

APA CASE MANAGEMENT PROCEDURES

as of September 1, 2008

Prefile Meetings¹

1. Taxpayers typically contact APA² management to arrange a prefile meeting.
2. APA management will assign the prefile to an APA Team Leader.
3. The Branch 2 Chief will assign an APA economist to the prefile, when appropriate; not every prefile meeting will involve an economist.
4. The APA Team Leader is responsible for working with the support staff to open an APA-P case file to record time and to maintain the case documentation.
5. The APA Team Leader is responsible for setting up the meeting with the taxpayer, contacting the IRS attendees (including the Field when the meeting is on a named basis), and ensuring that the taxpayer submits appropriate background information before the meeting.
6. See section 3 of Rev. Proc. 2006-9 for a discussion of prefile procedures.
7. The APA Team Leader is responsible for preparing a file memo memorializing the discussion at the prefile meeting.
8. Prefile meetings are an opportunity for the taxpayer to learn how the APA program operates and to get some preliminary views on how the APA Team might approach issues. Taxpayers should understand that any views are preliminary and do not reflect any significant analysis of the taxpayer's facts. It is appropriate to discuss the relevant user fee amount.

¹ In this document, the terms "meet" and "meeting" refer to contact in person, by videoconference, and/or by voice conference, as determined in light of travel budgets, schedule constraints, and the nature of the case.

² In this document, the term "APA" refers, depending on context, to an Advance Pricing Agreement or to the Advance Pricing Agreement Program within the Office of the Associate Chief Counsel (International).

9. APA-P cases should be closed once the taxpayer submits a user fee. Documentation associated with a closed APA-P case should be transferred to the APA file created for the associated case.
10. The APA Director will periodically review open APA-P cases and ask that cases open for more than 6 months without a subsequent user fee be closed. Any documentation associated with the case should be included in the closed APA-P file.

Dollar File Cases

1. Under section 4.07(2) of Rev. Proc. 2006-9, a taxpayer can file a user fee by the filing deadline for a taxable year and submit a substantially complete APA request within 120 days of the return due date (including extensions) for the first proposed APA year (a “dollar file case”). Many taxpayers avail themselves of this procedure.
2. Dollar file cases are assigned to the APA Director pending the full submission. The time that a case resides in dollar file status is not counted toward APA timeliness goals.
3. Rev. Proc. 2006-9 provides for extensions of the 120-day period, but only in unusual circumstances. The APA Director authorizes such extensions. The APA Director periodically reviews cases in the dollar file status and will return user fees and close the case file for taxpayers that do not meet the deadline for filing a substantially complete APA request. Closing the case file will cause the APA program to lose jurisdiction over any year for which the filing deadline has passed.

Processing the User Fee

1. The Secretary to the APA Director generally processes user fees and related documents (e.g., Form 2848 (Power of Attorney) and taxpayer representative’s letter) received by the APA Office. The Secretary prepares an APA Origination Form, which includes the case's Techmis subcategory (APA or APA-RN) and user fee code, and ensures that (a) copies of the APA Origination Form, the submitted Form 2848, and the taxpayer representative’s letter, and (b) the original user fee (copy retained by the APA Office) are hand-carried to the User Fee Office, CC:PA:T:CRU, Main IRS Bldg., Rm. 6561. The shared drive contains an electronic copy of the APA Origination Form.
2. If the taxpayer submits the user fee directly to the User Fee Office, the User Fee Office will fax the APA Office with the taxpayer’s name, the taxpayer

representative's letter, and the amount of the user fee. Within one business day, the APA Office will respond by fax to the User Fee Office with the APA Origination Form. If the User Fee Office did not already receive the Form 2848 and the taxpayer representative's letter with the user fee, the APA Office will also include the documents in its fax.

3. Upon receipt of the user fee and related documentation, the User Fee Office enters the related information into its user fee system and assigns a Techmis number to the case. After the User Fee Office transmits a printout of the Techmis number and case information, the Secretary to the APA Director prepares two case files, one for the APA Docket Room and the other for the assigned APA Team Leader.

