



IRS issues two advance pricing agreement International Practice Units

Global Transfer Pricing Alert 2017-047

The Internal Revenue Service on November 6 released two new international practice units (IPUs):

- [Advance Pricing Agreement for Tangible Goods Transactions – Inbound](#)
- [Advance Pricing Agreement for Tangible Goods Transactions – Outbound](#)

Given the current post-BEPS climate and tax authorities' focus on transfer pricing enforcement, taxpayer interest in securing transfer pricing certainty by negotiating an advance pricing agreement (APA) has increased. Entering into an APA is a voluntary process conducted in a cooperative manner between a taxpayer and the relevant taxing authority(ies) to secure a mutual agreement regarding the transfer pricing methodology used in pricing the taxpayer's specified international transactions for future and potentially prior years.

The IPUs provide a useful overview of the APA process, including the steps involved and factors to consider when requesting and obtaining an APA, the required content and potential scope of an APA request, and the role of different parties during the APA process, including the taxpayer and representative, the Advance Pricing and Mutual Agreement (APMA) Program, the APMA economist, and the IRS examiner.

The IPUs provide examples and a discussion of what is required for APAs from the initial prefilling stage through review of the APA annual reports for compliance with the APA's terms and conditions. The IPUs also outline what issues can be addressed in an APA and when an IRS examiner may recommend to a taxpayer that it consider requesting an APA.

The IPU focus on the procedures set forth in Revenue Procedure 2015-41, 2015-35 I.R.B. 263, which is effective for APA requests filed after December 29, 2015.

The first IPU, *Advance Pricing Agreement for Tangible Goods Transactions – Inbound*, describes the APA process within the context of a US subsidiary that distributes tangible goods purchased from its foreign parent company in Japan. The second IPU, *Advance Pricing Agreement for Tangible Goods Transactions – Outbound*, describes the APA process within the context of a US parent company that distributes tangible goods purchased from its controlled foreign corporation in Japan.

Taxpayers considering an APA should also review the IRS APA [statutory annual reports](#)¹ which include: (1) information on the structure, composition, and operation of the APMA Program; (2) presents statistical data; and (3) includes general descriptions of various elements of the APAs executed, including types of transactions covered, transfer pricing methods used, and completion time.

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. IPU's are not official pronouncements of law or directives and cannot be used, cited, or relied upon as such. IPU's provide a general discussion of a concept, process, or transaction and are a means for collaborating and sharing knowledge among IRS employees. IPU's 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, IPU's do not limit an IRS examiner's ability to use other approaches when examining issues. Finally, IPU's 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 IPU's discuss topics that are of interest to the IRS and may be areas of focus by international examiners.

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¹The annual reports are issued under §521(b) of Pub. L. 106-170, the Ticket to Work and Work Incentives Improvement Act of 1999, which requires the Secretary of the Treasury to report annually to the public on APAs and the APMA Program.

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- [Arm's length standard](#)
- [Transfer pricing alerts](#)

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