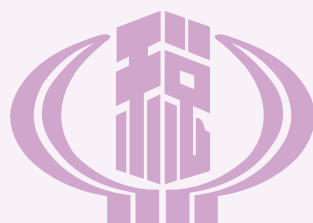


China Advance Pricing Arrangement Annual Report (2016)



**State Administration of Taxation
People's Republic of China**



Foreword

20¹⁶ marked a promising start for China's 13th Five-Year Plan, during which China has undergone a series of reforms in tax policies and tax administration. The domestic tax reforms also coincided with the G20 agenda on international tax reform. In September 2016 during the G20 Hangzhou summit, Chinese President Mr. Xi Jinping reiterated his proposal “to enhance global cooperation in tax matters, to tackle international tax avoidance, to help low income countries to build capacity in tax administration, and to support global investment and promote economic growth”. The proposal echoed the concerted effort made by the world to improve global governance. As a proud partner under the proposal, the State Administration of Taxation of China (SAT) has been working towards enhancing its governance capability on international taxation.

Guided by President Xi's proposal, the SAT has taken on its responsibility in building a prosperous economy that encourages innovative, coordinated, environmental-friendly, open and sharing development. The SAT has been taking steps to promote trades and investments through growth-friendly tax policies and strengthened international tax cooperation. During the process, the SAT also played an important role in establishing a modern and fair international tax system. As a strong supporter of China's reform and open strategy, the SAT has rolled out various measures to facilitate the “Belt and Road” Initiative, which have lead to better taxpayer service and more transparent tax policies. Meanwhile, the SAT has continued to expand treaty network in order to provide higher tax certainty to investors going abroad. With respect to inbound investors, the SAT has been working to reduce their compliance burdens by streamlining the review process for treaty benefit granting as well as providing access to dispute resolution assistance. For example, 78 MAP cases were discussed in 2016 and nearly 5 billion RMB of double taxation was eliminated as consequence.

The SAT has been actively participating in the international tax cooperation. On the one hand, the SAT has developed effective communication with international organizations like the United Nations, the OECD, and the IMF. On the other hand, the SAT has been boosting bilateral relationships with tax authorities from the major economies like the United States, Canada, and other BRICS countries. In addition, the SAT has been extending capacity building assistance to other developing countries. The successful conclusion of the 10th FTA Plenary in Beijing attested SAT's resolution on building a pro-growth international tax environment.

The SAT has become more and more proactive in setting international tax rules. For example, the SAT has been involved with the work on updating and revising the existing international instruments such as the OECD Model Tax Convention, the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, the UN Model Double Taxation Convention, and the UN Practical Manual on Transfer Pricing for Developing Countries. The SAT was also one of the drafters of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS. Moreover, it has been contributing to the building of the Inclusive Framework on BEPS, which was to ensure the consistent implementation of the outcomes of the international tax reform across the countries.

Committed to increasing tax transparency in China, the SAT has rolled out several tax regulations including the Public Notice on Matters Regarding Enhancing the Administration of Advance Pricing Arrangements and the Public Notice of the State Administration of Taxation on Issuing the Administrative Measures for Special Tax Adjustment and Investigation and Mutual Agreement Procedures. The newly released Public Notices, combined with the existing legislations and regulations, have helped China build a complex anti-avoidance legal framework. By introducing measures from the international tax reforms into domestic regulations, the SAT was devoted to creating a neutral, stable and fair tax environment that would foster both inbound and outbound investments.

As one of the projects put in place by the SAT to improve business environment, promote trades and investments and support world economic growth, China's APA program has been running on a steady pace during 2016. APA is a mechanism that would prevent or eliminate double taxation for taxpayers by providing tax certainty on their transfer pricing policies. This report continues to offer information on relevant tax policies, implementation procedures and development of China's APA program. Statistics on the program was also provided for analytical purposes. The SAT expects the report to help cross-border taxpayers better understand China's tax environment. The general public hopefully can benefit from being more informed of transfer pricing in China too.

WANG Zinfeng

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Notes and Executive Summary

This is the eighth APA annual report released by the State Administration of Taxation (“SAT”) to describe the latest mechanisms, procedures, and implementation of the APA program in China. This report is intended to provide guidance to enterprises interested in entering into APAs with the Chinese tax authority, and to serve as a reference for competent authorities of other countries (regions)^① and the general public to better understand China’s APA program. It does not have legal validity, and therefore should not be regarded as a legal basis for enterprises or the Chinese tax authority to negotiate or conclude an APA.

This report contains data pertaining to period between 1 January 2005 and 31 December 2016.

By 31 December 2016, the cumulative total of APAs signed is 139, 84 unilateral and 55 bilateral.

In 2016, a total of 8 unilateral APAs and 6 bilateral APAs were signed. Most of them were concluded within 2 years. Of the 6 bilateral APAs signed in 2016, 3 were signed with European countries and 3 were signed with Asian countries. Most of the APAs signed in 2016 still involve manufacturing industry but we see a further diversification in the types of industries covered.

① “Countries (regions)” in this report refer in particular to the countries and regions with independent tax jurisdiction.

In 2016, SAT focused on steadily promoting the work of APA negotiation and signing, and deeply engaging in BEPS projects advocated by G20. To facilitate transforming BEPS achievements and refine APA workflow, SAT issued “Public Notice on Matters Regarding Enhancing the Administration of Advance Pricing Arrangements (hereinafter referred to as 64th public notice)” in October, and then released “Public Notice of the State Administration of Taxation on Issuing the Administrative Measures for Special Tax Adjustment and Investigation and Mutual Agreement Procedures (hereinafter referred to as 6th public notice)” in March 2017. All APA matters should comply with “64th public notice” besides launching, terminating and cancelling the mutual agreement procedure which should act in accordance with “6th public notice”. In view of the release time of the two mentioned public notice are quite close, the APA Annual Report (2016) will update the APA process and policies according to both the two public notices, offering timely and effective guidance to tax payers. Meanwhile, this report will adjust the statistics caliber based on original basis.

To fulfill the minimum standard of action 5 of BEPS project, the unilateral APAs signed after April 1st 2016 will be absorbed into compulsory spontaneous exchange framework.

Along with the implementation of BEPS projects and the stricter anti-avoidance management practiced by tax administrations all over the world, the number of mutual agreement cases will increase step by step. When prioritizing the APA requests, the tax authority normally will consider the following factors:

a) Overall principle: first come, first served. b) The quality of the request submission, e.g. whether all required documents have been submitted, whether sufficient documentation clearly evidencing the transactions throughout the entire value chain or supply chain has been provided, whether the applied transfer pricing method is appropriate, and whether the calculation is correct. Applicant will be required to make additions or revisions to the submission when necessary. c) Whether the applicant is in a specific industry or located in a specific region that merits prioritized attention. d) For a BAPA request, whether the BAPA partner country (region) has the intention to accept the case and pursue the BAPA will also be an important factor for consideration. Among the four factors, the one the SAT values most is the quality of the submission. A submission that presents innovative application of TP methods or high quality quantitative analysis for intangibles, cost savings or market premiums will merit the SAT’s prioritized attention.

I Introduction to China's APA Program

1. Definition

An APA refers to an arrangement whereby an enterprise applies in advance to negotiate and reach agreement with the tax authorities in respect of the transfer pricing methods and corresponding calculation methods to be applied to its related party transactions for future years in accordance with the arm's length principle. An APA applies to related party transactions over a period of 3 to 5 consecutive years starting from the year during which "Notice on Tax Matters" is issued by the in-charge tax administration(s) notifying the acceptance of enterprise's intent for the APA.

2. Categorization

An APA may be categorized as unilateral, bilateral or multilateral based on the number of competent authorities involved in the APA.

In a unilateral APA, the enterprise enters into the APA with one country's tax authority. A unilateral APA can only provide certainty to the enterprise's pricing methodologies and calculation process with respect to its related party transactions within one country (region), but cannot ensure the effective avoidance of transfer pricing audits or adjustments from the tax authority of the overseas related party(ies) it transact with. Thus, a unilateral APA cannot prevent international double taxation.

In a bilateral or multilateral APA, the enterprise negotiates and enters into the APA with two or more countries' competent authorities. These authorities will need to reach an agreement with regard to the pricing methodologies and calculation process used in the cross-border related party transactions of the enterprise in question. Bilateral and multilateral APAs can be used to effectively avoid international double taxation and provide certainty regarding the transfer pricing policies of the enterprise.

3. Advantages

An APA is an effective approach to deal with transfer pricing issues and potential transfer pricing disputes through the collaboration between tax authorities and an enterprise. An APA between the tax authority (ies) and the enterprise(s) is binding on all parties. The enterprise shall proactively conform to all the provisions and requirements of the arrangement, while tax authority(ies) shall monitor the implementation of the agreement.

An APA is a voluntary agreement conducted on the basis of equality and mutual trust. It serves as an effective mechanism to enhance understanding, strengthen collaboration, and mitigate disputes between enterprises and tax authorities. APAs have the following benefits:

- (1) Provide certainty for tax authorities and enterprises in regards to transfer pricing issues for future years, and hence will offer certainty with regard to taxpayers' operations and relevant tax obligations and provide tax authorities with an expectation of steady tax revenue inflows;
- (2) Reduce tax authorities' costs related to transfer pricing administration and audit as well as enterprises' tax compliance costs by mitigating the risk of a transfer pricing audit;
- (3) Improve the quality of tax compliance services provided by the tax authorities, facilitate the balanced development of administration and service, and assure taxpayers of the relevant rights and benefits.

