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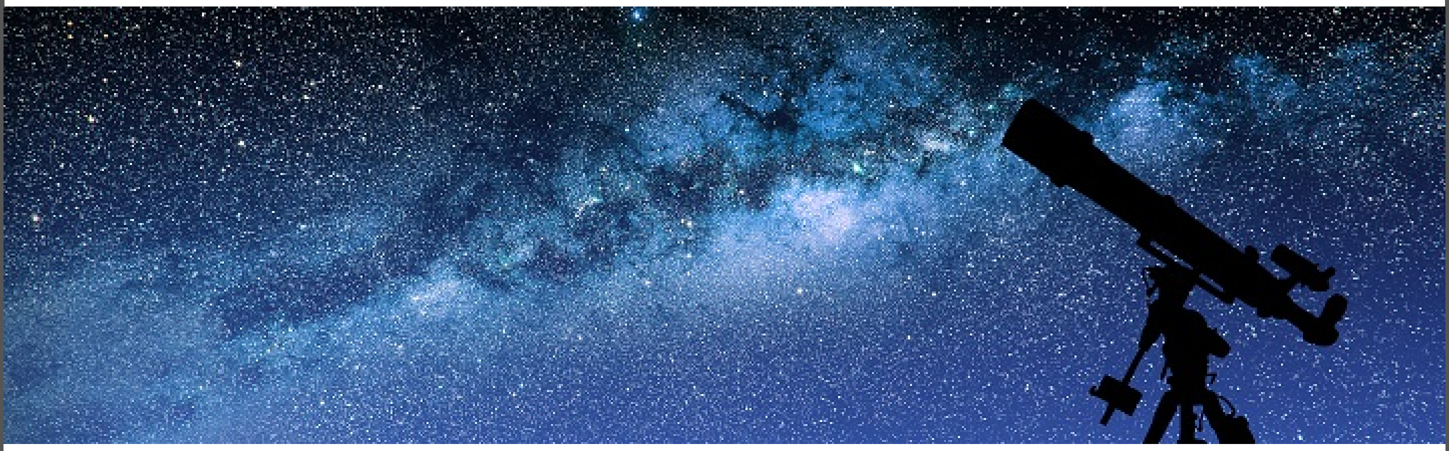

# IRS issues three transfer pricing International Practice Units

## Global Transfer Pricing Alert 2016-009

The Internal Revenue Service on March 7 released a new international practice unit (IPU):

- Residual Profit Split Method - Outbound

This IPU is in addition to the two issued March 4:

- Outbound Services by U.S. Companies to CFCs
- Review of Transfer Pricing Documentation by Outbound Taxpayers

The first of these IPUs discusses how to determine if the residual profit split method (RPSM) is the best method, and if so, how to apply the RPSM to a transaction between a U.S. parent company and its controlled foreign corporation (CFC) in which intangible property is employed. The relevant regulations for the RPSM are outlined in Treas. Reg. §1.482-6. The RPSM is also discussed in Treas. Reg. §§1.482-7 (Cost Sharing Arrangements) and -9 (Services), but those sections are not the subject of this unit. While the RPSM is applicable to both inbound and outbound controlled transactions, the IPU published March 7 covers only the outbound scenario. For inbound transactions, see the IPU entitled "Residual Profit Split Method-Inbound," released February 19, 2016.

The second IPU discusses services that U.S. parent companies and their U.S. affiliates provide to their CFCs. It first reviews the threshold issue of whether an activity that benefits the CFC has been performed. It then provides an overview of the seven different transfer pricing methods provided by the Treasury regulations to determine whether an arm's length charge has been applied, with a particular emphasis on the services cost method.

The third IPU provides an introduction to the review of an outbound taxpayer's contemporaneous transfer pricing documentation. Such documentation needs to be in existence at the time the taxpayer files its tax return and also must be provided to the IRS within 30 days of a request in order for the taxpayer to avoid the penalties under I.R.C. §6662(e) and (h). The transfer pricing documentation is used by the IRS as described in the Transfer Pricing Audit Roadmap in the initial risk analysis and development of a preliminary working hypothesis during audit. The IPU highlights that even if a taxpayer supplies all the principal documents specified in the regulations, penalties may still apply if the taxpayer's documentation fails to give "a complete understanding of the taxpayers controlled transactions."

The IRS began the IPU program to provide IRS staff with explanations of general international tax concepts, as well as information about specific types of transactions. IPUs are not official pronouncements of law or directives and cannot be used, cited, or relied upon as such. IPUs provide a general discussion of a concept, process, or transaction and are a means for collaborating and sharing knowledge among IRS employees. IPUs may not contain a comprehensive discussion of all the pertinent issues, law, or the IRS's interpretation of current law surrounding that issue. In addition, IPUs do not limit an IRS examiner's ability to use other approaches when examining issues. Finally, IPUs and any nonprecedential material (such as private letter rulings, determination letters, or Chief Counsel advice) that may be referenced in an IPU may not be used or cited by taxpayers as precedent.

While not authoritative, the IPUs discuss topics that are of interest to the IRS and may be areas of focus by international examiners.

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