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From Resolving Tax Disputes to Preventing Them: Is East Africa Ready for the APA Era?

Kenya's growing use of negotiated tax dispute resolution, Uganda's formalisation of ADR and the emergence of more detailed APA frameworks across the region suggest an important next step for East African tax administration: moving from negotiating yesterday's transfer pricing disputes to agreeing tomorrow's tax outcomes in

For many years, the relationship between multinational businesses and East African revenue authorities on transfer pricing has been predominantly adversarial. A transaction takes place. An audit follows. An assessment is raised. The taxpayer objects. The dispute moves through administrative review, a tribunal or the courts - or, increasingly, into Alternative Dispute Resolution

THE SHIFT

ADR settles the past. Advance Pricing Agreements can prevent the same dispute from arising again.

There are signs that this model is changing. Kenya's experience with tax ADR is particularly instructive. What began as a relatively novel mechanism has increasingly become part of mainstream tax administration. The earlier TaxIQ source article recorded that, by FY2020/21, KRA had resolved 552 cases through ADR and unlocked KSh31.435 billion in tax. More recent KRA reporting shows the mechanism continuing to operate at scale: 1,038 of 1,301 suitable cases were reportedly resolved in FY2022/23; 1,184 ADR cases were concluded in FY2023/24, releasing KSh21.9 billion for collection; and KRA reported KSh15.296 billion released through ADR in FY2024/25.

The more important story is not the amount collected. It is that negotiation has become an accepted part of tax administration. That has implications well beyond resolving disputes.

A Reported ADR Trajectory in Kenya

Period	Reported outcome	Why it matters
FY2020/21	552 cases; KSh31.435bn unlocked	Early evidence that ADR could resolve significant tax controversy at scale.
FY2022/23	1,038 of 1,301 suitable cases resolved	A high reported resolution rate suggests ADR had moved beyond a pilot-stage mechanism.
FY2023/24	1,184 cases; KSh21.9bn released for collection	Negotiated settlement remained a material part of KRA dispute management.
FY2024/25	KSh15.296bn reported released through ADR	The continued reporting of ADR outcomes signals institutional persistence, not a temporary programme.

Source note: figures are drawn from the earlier ADR article and subsequent public KRA reporting. Reporting measures vary by year, so the table should be read as an institutional trend rather than a like-for-like statistical series.

The Real Success of ADR is Behavioural

ADR works differently from litigation. Neither side simply hands the problem to a judge and waits for a winner. The taxpayer has to explain its business. The revenue authority has to articulate its concerns. Facts are tested, commercial realities are discussed and technical positions are challenged. That process builds a capability that is often overlooked: the ability of tax administrations and taxpayers to negotiate tax outcomes within the law.

KRA now describes ADR as a mechanism aimed at amicable resolution, reduced litigation and voluntary compliance through consensus. Its current framework provides a 120-day statutory period for ADR matters under section 55 of the Tax Procedures Act. This is a meaningful evolution from the earlier debate, which identified the need for greater legal clarity, transparency and institutionalisation of the ADR process.

Kenya has also progressively separated assessment from post-assessment review through its Tax Dispute Resolution architecture and Independent Review of Objections function. The institutional message is important: dispute resolution is increasingly being treated as a specialised function rather than merely an extension of audit.

Kenya has accumulated experience in negotiating tax outcomes rather than merely litigating them. That is precisely the institutional capability an effective APA programme requires.

ADR settles the past. APAs can prevent the dispute.

An Advance Pricing Agreement - or APA - takes essentially the same idea and moves it forward in time. Instead of spending several years arguing about whether the transfer price used in a past year was arm's length, the taxpayer and revenue authority agree in advance on the appropriate methodology, assumptions and parameters for future controlled transactions.

The distinction matters because modern transfer pricing disputes are often not capable of being reduced to a single objectively correct number. They involve judgement: how an entity should be characterised, what risks it controls, which comparables are sufficiently similar, how financing should be priced, or how value from an intangible or integrated regional network should be allocated.

Where reasonable parties can legitimately disagree, an audit-only system can create recurring controversy. An APA offers another route: prospective certainty.

THE OPPORTUNITY

Move recurring transfer pricing issues upstream - from audit and ADR into prospective agreement before positions harden.

The Regional Building Blocks are Beginning to Appear

East Africa is increasingly interesting because several jurisdictions now have APA mechanisms at different stages of development. The picture is not uniform, and legislation does not by itself guarantee uptake. But the architecture is becoming more visible.

