



TaxIQ Africa

Transfer Pricing | International Tax

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# Navigating the New Frontier

**Advance Pricing Arrangements in Africa**

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# A law creates permission – not a market for APAs

Taxpayers apply only when expected certainty exceeds cost, delay and disclosure risk.

## WHAT LEGISLATION ANSWERS

Whether the authority may conclude an APA.  
Whether a prospective transfer-pricing agreement is legally possible.

## WHAT TAXPAYERS STILL NEED ANSWERED

How long will it take, who will decide and will the information remain confidential?  
Will the treaty partner agree, and will the process become an audit if agreement fails?  
Will certainty arrive before the covered period has expired?

## The first objective is credibility, not volume

The constraint is not legal permission; it is confidence that disclosure will convert into timely certainty.

An APA application is a major investment: professional fees, management time, extensive disclosure and possible adjustments.

If the cost–certainty equation is unclear, waiting is rational.

Administrations face the same circularity: scarce specialists are hard to allocate before applications emerge.

Taxpayers hesitate until they see a capable, functioning team with completed cases.

# APA demand is suppressed by capacity, process and trust frictions

## CAPACITY

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Scarce specialists.  
Audit priorities.  
Weak treaty reach.  
Unclear authority to accept, negotiate and sign.

## PROCESS

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High costs and open timelines.  
Heavy disclosure.  
Uncertain review, rollback and renewal rules.  
No clear milestones or exit architecture.

## TRUST

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Audit-spillover and confidentiality fears.  
Concern about preferential deals.  
Unilateral APAs may not prevent double tax.  
Volatile facts make prospective pricing difficult.

## Kenya needs an exit architecture as much as an application process

Stakeholder concerns go to the filing decision: detailed pre-filing package; KES 5 million initial and KES 2.5 million renewal fees; no negotiation deadline.

Other concerns include taxpayer funding of KRA-appointed experts, broad rejection and revocation grounds, penalties on rollback, no simplified SME route and no clear appeal against rejection, cancellation or revocation.

The regulations should state what happens when KRA declines a case or agreement cannot be reached.

Good-faith APA disclosures should not by themselves trigger an audit, penalty or adverse inference.

The taxpayer should continue under ordinary law, with MAP and domestic remedies preserved.

Rejection, cancellation and revocation should be reasoned and independently reviewable.

## African tax administrations should begin with a credible minimum viable programme

**Do not chase application volume; build a completion record.**

Start with a controlled pilot and a small number of material, recurring transactions whose facts are reasonably stable.

Ring-fence a multidisciplinary team and protect its time from routine audit demands.

Give the team clear acceptance, negotiation and approval authority.

Use case plans with milestones for pre-filing, acceptance, information exchange, position papers, negotiation and conclusion.

Publish realistic targets rather than ambitious deadlines that will not be met.

# Lower entry risk, make bilateral certainty operational and publish proof

## LOWER ENTRY RISK

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Confidential or anonymous pre-filing with a quick written suitability indication.  
Proportionate or staged fees, lower pilot fees and SME pathways.  
Published acceptance criteria, information requirements, critical-assumption guidance, annual-compliance expectations, renewal and rollback rules.  
A clear confidentiality and audit-use protocol.

## MAKE CERTAINTY OPERATIONAL

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Map priority treaty partners from actual trade and investment flows.  
Establish competent-authority contacts and protocols before the first case.  
Use joint opening meetings, simultaneous information exchange and agreed issue lists.  
Publish anonymised statistics, case studies and reasons for suitability.

## Multinationals must bring APA-ready cases — not transfer-pricing aspirations

Do not use a new programme as a testing ground for a weak or unstable transfer-pricing position.  
Prioritise transactions that are material, recurring, factually stable and capable of being monitored.  
Quantify the current cost of audits, provisions, penalties, MAP, management time and double-tax exposure.  
Prefer bilateral or multilateral coverage where economic value depends on relief in more than one jurisdiction.  
Reconcile legal agreements, actual decision-making, people functions, assets, risks and financial results before pre-filing.  
Build reliable segmental accounts and test the proposed method under plausible business scenarios.

## A strong application reduces the administration's risk

An APA is not a private ruling that validates the taxpayer's original policy unchanged.