Submitted APA Cases - Case Assignment

1. An APA submission is generally considered to be made on the date of the APA program's stamp on the submission.
2. After an APA Request is received, APA management will assign the case to an APA Team Leader. In general, subject to caseload and other considerations, the APA Team Leader who handled any prefile meeting will handle the full case.
3. Concurrent with the assignment of the APA Team Leader, APA management will assign an APA Economist, or determine that the APA Team Leader should work with the Branch 2 Chief to locate an appropriate IRS field economist.
4. The selection of the APA Team Leader and APA Economist will be made in accordance with the APA program's industry/issue specialization initiative.
5. APA management will assign a Reviewer to each case. The Reviewer will normally be the Team Leader's Branch Chief, except that review of cases handled within the APA program's industry/issue specialization initiative will normally be assigned to the Reviewer who coordinates the relevant industry/issue specialization group.

Forming the APA Team; Initial Consultations

1. Within 21 days of being assigned a case, the APA Team Leader should (i) review the APA submission to make an initial determination whether or not the submission is substantially complete and, if possible, to identify potential problem issues, (ii) take the initial steps in forming the APA Team (see the following paragraphs) and distributing the APA submission to the Team, (iii) determine, in consultation with the APA Reviewer and the APA Economist assigned to the

case, when the Team Leader and the APA Economist will review the submission in detail and begin to work the case (the “Start Date”), and (iv) contact the taxpayer’s representative to confirm the APA program’s receipt of the APA submission, the assignment of the Team Leader to the case, and the proposed Start Date.

2. The APA Office and LMSB have established procedures for requesting international examiners (“IEs”) for APA Teams. The APA Team Leader should use the list of International Referral Recipients (“IRR”) located on the IRS website to identify who in LMSB should receive the request for IE services. The site identifies where international referral requests are to be sent based on the taxpayer’s industry and the location of the taxpayer’s books and records.
3. The IRR listing can be found at http://lmsb.irs.gov/international/dir_compliance/compliance/contact.asp.
4. The APA Team Leader is to provide the IRR with the request for the IE and the name of the taxpayer and, if known, the location of the audit team by phone, fax, or encrypted e-mail. The APA Team Leader will serve as the IRR’s point of contact in the APA Office for the case. The IRR will forward the request to the appropriate International Team Manager (“ITM”) within five business days. Upon the receipt of the request, the ITM will assign an IE to the case and notify the APA Team Leader, who will then forward a copy of the APA submission to the IE.
5. If the APA Team Leader already knows of the IE assigned to the audit of the taxpayer before the APA Team is formed, the APA Team Leader may contact the IE to forward directly the APA request materials while simultaneously notifying the IRR of the coordination request.
6. If an IRR receives a request for an IE in an SBSE case, the IRR will forward it to the SBSE Compliance Area Director with jurisdiction over the taxpayer.
7. In a bilateral case, the APA Team Leader forwards a copy of the submission to the US Competent Authority manager responsible for the particular treaty partner. If a US Competent Authority analyst has not already been assigned to the case when the submission is forwarded, the APA Team Leader should also request the assignment of a US Competent Authority analyst to the case.
8. To secure the assignment of an LMSB Division Counsel attorney to the APA Team, the APA Team Leader contacts the Special Counsel (International) at the Washington, D.C. headquarters of the LMSB Division Counsel. The Special Counsel (International) will determine the appropriate LMSB Division Counsel attorney to assign to the APA Team, taking into consideration the location of the

international examiner and the experience of field counsel with the taxpayer or involved issues. Once a field attorney is identified, the APA Team Leader is responsible for opening a WLI for the Division Counsel office involved.

