

**STATEMENT OF WYMAN ATWELL**  
**VICE PRESIDENT FOR INTERNATIONAL TAX**  
**WAL-MART STORES, INC.**  
**BEFORE THE**  
**INTERNAL REVENUE SERVICE**  
**APA PUBLIC HEARING**

**February 22, 2005**

**Opening Statement**

I am Wyman Atwell, Vice President for International Tax of Wal-Mart Stores, Inc. On behalf of Wal-Mart, I welcome the opportunity to participate in this series of hearings, which focus on the state of – and ideas for improving – the operation of the Advance Pricing Agreement program. As Wal-Mart has recently become a heavy user of the APA program, we have a high degree of interest in helping the IRS continue to improve the program.

I note that in just the last 30 days, we have:

- Concluded our first APA,
- Filed eight more, and
- By Friday we will file our ninth.

After introducing the scope of Wal-Mart's international retail operations, I will outline what we view as the strengths of the current APA program. In this context I will describe why the APA program is important to Wal-Mart, and why Wal-Mart continues to support the current program. I will conclude my remarks by offering a few suggestions as to how the APA program can be improved, in light of Wal-Mart's recent experiences.

## **Wal-Mart's International Operations**

Based in Bentonville, Arkansas, Wal-Mart is the world's largest retailer, with facilities in all 50 States and in 10 foreign countries. Wal-Mart became an international company in 1991, when a SAM'S Club opened near Mexico City. Just two years later, Wal-Mart International was created to oversee the growing opportunities for the company worldwide. Since then, Wal-Mart's International operations have enjoyed rapid growth and consumer acceptance.

Today the Company has 1,353 Wal-Mart stores, 1,713 Supercenters, 551 SAM'S Clubs and 85 Neighborhood Markets in the United States. Internationally, the Company operates units in Argentina (12), Brazil (149), Canada (262), China (43), Germany (91), South Korea (16), Mexico (695), Puerto Rico (54) and the United Kingdom (282). Wal-Mart also owns a 37.8% interest in Seiyu, Ltd., a leading Japanese retailer, which operates over 400 stores throughout Japan.

Worldwide, Wal-Mart employs more than 1.5 million associates, including over 1 million associates in the United States and more than 330,000 associates internationally. Wal-Mart's International operations, all combined, posted 2005 fiscal year-end sales of \$56.3 billion, an 18.3 percent increase over the previous year. Recently, as Wal-Mart's international operations have grown, so has the Company's use of the Advanced Pricing Agreement program.

## **Why the APA Program is Important**

We are committed to the APA program for three reasons: Certainty, timeliness and cost-savings.

### Important for reaching certainty

Wal-Mart's primary objective in entering the APA program is certainty and currency in administering our global tax obligations. We have found that certainty and currency are goals we share with tax authorities here and abroad. Several years ago, a tax examiner who was auditing one of our affiliates asked us if we would think about getting an APA for our intercompany transactions. Around the same time, we were already discussing how APAs could improve the efficiencies and currency of our U.S. examinations with the International Exam Team. When we considered the complexity of the issues involved, the number of jurisdictions and the alternatives, we simply do not know of any better way of achieving our objectives than through the APA program.

### Timely results

When we filed our first bilateral APA in July 2001 we were told that the process might take eighteen months to two years. We signed that APA last week. While in the end it did take longer than we expected, we appreciate that the APA Team Leader and our Consultants kept us apprised along the way about the reasons for the delays. I understand ours was a "first" in that it was Wal-Mart's first APA and the two governments' first big-box retailer – a learning experience for all of us, and we certainly did learn a lot – about transfer pricing and about the APA process. Nevertheless, a faster and less expensive APA process, more in line with our original expectations, would have made this a nearly perfect experience. Because previous speakers have addressed the systemic causes of delay in the APA process, I will not repeat them. Instead, I emphasize that we are generally pleased with the potential for timely results that the APA process provides. In fact, before our first APA was even concluded, we were asking about how to proceed with others.

### Cost effectiveness

Wal-Mart's enduring promise to our customers is "Everyday Low Prices – Always!" We can make that promise because our founder, Sam Walton, built our Company to be lean and focused on cost control. We call this "Everyday Low Cost". That means we are constantly reevaluating the status quo, trying to make it better and more efficient, in order to save costs.

Given that Wal-Mart's international operations span eleven sovereign government jurisdictions, when we consider the potential for costly Transfer Pricing discrepancies between these numerous jurisdictions, we believe that the APA process is the most cost effective approach to addressing and resolving such issues overtime.

Furthermore, since the new transfer pricing documentation requirements were first imposed in 1994, Wal-Mart, like many other taxpayers, spent substantial time and resources to determine the most appropriate transfer pricing methodologies and to maintain the documentation those methodologies required. We have reevaluated these previous efforts and compared them to our most recent proactive APA experiences, and we have concluded that in comparison, the APA approach is the most cost-effective.

### Suggestions for Improvement

While our overall experience with the APA program has been very positive, we do have a few practical suggestions to offer.

- **Consider creation of a "fast track" process for the simplest transactions.** While such a process could take many forms, the spirit of the idea is simple: not all APAs require the same degree of thoroughness and attention to data and detail. Perhaps a "short-form" equivalent process could be instated for the simplest APAs.

- **Consider adding industry-specific specialists to the APA program.** Previous commentators have suggested adding more section 482 experts to the APA teams. We would go one step further and suggest that the APA program cultivate more specialists with industry-specific knowledge. In our view, the APA program and processes would benefit if the program were enhanced to include its own industry-specific experts, whether from the Field, the Chief Counsel's office, or elsewhere.
- **Explore how APAs will interact with the CAP program.** Wal-Mart is one of the few companies participating in the CAP pilot program. There needs to be a concerted effort to integrate our companies' APAs into the CAP program. We suggest that exploration begin immediately to develop the capability to coordinate these two programs.
- **Address the current imbalance of resources committed to the APA program.** In our view, there is an imbalanced commitment of resources among the participants in the APA process. Foreign governments and taxpayers commit a greater amount of resources than the national APA program commits. For example, when APA program staff cannot travel as needed to adequately represent the United States in APA processes, while the representatives of foreign governments can travel, the playing field is not level due to a resource imbalance. Wal-Mart would be willing to support IRS efforts or other efforts to obtain the legislative changes necessary to correct this current resource imbalance.

## **Conclusion**

As I conclude my comments, I would like to take just a minute to mention our most recent experience with the APA program staff and to publicly thank them for their professionalism and attitude of service. When we phoned our contacts at the APA office last summer with some trepidation to ask about filing nine more APAs all at once, we were impressed at the positive response we received. We are encouraged by the spirit of service we have encountered with the APA program staff, and notwithstanding the challenges the program

faces, we have high expectations that the IRS and Congress will work together to improve the program structurally and fiscally.

I want to thank Treasury, the IRS, and the APA program staff for this opportunity to comment. Please know that we are prepared to assist fully the Office of the Chief Counsel as the IRS continues to consider the operation of the APA program.