Bilateral and multilateral APAs can also provide the following advantages:

- (1) Facilitate communication and collaboration among the competent tax authorities of different jurisdictions;
- (2) Help enterprises avoid transfer pricing adjustments as well as double taxation risks in two (for bilateral APA) or more (for multilateral APA) tax jurisdictions.

II Legislation and Practice Development of China's APA

1. History

China began using APAs on a trial basis in the late 1990s. In 1998, an APA was included as one of “other reasonable methods of transfer pricing adjustments” in Article 28 of “The Regulation on the Taxation of Transactions between Related Parties (Trial)”^① (Guo Shui Fa [1998] No. 59). In 1998, the first unilateral APA was reached between the tax authority and an enterprise.

In 2002, the APA program was formally introduced in Article 53 of “The Implementation Rules of the Tax Collection and Administration Law of the People’s Republic of China”^② (Guo Wu Yuan Ling No. 362), and APAs were elevated from an adjustment method to a program.

In 2004, the SAT promulgated “Implementation Rules on Advance Pricing Arrangements for Transactions between Related Parties (Trial Version)” (Guo Shui Fa [2004] No. 118), which provides details of the APA program and specific procedures such as negotiation and conclusion procedures, requirements, follow-up execution and monitoring, as well as guidance on APA administration in China. Such a step further regulated the administration of China’s APA program. From 1998 to 2004, a number of local Chinese tax authorities have attempted to negotiate and conclude several unilateral APAs with taxpayers on a trial basis. However, due to the absence of nationwide standardized and clearly defined implementation guidance, overly-simplified APA articles, insufficient functional and risk analysis and inadequate comparability analysis were found to be prevalent in APAs concluded during the period. For this reason, this report does not contain statistics on APAs concluded during this period.

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- ① Article 28: Transfer Pricing Adjustment Methods for Purchases and Sales of Tangible Assets: ... (IV) Other appropriate methods: If none of the first three methods are applicable, the tax authorities can choose other reasonable methods, such as “profit-comparison method” “profit-split method” and “net profit method”, among others. The enterprise can also adopt an “advance pricing arrangement” after applying for and obtaining approval from the tax bureau in charge...
- ② Article 53: The taxpayer may propose a pricing principle and calculation method to the in-charge tax authority concerning the transactions between them and associated enterprises. The in-charge tax authority shall examine, verify and decide whether to approve the proposal. If approval is given, an advance agreement shall be reached with the taxpayer concerning pricing related matters and the tax authority shall supervise the implementation.

In order to standardize and ensure consistency of China's APA administration across the country, the SAT has implemented rules for APA monitoring and administration since 2005 requiring the local tax authorities to submit the draft unilateral agreement to the SAT for review and approval before its conclusion. Meanwhile, local tax authorities are required to steadily promote APA programs and strictly conform to the relevant regulations to improve the administration of the APA program. The program has since entered into a well-regulated time. In April 2005, Japan and China concluded China's first bilateral APA. Subsequently, China reached bilateral APAs with the United States, the Republic of Korea, and other countries. From 2005 to 2008, the Chinese tax authorities concluded 41 APAs, including 36 unilateral and 5 bilateral APAs.

At the beginning of 2009, Guo Shui Fa [2009] No. 2 "Implementation Measures of Special Tax Adjustments (Trial Version)" ("the Measures") was promulgated to facilitate the implementation of the Corporate Income Tax Law of the People's Republic of China and its Implementation Regulations. Chapter Six of the Measures provides more detailed rules and implementation guidance on China's APA program.

In 2009, China's bilateral APA program started to experience rapid growth with 12 APAs (including 5 unilateral and 7 bilateral) being signed.

In 2010, the Chinese tax authorities signed 8 APAs in total, including 4 unilateral APAs and 4 bilateral APAs.

In 2011, the Chinese tax authorities signed 12 APAs in total, including 8 unilateral APAs and 4 bilateral APAs.

In 2012, the Chinese tax authorities signed 12 APAs in total, including 3 unilateral APAs and 9 bilateral APAs.

In 2013, the Chinese tax authorities signed 19 APAs in total, including 11 unilateral APAs and 8 bilateral APAs.

In 2014, the Chinese tax authorities signed 9 APAs in total, including 3 unilateral APAs and 6 bilateral APAs.

In 2015, the Chinese tax authorities signed 12 APAs in total, including 6 unilateral APAs and 6 bilateral APAs.

In 2016, the Chinese tax authorities signed 14 APAs in total, including 8 unilateral APAs and 6 bilateral APAs. In October, The STA issued "Public Notice on Matters Regarding Enhancing the Administration of Advance Pricing Arrangements (Public Notice of the State Administration of Taxation [2016] 64)", aiming

at implementing the achievements of BEPS project and enhancing APA workflow.

In March 2017, in order to practice action 14 of BEPS project (Making dispute resolution mechanisms more effective), to increase the efficiency of accomplishing MAP cases, and to eliminate double taxation, the SAT issued “Public Notice of the State Administration of Taxation on Issuing the Administrative Measures for Special Tax Adjustment and Investigation and Mutual Agreement Procedures (Public Notice of the State Administration of Taxation [2017] 6)”.

2. Existing Legal Basis

The legal basis and relevant laws, regulations and implementation rules governing APAs primarily include the following:

- (1) The relevant clauses in the agreements for the avoidance of double taxation (the “treaty”, “agreement” or “arrangement”) between the government of China and the government of the corresponding country (region);
- (2) Article 42 of the Corporate Income Tax Law of the People’s Republic of China;
- (3) Article 113 of the Implementation Regulations of the Corporate Income Tax Law of the People’s Republic of China;
- (4) Article 53 of the Implementation Regulations of the Administration of Tax Collection and Administration Law of the People’s Republic of China;
- (5) Public Notice on Matters Regarding Enhancing the Administration of Advance Pricing Arrangements (Public Notice of the State Administration of Taxation [2016] 64);
- (6) Public Notice of the State Administration of Taxation on Issuing the Administrative Measures for Special Tax Adjustment and Investigation and Mutual Agreement Procedures (Public Notice of the State Administration of Taxation [2017] 6).

III APA Procedures

1. Prerequisites to an APA Application

Access to APA is available to enterprises with annual related party transaction amount exceeding RMB 40 million for the three years prior to the year in which the “Notice on Tax Matters” is issued by the in-charge tax administration(s) notifying the acceptance of enterprise’s intent for the APA.

The tax administration(s) may prioritize APA requests from the enterprise that meets one of the following conditions.

- (1) The enterprise’s annual reporting forms for related party dealings and contemporaneous transfer pricing documentation are well completed with adequate disclosures.
- (2) The enterprise’s tax compliance rating is “A”.
- (3) The enterprise was once under special tax adjustment investigation and the investigation was closed.
- (4) The enterprise is applying for a renewal of an existing APA that is about to expire provided that there has been no substantial changes to the facts and operating environment specified in the existing APA.
- (5) For the APA request, the enterprise has provided complete and adequate information including but not limited to clear and thorough value chain/supply chain analysis taking into account of location specific advantages such as cost savings and market premium, and appropriate pricing methodologies and calculation process.
- (6) The enterprise has been cooperative with the tax administration(s) during the APA process.
- (7) For a bilateral/multilateral APA, the competent authority(ies) of the other contracting state(s) of treaty(ies) have displayed strong intention to move forward with the APA negotiation or attached a high importance to the APA.
- (8) Any other factors facilitating the APA process is present.

2. APA Process and Implementation

APA process involves the following six stages: pre-filing meeting, letter of intent, analysis and evaluation, formal application, negotiation and signing, and implementation and monitoring.

