

PRODUCT

MARCH 2011

UNCLASSIFIED

FORMAT

AUDIENCE

DATE

CLASSIFICATION



Australian Government

Australian Taxation Office

FILE REF:

APA Case Plan for Standard or Complex APAs

Product linked to the Practice Statement Law Administration
PS LA 2011/1



UNCLASSIFIED



COMPANY OR ENTITY NAME	AUSTRALIA LTD
TFN	123456789
ABN	1234567890
PERIOD SUBJECT TO APA	20XX – 20XY
ATO APA CASE TEAM	[APA case leader, contact telephone number] [APA specialist/Competent Authority] [APA economist officer] [APA case officer, contact telephone number] The APA case leader is the primary ATO contact for the taxpayer throughout the APA process.
COMPANY CONTACTS	[Company contact 1, contact telephone number] [Company contact 2, contact telephone number]
TYPE OF APA	Unilateral []; Bilateral []; Multilateral [].
APA PROCESS	Standard APA process []; Complex APA process [].

The Advance Pricing Arrangement Case (APA) case will be guided by the principles outlined in the [Taxpayers' Charter](#).

Activity	Date
<p>Step 1: Pre-lodgment</p> <ul style="list-style-type: none"> • Provide Australian Taxation Office (ATO) with an APA proposal that describes: <ul style="list-style-type: none"> - the proposed transactions to be covered by the APA, the most appropriate transfer pricing methodology and profit level indicator (PLI) - the collateral issues (related non-transfer pricing issues) and the proposed approach for resolution of these issues - whether the APA proposal is for a new APA or a renewal, and a unilateral or a bilateral APA. • Consider lodging a draft APA case plan. • Conduct pre-lodgment meeting(s) with the ATO to identify transfer pricing and collateral issues. • Reach agreement on: <ul style="list-style-type: none"> - the scope of the APA - how collateral issues are to be resolved - whether the APA should follow the standard or complex APA process - the information/documentation required. • Internal ATO review of pre-lodgment decisions by a Transfer Pricing Review Panel (TPRP). • ATO to advise taxpayer of acceptance into the APA Program and invite the taxpayer to make a formal APA application. If the taxpayer wishes to proceed they will be required to lodge a formal APA application. • Develop an APA case plan jointly with the ATO, including the process for resolution of collateral issues, coordinated with the APA process. 	
<p>Step 2: Lodgment of formal application</p> <ul style="list-style-type: none"> • Taxpayer to lodge a formal APA application. • ATO to notify tax treaty partner of lodgment of bilateral APA application. • Taxpayer to prepare and lodge APA information/documentation as agreed in the pre-lodgment meeting <ul style="list-style-type: none"> - ATO information/documentation request 1 - Taxpayer response 1. • Taxpayer to prepare and lodge information requested for resolution of collateral issues. • ATO to commence processes for resolution of collateral issues, where possible in parallel with the APA process. • For a bilateral APA, taxpayer should ensure its foreign affiliate meets the requirements of the APA process in the other jurisdiction. • Finalise the APA case plan and execute. 	

Step 3: Analysis and evaluation

- ATO to evaluate the APA application and undertake relevant fieldwork.
- ATO to request further information/documentation if necessary:
 - ATO information/documentation request 2
 - Taxpayer response 2.
- Consider independent expert advice, if requested.
- Establish the arm's length consideration using the process in Taxation Ruling [TR 98/11](#).
- ATO meeting(s) with the taxpayer to clarify the facts or the interpretation of the outcome.
- Development of ATO position.
- ATO internal review of decision (TPRP).
- Coordinate evaluation with the resolution of collateral issues.

Step 4: Negotiation and agreement

- Inform taxpayer of the resolution of the collateral issue. In most circumstances the collateral issue needs to be resolved prior to agreement of the concluded APA.
- In consultation with the taxpayer develop the draft APA terms including the transfer pricing methodology, critical assumptions and compensating adjustments.
- In a unilateral APA, the APA case leader to endeavour to reach agreement on the terms of the APA with the taxpayer.
- In a bilateral APA, the Australian Competent Authority to formalise a Competent Authority Mutual Agreement Procedure (MAP) arrangement with the tax treaty partner in consultation with the taxpayer (assuming that agreement is reached):
 - Competent Authority MAP negotiations
 - Taxpayer accepts the Competent Authority MAP arrangement and notifies the ATO of their acceptance in writing.

Step 5: Conclude

- For unilateral APAs:
 - ATO and taxpayer to finalise the APA based on the outcomes of the negotiations.
 - ATO to provide the taxpayer with written confirmation of the concluded APA.
 - Taxpayer to sign the final APA and return it to the ATO.
- For bilateral APAs:
 - Taxpayer to accept the Competent Authority MAP arrangement.
 - ATO to enter into a bilateral APA with the tax treaty partner.
 - ATO to confirm the terms of the bilateral APA with the taxpayer in a letter or similar document.
 - Taxpayer to confirm its agreement with the APA in writing to the ATO.

Scope - APA covered transactions and collateral issues

Covered transactions (CT)	Process for resolution
Description of CT	
CT 1:	
CT 2:	
Add additional rows as required	
Collateral issues (CI)	
Description of CI	
CI 1:	
CI 2:	
Add additional rows as required	

Information/documentation requests and responses

Information/documentation request (IDR)	Date of ATO information request	Date applicant's response required by
Description of IDR and relevance		
IDR 1:		
IDR 2:		
Add additional rows as required		