Unilateral, Bilateral or Multilateral APAs. Advance rulings	No	2	1			2	1	1		2						N/A	N/A
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	519		-		519		163		145		41		28			
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.	51	19	0	0	51	19	13	11	8	3	0	2	1	2	-	-
Malta <sup>(ii)</sup>	No formal rules yet																	
Netherlands <sup>(iii) (iv)</sup>	Unilateral; Bilateral; Multilateral; Advance rulings	No							261		236		2		59		2 years	2 years
Austria <sup>(v)</sup>	Unilateral (Advance rulings); Bilateral; Multilateral	For unilateral yes, for bilateral/multilateral - no																

### Statistics on APAs: situation prevailing on 31/12/2015

MS	What types of Advance Pricing Agreement (APA) options are available?	Is there a filing fee for APA requests?	Total Number of APAs in force at the end of 2015		Total Number of Bilateral and Multilateral APAs in force at the end of 2015		Total Number of Unilateral APAs in force at the end of 2015		Number of APA requests received in 2015		Number of APAs granted in 2015		Number of APA applications rejected in 2015		Number of APA applications where the taxpayer withdrew its request in 2015		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
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.	15	5	3	1	12	4	6	1	5	1	0	0	0	0	8	33
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.	6	1			6	1	1		3							
Romania <sup>(iv)</sup>	Unilateral; Bilateral; Multilateral; Advance-rulings <sup>(vi)</sup> .	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	4	3		3	4		2		1	3	2		0	0	The deadline for issuing an unilateral APA is 12 months and for issuing a bilateral or multilateral APA is 18 months.	
Slovenia	No APAs or advance rulings of any kind																	
Slovak Republic	Unilateral, bilateral, multilateral APAs.	Yes. In case of unilateral APA it is 1% from the estimated business case, but minimum of 4000 EUR up		1				1									n/a	n/a
Finland	Advance rulings (unilateral APA) are available. Bilateral and multilateral APA's 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.	13	11		1	13	10	19	13	12	10	1		1	1		
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)	3	4	3	4			6	5	1	2					36	36
UK <sup>(vi)</sup>	Unilateral; Bilateral	No	15	79	14	36	1	43	12	55	7	30		1	1	7	16	30
<b>Total</b>			<b>1190</b>	<b>254</b>	<b>87</b>	<b>105</b>	<b>1103</b>	<b>149</b>	<b>1007</b>	<b>405</b>	<b>978</b>	<b>200</b>	<b>60</b>	<b>4</b>	<b>102</b>	<b>15</b>		

**Notes**

- (i) On number of APA requests received: some of the requests can't be broken down to 2 columns exactly because e.g. one request covers more transactions both with EU and non-EU. Those requests are counted as non-EU only.
- (ii) Advance rulings issued in Romania are not for transfer pricing purposes
- (iii) Columns 1 - 6: not administered.
- (iv) Column 8, 10, 12, 14: Split EU & non-EU not administered.
- (v) Data not available/submitted
- (vi) The UK figures have been computed for the y/e 31/03/2015. The UK figures also reflect the way that UK counts APAs (which differs from the definitions provided with the questionnaire), i.e. an APAs is counted as one case irrespective of the number of UK entities that may be party to the relevant agreement.

## Statistics on APAs: situation prevailing on 31/12/2015

### Guidance on the completion of the APA questionnaire

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

The reference year for this document is 2015 (situation prevailing at the end of 2015).

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. 2015) 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.

**"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 granted.*

**"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.