

## APA Economist Procedures

The APA Economist generally plays a central role throughout the APA process in advising the APA Team Leader. Thus, the APA Economist and Team Leader work closely together throughout the development and resolution of a case.

### *Purpose of the APA Economist Procedures*

- Explain how an APA Economist or field economist is assigned to the APA Team;
- Explain the interaction of the APA Economist with the APA Team Leader;
- Promote dialog between the APA Economist and the APA Team Leader;
- Ensure that the APA Team is prepared for the first meeting with the taxpayer;
- Ensure that important issues are highlighted promptly during case development;
- Ensure the case file contains the economic analysis developed during negotiations;
- Provide economic analysis for use in preparing the case memoranda;
- Ensure the case file contains information that allows for replication of results;
- Provide the Branch Chief with important information about the case.

### *Assigning an Economist to the APA Team*

Concurrent with assigning an APA Team Leader, the APA Director, in consultation with the Chief of the APA Economist Branch, either assigns an APA Economist, or determines that the APA Team Leader should work with the Chief of the APA Economist Branch to locate a field economist. To request the assignment of a field economist, the APA Team Leader submits Form 9276 (Request for Economist) to the appropriate Field Economist Group Manager. The APA Team will generally include the field economist currently auditing the taxpayer's transfer pricing.

### *Preliminary Issues Analysis*

Before the first meeting with the taxpayer, the APA Team must read and digest the APA submission and generally should hold at least one internal meeting. In particular, the APA Economist and Team Leader should share their views on economic, accounting and legal issues. As further explained in the next section, a written preliminary issues analysis is prepared for the case file. The APA Economist has responsibility for drafting the economic aspects of the analysis in advance of the first taxpayer meeting unless the APA submission does not provide adequate information for a useful analysis. The APA Economist may also draft the analysis document after the first meeting if it is impractical to do so beforehand. If a useful analysis cannot be prepared before the first meeting, the APA Economist still advises the APA Team Leader regarding his or her initial analysis and/or concerns regarding the case and then drafts the preliminary issues analysis after the first meeting. See the Case Management Procedures, The First Meeting, ¶ 2, for the APA Team Leader's responsibilities regarding the preliminary issues analysis.

### *Scope of the Preliminary Issues Analysis*

In formulating the preliminary issues analysis, the APA Economist generally considers, to the extent feasible, the taxpayer's proposed TPM, PLIs, adjustments, comparable

screening and selection criteria, and the need to analyze alternative TPMs. The APA Economist also advises the APA Team Leader regarding economic issues ripe for analysis or that require further development, and comments on the apparent strengths and weaknesses of the APA submission. Prior to the first meeting, the APA Economist should provide the APA Team Leader with a list of questions or information requests for the taxpayer.

The format and depth of the preliminary issues analysis may vary depending on the complexity of the case. The APA Economist and the Team Leader should discuss the substance and level of detail of the analysis before it is written. Less complex cases may require an email that can be placed in the case file. More complex cases may require a formal memorandum.

The APA Economist and Team Leader should meet to review the preliminary issues analysis. After they have reviewed it, the APA Economist and Team Leader should provide it to their Branch Chiefs and, as necessary, arrange a meeting to discuss it. If at anytime during the case, significant differences of opinion exist between the APA Economist and Team Leader, they should promptly meet along with their respective Branch Chiefs to resolve their differences. Depending on the nature of the differences, either the APA Economist or the APA Team Leader summarizes the resolution for the case file.

#### *Case Development/Negotiations*

If the preliminary analysis could not be done initially, it should be done as soon as possible during this period. While the case is pending, the APA Economist works with the APA Team Leader and the other APA Team members to perform the necessary due diligence and analysis. In particular, the APA Economist consults with the APA Team Leader as necessary about the appropriate TPM and other case-related issues. The APA Economist and the Team Leader should document any significant analysis developed during the case. Similar to the preparation of the preliminary issues analysis, the APA Economist and Team Leader should discuss the format and depth of additional analysis before it is written. Significant changes from the preliminary issues analysis require written documentation for the case file, e.g., an email, new memorandum or, if appropriate, “supplemental” preliminary issues analysis.

#### *Quantitative Results*

In every case, the case file must contain the quantitative results of applying the recommended TPM, unless the necessary data is unavailable. In certain cases, the preliminary issues analysis and later analytical documentation may supply these results. If these results are not already sufficiently provided in the case file, the APA Economist needs to prepare a final case analysis, which contains them.

#### *Case File Contents – Economic Perspective*

The case file serves as a permanent record for the case. From an economic perspective it should contain:

- The preliminary issues analysis;
- The APA Economist’s development and final analysis of issues;

- The development process, where applicable and not included in the APA submission, for the sets of comparable companies or transactions used in the analysis, including:
  - Screening criteria;
  - A Table for Comparables Accepted and Rejected;
  - The count, median and interquartile ranges of unadjusted results;
  - The count, median and interquartile ranges of adjusted results;
- If asset intensity adjustments are not used in the case, the reasons why;
- The quantitative results of applying the recommended TPM.

*Recommended Negotiating Position, Associate Memo, and Director Memo*

The APA Team Leader has responsibility for drafting the case memoranda, e.g., Recommended Negotiating Position, Associate memo, and Director memo. The APA Economist's analysis throughout the case is used to support the APA Team's position in these documents. The APA Economist should assist the APA Team Leader as necessary in drafting the economic analysis for the case memoranda.