9. In complex cases (e.g., cases involving cost sharing, intangibles, services, or novel issues), the APA Team Leader should contact the Manager, LMSB International Technical Advisors, LM:PF:I, to determine whether or not the APA Team should include a technical advisor from that office.
10. Other APA Team members may be added at the suggestion of the IE.
11. If the taxpayer has prior years in Appeals with a related transfer pricing question, the appropriate appellate conferee should be invited to join the APA Team.
12. The Team Leader should record the APA Team's contact information on the shared drive.
13. After the APA Team is formed, the Team Leader should discuss case processing and scheduling with the Team, including the proposed Start Date and the timeframe for the first meeting. If the Start Date for the APA Team is materially different from the Start Date that the Team Leader discussed with the taxpayer's representative at the outset of the case (see 1. above), the Team Leader should communicate the new Start Date with the taxpayer's representative. At this time, the Team Leader might also discuss the timeframe for the first meeting. **The APA Team Leader should also remind the IRS Field Team that the Field Team is responsible for maintaining the statute of limitations for assessment on any rollback year or APA year.**

Initial Summary

1. Within thirty days of being assigned a case, the Team Leader should send the APA Director a draft email summarizing the case. This email should:
 - i) identify the taxpayer, the date of the submission, and the APA staff assigned;
 - ii) state whether the APA is unilateral or bilateral, and whether or not the APA is a renewal;
 - iii) briefly describe the proposed covered transactions, TPM, and term;
 - iv) certify whether the submission is substantially complete;

- v) identify the taxpayer's representatives; and
- (vi) state the proposed or agreed Start Date.

The APA Director will forward the email summary to all APA staff and, in the case of a bilateral submission, to the appropriate US Competent Authority manager.

2. If the Team Leader believes that the submission is not substantially complete, the Team Leader will discuss this matter with the Reviewer. If the Reviewer agrees, the Team Leader will notify the taxpayer of the deficiency, and further case processing will be delayed until the deficiency is remedied. In such a case, the time between when the taxpayer is notified and when the deficiency is remedied will be disregarded for purposes of all further target dates in the case.

Coordinating Technical Issues

1. If the APA request raises complex or novel international tax issues requiring technical coordination, the APA Team Leader is to brief APA management to determine whether requesting assistance from a technical branch in the Office of Associate Chief Counsel (International) is appropriate. The APA Team Leader will request his or her secretary to create a WLI for the branch providing the assistance.

First Meeting with the Taxpayer

1. The APA Team should strive to hold its first meeting with the taxpayer within 45 days of the Start Date. Before scheduling a first meeting more than 45 days after the Start Date, the APA Team Leader should consult with the Reviewer to explain the causes of the delay.
2. In advance of the first meeting, the APA Team must read and digest the submission. In the case of a renewal, the APA Team should also review the files for the previous APA, including annual reports. After reading the APA submission, the APA Team Leader and APA Economist should confer regarding their preliminary analysis of the economic, accounting, and legal aspects of the case and work together to produce the required written analysis. See the APA Economist Procedures for a description of the preliminary economic analysis, which is primarily the responsibility of the APA Economist. The APA Team Leader should be familiar with the APA Economist Procedures found on the APA intranet site under Section S of the Training Material.

3. The APA Team generally should hold at least one internal meeting in advance of the first meeting with the taxpayer. Often the APA Team will first confer by conference call and then meet the day before the meeting with the taxpayer.
4. Every effort should be made to make the first meeting as useful as possible. Before the first meeting, the APA Team should give the taxpayer a list of questions based on the submission, in time for the taxpayer to consider those questions in preparing for the meeting. In transmitting these questions, the Team Leader should request a response by a specific date, and should follow up periodically to ensure a timely response. Depending on the circumstances, the taxpayer's response date may be before, on, or after the date of the first meeting. Prior to sending the questions to the taxpayer, the APA Team Leader should consult with the Reviewer to determine what review of the outgoing questions is appropriate. The Reviewer may modify these review procedures as appropriate in specific cases.

