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Global Tax Alert

News from Transfer Pricing

US IRS announces modifications for filing APA and MAP requests, addresses questions on pending and executed APAs

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The United States (US) Internal Revenue Service (IRS) has [announced](#) modifications for filing advance pricing agreement (APA) and mutual agreement procedure (MAP) requests to allow for electronic filing and digital signatures. In the same announcement, the IRS has also addressed questions about how the current economic environment is affecting the handling of pending and executed APAs by the Advance Pricing and Mutual Agreement program (APMA).

Filing modifications

The filing modifications affect the procedures for filing documents for MAP requests under Revenue Procedure 2015-40 and for APA requests and annual APA reports under Revenue Procedure 2015-41.

Under the modifications, for documents requiring the taxpayer's signature under Revenue Procedure 2015-40 or Revenue Procedure 2015-41, the taxpayer may submit the documents with either (1) a scanned or photographed image of the taxpayer's signature or (2) the taxpayer's digital signature created using encryption techniques.

In addition, taxpayers may electronically file submissions required under Revenue Procedure 2015-40 or Revenue Procedure 2015-41. Filing paper copies is not required.

Pending and executed APAs

Regarding the impact of the current economic environment on pending and executed APAs, the announcement states that APMA is currently discussing various issues with taxpayers and treaty partners, including issues such as the application of transfer pricing methods in periods of economic distress and how the current economic conditions affect specific industries, types of taxpayers and regions. APMA is also able to discuss case-specific issues and concerns with taxpayers and treaty partners.

For purposes of coordinating and prioritizing APMA responses to these issues, the IRS requests that questions regarding executed APAs in which 2020 is a covered year be directed to the appropriate APMA Assistant Director and that questions regarding pending APAs including 2020 should be directed to the assigned APMA Team Leader. If APMA decides that a meeting with the taxpayer would be productive, it will request that the taxpayer provide in writing, at least two weeks in advance, certain background information about the issue raised and current and forecast financial information, as well as any specific taxpayer request or proposal.

Implications

For taxpayers working remotely, the ability to file APA and MAP requests electronically with digital signatures is welcome relief. Electronic filing and signatures are particularly useful given the general inability of IRS staff to process paper documents (see EY Global Tax Alert, [IRS announces taxpayers can temporarily fax Forms 1139 and 1045 to claim NOL carrybacks and AMT credits under CARES Act](#), dated 16 April 2020).

Given the uncertainty of the pandemic and on-going office closures, it is unclear if and when hard copies will be needed in the future. IRS APMA will likely provide more guidance as the situation changes.

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