Market	Current Signal	Potential Strength	Watch Point
Kenya	Statutory APA basis and detailed draft APA Regulations published for consultation in 2025.	Unilateral, bilateral and multilateral architecture; pre-filing, critical assumptions, annual compliance and potential rollback.	Trust, confidentiality, audit interaction, processing time and credible competent-authority capacity will determine uptake.
Rwanda	Detailed APA regime issued in 2026, including bilateral and multilateral routes where treaty conditions permit.	Clear thresholds, pre-application process, defined duration and possible rollback.	The market will watch practical processing times, access and the treatment of commercially sensitive information.
Uganda	Transfer pricing rules already allow prospective agreements; ADR was formalised through 2023 regulations.	Existing legal architecture plus growing familiarity with negotiated tax dispute resolution.	The key question is whether formal APA usage becomes sufficiently visible and predictable to encourage larger taxpayers to apply.
Tanzania	APA mechanism has existed for several years under transfer pricing rules.	A legal foundation is already available.	Public commentary has continued to point to limited uptake - a reminder that rules alone do not create a programme.

Regional snapshot is based on public tax authority/regulatory materials and public professional commentary available as at August 2026. It is not intended as an exhaustive statement of each jurisdiction's law.

Kenya: The Negotiation Environment will Matter more than the Regulations

Kenya's emerging framework may be the most consequential development in the region because of the size of its multinational taxpayer base and the intensity of transfer pricing enforcement. The draft regulations contemplate unilateral, bilateral and multilateral APAs, pre-filing engagement, critical assumptions, annual compliance reporting, renewals, revisions and rollback in qualifying circumstances. That architecture is ambitious. But an APA programme will not succeed simply because the regulations exist. The decisive question is whether taxpayers believe the negotiation environment is genuinely designed to produce prospective certainty rather than to extract information for future audit.

An APA requires considerably more disclosure than a conventional tax filing. A taxpayer may expose forecasts, margins, contracts, supply chains, pricing mechanisms, intellectual property arrangements, financing assumptions and information about foreign affiliates. If the taxpayer believes an unsuccessful application could become an audit roadmap, the rational response may be not to apply at all.

Having APA legislation is not the same thing as having an APA programme. The missing ingredient is trust.

01 The APA Team Must not feel like an Audit Team

An auditor examines completed transactions and asks whether additional tax is due. An APA negotiator has a different task: determine a defensible arm's-length framework that both sides can apply prospectively. That requires a different institutional mindset. Successful programmes tend to use specialist teams with economic, treaty and negotiation capability rather than treating the APA process as another audit workflow.

02 Pre-Filing Engagement Needs To Be Meaningful

Taxpayers should be able to test whether a proposed APA is likely to be accepted before incurring significant cost and disclosing extensive information. A credible pre-filing phase can screen unsuitable cases, identify the real areas of disagreement and help both sides agree the scope of the application.

03 Confidentiality Safeguards are Central to Uptake

The rules need to provide taxpayers with confidence about how information supplied during pre-filing and negotiation will be used if no APA is concluded. Clear separation between negotiating teams and audit teams can materially affect willingness to engage.

04 Timelines must Match the Commercial life of the Transaction

A five-year negotiation for five years of certainty substantially diminishes the value of an APA. The commercial environment may have changed by the time agreement is reached. Processing targets, triage and early issue identification therefore matter as much as the legal framework.

The Opportunity: Treat ADR, MAP and APA as one Continuum

East African administrations should resist treating ADR, Mutual Agreement Procedure and APAs as unrelated tax procedures. They are different points on the same continuum of tax certainty.

A sophisticated revenue administration should be able to identify recurring disputes and ask a simple question: why are we auditing the same transaction every five years?

If a telecom operator, bank, consumer-goods group, infrastructure company or digital business repeatedly disputes the same royalty, service fee, financing arrangement or distribution margin, continuing to audit the issue indefinitely may not be the best use of either party's resources.

A concluded ADR can instead become the starting point for an APA. The parties already understand the business. The contested issues are known. The economic evidence has been tested. The gap between the taxpayer and administration has been identified. The logical next discussion is whether the agreed or narrowed economic framework can be applied prospectively.

AUDIT Issue identified	OBJECTION Position tested	ADR Dispute negotiated	MAP Double tax relieved	APA Future risk prevented
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Rollback Could Make the Bridge Even Stronger

Kenya’s draft APA regulations include the possibility of rollback in qualifying circumstances. Rwanda’s 2026 framework also provides a route to apply an agreed approach to limited preceding periods, subject to its rules. Properly designed, rollback can connect retrospective dispute resolution with prospective certainty. A taxpayer facing a transfer pricing disagreement for earlier years could potentially settle an appropriate historical period using the same economic framework that will govern future transactions.