Case Plans

1. Every APA must have a Case Plan tailored to the needs of the case and developed jointly with the taxpayer.
2. Before, during, or shortly after the first meeting, the APA Team and the taxpayer should agree on the Case Plan. The time scheduled in the Case Plan for completion of a unilateral APA or a negotiating position in a bilateral or multilateral case should take into account the scope and complexity of the particular case and the APA Team's workload. The Case Plan for a new APA should be based on a 12-month benchmark, with more complex cases possibly requiring more time. The Case Plan for a Small Business Taxpayer ("SBT") case and a routine APA renewal should generally require less time than a new APA, and the Case Plans for such cases may therefore warrant a timeframe shorter than the 12-month benchmark. When establishing a Case Plan, the APA Team Leader should consult with the APA Team and the Reviewer.
3. The Case Plan identifies issues raised by the APA Team's initial review of the APA request and sets dates for resolving all outstanding issues. It should include case milestones, such as: (a) submission of any necessary additional information by the taxpayer; (b) any planned site visits or interviews; (c) evaluation of the information by the Service; (d) meeting dates; and (e) presentation of the Competent Authority negotiating position or recommended agreement to the APA Director. To minimize delays caused by the need to coordinate different parties' schedules on short notice, the Case Plan is to include the time and place of future meetings required for any steps in the case. The Case Plan should build in 21 days for the Field's and the taxpayer's simultaneous review and an

additional 21 days for APA management's review of the final unilateral APA or the negotiating position in a bilateral or multilateral case. (In the case of a negotiating position, the taxpayer will review a redacted version as described under "Negotiating Position" below, which may take additional time to prepare.)

4. The Case Plan must be signed by the Reviewer and by an officer or other person who would be authorized to attest to an APA request or supplemental submission on behalf of the taxpayer under section 4.09 of Rev. Proc. 2006-9. The Case Plan should be saved on the shared drive, with signed copies provided to the Reviewer and the APA Director.
5. In some circumstances, development of the case will suggest to both the APA Team and the taxpayer that they adjust some milestone dates. To preserve flexibility, the APA Team and the taxpayer may amend the Case Plan by written mutual agreement. However, extensions to the completion date must be approved by the Reviewer. Such extensions will be agreed to only for good cause, and will be the exception, not the rule. Accordingly, before signing a Case Plan, both the APA Team and the taxpayer should carefully review the Case Plan to ensure that the case milestones are realistic and achievable, given the complexity of the case, the possible need for supplemental submissions, caseloads, and other factors that may delay case processing.
6. Because timely handling of an APA request is important to the efficient operation of the APA program, an APA Team Leader shall advise the Reviewer promptly of any event that will cause, or has caused, a material delay in the Case Plan. A possible amendment to the Case Plan should be considered at this time. **The APA Team Leader should also consult with the Field Team to determine whether or not the Field should seek an extension to the statute of limitations for assessment for any rollback year or APA year.** If the delay is caused by the taxpayer, depending on the circumstances, APA management will consider terminating the case.
7. If a case is not completed by the date specified in the operative Case Plan, the APA Team Leader and the taxpayer are to submit to the APA Director a joint status report (or separate status reports in the event of disagreement) explaining the substantive or procedural matters causing the delay and specifying how the parties propose to resolve the outstanding issues and complete the case within a reasonable time.
8. If the case is not completed by the new target date, the APA Team Leader is to schedule promptly a status conference with APA Program management, the APA Team, the taxpayer, and the taxpayer's representative. For convenience, some or all of the participants may participate by telephone. The purpose of the status

conference is to reach agreement on how the case will be resolved. The Associate Chief Counsel (International) may participate in this or subsequent conferences if the case is not resolved satisfactorily in a timely manner.

9. In a bilateral case subject potential arbitration under the treaty, the US Competent Authority analyst and the Reviewer should be consulted promptly if it appears that the negotiating position will not be prepared within 18 months of the date of the submission.