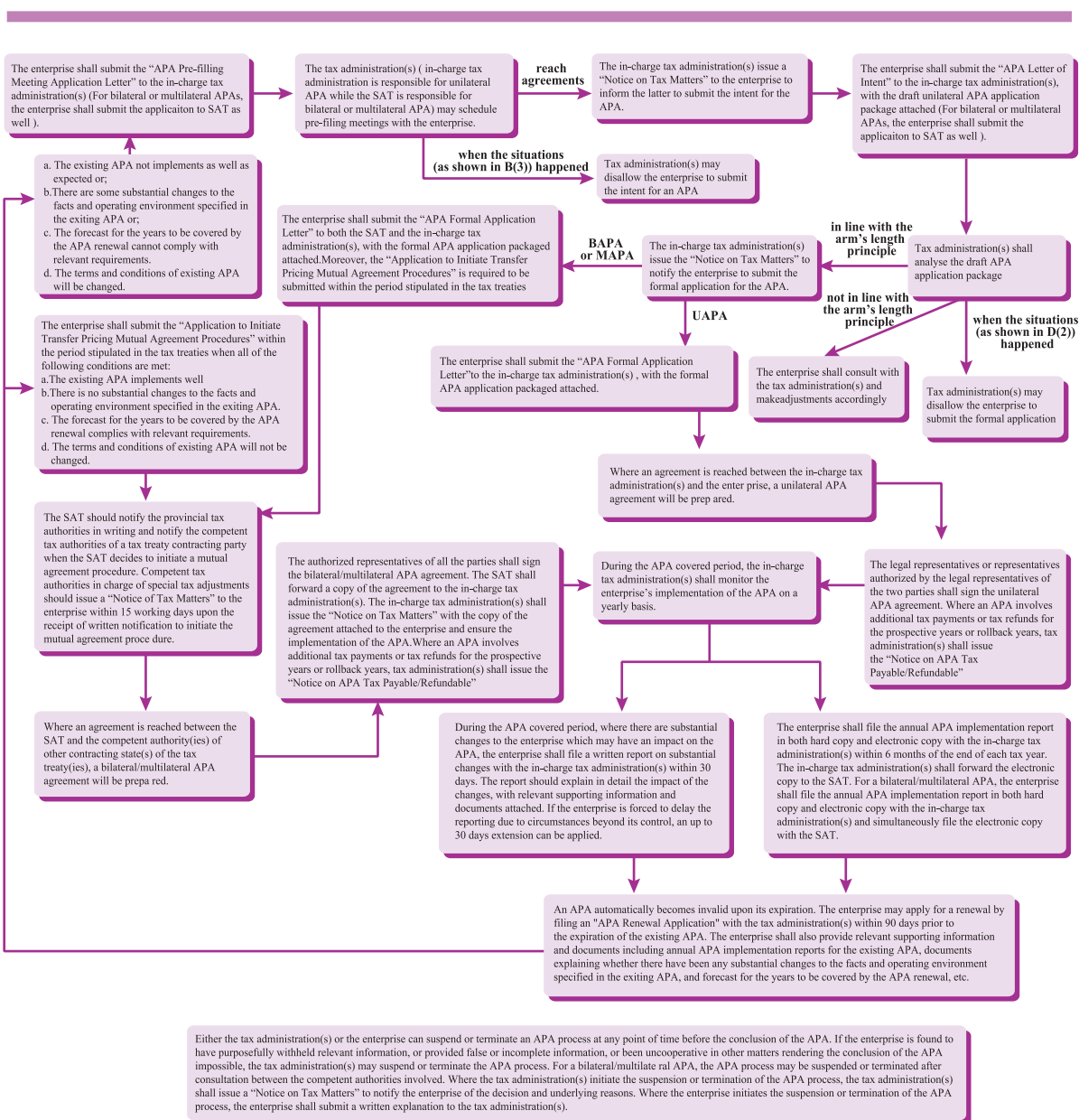


Chart 3-1 The APA Process

A. Pre-filing Meeting

An enterprise with the intention to apply for an APA should submit a written application for pre-filing meeting to the tax administration(s). The tax administration(s) may schedule one or several pre-filing meetings with the enterprise.

- (1) For a unilateral APA, the enterprise shall submit a written application for pre-filing meeting in the form of “APA Pre-filing Meeting Application Letter” to the in-charge tax administration(s). The in-charge tax administration(s) may schedule one or several pre-filing meetings with the enterprise.

For a bilateral/multilateral APA, the enterprise shall submit a written application for pre-filing meeting in the form of “APA Pre-filing Meeting Application Letter” to both the State Administration of Taxation (SAT) and the in-charge tax administration(s). The SAT may schedule one or several pre-filing meetings with the enterprise.

- (2) During the pre-filing meeting stage, the enterprise shall provide brief information on the following aspects:

- a. Tax years to be covered by the APA;
- b. Related parties and related party transactions to be covered by the APA;
- c. Organizational and management structure of the enterprise and the group it belongs to;
- d. Business operations and contemporaneous transfer pricing documentation of the enterprise for the most recent 3 to 5 years, etc.;
- e. Functions performed and risks assumed by the related parties covered by the APA, including the allocation keys based used to allocate the functions and risks, such as facilities, personnel, expenses, assets involved, etc.;
- f. Market conditions, including industry developments and trends, competitive environment, etc.;
- g. Location specific advantages such as cost savings and market premium (if any);
- h. Proposed rollback years (if any);

i. Any other relevant information.

For a bilateral/multilateral APA, the enterprise should also provide information on the following aspects:

- a. Status of APA request to the competent tax authority(ies) of the other Contracting State(s) of the tax treaty(ies);
- b. Business operations of the related parties covered by the APA and their related party transactions for the most recent 3 to 5 years;
- c. Double taxation involved and relevant explanations (if any).

(3) During the pre-filing meeting stage, the enterprise shall submit additional information as requested by the tax administration(s).

B. Letter of Intent

Where the tax administrations and the enterprise reach an agreement during the pre-filing meeting stage, the in-charge tax administration(s) shall issue a “Notice on Tax Matters” to the enterprise to inform the latter to submit the intent for the APA. The enterprise shall submit the intent for the APA to the tax administrations upon receipt of the “Notice on Tax Matters”.

(1) For a unilateral APA, the enterprise shall submit the “APA Letter of Intent” to the in-charge tax administration(s), with the draft unilateral APA application package attached.

For a bilateral/multilateral APA, the enterprise shall submit the “APA Letter of Intent” to both the SAT and the in-charge tax administration(s), with the draft bilateral/multilateral APA application package attached.

(2) The draft unilateral APA application package should include information on the following aspects:

- a. Tax years to be covered by the APA;
- b. Related parties and related party transactions to be covered by the APA;

- c. Organizational and management structure of the enterprise and the group it belongs to;
- d. Business operations, financial and accounting reports, audit reports, and contemporaneous transfer pricing documentation of the enterprise for the most recent 3 to 5 years, etc.;
- e. Functions performed, risks assumed the related parties covered by the APA, including the allocation keys used to allocate the functions, risks, such as facilities, personnel, expenses, assets involved, etc.;
- f. Proposed pricing methodologies and calculation process in the APA, and the functional and risk analysis, comparability analysis and assumptions supporting the proposed pricing methodologies and calculation process;
- g. Value chain analysis or supply chain analysis, taking into account of location specific advantages such as cost savings and market premium, etc.;
- h. Market conditions, including industry developments and trends, and competitive environment, etc.;
- i. Annual scale of operation, profit and loss forecasts and business plans for the years to be covered by the APA;
- j. Proposed rollback years (if any);
- k. The relevant industry laws and regulations in and outside China that have implications for the APA;
- m. Explanation that none of the circumstances listed in Clause (3) of this Article applies to the enterprise;
- n. Any other relevant information.

The draft bilateral/multilateral APA application package should also include information on the following aspects:

- a. Status of the APA request to the competent tax authority(ies) of the other Contracting State(s) of the tax treaty(ies);

- b. Business operations of the related parties covered by the APA and their related party transactions for the most recent 3 to 5 years;
 - c. Double taxation involved and relevant explanations (if any).
- (3) Tax administration(s) may disallow the enterprise to submit the intent for an APA if one or more of the following circumstances is present:
- a. The enterprise is under open special tax adjustment investigation or other tax investigations;
 - b. The enterprise fails to file the annual reporting forms for related party dealings of enterprises pursuant to the relevant regulations and requirements;
 - c. The enterprise fails to prepare, keep and provide the contemporaneous transfer pricing documentation pursuant to the relevant regulations and requirements;
 - d. No agreement is reached between the tax administration(s) and the enterprise during the pre-filing meeting stage.

C. Analysis and Evaluation

After receiving the intent for an APA from the enterprise, tax administration(s) shall analyse the draft APA application package and evaluate whether the proposed pricing methodologies and calculation process are in line with the arm's length principle. The tax administration(s) may request additional information based on the findings from their analysis and evaluation.

The analysis and evaluation may cover the following aspects:

- (1) Functional and risk profile. Tax administrations(s) will analyse and evaluate functions performed and contribution made with respect to supply, production, logistics, sales, and research and development of intangibles, etc., as well as risks such as inventory risk, credit risk, foreign exchange risk and market risk assumed by the enterprise and its related parties respectively.
- (2) Comparability analysis. Tax administration(s) will analyse and evaluate comparable information provided by the enterprise, and make adjustment for substantial comparability differences.

- (3) Related party transaction. Tax administration(s) will analyse and evaluate whether the revenue, cost, expenses and profits associated with the related party transactions cover by the APA are separately accounted for or determined based on reasonable allocation keys.
- (4) Pricing methodologies and calculation process. Tax administration(s) will analyse and evaluate the proposed pricing methodologies and calculation process in the APA. Additional statement and explanation should be provided if an APA rollback is proposed.
- (5) Value chain analysis and contribution analysis. Tax administration(s) will analyse and evaluate whether the value chain analysis or contribution analysis is complete and clear and whether due consideration is given to location specific advantages such as cost savings and market premium as well as to the contributions to the value creation made by the local enterprise.
- (6) Transaction price or profit level. Tax administration(s) will determine the arm's length transaction price or profit level based on the findings from the analysis and evaluation on the aforementioned aspects.
- (7) Assumptions. Tax administration(s) will analyse and evaluate the factors influencing the enterprise's profitability and business operation and the extent of the influence. Appropriate assumptions applied to the APA shall be established accordingly.

During the analysis and evaluation stage, tax administration(s) may discuss with the enterprise about the draft APA application package and conduct on-site functional interviews.

D. Formal Application

Where the proposal in the draft APA application package is not in line with the arm's length principle, the enterprise shall consult with the tax administration(s) and make adjustments accordingly. Where the proposal in the draft APA application package is in line with the arm's length principle, the in-charge tax administration(s) will issue the "Notice on Tax Matters" to notify the enterprise to submit the formal application for the APA. Upon receiving the notice, the enterprise shall submit the "APA Formal Application Letter" to the tax administration(s), with the formal APA application packaged attached.

