



## The Tax Administration has plans to incentivize the submission of Advance Pricing Agreements – APAs

For Transfer Pricing purposes, Decree 10-2012 and amendments establishes the opportunity to reach an agreement between taxpayers and the Tax Administration, which allows taxpayers to submit to the tax office a proposed methodology and application in advance for transactions performed between related parties. These agreements are very common in countries with many years of experience in the Transfer Pricing practice; however,

for Guatemala, this is a new and little-explored procedure for various reasons.

One of these reasons is the distrust of taxpayers due to the amount of information required for submitting this request, in which methodologies and the results of their transactions with foreign related parties are disclosed. The difference between this type of advance agreement and the Transfer Pricing Study is that this agreement depends on the approval of the Tax Administration, and its rejection could require a change of methodologies and common practices of taxpayers. This rejection could result from differences of opinion between the taxpayers and the Tax Administration, considering that Transfer Pricing is subjective and subject to interpretations.

This tool has proven to be quite helpful in other countries in decreasing the percentage of disputes between taxpayers and Tax Administrations, since it allows the rules to be objectively set out from the start, thus resulting in procedural economy in transfer pricing controversies.

In the interest of promoting this practice among Guatemalan taxpayers, the Tax Administration has started to approach taxpayers through technical roundtables, in order to gain an understanding of taxpayers' perception, as well as that of experts on the matter. At these technical roundtables, topics such as the pros and cons of the agreements, the proper methodology for submitting an APA,

deadlines, and the required documentation have been discussed, among others.

The most significant challenge for implementing this consensus between taxpayers and the tax office is to create processes and methodologies that build up taxpayers' trust, as well as demonstrate to the interested parties that submitting an APA is a taxpayer's right and not an obligation. Therefore, if an APA is rejected, the information contained in the agreement should not become a reason for the Tax Administration to initiate oversight proceedings.

Therefore, it is important to be alert to any forthcoming news from the tax office with respect to these technical roundtables.

We can gladly assist you with assessing the possibility of submitting an APA to the Tax Administration for your various transactions with foreign related parties.



## Contacts:



**Mario Coyoy**

Partner  
Tax and Transfer Pricing  
Central America Transfer Pricing Leader



[mcoyoy@deloitte.com](mailto:mcoyoy@deloitte.com)



**Raúl Gracias**

Senior Manager  
Transfer Pricing



[ogracias@deloitte.com](mailto:ogracias@deloitte.com)



(502) 2384 6500



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