Working an APA Case

1. APA Team Leaders should keep the Reviewer informed on significant developments in their cases. In particular, APA Team Leaders should discuss with the Reviewer issues on which there is a significant difference of opinion involving the taxpayer, the Field Team, the US Competent Authority, or the economists.
2. APA Team Leaders are responsible for updating the case status codes as part of their weekly time reporting. The case status codes record whether the case is progressing according to the case plan, i.e., code 521, or that the case has stopped progressing for some reason, i.e., codes 522 - 529, 531, and 532.
3. The APA managers monitor the case status codes and use these as one tool to monitor case progress. APA Team Leaders should also discuss with the Reviewer ways to move the case forward.
4. After the US Competent Authority reaches a mutual agreement with a foreign Competent Authority for a bilateral APA, the bilateral APA should be promptly prepared.
5. APA economists submit case activity reports twice monthly to the Branch 2 Chief, one by the 15th and a second by the 30th of each month.

Shared Drive

1. All case-related documents must be located on the APA shared drive.
2. Each case should have a unique folder on the shared drive.
3. Within each case-specific folder, there should be at least two subfolders. One subfolder titled "Final Documents" is for the final APA documents, i.e., the APA, the negotiating position, the Director memo, and the Associate memo. A second subfolder titled "Economic Analysis" should contain all economic data.

APA Case File

1. The APA Team Leader maintains and closes the official APA case file, ensuring that the file contains the following documents and materials:
 - the APA request and related documents submitted by the taxpayer;
 - the case plan;
 - a file memorandum, or file note, for every meeting or significant telephone call;
 - copies of all outgoing correspondence, e.g., questions or information requests sent to the taxpayer;
 - the originals of all correspondence from the taxpayer or the Field, e.g., responses to questions or other information;
 - copies of e-mails that perform the function of a conference memo, document a decision, or transmit comments on a draft document;
 - copies of all analysis prepared by any APA or field economist;
 - copies of any assistance from a technical branch;
 - a copy of the Director memo;
 - a copy of the Associate memo
 - a copy of the signed negotiating position;
 - a copy of the redacted negotiating position;
 - a copy of the Mutual Agreement, including the cover letter(s);
 - a copy of the signed APA.
2. The official APA case file should not contain the original executed APA. The APA Team Leader should provide it to his/her secretary for safekeeping in the APA Docket Room.

Due Diligence for Filed APA Years

1. During the APA process, the taxpayer may file a tax return for one or more completed tax years of the APA term. As part of the APA Team's due diligence, the APA Team Leader should get information from the taxpayer on the application of the transfer pricing method to the filed year(s).
2. The APA Team Leader should include the information in the Director memo or the negotiating position so as to facilitate review and US Competent Authority consideration.
3. Some taxpayers have followed the practice of filing pro forma annual reports consistent with their submission during the APA process. For these taxpayers,

providing this information will involve little or no additional work. In an exceptional case (e.g., a complex profit split that the taxpayer does not currently follow), the taxpayer may not have the information readily available for inclusion in the Director's memo or negotiating position. APA Team Leaders should bring these exceptional cases to the attention of the Reviewer.