- (1) For a unilateral APA, the enterprise shall submit the aforementioned information and documents to

the in-charge tax administration(s). For a bilateral/multilateral APA, the enterprise shall submit the aforementioned information and documents to both the SAT and the in-charge tax administration(s) and simultaneously apply for the Mutual Agreement Procedure (MAP) process pursuant to the relevant regulations and requirements.

- (2) Tax administration(s) may disallow the enterprise to submit the formal application for an APA if one or more of the following circumstances is present:
- a. The proposed pricing methodologies and calculation process in the draft APA application package is found to be inappropriate and the enterprise refuses to consult with tax administration(s) and make adjustments;
 - b. The enterprise fails to provide relevant information or provide additional and/or correct information despite the information originally provided has not met the requirements of the tax administration(s);
 - c. The enterprise fails to cooperate with tax administration's request to conduct on-site functional interviews;
 - d. Any other circumstances warranting the discontinuance of the APA process.

E. Negotiation and Signing

Tax administration(s) will form position on an APA based on the findings from the analysis and evaluation and conduct negotiation accordingly.

- (1) For a unilateral APA, where an agreement is reached between the in-charge tax administration(s) and the enterprise, a unilateral APA agreement will be prepared.

For a bilateral/multilateral APA, where an agreement is reached between the SAT and the competent authority(ies) of other contracting state(s) of the tax treaty(ies), a bilateral/multilateral APA agreement will be prepared.

- (2) An APA agreement may include the following elements:

- a. Basic information such as names and addresses of the enterprise and its related parties;

- b. Related party transactions and years covered by the APA;
 - c. Selected pricing methodologies and calculation process, comparable prices or profit levels, etc.;
 - d. Terms and definitions related to applied transfer pricing methodologies and calculation basis;
 - e. Assumptions and obligation to notify changes to the assumptions;
 - f. Obligation to submit annual APA implementation report;
 - g. Binding effect of the APA;
 - h. Renewal of the APA;
 - i. Validity, amendment and termination of the APA;
 - j. Dispute resolution;
 - k. Confidentiality of information and documents pertaining to the APA;
 - l. Exchange of information on unilateral APAs;
 - m. Appendices.
- (3) Where a unilateral APA agreement is reached between the in-charge tax administration(s) and the enterprise, legal representatives or representatives authorized by the legal representatives of the two parties shall sign the unilateral APA agreement.
- Where a bilateral/multilateral APA agreement is reached between the SAT and the competent authority(ies) of other contracting state(s) of the tax treaty(ies), authorized representatives of all the parties shall sign the bilateral/multilateral APA agreement. The SAT shall forward a copy of the agreement to the in-charge tax administration(s). The in-charge tax administration(s) shall issue the “Notice on Tax Matters” with the copy of the agreement attached to the enterprise and ensure the implementation of the APA.
- (4) Where an APA involves additional tax payments or tax refunds for the prospective years or rollback years, tax administration(s) shall calculate the amount of tax payable or tax refundable on a tax year-by-tax year basis and issue the “Notice on APA Tax Payable/Refundable”.

F. Implementation and Monitoring

Tax administration(s) shall monitor the implementation of APA.

- (1) During the APA covered period, the enterprise shall keep the relevant information and documents (including accounting records and other relevant records) intact and shall not lose, destroy or remove such information and documents.

The enterprise shall file the annual APA implementation report in both hard copy and electronic copy with the in-charge tax administration(s) within 6 months of the end of each tax year. The in-charge tax administration(s) shall forward the electronic copy to the SAT. For a bilateral/multilateral APA, the enterprise shall file the annual APA implementation report in both hard copy and electronic copy with the in-charge tax administration(s) and simultaneously file the electronic copy with the SAT.

The annual APA implementation report shall document the enterprise's business operations and implementation of the APA during the reporting period. The enterprise shall also explain in the annual APA implementation report if there is a need to amend or terminate the APA, or if there are any unsettled issues or foreseeable issues.

- (2) During the APA covered period, the in-charge tax administration(s) shall monitor the enterprise's implementation of the APA on a yearly basis. Major areas for monitoring include: whether the enterprise complies with the terms and conditions in the APA; whether the information provided in the annual APA implementation report reflects the actual operation results of the enterprise; whether the assumptions specified in the APA are still valid, etc.
- (3) During the APA covered period, where there are substantial changes to the enterprise which may have an impact on the APA, the enterprise shall file a written report on substantial changes with the in-charge tax administration(s) within 30 days. The report should explain in detail the impact of the changes, with relevant supporting information and documents attached. If the enterprise is forced to delay the reporting due to circumstances beyond its control, an up to 30 days extension can be applied.

Upon receiving written report from the enterprise, tax administration(s) shall analyze to what extent

the substantial changes have impacted the APA. Tax administration(s) may amend or terminate the APA depending on the extent of the impact. If the existing APA is terminated, tax administration(s) and the enterprise may start the APA process for the purpose of concluding a new APA pursuant to the relevant provisions and requirements of this Public Notice.

- (4) Where an APA is jointly signed by the state tax bureau(s), the local tax bureau(s) and the enterprise, the enterprise shall file the annual APA implementation report and report on substantial changes with both the state tax bureau(s) and the local tax bureau(s). The state tax bureau(s) and the local tax bureau(s) shall monitor the implementation of the APA in a cooperative and collaborative manner.

3. Rollback

Where the related party transactions in prior years are the same as or similar to those covered by the APA, per the enterprise' request, the tax administration(s) may apply the agreed pricing methodologies and calculation process specified in the APA to such related party transactions. The maximum rollback period is 10 years.

The conclusion of an APA does not preclude the enterprise from special tax adjustment investigation on related party transactions or years not covered by the APA.

Enterprises which have reached agreement in the pre-filing meeting with the tax authorities and submitted the "APA letter of intent" and applied for retroactive application of the APA, or enterprises which have submitted the "APA Renewal Application", can be temporarily exempted from special tax audit. This exemption does not apply to the period and the related transactions which are not covered under the APA.

4. Renewal

- (1) An APA automatically becomes invalid upon its expiration. The enterprise may apply for a renewal by filing an "APA Renewal Application" with the tax administration(s) within 90 days prior to the expiration of the existing APA. The enterprise shall also provide relevant supporting information and documents including annual APA implementation reports for the existing APA, documents explaining whether there have been any substantial changes to the facts and operating environment

specified in the exiting APA, and forecast for the years to be covered by the APA renewal, etc.

- (2) For an APA with a target price/profit within an interquartile range, if the enterprise' actual operating price/profit falls outside the interquartile range for any year during the APA covered period, tax administration(s) shall adjust the actual operating result to the median for the year. Upon expiration of the APA, if the calculated weighted average operating price/profit of the enterprise for the APA covered period falls below the median of the agreed range and is not adjusted to the median, tax administration(s) will not accept the enterprise's APA renewal application.

Where a bilateral/multilateral APA is involved, the in-charge tax administration(s) shall report the aforementioned issues to the SAT in a timely manner.

5. Termination or Cancellation

- (1) Either the tax administration(s) or the enterprise can suspend or terminate an APA process at any point of time before the conclusion of the APA. If the enterprise is found to have purposefully withheld relevant information, or provided false or incomplete information, or been uncooperative in other matters rendering the conclusion of the APA impossible, the tax administration(s) may suspend or terminate the APA process. For a bilateral/multilateral APA, the APA process may be suspended or terminated after consultation between the competent authorities involved. Where the tax administration(s) initiate the suspension or termination of the APA process, the tax administration(s) shall issue a "Notice on Tax Matters" to notify the enterprise of the decision and underlying reasons. Where the enterprise initiates the suspension or termination of the APA process, the enterprise shall submit a written explanation to the tax administration(s).
- (2) In case any dispute arises during the implementation of an APA, the in-charge tax administration(s) and the enterprise shall endeavor to resolve the disputes through negotiations. Where the disputes remain unresolved after negotiations, the in-charge tax administration can report the disputes to the tax administration(s) at the higher level for mediation. Disputes that involve a bilateral/multilateral APA shall be reported to the SAT for mediation. Decisions made by the tax administration(s) at the higher level or the SAT shall be enforced by the in-charge tax administration(s). The APA may be terminated if the enterprise still finds the decisions unacceptable.

- (3) Where the conclusion of an APA is found to be resulting from an APA process inconsistent with the relevant regulations and requirements or the fact that the enterprise has withheld information, the tax administration(s) will annul the APA and issue the “Notice on Tax Matters” to notify the enterprise of the decision and the underlying reasons. Where the enterprise is found to fail to implement an APA or violate the terms and conditions of an APA in other manners, the tax administration(s) may, depending on the circumstances, take necessary measures including terminating the APA to address the incompliance.

6. Particular Situations Referred to Multiple Tax Authorities

- (1) Where an APA involves two or more provinces, autonomous regions, municipalities directly under the central government or cities specifically designated in the state plan or both the state tax bureau(s) and local tax bureau(s), the APA process shall be organized and coordinated by the SAT.

The enterprise applying for a unilateral APA that falls under one of the aforementioned categories shall submit the application to both the SAT and the tax administration(s) designated by the SAT. The SAT may sign the unilateral APA with the enterprise by itself or authorize the designated tax administration(s) to sign the unilateral APA with the enterprise. Alternatively the SAT may arrange for each relevant in-charge tax administration to sign the unilateral APA with the enterprise respectively.