Identify critical assumptions, change protocols and compensating-adjustment mechanics.

Ensure the same facts, numbers and proposal reach each competent authority at the same time.

Nominate a senior business sponsor and a disciplined project team; delayed answers are a major cause of delay.

Present a principled arm's-length position rather than an opening bid designed to secure the lowest tax.

Be willing to amend the method, range or covered transaction where the evidence requires it.

Engage through business associations on workable guidance, fees and confidentiality safeguards, and support anonymised publication of process lessons.

## APA appetite grows when both sides make the first case safer

A vibrant APA programme should be measured by disputes prevented — not applications received.

APA uptake has a network effect: administrations hesitate to dedicate scarce specialists without a pipeline; taxpayers hesitate to file without evidence that the programme can deliver.

Governments can break the equilibrium by lowering entry risk, ring-fencing capability and completing a few carefully selected cases.

Multinationals can help by bringing clean, well-evidenced cases and treating the process as principled cooperative compliance.

Each successful conclusion creates institutional memory, treaty-partner trust, realistic benchmarks for time and cost, and confidence for the next applicant.



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Comparative country slides, cooperative-compliance patterns, MAP arbitration, global uptake drivers and final audience takeaways.

## Kenya, South Africa and Nigeria reveal the same implementation gap

| Jurisdiction | Current position                                               | Confidence barrier                                                                     | Priority government response                                                             |
|--------------|----------------------------------------------------------------|----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| Kenya        | APA law; 2025 draft regulations                                | High fees and detail; no negotiation deadline; broad rejection/revocation; expert cost | Anonymous pre-filing; staged fees; milestones; review and exit rules; audit-use firewall |
| South Africa | Law effective 2023; bilateral pilot planned for 2026           | Scarce skills; confidentiality; no-agreement outcome; APA/audit separation             | Ring-fenced pilot; secrecy firewall; service standards; no-agreement protocol            |
| Nigeria      | APA in 2018 TP Regulations; guidelines published November 2024 | Long gap before operating guidance; no enhanced-engagement programme reported          | Implement visibly; cooperative pre-filing; publish case, outcome and timing data         |

The shared issue is not the absence of law; it is the absence of enough certainty around process, protection and delivery.

## South Africa shows these are regional concerns, not uniquely Kenyan concerns

Stakeholders asked SARS to clarify confidentiality, the use of external experts, the consequences where no APA is reached and the need for a “Chinese wall” between APA and transfer-pricing audit teams.

SARS acknowledged the issues, relied on statutory secrecy, recognised that agreement cannot be guaranteed and said it would draw on its ruling and voluntary-disclosure experience.

SARS also accepted the case for service standards.

Scarce expertise is the principal implementation constraint, which explains the small bilateral pilot.

The lesson is that a cautious pilot is defensible, but only if the ring-fence and service proposition are credible.

## Nigeria demonstrates the cost of the legislation–guidance gap

APA authority existed in the 2018 Transfer Pricing Regulations.

Operational guidelines were published only on 27 November 2024.

The October 2025 OECD country profile confirms unilateral, bilateral and multilateral APAs and rollback.

It reports no enhanced-engagement or cooperative-compliance programme.

Guidance activates a law; trusted engagement and visible delivery activate demand.

The priority is now implementation visibility: pre-filing engagement, publication of aggregate outcomes and credible completion timelines.

## East African frameworks show that guidance and trust must travel together

| Jurisdiction   | Current position                       | Confidence barrier                                                                 | Priority government response                                                               |
|----------------|----------------------------------------|------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| Tanzania       | Regulations plus detailed TRA guidance | Discretionary acceptance; best-efforts timing; limited public performance evidence | Firm milestones and status updates; publish outcomes; safeguards if process fails          |
| Uganda         | APA power in 2011 TP Regulations       | Broad Commissioner discretion; limited published procedure beyond Regulation 9     | APA manual; confidential pre-filing; criteria, timelines, confidentiality and exit rules   |
| Across markets | Law often precedes delivery capability | Adversarial audit culture makes candid disclosure feel dangerous                   | Separate APA from audit; principled engagement; proportionate remedies; independent review |

**An open door is credible only if the taxpayer knows where the door leads — and can leave safely if agreement is impossible.**

## Tanzania shows why guidance helps – but delivery evidence still matters

TRA guidance recognises unilateral, bilateral and multilateral APAs.