Negotiating positions

1. Negotiating positions are the recommended position of the APA program to the US Competent Authority on the most appropriate arm's length method taking into account the US Treasury Regulations, the appropriate treaty, and the US Competent Authority's experience with the relevant competent authority. Every negotiating position should contain the above language in the opening paragraph.
2. Negotiating positions are in the form of a memorandum from the APA Team Leader, APA Economist, and the Reviewer to the APA Director. At the end of the position paper is a signature block for the APA Director to sign and date, indicating approval.
3. The negotiating position should describe (i) the parties, (ii) the proposed term, (iii) the covered transactions, (iv) the taxpayer's proposal, (v) the APA Team's recommended position, (vi) the IRS Field's concurrence or remaining concerns regarding the recommended position, (vii) the US Competent Authority analyst's views on the recommended position, and (viii) the taxpayer's position on the recommended position and the APA Team's reasons for agreeing or disagreeing with the taxpayer's position. The negotiating position should provide a detailed explanation of the selection of any recommended comparables set and, as appropriate, a discussion of why the taxpayer's set was modified.
4. The negotiating position should contain a separate, detailed explanation of the APA Team's recommended position.
5. The purpose of the negotiating position is to provide a comprehensive background document for the US Competent Authority analyst. The negotiating position should contain all the factual information the analyst might need to negotiate the case, as well as the APA Team's analysis of those facts. The analyst will need the taxpayer's position as that position will have been communicated to the foreign competent authority and any material differences between the negotiating position and the taxpayer's proposal need to be explained. Tables comparing the taxpayer's position with the APA Team's position are often useful.

6. It is appropriate to include suggested negotiating strategies, issues that might be compromised, and alternative positions.
7. Under APA policy and only after consultation with the US Competent Authority analyst, the APA Team Leader provides a redacted copy of the negotiating position to the taxpayer. The redacted negotiating position should include the facts of the case and the recommended TPM. (Within the discretion of the APA Team Leader and the US Competent Authority analyst, additional information can be provided to the taxpayer to the extent that it does not undermine the Competent Authority process.) Redactions include the APA Team's proposed negotiating strategy, alternative positions, and any other sensitive information, including information (and any discussion that reflects the information) received from the foreign competent authority.
8. The Office of Associate Chief Counsel (International) considers information received from a foreign competent authority as confidential and protected by the applicable treaty provisions.
9. The redacted negotiating position should include information provided by the taxpayer regarding the foreign competent authority's views as factual information to be verified by the taxpayer. The redacted negotiating position must identify such information as having been received through the taxpayer.
10. The APA Team Leader should assume that the taxpayer will share any information provided by the APA Team with the foreign competent authority. The APA Team Leader should always provide a copy to the US Competent Authority analyst of any redacted negotiating position shared with the taxpayer.

Negotiating Position Review

1. Negotiating positions are reviewed by (i) the IRS Field, (ii) the economist, (iii) the taxpayer, (iv) the Reviewer, (v) the US Competent Authority analyst, (vi) the APA Director, and (vii) the Associate Chief Counsel (International).
2. A complete draft negotiating position should be sent out to the Field for a 21-day review period with a copy to the Reviewer and the US Competent Authority analyst. The economist will review the draft negotiating position before it is sent to the Field. The Field and the US Competent Authority analyst should concur or state any remaining issues to the APA Team Leader. Such concurrences can be in writing or by oral communication. The APA Team Leader should memorialize oral communication in a file memorandum.

3. A redacted draft negotiating position is reviewed by the US Competent Authority analyst and then sent to the taxpayer. Redactions are not to be shown in and must be removed from the copy provided to the taxpayer. Thus, the redacted copy should not have blacked-out or blank (whited-out) areas, and pages and sections should be renumbered as appropriate to reflect the deletions. The taxpayer should be given 21 days to provide written comments.
4. The final negotiating position, including the views of the Field, the taxpayer, and the US Competent Authority analyst, should be forwarded to the Reviewer with an anticipated one-week review period.
5. Along with the negotiating position, the APA Team Leader should include a brief memorandum summarizing the key elements of the negotiating position (the “Associate memo”). The summary is in the form of a memorandum from the APA Director, the Reviewer, and the APA Team Leader, to the Associate Chief Counsel (International).
6. The Associate memo should briefly describe the taxpayer, the taxpayer's business, the covered transactions, the proposed TPM, the taxpayer and Field positions, the views of the US Competent Authority analyst, and any interesting, controversial, or otherwise significant issue raised by the case. The last page should include a “Reviewed and Approved” signature line and a date line for the execution and records of the Associate Chief Counsel (International). Generally, the Associate memo is three to four pages in length; however, longer memos may be necessary in particular cases.
7. Once the Reviewer has approved the negotiating position and the Associate memo, the package is forwarded to the APA Director for review. The APA Team Leader should add to the review package an undated transmittal memorandum from the APA Director to the Director, Tax Treaty. The entire package should be in a yellow signature folder. The APA Director will then forward the Associate memo to the Associate and, after a discussion with the Associate, will sign the negotiating position and the transmittal memo.
8. The signed package is returned to the APA secretaries for forwarding to Competent Authority. The APA secretaries are responsible for transmitting the signed negotiating position to the US Competent Authority. The APA secretaries will also send a copy to key APA Team members, i.e., the IE, field economist, field counsel, an appellate conferee. The APA secretaries will work with the APA Team Leader to assure proper distribution to the APA Team.
9. The APA Team Leader is responsible for e-mailing a copy of the Associate memo to the professional APA staff.