- (2) Where a unilateral APA involves two or more in-charge tax administrations within the same province, autonomous region, municipality directly under the central government or city specifically designated in the state plan which are either state tax bureau(s) or local tax bureau(s), the APA process shall be organized and coordinated by the tax administration(s) at the level of the province, autonomous region, municipality directly under the central government or city specifically designated in the state plan.

IV Protection of Taxpayers' Rights

1. Confidentiality of Taxpayers' Information

- (1) Both the tax administration(s) and the enterprise are legally bound to keep the information and documents obtained through the APA process confidential. Except for situations where the tax administration(s) are required by laws and regulations to share the information and documents with the relevant government agencies, the tax administration(s) are prohibited from disclosing the information and documents in any way without the consent of the enterprise.
- (2) The SAT may exchange information on unilateral APAs concluded after 1 April, 2016 with relevant competent authorities of other countries (regions) pursuant to the relevant international conventions, treaties, agreements between China and other countries (regions) unless the information concerns national security. The enterprise shall provide a list consisting of jurisdictions of its ultimate parent company, jurisdictions of its immediate parent company and jurisdictions of related party with whom it enters into a transaction covered by the APA to the tax administration(s) upon the conclusion of the APA.

2. Taxpayers' Freedom of Contract

Either the tax administration(s) or the enterprise can suspend or terminate an APA process at any point of time before the conclusion of the APA.

Where the tax administration(s) and the enterprise fail to conclude an APA, the tax administration(s) are refrained from using the nonfactual information such as proposals, inferences, views and positions obtained through the APA process in the special tax adjustment investigation on the related party transactions covered by the proposed APA.

V Statistics

1. APAs Signed by Year

Exhibit 5–1 summarizes the number of unilateral and bilateral APAs that the Chinese tax authorities signed during each of the 2005 to 2016 calendar years.

Exhibit 5–1 APAs Signed by Year (2005–2016)				
Year	Unilateral APAs	Bilateral APAs	Multilateral APAs	Total
2005	13	1	0	14
2006	10	0	0	10
2007	7	3	0	10
2008	6	1	0	7
2009	5	7	0	12
2010	4	4	0	8
2011	8	4	0	12
(Renewals in 2011)	(4)	(0)	(0)	(4)
2012	3	9	0	12
(Renewals in 2012)	(1)	(6)	(0)	(7)
2013	11	8	0	19
(Renewals in 2013)	(0)	(4)	(0)	(4)
2014	3	6	0	9
(Renewals in 2014)	(1)	(0)	(0)	(1)
2015	6	6	0	12
(Renewals in 2015)	(0)	(2)	(0)	(2)
2016	8	6	0	14
(Renewals in 2016)	(0)	(2)	(0)	(2)
Total	84	55	0	139

The chart below compares the number of unilateral APAs and bilateral APAs signed 2005 through 2016.

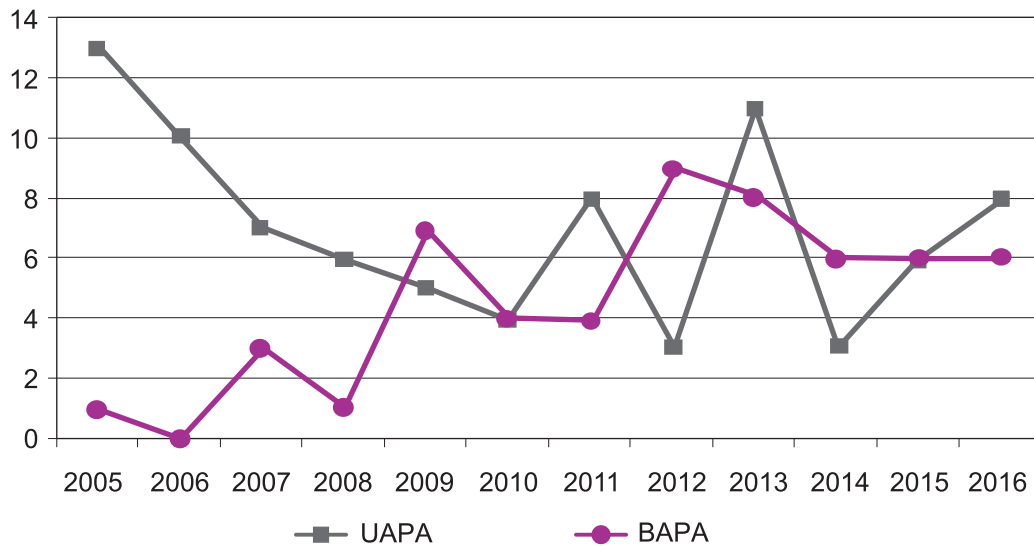


Chart 5-1 Number of APAs Signed 2005–2016

As shown in the exhibit and chart above, China has signed 84 unilateral APAs and 55 bilateral APAs during this 12 year period, accounting for 60.4% and 39.6% of the total number of signed APAs in China respectively. So far China has not signed any multilateral APA. The number of APAs signed each year has fluctuated from 2010 to 2016. Of the 6 bilateral APAs signed in 2016, 4 were signed for the first time and 2 was renewal whereas all 8 unilateral APAs were first-time signatures. Altogether there were 14 APAs signed in 2016.

2. APAs by Phase

Exhibit 5-2 provides statistics of APAs by phase as of 31 December 2016.

Exhibit 5-2 APAs by Phase (2005–2016)			
Phases	Unilateral	Bilateral	Total
Intent	6	101	107
Application	7	48	55
Signing	84	55	139

According to “Public Notice on Matters Regarding Enhancing the Administration of Advance Pricing Arrangements (Public Notice of the State Administration of Taxation [2016] 64)”, Exhibit 5-2 adjusts and divides APA program into three phases, which are intent, application and signing^①.

As can be seen clearly in Exhibit 5-2, there are more bilateral APAs than unilateral APAs in intent phase and application phase. The above figures suggest that more and more enterprises prefer to apply for bilateral APA to gain certainty and avoid double taxation. They also demonstrate that the workload of Chinese tax administration in dealing with APA issues will dramatically increase as the growth of APA applications.

① The intent refers to the phase that the tax administrations accept the letter of intent of tax payers; application refers to the phase that the tax administrations accept the formal application; signing refers the phase that the SAT or the in-charge tax administrations are going to sign unilateral bilateral or multilateral APA with the tax payers or the competent authority(ies) of the tax treaty contacting party.

3. APAs by Transaction Type

Exhibit 5-3 below illustrates the types of transactions^① involved in the concluded APAs as of 31 December 2016.

Exhibit 5-3 APA by Transaction Type (2005-2016)		
	Concluded APAs	
Transaction Type	Number of APAs	Percentage
Transfer of the right to use or ownership of tangible assets	120	65.6%
Transfer of the right to use or ownership of intangibles	27	14.7%
Services	36	19.7%
Financing	0	0
Transfer of financial assets	0	0
Total	183	100%

As shown in Exhibit 5-3, transfer of the right to use or ownership of tangible assets accounts for the largest portion of transactions covered by China's APA program. Of the concluded APAs, 65.6% involve transfer of the right to use or ownership of tangible assets, 14.7% involve Transfer of the right to use or ownership of intangibles, and 19.7% involve services. As China's tertiary industry develops, an increasing number of service companies may decide to apply for APAs. Thus, more APAs may involve transactions related to Transfer of the right to use or ownership of intangibles, services, financing and transfer of financial assets..

^① As some APAs involve multiple transaction types, the total number of related party transactions is greater than the number of APAs.

4. Bilateral APAs by Region

From 2005 to 2016, China has signed 37 bilateral APAs with Asian countries, 12 with European countries and 6 with North American countries. The following chart displays the percentage of bilateral APAs accounted for by each of these regions.

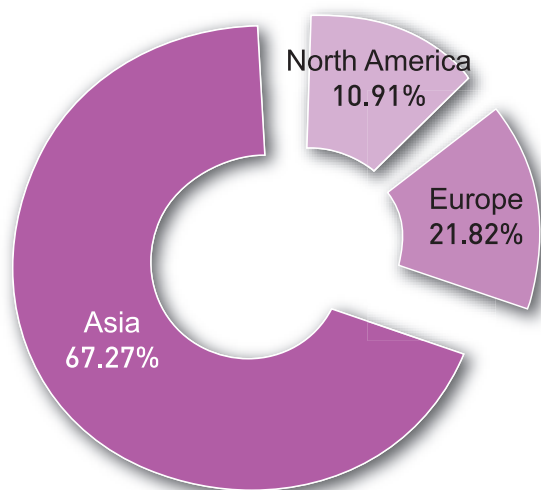


Chart 5-2 Bilateral APAs by Region (2005-2016)

5. APAs by Time Taken

Exhibit 5-4 illustrates the time taken to conclude unilateral and bilateral APAs signed by China in 2016.

Exhibit 5-4 APAs (2016) by Time Taken					
Type	from Application to Conclusion				Total
	< 1 year	1-2 years	2-3 years	> 3 years	
Unilateral	5	2	1	1	8
Bilateral	3	1	1	1	6

As shown in Exhibit 5-4, all unilateral APAs signed in 2016 were concluded within 3 years. In details, 62.5% unilateral APAs concluded within 1 year, 25% unilateral APAs concluded in 1-2 years and 12.5% unilateral APAs concluded in 2-3 years. Besides, 50% of bilateral APAs signed in 2016 were concluded within 1 year, 16.7% of BAPAs concluded in 1-2 years, 16.7% concluded in 2-3 years and also 16.7% took more than 3 years.