It describes pre-filing and formal submission, promises progress updates and explains that a rejected or unsuccessful APA does not remove MAP or domestic remedies.

It allows the taxpayer to withdraw or reject the agreed outcome – an important trust-building feature.

However, acceptance remains discretionary and timing is framed as “as soon as practicable”.

The official sources reviewed did not identify public APA pipeline, completion or median-time statistics.

This is an inference about public visibility, not a claim that no APAs exist.

## Uganda has APA authority, but visibility remains thin

Uganda has allowed APAs since its 2011 Transfer Pricing Regulations.

Regulation 9 identifies the proposal and information accompanying a request and allows unilateral or competent-authority participation.

The framework leaves substantial acceptance discretion with the Commissioner.

The official sources reviewed did not identify a separate current public APA operating manual from URA.

That does not prove the absence of administrative practice; it identifies a visibility gap for prospective applicants.

An APA manual should cover pre-filing, suitability, confidentiality, timelines, information requirements, exit rules and renewal.

## African APA programmes need a distinct posture and safeguards

**If the institution behaves in the APA room as it does in a contested audit, the taxpayer will not enter.**

Cooperative, principled dialogue rather than revenue-maximising negotiation.

Functional separation between APA and audit teams, with defined exceptions for fraud or misrepresentation.

Reasoned acceptance and rejection decisions.

No automatic penalty or adverse inference when agreement fails.

Continued access to ordinary objection, appeal and MAP rights.

Proportionate information requests and enough time to respond.

Independent review of rejection, cancellation or revocation.

# Mature APA regimes offer an ecosystem of certainty — not a single procedure

The common lesson is institutional: APAs work best inside a wider tax-certainty system.

## 1. SEGMENT AND ASSURE RISK

Australia's justified trust, HMRC's Business Risk Review+ and the US Compliance Assurance Process use governance, data and real-time engagement to distinguish low-risk positions from matters requiring intervention.

## 2. RESOLVE ISSUES EARLY

The Netherlands' horizontal-monitoring model is built around transparency, understanding and trust, with current tax risks raised early and positions established promptly.

## Mature programmes route known risk to the right certainty product

Taxpayers disclose early when the administration can show what useful certainty will follow.

### 3. CONNECT ASSURANCE TO APA CERTAINTY

Australia treats its APA programme as part of its compliance and assurance strategy.

In the US CAP programme, a material cross-border issue may be referred to APMA where an APA is the appropriate tool.

### 4. BUILD A FULL RESOLUTION LADDER

Guidance and rulings handle interpretive questions.

Cooperative assurance handles low-risk positions.

APAs settle prospective transfer pricing.

MAP relieves treaty double taxation.

Arbitration supplies an endpoint where competent authorities cannot agree.

# Cooperative compliance works only when commitments are reciprocal

| Pattern                | Tax authority commitment                                               | Taxpayer commitment                                            | How it supports APA uptake                                  |
|------------------------|------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------|
| Risk-based assurance   | Published risk criteria; named team; proportionate intervention        | Board-owned tax controls; reconciled data; timely responses    | Surfaces suitable cases and reduces fear of automatic audit |
| Real-time dialogue     | Early positions; continuity; escalation and service milestones         | Prompt disclosure of material uncertainty and business change  | Tests facts and assumptions before a formal filing          |
| Specialist certainty   | Ring-fenced APA/MAP expertise; confidentiality; principled negotiation | Common fact pack; consistent bilateral submissions; monitoring | Converts openness into prospective, enforceable certainty   |
| Multilateral assurance | Coordinated risk assessment and clear outcome letters                  | Open, standardised information across participating countries  | Narrows issues; routes residual risk to APA or MAP          |

## Taxpayers must make cooperation verifiable

Board-level responsibility for tax strategy and risk appetite.

A documented tax control framework covering roles, controls, data, testing and remediation.

Disclosure of material uncertainties in real time.

Facts that reconcile across contracts, conduct, accounts, local files, master file and country-by-country reporting.

Prompt, complete responses and notification when critical assumptions change.

A consistent bilateral fact pack when more than one competent authority is involved.

