



IRS substantially increases advance pricing agreement user fees

Global Transfer Pricing Alert 2018-004

The Internal Revenue Service on February 6 released a new schedule of substantially increased user fees to request a unilateral, bilateral, or multilateral advance pricing agreement (APA). The schedule amends the user fee schedule contained in the existing IRS procedure to request an APA (section 3 of the Appendix to Rev. Proc. 2015-41).

The increase in user fees will be implemented in two phases. The first phase will apply to APA requests filed after June 30, 2018 and the second phase will apply to APA requests filed after December 31, 2018. The current user fee schedule and the user fee schedule for each phase is set forth in the table below.

APA Request User Fees	APA Requests Filed Through June 30, 2018	APA Requests Filed After June 30, 2018	APA Requests Filed After December 31, 2018
New APA Request	\$60,000	\$86,750	\$113,500
Renewal APA Request	\$35,000	\$48,500	\$62,000
Small Case APA Request	\$30,000	\$42,000	\$54,000
APA Amendment	\$12,500	\$17,750	\$23,000

As shown in the table, APA user fees will almost double from the existing user fees beginning in 2019. In raising APA user fees, the IRS stated that the law requires federal agencies to charge a user fee to recover the cost of providing certain services to the public that confer a special benefit to a recipient. The IRS indicated the increase in user fees is an effort to bring those fees in line with the associated full cost to the IRS.

Under Rev. Proc. 2015-41, if multiple APA requests are filed by the same controlled group within a 60-day period, the maximum total fee charged is \$60,000, plus \$30,000 for each foreign competent authority involved (if any) beyond the first two. Thus, under the current procedure, the maximum fee is the user fee for a new APA request plus 50 percent of the same amount for each additional competent authority involved (if any) beyond the first two. The information released by the IRS did not indicate whether the maximum fee for multiple APA requests filed by the same controlled group within a 60-day period would change.

Taxpayers expecting to file an APA request within the next year are advised to consider accelerating the APA request filing to take advantage of the current user fee schedule. In addition, under Rev. Proc. 2015-41, taxpayers also have the option of paying the APA request user fee prior to filing the complete APA request, as long as the complete APA request is filed within 120 days of the payment date. In that scenario, the IRS considers the complete APA request as having been filed on the date of payment. For example, if a taxpayer pays the correct user fee under the current schedule on June 30, 2018, then the taxpayer has until October 28, 2018, to file the formal APA request (plus a possible 30-day extension of for "good cause" if the taxpayer requests it and the IRS agrees).

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Contacts

Kerwin Chung (Washington DC)
kechung@deloitte.com

Dave Varley (Washington DC)
dvarley@deloitte.com

Kirsti Longley (Washington DC)
kilongley@deloitte.com

Darrin Litsky (Washington DC)
dlitsky@deloitte.com

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