The policy attraction is obvious: fewer repeat audits, fewer appeals and greater consistency. The design challenge is equally important. If rollback automatically becomes a pathway to punitive consequences, taxpayers may have little incentive to volunteer historical issues into the process.

Bilateral APAs are Where the Real Value Lies

A unilateral APA provides certainty in one jurisdiction. Transfer pricing, however, is inherently a two-country problem. If Kenya agrees that a distributor should earn a particular margin but the counterparty jurisdiction takes a materially different view, the group may still suffer double taxation.

Bilateral and multilateral APAs are therefore ultimately the more powerful instrument. Kenya’s draft framework, Rwanda’s 2026 regime and Uganda’s existing rules all contemplate competent-authority involvement in appropriate cases.

The long-term opportunity is even more interesting: regional bilateral APAs. Consider a multinational operating an integrated Kenya-Uganda, Kenya-Rwanda or Kenya-Tanzania value chain. An APA negotiated by the relevant competent authorities could allocate profit prospectively and provide certainty on both sides of the border.

That would be a practical expression of East African economic integration: fewer duplicated audits, fewer unrelieved adjustments and greater predictability for regional investment.

Programme Requirement	Why it Matters
Dedicated APA teams	Negotiation requires a different mindset and skill set from audit.
Meaningful pre-filing meetings	Taxpayers need to test viability and scope before committing major resources and sensitive information.
Confidentiality safeguards	Unsuccessful negotiations should not become an audit discovery exercise.
Realistic processing timelines	Certainty loses value if agreement arrives after the commercial model has changed.
Economic and sector expertise	Financing, intangibles, infrastructure and integrated business models often require more than conventional comparables.
Clear interaction with audits, ADR and MAP	Taxpayers need to know how historical disputes, ongoing audits and prospective agreements fit together.
Strong competent-authority capability	Bilateral APAs depend on technically credible government-to-government negotiation.
Published anonymised statistics	Data on applications, completions, processing time and transaction categories can build confidence without compromising confidentiality.
Consistent institutional positions	Businesses will hesitate if an APA team and an audit team adopt fundamentally different interpretations of the same issue.

What Should Businesses Do Now?

For multinational groups, the emergence of APA frameworks should not trigger an automatic rush to file applications. The better first step is to identify where the business has recurring, material and fact-intensive transfer pricing uncertainty.

Transactions involving regional distribution, management services, financing, intellectual property, digital platforms, telecoms infrastructure and integrated supply chains are obvious candidates for review. Businesses should also examine whether there is sufficient internal governance to support an APA: stable facts, reliable forecasts, clear intercompany contracts, defensible functional analysis and senior management willingness to maintain the agreed model over the covered period.

Where a group is already in ADR on a recurring transfer pricing issue, it should consider the prospective question as well as the historical settlement: once the dispute is resolved, what will prevent the same issue returning in the next audit cycle?

The TaxIQ Africa view

The success of ADR in Kenya - and its growing formalisation elsewhere in East Africa - may ultimately prove more important than the tax collected through settlements.

It demonstrates that a different relationship between taxpayer and revenue authority is possible. A significant tax disagreement does not inevitably require a winner and a loser. Facts can be tested collaboratively. Commercial realities can be understood. Technical positions can evolve. Tax can be collected without every disagreement becoming litigation.

East Africa's next opportunity is to take that experience one step further: from resolving disputes after they arise to preventing them before they arise.

The legislative building blocks are increasingly visible. What the region now needs is the institutional environment - trust, technical dialogue, confidentiality, credible timelines and genuine negotiation. If revenue authorities can transfer the negotiated problem-solving developed through ADR into the APA process, East Africa could create something more valuable than another transfer pricing compliance obligation. It could create tax certainty.

And in a region competing for investment while protecting increasingly important corporate tax bases, certainty may be one of the most valuable incentives governments can offer.

Publication note. This thought piece is for general information and policy discussion only. It does not constitute legal or tax advice. The regional APA landscape is evolving and businesses should confirm the current law, administrative practice and treaty position before acting.

About TaxIQ Africa

TaxIQ Africa provides specialist transfer pricing, international tax and tax controversy support to businesses and investors operating across African markets. Our work combines technical tax analysis with a practical understanding of how cross-border investment structures operate in African markets.

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