10. Cases with signed negotiating positions should be in case status code 515, i.e. pending in Competent Authority, until a Competent Authority mutual agreement is reached.

Unilateral APA Review and Execution

1. Unilateral APAs are reviewed by (i) the Field, (ii) the economist, (iii) the taxpayer, (iv) the Reviewer, (v) the APA Director, and (vi) the Associate Chief Counsel (International).
2. A complete draft APA should be sent out to the Field for a 21-day review period with a copy to the Reviewer. The economist will review the draft APA before it is sent to the Field. The Field should concur or state any remaining issues to the APA Team Leader. The Field's concurrence can be in writing or by oral communication. Oral communications should be memorialized by the APA Team Leader in a file memorandum.
3. A draft APA is sent also to the taxpayer with a cover letter for a 21-day review period, explaining that the draft is subject to APA management review and approval.
4. Once the Field and the taxpayer have provided their views on the draft APA, the APA Team Leader submits a review package to the Reviewer. The review package includes (i) a detailed file memorandum (the "Director memo") and (ii) an Associate memo. The APA Team Leader should anticipate a one-week Reviewer review period.
5. The Director memo is a comprehensive discussion of the case that serves as the definitive case file memo. The Director memo is in the form of a memo from the APA Team Leader, the APA Economist, and the Reviewer to the APA Director. At the end of the position paper is a signature block for the APA Director to sign and date, indicating approval. The Director memo is similar to a negotiating position in that it includes a description of the (i) the parties, (ii) the term, (iii) the covered transactions, (iv) the taxpayer's initial position, (v) the agreed TPM, and (vi) the Field's concurrence or remaining concerns. The Director memo also explains why the APA is unilateral rather than bilateral. The Director memo should discuss all material issues analyzed during the case development. The Director memo is a critical document for review of annual reports filed in accordance with the APA, for any subsequent renewal, and for resolution of any issues arising under the APA. The Director memo should describe why the agreed TPM is the best method under the Treasury Regulations.

6. The Associate memo is in the form of a memo from the APA Director, the Reviewer, and the APA Team Leader to the Associate Chief Counsel (International). The Associate memo should briefly describe the taxpayer, the taxpayer's business, the covered transactions, the proposed TPM, the taxpayer and Field position, and any interesting, controversial, or otherwise significant issue raised by the case. The last page should include a "Reviewed and Approved" signature line and a date line for the execution and records of the Associate Chief Counsel (International). Generally, the Associate memo is three to four pages in length; however, longer memos may be necessary in particular cases.
7. The APA Team Leader need not prepare separate Director and Associate memos if the information required for both memos can be provided in a single memo that is no longer than four pages. If this page requirement is met, the APA Team Leader should prepare a single memo addressed to both the APA Director and the Associate Chief Counsel (International).
8. Once the Reviewer has approved the APA, the Director memo, and the Associate memo, the review package is forwarded to the APA Director in a yellow folder. The APA Director will forward the Associate memo to the Associate and, after a discussion with the Associate, will sign and date the Director memo to indicate approval and will return the signed Director memo to the Team Leader.
9. After receiving the signed Director memo, the Team Leader will promptly transmit two copies of the APA to the taxpayer to sign and return. After receiving the copies signed by the taxpayer, the APA Team Leader will present them to the APA Director for signature. The Team Leader will then return one executed copy to the taxpayer, along with an APA survey form. The case will be deemed "closed" as of the date of the second signature on the signed APA, which will ordinarily be the APA Director's signature.
10. The APA Team Leader is responsible for e-mailing a copy of the final Associate memo to the professional APA staff.