Exhibit 5-5 illustrates the time taken for the unilateral and bilateral APAs to be signed by China from 2005 to 2016.

Exhibit 5-5 APAs (2005-2016) by Time Taken					
Type	from Application to Conclusion				Total
	< 1 year	1-2 years	2-3 years	> 3 years	
Unilateral	48	31	4	1	84
Bilateral	27	9	9	10	55

As shown in Exhibit 5-5, 57.1% of China's unilateral APAs were concluded within 1 year, 36.9% were concluded within 1 to 2 years while only 6% took more than 2 years. While bilateral APAs generally took more time, 49.1% were concluded within 1 year, 16.4% took 1 to 2 years, 16.4% took 2 to 3 years, and the remaining 18.1% were concluded in more than 3 years.

The time required to complete the entire APA process depends on many factors including the type of APA requested (i.e. unilateral, bilateral, or multilateral), the complexity of transactions involved, the quality of the documents provided by the taxpayer, the logistics of the review process performed by competent authorities. The Chinese tax authorities generally aim to complete the review and negotiation process within 12 months for unilateral APAs and within 24 months for bilateral APAs. Bilateral APAs involve negotiations with relevant competent authorities through the MAP process and therefore more time is required to reach a consensus on them than that of unilateral APAs.

6. APAs by Transfer Pricing Method

The chart below shows the transfer pricing methods^① applied in the unilateral and bilateral APAs signed from 2005 to 2016.

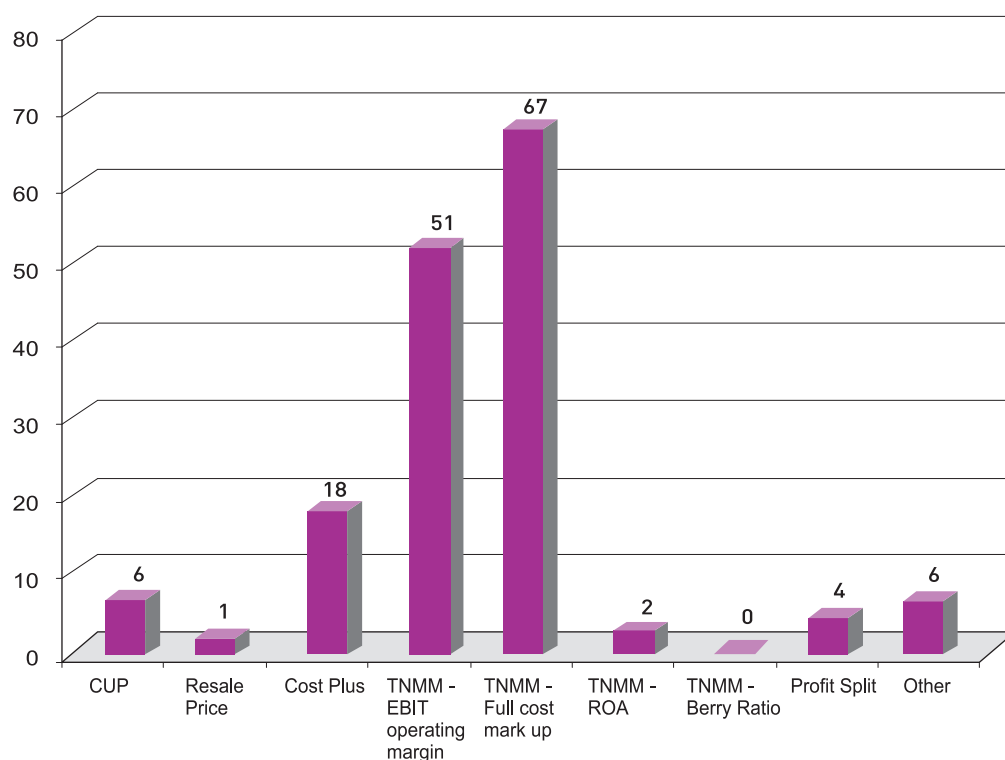


Chart 5-3 Transfer Pricing Methods Applied in APAs Signed 2005-2016

The data indicates that the transactional net margin method (TNMM) is the most commonly used transfer pricing method, being used 120 times and accounting for 77.4% of all the applied transfer pricing methods. The most commonly used profit level indicators are the EBIT operating margin (used in 51 APAs) and the Full Cost Mark-up (used in 67 APAs). Meanwhile, the SAT and local tax administrations have been exploring the use of other appropriate transfer pricing methods including profit split method especially in dealing

^① Some APAs involve two or more types of transactions and multiple transfer pricing methods may be used.

with transactions where both transacted parties have made significant contributions to the value creation or location specific advantages such as market premium or cost savings have been present. The second most popular transfer pricing method is the cost plus method, being used in 18 of the concluded APAs. The other transfer pricing methods are applied less frequently. The comparable uncontrolled price (CUP) method is used in 6 cases, the resale price method in 1 case, the profit split method in 4 cases and other methods in the other 6 signed APAs. As the CUP method requires a very high standard of comparability for application and the resale price method and profit split method require a heavy amount of information regarding the transaction and pricing, these methods tend to be applied less frequently in practice. The Chinese tax authorities hope that enterprises will better cooperate with tax officers during the APA review and evaluation phase and provide sufficient information regarding transactions and prices so that the resale price method and the profit split method may be more frequently applied in the APA program.

7. Industries covered by signed APAs

Exhibit 5–6 illustrates the industries covered by the unilateral and bilateral APAs signed by China from 2005 to 2016. There is a further diversification in the types of industries covered, yet 83.2% of the APAs signed from 2005 to 2016 still involve manufacturing industry.

Exhibit 5–6 Industries Covered (2005–2016)	
Industry Involved	Number
Manufacturing	116
Leasing and Commercial Services	5
Wholesale trade and retail	9
Transportation, warehousing, and postal services	3
Scientific and technical services	2
Information transmission, software and information technology services	2
Electricity, thermo, gas and water generation and supply	1
Construction	1
Total	139

VI SAT Contacts (by Province) for APA Requests

	Name	Telephone	Address
SAT Headquarters	LI Hanli	010-63417926	No. 5 Yangfangdian Xilu, Haidian District, Beijing, 100038
Beijing Municipal Office, SAT	MA Xiaowen	010-60907182	No.72(A) Tiantan Donglu, Dongcheng District, Beijing, 100036
Beijing Local Taxation Bureau	LI Xiang	010-68036577	No.8 Chengongzhuangxi Street, Xicheng District, Beijing, 100044
Tianjin Municipal Office, SAT	DU Huaying	022-24465656	No.16 Minzhu Street, Hebei District, Tianjin, 300010
Tianjin Local Taxation Bureau	GUO Zhiguo	022-23303740-2504	No. 4 Qufu Street, Heping District, Tianjin, 300070
Hebei Provincial Office, SAT	ZHAO Aimin	0311-88625237	No.35 Pingannan Street, Shijiazhuang, Hebei, 050011
Hebei Local Taxation Bureau	LI Xuesong	0311-88626543	No.32 Pingannan Street, Shijiazhuang, Hebei, 050000
Shanxi Provincial Office, SAT	LI Jiao	0351-2387454	No. 31 Shuiximen Street, Taiyuan, Shanxi, 030002
Shanxi Local Taxation Bureau	YANG Fan	0351-4052562	No.23 Shuiximen Street, Taiyuan, Shanxi, 030002
Inner Mongolia Autonomous Region Office, SAT	SUI Hongfeng	0471-3309386	Taolidong Street, Jinqiao Development Zone, Huhehaote, Inner Mongolia, 010020
Inner Mongolia Autonomous Region Local Taxation Bureau	MA Qingzhong	0471-4343149	Zhaowuda Road, Saihan District, Huhehaote, Inner Mongolia, 010020
Liaoning Provincial Office, SAT	SHEN Zhan	024-23185417	No.256 Qingnian Street, Shenhe District, Shenyang, Liaoning, 110016
Liaoning Local Taxation Bureau	LEI Li	024-23291134	No.162 Hepingbei Street, Heping District, Shenyang, Liaoning, 110001

(Continued)

	Name	Telephone	Address
Jilin Provincial Office, SAT	QIAN Jin	0431-88994709	No.358 Changchun Street, Changchun, Jilin, 130042
Jilin Local Taxation Bureau	XIE Junjun	0431-85225313	No.1518 Nanhu Street, Changchun, Jilin, 130022
Heilongjiang Provincial Office, SAT	DENG Liming	0451-53611057	No.190 Dongdazhi Street, Nangang District, Haerbin, Heilongjiang, 150001
Heilongjiang Local Taxation Bureau	ZHANG Hong	0451-53602443	No.19 Anshan Street, Nangang District, Haerbin, Heilongjiang, 150001
Shanghai Municipal Office, SAT; Shanghai Local Taxation Bureau	XIE Tian	021-54679568	No.800 Zhaojiabang Road, Shanghai, 200030
Jiangsu Provincial Office, SAT	YE Rong	0512-69829359	No.188 Yangyu Xiang, Suzhou, Jiangsu, 215000
Jiangsu Local Taxation Bureau	JIANG Hao	025-83633402	Room 2215, No.63 Beijingxi Road, Nanjing, Jiangsu, 210024
Zhejiang Provincial Office, SAT	WANG Zhen	0571-85270907	No.5 Huazhe Square, Hangzhou, Zhejiang, 310006
Zhejiang Local Taxation Bureau	WANG Yingbei	0571-87668681	No.1 Tihuaner Road, Xihu District, Hangzhou, Zhejiang, 310009
Anhui Provincial Office, SAT	SHENG Hengbing	0551-62831797	No.11 Yonghong Road, Luyang District, Hefei, Anhui, 230061
Anhui Local Taxation Bureau	ZHANG Ying	0551-65100748	No.109 Mengcheng Road, Hefei, Anhui, 230061
Fujian Provincial Office, SAT	LI Mengjun	0591-87098213	No.36 Tongpan Road, Fuzhou, Fujian, 350003
Fujian Local Taxation Bureau	Li Xin	0591-87767300	No.62 Tongpan Road, Fuzhou, Fujian, 350003
Jiangxi Provincial Office, SAT	ZHOU Yingqiong	0791-86202700	No.399 Guangchangnan Road, Nanchang, Jiangxi, 330003
Jiangxi Local Taxation Bureau	XIONG Junwen	0791-86426702	No.159 Zhanqianxi Road, Nanchang, Jiangxi, 330002

