



COMMISSIONER
LARGE BUSINESS AND
INTERNATIONAL DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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Impacted IRMs: 4.46.3, 4.46.4, 4.60.8

MEMORANDUM FOR ALL LARGE BUSINESS AND INTERNATIONAL DIVISION
EMPLOYEES

FROM: Douglas W. O'Donnell /s/ Douglas W. O'Donnell
Commissioner, Large Business and International Division

SUBJECT: Interim Instructions on Issuance of Mandatory Transfer Pricing
Information Document Request (IDR) in LB&I Examinations

Purpose: This memorandum is being issued to communicate to LB&I employees certain changes to requirements for issuing the mandatory transfer pricing IDR until Internal Revenue Manual (IRM) 4.60.8, International Procedures, International Examination and Processing Procedures, and related references are updated.

Background/Source(s) of Authority: IRM Exhibit 4.46.3-4, Transfer Pricing Compliance Processes, sets forth the existing requirements for LB&I team managers and examiners for issuing the transfer pricing IDR to secure transfer pricing documentation per IRC §6662(e). Those procedures, first introduced in January 2003, required that the Mandatory Transfer Pricing IDR be issued on all examinations when the taxpayer filed Form 5471 or 5472, or when the taxpayer engaged in cross-border transactions.

Transfer pricing issues make up a substantial portion of the LB&I inventory. As a result, significant LB&I resources are devoted to transfer pricing issues. LB&I recognizes that it needs to manage transfer pricing issues under examination and related resources in the most efficient and effective manner possible. This Directive provides instructions with respect to managing certain transfer pricing issues in inventory.

When there is an indication of compliance risk and LB&I is considering examination of the taxpayer's transfer pricing, the contemporaneous documentation provided to the audit team through the mandatory IDR process is a critical starting point. Taxpayers who do not timely (within 30 days of request) provide such documentation can be liable for penalties on any resulting adjustments to tax in excess of the penalty regulation threshold.

Procedural Change: The Mandatory Transfer Pricing IDR is no longer required for all cases. These new procedures apply for the issuance of the Mandatory Transfer Pricing IDR:

1. For examinations arising under approved LB&I campaigns, examination team members will follow the specific guidance for the Mandatory Transfer Pricing IDR provided for within the campaign. If no such guidance is provided, the procedures under item 2, below, will apply.
2. For examinations with initial indications of transfer pricing compliance risk (considering the volume and type of transactions), Transfer Pricing Practice (TPP) and/or Cross Border Activities (CBA) Practice Area employees will issue the Mandatory Transfer Pricing IDR if assigned to the case. If TPP or CBA resources are not assigned as a consultant or team member to the case, the Mandatory Transfer Pricing IDR will not be issued.
3. In all circumstances, time expended for the issuance of the Mandatory Transfer Pricing IDR will be charged to SAIN 003 Preliminary Exam Time; UIL 00000.00-00 – Administrative Procedures until the examination team decides the issue will be developed and the appropriate international UIL code (i.e., 9411, 9422, 9423) should then be used.

Effect on Other Documents: This guidance updates the following:

- IRM Exhibit 4.46.3-4, *Transfer Pricing Compliance Processes*
- IRM Exhibit 4.46-3-3, *Sample Agenda for Opening Conference (Meeting)*
- IRM 4.46.4, *LB&I Examination Process, Executing the Examination*
- IRM 4.60.8.2, *IE Responsibilities on International Feature Cases*

This guidance will be incorporated into IRM 4.46.3, IRM 4.46.4, and IRM 4.60.8 by a date not to exceed two years from the date of this memo.

Effective Date: January 12, 2018

Contact: For further information regarding this Directive and any of the specific issues addressed herein, please contact the Director of Treaties and Transfer Pricing Operations.

cc: www.irs.gov
Division Counsel, LB&I