Bilateral APA Review

1. Bilateral APA review is largely similar to unilateral APA review. The following are the key differences.
2. Bilateral APAs are not sent to the Field for comment. Thus, bilateral APAs are reviewed by (i) the taxpayer, (ii) the Reviewer, (iii) the APA Director, and (iv) the Associate Chief Counsel (International). If an APA Economist was assigned to the case, the bilateral APA should also be reviewed by the APA Economist.

3. The bilateral APA review package sent to the Reviewer includes (i) the APA, (ii) the negotiating position, (iii) the mutual agreement, (iv) the Director memo, and (v) the Associate memo.
4. The Director memo for bilateral APAs does not need to restate the information contained in the negotiating position. The purpose of the Director memo is to describe in detail any differences between the final APA and the negotiating position. If there are no differences, the Director memo states there are no differences.
5. The Associate memo, in addition to the information required for a unilateral APA, should describe any differences between the final APA and the negotiating position. It should also include a statement regarding whether the Field concurred or objected to the negotiating position, e.g., “The Field concurred with our negotiating position in this case,” or “The Field concurred with our negotiating position in this case except with respect to [x], where the Field took the view that [x] should be [y] because of [z]. We considered the Field’s position but thought [x] was appropriate for the reasons stated in our negotiating position. The Competent Authority mutual agreement ultimately resolved this issue by agreeing to [aa].”

Cycle Time

1. The Director Memo, Associate Memo, and negotiating position should include a “Cycle Time” paragraph that outlines the history of the case in a few sentences, e.g., “The APA was received [April 7, 2002]; the RNP was completed on [March 23, 2003]; and the Mutual Agreement was signed [July 11, 2004].” If there was an unusual delay at any stage, the APA Team Leader should add a sentence or two explaining that as well, e.g., “Completion of the RNP was delayed mostly because the taxpayer was acquired by another company on such-and-such date and the taxpayer’s Finance Director, responsible for the APA, was replaced.”

Case Closing Procedure

1. On receiving the executed APA from the taxpayer, the APA Team Leader will complete the APA annual statutory report survey form and close the case file within one month.
2. The APA Team Leader is responsible for reviewing the case file to ensure it is complete. The complete file, together with the APA annual statutory report survey form, is given to the secretary.

3. The secretary prepares transmittal letters to the LMSB Division Counsel attorney and the appropriate LMSB International Territory Manager (ITM). If no LMSB Division Counsel attorney is assigned to the APA Team, the transmittal letter is addressed to the LMSB Area Counsel with geographic jurisdiction of the case. These letters include a list of the relevant APA Team members, i.e., field counsel for the Division Counsel letter and the IE and other IRS personnel for the ITM letter. This information can be found in the APA annual statutory report survey form.
4. The secretary sends a copy of the executed APA together with an APA questionnaire to the taxpayer.
5. The secretaries will prepare the case closing form, which is signed by the APA Team Leader and the Reviewer. The secretaries will close the case on CASE-MIS and file the closed case file in the Docket Room. A copy of the executed APA is included in the closed case file, while the original executed APA is filed separately in the APA docket room.

Case File Retention

1. The APA Office holds the APA case file in its Docket Room until 18 months after the closure of the last APA-R case associated with the review of the last APA Annual Report associated with the APA case. The APA Office then forwards the case file to Suitland, MD, with instructions to retain the file for 30 years from the closing date of the file.