(Continued)

	Name	Telephone	Address
Shandong Provincial Office, SAT	ZHOU Shenghai	0531-85656693	No.155 Yingxiongshan Road, Jinan, Shandong, 250002
Shandong Local Taxation Bureau	BING Jie	0531-82613922	No.5 Jida Road, Shizhong District, Jinan, Shandong, 250002
Henan Provincial Office, SAT	LI Hong	0371-66767182	No.111 Fengchan Road, Zhengzhou, Henan, 450008
Henan Local Taxation Bureau	REN Xiuling	0371-65806336	No.3 Nongye Road East, Zhengzhou, Henan, 450008
Hubei Provincial Office, SAT	GUAN Lian	027-87322208	No.231 Yaojialing, Wuchang District, Wuhan, Hubei, 430071
Hubei Local Taxation Bureau	ZHANG Libin	027-87328896	No.101 Donghu Road, Wuchang District, Wuhan, Hubei, 430071
Hunan Provincial Office, SAT	ZHOU Zhiyong	0731-85525533	No.460 Laodongxi Road, Changsha, Hunan, 410007
Hunan Local Taxation Bureau	LEI Yangbing	0731-88183803	No.388 Youyi Road, Tianxin District, Changsha, Hunan, 410004
Guangdong Provincial Office, SAT	LIN Min	020-38351518	Room 1109, No.19 Huacheng Avenue, Tianhe District, Guangzhou, Guangdong, 510623
Guangdong Local Taxation Bureau	ZHU Guoqiang	020-85299343	No.600 Tianhebei Road, Tianhe District, Guangzhou, Guangdong, 510630
Guangxi Zhuang Autonomous Region Office, SAT	HU Yu	0771-5710262	No. 26 Yuanhunan Road, Nanning, Guangxi, 530022
Guangxi Zhuang Autonomous Region Local Taxation Bureau	WU Yongfeng	0771-5538092	No.105 Minzu Avenue, Nanning, Guangxi, 530021
Hainan Provincial Office, SAT	WEN Yikui	0898-66755235	No. 10 Longkunbei Road, Haikou, Hainan, 570136
Hainan Local Taxation Bureau	WU Yi	0898-66969507	Room 1003, No.18 Chengxi Road, Haikou, Hainan, 570206
Chongqing Municipal Office, SAT	ZENG Xianrong	023-67676745	No.63 Hongjin Avenue, Yubei District, Chongqing, 401147

(Continued)

	Name	Telephone	Address
Chongqing Local Taxation Bureau	LIU Yun	023-67572620	No.9 Xihu Road, Yubei District, Chongqing, 401121
Sichuan Provincial Office, SAT	QIAN Yalin	028-86734312	No.266 Bingjiangdong Road, Chengdu, Sichuan, 610021
Sichuan Local Taxation Bureau	REN Huiyu	028-85455751	No.2 Linjiangdong Road, Wuhou District, Chengdu, Sichuan, 610021
Guizhou Provincial Office, SAT	YAN Hongyu	0851-86906113	No.242 Zhonghuabei Road, Guiyang, Guizhou, 550004
Guizhou Local Taxation Bureau	SONG Hongmei	0851-5215525	No.83 Zhongshanxi Road, Guiyang, Guizhou, 550002
Yunnan Provincial Office, SAT	YAN Bin	0871-3129141	No.304 Baita Road, Kunming, Yunnan, 650051
Yunnan Local Taxation Bureau	YANG Changrui	0871-63613382	No.156 Renminzhong Road, Kunming, Yunnan, 650031
Tibet Autonomous Region Office, SAT	QIAO Haijun	0891-6834170	No.51 Beijingzhong Road, Lasa, Tibet, 850001
Shaanxi Provincial Office, SAT	GAO Weidong	029-88461179	No.96 Zhuque Road, Xi'an, Shaanxi 710068
Shaanxi Local Taxation Bureau	SUO Miao	029-87636313	No.28 Tianshuijing Street, Lianhu District, Xi'an, Shaanxi 710002
Gansu Provincial Office, SAT	SONG Weixia	0931-8533933	No.353 Jinchangnan Road, Chengguan District, Lanzhou, Gansu, 730030
Gansu Local Taxation Bureau	CAI Ou	0931-8871934	No.156 Jingning Road, Lanzhou, Gansu, 730030
Qinghai Provincial Office, SAT	ZHANG Haifeng	0971-8223061	No.11 Wenhua Street, Xining, Qinghai, 810000
Qinghai Local Taxation Bureau	ZHAO Zhiwei	0971-6165841	No.9 Kunlun Road, Xining, Qinghai, 810001
Ningxia Hui Autonomous Region Office, SAT	WANG Li	0951-5045307	No.424 Jiefangxi Street, Xingqing District, Yinchuan, Ningxia, 750001

(Continued)

	Name	Telephone	Address
Ningxia Hui Autonomous Region Local Taxation Bureau	LIU Bing	0951-5695037	No.167 Beijingzhong Road, Jinfeng District, Yinchuan, Ningxia, 750000
Xinjiang Uygur Autonomous Region Office, SAT	CAO Peihao	0991-2681362	No.397 Qingnian Road, Wulumuqi, Xinjiang, 830002
Xinjiang Uygur Autonomous Region Local Taxation Bureau	LIAO Lei	0991-2838471	No.321 Renmin Road, Wulumuqi, Xinjiang, 830004
Dalian Municipal Office, SAT	MIN Yixuan	0411-84384105	No.330 Gaoerji Road, Shahekou District, Dalian, 116021
Dalian Local Taxation Bureau	ZANG Chuanjie	0411-82332103	No.97 Yide Street, Zhongshan District, Dalian, 116001
Qingdao Municipal Office, SAT	JIAO Na	0532-83931089	No.236 Yanan Three Road, Qingdao, 266071
Qingdao Local Taxation Bureau	WANG Zhongyu	0532-83880685	No.18 Donghaixi Road, Qingdao, 266071
Xiamen Municipal Office, SAT	CHEN Gonghao	0592-5319162	Room 1602, No.70 Hubinbei Road, Xiamen, 361012
Xiamen Local Taxation Bureau	SHI Wenmiao	0592-2219256	Floor 4, No.152 Hubinnan Road, Xiamen, 361004
Ningbo Municipal Office, SAT	WU Miner	0574-87732286	No.8 Baizhang Road, Jiangdong District, Ningbo, 315040
Ningbo Local Taxation Bureau	CAI Jie	0574-87188406	Room 1402, No.19 Zhongshanxi Road, Ningbo, 315000
Shenzhen Municipal Office, SAT	HU Yanfeng	0755-83878770	Room 2005, No.38 Shazui Road, Futian District, Shenzhen, 518048
Shenzhen Local Taxation Bureau	YU Xiaoyang	0755-83773443	No.28 Futiannan Road, Futian District, Shenzhen, 518033

Appendices - Forms and Schedules of the APA Program

Appendix I

APA Pre-filing Meeting Application Letter

_____:

In accordance with:

- ☐ The “Corporate Income Tax Law of the People’s Republic of China” and its Implementation Regulations;
- ☐ The “Law of the People’s Republic of China on the Tax Collections and Administration” and its Implementation Regulations;
- ☐ The relevant provisions in the tax treaty entered into by the government of the People’s Republic of China and the government of _____

for the transaction(s) between our Enterprise and our related party(ies), we apply for:

- ☐ Pre-filing Meeting (unilateral APA);
- ☐ Pre-filing Meeting (bilateral APA);
- ☐ Pre-filing Meeting (multilateral APA);

Contact person: _____ Contact telephone number _____.

Enclosures: Total ____ copies ____ pages

1. _____
2. _____
3. _____

Name of Enterprise (Official Stamp):

Taxpayer Identification Number:

Legal Representative (Official Stamp):

(Date):

Appendix II

APA Letter of Intent

_____:

In accordance with:

- ☐ The “Corporate Income Tax Law of the People’s Republic of China” and its Implementation Regulations;
- ☐ The “Law of the People’s Republic of China on the Tax Collections and Administration” and its Implementation Regulations;
- ☐ the relevant provisions in the tax treaty entered into by the government of the People’s Republic of China and the government of _____,
- and in accordance with the requirements in the “Notice on Tax Matters” (Shui Yi Xiang [] No.) issued by your bureau on _____ (Date), we apply for:

- ☐ Intention for unilateral APA;
- ☐ Intention for bilateral APA;
- ☐ Intention for multilateral APA

for the transaction(s) between our Enterprise and _____ (name of the related party). Please sign and acknowledge receipt of this application.