## Tax authorities must make certainty credible

Country patterns include risk-based assurance, relationship monitoring, specialist APA/MAP institutions and multilateral assurance.

Commercial awareness, impartiality, proportionality, openness and responsiveness, alongside taxpayer disclosure and transparency.

A stable relationship team with access to specialists and decision-makers.

Risk differentiation: closure or comfort for low-risk matters; focused examination for high-risk matters.

Published entry criteria, information requirements, milestones and escalation routes.

Confidentiality and clear limits on transferring good-faith APA material to audit.

Early, reasoned positions and a safe exit if agreement cannot be reached.

## Binding MAP arbitration strengthens trust by guaranteeing an endpoint

The Action 14 minimum standard improves access, administration and timeliness of MAP, but does not generally require competent authorities to reach agreement.

Mandatory binding arbitration changes the risk calculation: unresolved issues can be decided by an independent panel, subject to the applicable treaty rules.

The original 2015 commitment covered Australia, Austria, Belgium, Canada, France, Germany, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Slovenia, Spain, Sweden, Switzerland, the United Kingdom and the United States.

Actual treaty coverage still depends on bilateral wording or matching MLI choices, reservations and entry into effect.

# Arbitration makes bilateral disclosure safer, but it is not a shortcut

Cooperation attracts disclosure; a binding endpoint makes that disclosure safer.

## WHY THIS SUPPORTS APAS

Good-faith bilateral disclosure is less likely to end in permanent double taxation.

It disciplines competent-authority case management and makes bilateral APA positions more credible.

It strengthens the “what next?” answer when an APA fails.

## PRACTICAL AFRICAN SEQUENCING

Build a credible competent-authority function and publish MAP guidance, contacts, milestones and statistics.

Ensure failed or withdrawn APA cases retain access to MAP and domestic remedies.

Expand effective treaty relationships with priority investment partners.

Consider arbitration selectively once capability and governance are in place.

## Globally, uptake grows when tax certainty becomes bankable

Mature APA markets combine a strong business case with a credible public service.

The transaction is large, recurring and stable enough for a prospective method: distribution, manufacturing, financing, royalties, services or a defined restructuring.

The group has suffered repeated audits, penalties, provisions or MAP cases; avoiding the next dispute has measurable value.

The tax and accounting outcome affects investment approval, pricing, supply-chain design or financial-statement reserves.

Certainty is therefore bankable, not abstract.

## Programme design determines whether taxpayers trust the route

Uptake follows execution quality, not simply the availability of rules.

A confidential or anonymous pre-filing stage permits an early suitability discussion before full commitment.  
Published eligibility criteria, documentation lists, governance, target timelines and status updates reduce uncertainty.  
A ring-fenced specialist team has authority to negotiate and can coordinate promptly with treaty partners.  
Both competent authorities receive the same information, in the same form, at the same time.  
Rollback can resolve comparable open years, increasing the return on the application.  
Published anonymised statistics and completed cases create social proof that the programme concludes agreements.

## Audience takeaways

Transition: benefits, risks and readiness depend on whether both sides are prepared to make that investment.

### FOR IN-HOUSE TAX AND ADVISORS

Quantify the commercial value of certainty and choose only APA-ready transactions.

Prepare the facts, data, contracts and conduct before selling the process.

Treat bilateral consistency as a credibility requirement.

### FOR AUTHORITIES AND ACADEMIA

Publish a service proposition and prove it through completions.

Separate fact, assumption, analysis and recommendation.

Produce evidence on duration, cost, access, outcomes and institutional design in African programmes.

## Source basis for the discussion

The deck is organised for tomorrow's flow: core Kenya delivery first, with panel and Q&A backup retained after that.

OECD Forum on Tax Administration, Bilateral Advance Pricing Arrangement Manual (2022).  
OECD Action 14 Final Report and Multilateral Instrument materials on MAP and arbitration.  
OECD cooperative compliance and tax control framework materials, including ICAP guidance.  
Kenya draft APA Regulations and stakeholder engagement materials.  
SARS APA implementation and response documents; Nigeria TP country profile and APA guidance references.  
Tanzania TRA Transfer Pricing Guidelines and Uganda Transfer Pricing Regulations 2011.  
ATO, HMRC, Netherlands Tax and Customs Administration and IRS materials on certainty and cooperative compliance programmes.