Enclosures: Total ___ copies ___ pages

1. _____
2. _____
3. _____

Name of Enterprise (Official Stamp):

Taxpayer Identification Number:

Legal Representative (Official Stamp):

(Date):

Appendix III

APA Formal Application Letter

_____:

In accordance with:

- ☐ The “Corporate Income Tax Law of the People’s Republic of China” and its Implementation Regulations;
- ☐ The “Law of the People’s Republic of China on the Tax Collections and Administration” and its Implementation Regulations;
- ☐ the relevant provisions in the tax treaty entered into by the government of the People’s Republic of China and the government of _____,
- and in accordance with the requirements in the “Notice on Tax Matters” (Shui Yu Yue [] No.) issued by your bureau on _____ (Date), we apply for:

- ☐ Formal application for unilateral APA;
- ☐ Formal application for bilateral APA;
- ☐ Formal application for multilateral APA

for the transaction(s) between our Enterprise and the _____ (name of the related party). Please sign and acknowledge receipt of this application.

Enclosures: Total ____ copies ____ pages

1. _____
2. _____
3. _____

Name of Enterprise (Official Stamp):

Taxpayer Identification Number:

Legal Representative (Official Stamp):

(Date):

Appendix IV

Advance Pricing Arrangement (Unilateral)

(Text for Reference)

Pursuant to the “Corporate Income Tax Law of the People’s Republic of China” and its Implementation Regulations as well as the “Law of the People’s Republic of China on the Tax Collections and Administration” and its Implementation Regulations, upon formal application of _____ (company name) and the confirmation of the Tax Bureau of _____ (tax office name), both parties would like to conclude this Advance Pricing Arrangement (hereinafter referred to as this “APA”).

Article 1 General Definitions

For the purposes of this APA, unless otherwise defined elsewhere:

The term “in-charge tax authority” refers to the State Tax Bureau of _____ (tax office name).

The term “taxpayer” refers to _____ (company name); Taxpayer Identification Number: _____; Address: _____.

Article 2 Scope of Application

Type of tax(es) covered: This APA is applicable to corporate income tax and other tax types.

Type of related party transaction(s) covered: This APA is applicable to _____ (description of the transaction type) transactions between the taxpayer and _____ (company name), which is its related party.

Article 3 Applicable Term

This APA is applicable for _____ year to _____ year, totally _____ (number) tax years. Each taxable year is from _____ (month) _____ (day) to _____ (month) _____ (day).

Article 4 Critical Assumptions

The transfer pricing methodology and calculation method used in this APA are based on the following assumptions:

During the covered period, in case any of the above critical assumptions should change, the taxpayer should report to the in-charge tax authority within 30 days after the change takes place. Depending on the circumstances, the in-charge tax authority and the taxpayer may amend or terminate this APA.

Article 5 Transfer Pricing Method

The transfer pricing principle and calculation method used in this APA for the _____ transactions between _____ (company name) and its related party(ies) is _____ (Each related transaction should be separately listed)

Article 6 Annual Compliance Report

During the covered period of the APA, the taxpayer should file annual compliance reports in relation to the implementation situation of the APA within 6 months after the end of the taxable year, together with the following documents:

Article 7 Legal Binding Force of this APA

During the covered period of this APA, both of the tax authority and the taxpayer should comply with all the articles and requirements set out in this APA. If the taxpayer fails to comply with this APA, the in-charge tax authority may take actions according to the specific circumstances, or unilaterally terminate this APA.

Article 8 Renewal of this APA

This APA cannot be the basis to renew. The taxpayer should comply with relevant regulations to apply for renewal of APA.

Article 9 Dispute Resolution

In the event of disputes over the implementation and interpretation of this APA, the in-charge tax authority and the taxpayer should first negotiate to resolve such issues. If the disputes cannot be resolved through negotiation, both parties may petition the upper level tax authority for mediation; Where an APA involves two or more provinces, autonomous regions, municipalities directly under the central government or cities specifically designated in the state plan or both the state tax bureau(s) and local tax bureau(s), both parties may petition the State Administration of Taxation for mediation. If the taxpayer cannot accept the mediation resolution, it should consider revising or terminating this APA.

Article 10 Confidentiality and Responsibility

Both the in-charge tax administration(s) and the taxpayers are legally bound to keep the information and documents obtained through the APA process confidential.

The SAT may exchange information on unilateral APAs with relevant competent authorities of other countries (regions) pursuant to the relevant international conventions, treaties, agreements between China and other countries (regions) unless the information concerns national security.

Article 11 Effectiveness, Amendment and Termination

This APA will come into effect once signed and stamped by the legal or authorized representatives of both parties.

This APA is signed by the legal or authorized representatives of the in-charge tax authority and the taxpayer in _____ (city), (province) on _____ (day-month-year).

If the in-charge tax authority or the taxpayer amends or terminates this APA, the party should notify the other party. The notification should include the time of and the reason for the amendment or termination in written form.

Article 12 Supplementary Provisions

This APA should be prepared in Chinese, in _____ (number) copies, one for the in-charge tax authority and the other for the taxpayer.

_____ Tax Authority

_____ (Enterprise)

Signature:

Date:

Signature:

Date:

Title:

Stamp:

Title:

Stamp:

Appendix V

_____ Tax Authority

Notice on APA Tax Payable (Refundable)

_____ Shui Yu Tiao [] No. _____

_____ (name of taxpayer):

In accordance with

☐ The _____ (name of unilateral APA) signed on _____ (date-month-year) between our office and your company;

☐ The _____ (name of bilateral or multilateral APA) signed on _____ (date-month-year) between Tax authority of China and _____ (name of the competent authority of the tax treaty contracting party),

the taxable year from _____ to _____ will be adjusted:

1. Make a upward (downward) adjustment to the taxable income

for _____ RMB, correspondingly paying (refunding) corporate income tax for _____ RMB and surcharging interest as stipulated.

2. Make a upward (downward) adjustment to the assessable income

for _____ RMB, correspondingly paying (refunding) _____ (tax category) for _____ RMB.

If additional tax payments were required, you have to pay the tax and interest to _____ (tax authority) within 15 days after receiving this notice. The late payment will be punished in accordance with the *<Tax Collection and Management Law of People's Republic of China>*.

Appendix VI

APA Renewal Application

_____ Tax Authority:

☐ The _____ (name of unilateral APA) signed on _____ (date-month-year) between your office and our company

☐ The _____ (name of bilateral APA) signed on _____ (date-month-year) between Tax authority of China and _____ (name of the competent authority(ies) of the tax treaty contracting party)

will expire on _____ (date-month-year). After expiration, our company plans to apply for APA renewal of related party transactions in the future years

(from _____ to _____)

Name of Enterprise (Official Stamp):

Taxpayer Identification Number:

Legal Representative (Official Stamp):

(Date):

Appendix VII

Application to Initiate Transfer Pricing Mutual Agreement Procedures

Basic information of the applicant	The party in China	Name (Chinese and English)			
		Detailed address (Chinese and English)		Postcode	
		Taxpayer identification number			
		Contact Person (Chinese and English)			
		Contact information (telephone number, fax email)			
		Name and address of the tax authority in charge (Chinese and English)		Postcode	
		Contact Person of the tax authority in charge			
		Contact information (telephone number, fax email) of the tax authority in charge			
		Whether to apply other domestic remedy or not? (e.g. Administrative Reconsideration, Administrative Proceeding) If so, please provide the submission date, the date that the application is accepted, and the progress of domestic remedy.			
Basic information of the related party(ies) of the applicant	The party in the other treaty partner	Name (Chinese and English)			
		Detailed address (Chinese and English)		Postcode	
		Taxpayer identification number			
		Contact Person (Chinese and English)			
		Contact information (telephone number, fax email) of the tax authority in charge			
		Name of the treaty partner (Chinese and English)			
		Detailed address of the tax authority in charge			
		Contact Person of the tax authority in charge			
		Contact information (telephone number, fax email) of the tax authority in charge			
		Whether to submit the MAP application or not? If so, please provide the submission date and the date that the application is accepted by the treaty partner.			
		Whether to apply other domestic remedy or not? (e.g. Administrative Reconsideration, Administrative Proceeding) If so, please provide the date to submit application, the date that the application is accepted and the progress of domestic remedy.			

Summary of the issue to negotiate	Facts:	
	Issues:	
	The applicant's opinion on the issue and the relevant basis thereof.	he opinion of the tax authority in charge in the other treaty country/region partner on the issue and the relevant basis thereof
Attachment list (Total items):		
<p>Declaration: I hereby declare that all the application and the attachment provided are truthful, complete and accurate. All the data I provided can be shown to the treaty partner except for those which are listed in the special announcement. I will support and cooperate both contracting parties to carry out mutual agreement procedure, and provide required information in time. I understand and agree that the mutual agreement procedure is only operated between the representatives of competent authorities of both contracting parties. Accordingly, Our company would take part in only when we are invited.</p> <p style="text-align: right;">Signature of declarant:</p> <p style="text-align: right;">Date(Day-Month-Year):</p> <p>(Tips: For individual applicants, please sign your name; For corporate entities and other organizations, please appoint you legal representative or person in charge to sign and stamp)</p>		