



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.60.3

SEPTEMBER 8, 2025

EFFECTIVE DATE

(09-08-2025)

PURPOSE

- (1) This transmits revised IRM 4.60.3, International Procedures, Tax Treaty Related Matters.

MATERIAL CHANGES

- (1) IRM 4.60.3.1, Program Scope and Objectives - Added Contact Information paragraph.
- (2) IRM 4.60.3.1.3, Roles and Responsibilities - Updated Roles and Responsibilities.
- (3) IRM 4.60.3.1.4, Program Management and Review - Added content per IRM 1.11.2.2.4(4) and moved original content to IRM 4.60.3.1.6.
- (4) IRM 4.60.3.1.5, Program Controls - Added subsection per IRM 1.11.2.2.4(4).
- (5) IRM 4.60.3.1.6, Terms/Definitions/Acronyms - Added subsection with original content from IRM 4.60.3.1.4.
- (6) IRM 4.60.3.1.7, Related Resources - Added subsection per IRM 1.11.2.2.4(4).
- (7) IRM 4.60.3.2.6, U.S. Competent Authority's Documentation of a MAP Case – Removed paragraph (6) from the subsection and made other minor changes.
- (8) IRM 4.60.3.2.19, Advance Pricing Agreement (APA) Overview - Subsection was removed and content was moved to IRM 4.60.3.3.1.
- (9) IRM 4.60.3.2.20, APMA's Role in APA Process - Subsection was removed and content was move to IRM 4.60.3.3.2
- (10) IRM 4.60.3.2.21, CBA and TPP's Role in APA Process - Subsection was removed and content was moved to IRM 4.30.3.3.5.
- (11) IRM 4.60.3.2.22, Discretionary Limitation of Benefits (LOB) Requests - Subsection was removed and content was moved to IRM 4.60.3.4.
- (12) IRM 4.60.3.2.23, U.S. Competent Authority's Role in LOB Requests - Subsection was removed and content was moved to IRM 4.60.3.4.1.
- (13) IRM 4.60.3.2.24, Triennial Statement - Subsection was removed and content was moved to IRM 4.60.3.4.2.
- (14) IRM 4.60.3.3, Rev. Proc. 99-32 - The original content in this subsection was moved to IRM 4.60.3.5. This subsection was retitled Competent Authority and Advance Pricing Agreements (APAs) and was added to provide a summary of the information provided in this subsection.
- (15) IRM 4.60.3.3.1, Purpose - The original content in this subsection was moved to IRM 4.60.3.5.1. Original content from IRM 4.60.3.2.19 replaced this subsection and subsection was retitled Advance Pricing Agreement (APA) Overview.

- (16) IRM 4.60.3.3.2, General - The original content in this subsection was moved to 4.60.3.5.2. Original content from IRM 4.60.3.2.20 replaced this subsection and subsection was retitled APMA's Role in APA Process. Updated to include Geographic Practice Areas (GPA) and Pass-Through Entities (PTE) examiners in the process.
- (17) IRM 4.60.3.3.3, Procedures - The original content in this subsection was moved to IRM 4.60.3.5.3. Title of subsection was changed to Pre-filing Memorandum Review and content was added from Interim Guidance Memorandum LB&I-04-0423-0006, Interim Guidance on Review and Acceptance of Advance Pricing Agreement (APA) Submission, dated April 25, 2023, to provide details on when a taxpayer should submit a pre-filing memorandum.
- (18) IRM 4.60.3.3.3.1, Joint Committee Cases - Subsection was removed and content was moved to IRM 4.60.3.5.3.1.
- (19) IRM 4.60.3.3.3.2, Tax Avoidance Cases - Subsection was removed and content was moved to IRM 4.60.3.5.3.2.
- (20) IRM 4.60.3.3.3.3, Unagreed and Miscellaneous - Subsection was removed and content was moved to IRM 4.60.3.5.3.3.
- (21) IRM 4.60.3.3.4, APA Request Review and Acceptance - Added content from Interim Guidance Memorandum LB&I-04-0423-0006, Interim Guidance on Review and Acceptance of Advance Pricing Agreement (APA) Submission, dated April 25, 2023, to provide the process for reviewing an APA request when received.
- (22) IRM 4.60.3.3.5, CBA and TPP's Role in the APA Process - Subsection was added with contents from IRM 4.60.3.2.2.21. The term field member was replaced with CBA revenue agent and TPP tax law specialist. Other minor changes were made to the content of this subsection.
- (23) IRM 4.60.3.3.6, Examination (GPA or Pass-Through Entities (PTE)) Team's Role in the APA Process - Subsection was added to expand the definition of field members to include GPA and PTE examiners.
- (24) IRM 4.60.3.4, Correlative Taxpayers - IRC 482 - The original content in this subsection was moved to IRM 4.60.3.6. Original content from IRM 4.60.3.2.22 replaced this subsection and subsection was retitled Discretionary Limitations on Benefits (LOB) Requests.
- (25) IRM 4.60.3.4.1, Examination Procedures - The original content in this subsection was moved to IRM 4.60.3.6.1. The content from IRM 4.60.3.2.23 replaced this subsection and this subsection was retitled TAIT's Role in LOB Requests. The term U.S. Competent Authority was replaced with TAIT in the title and in the content.
- (26) IRM 4.60.3.4.1.1, Processing Agreed Cases - Subsection was removed and original content in this subsection was moved to IRM 4.60.3.6.1.1.
- (27) IRM 4.60.3.4.1.2, Processing Unagreed Cases - Subsection was removed and original content in this subsection was moved to IRM 4.60.3.6.1.2.
- (28) IRM 4.60.3.4.2, Triennial State - Added subsection with content moved from IRM 4.60.3.2.24.
- (29) IRM 4.60.3.5, Rev. Proc. 99-32 - Added subsection with content moved from IRM 4.60.3.3. Related subsections that were added:
 - a. IRM 4.60.3.5.1, Purpose - The content in this subsection was moved from IRM 4.60.3.3.1.
 - b. IRM 4.60.3.5.2, General - The content in this subsection was moved from IRM 4.60.3.3.2.
 - c. IRM 4.60.3.5.3, Procedures - The content in this subsection was moved from IRM 4.60.3.3.3.
 - d. IRM 4.60.3.5.3.1, Joint Committee Cases - The content in this subsection was moved from IRM 4.60.3.3.3.1.

- e. IRM 4.60.3.5.3.2, Tax Avoidance Cases - The content in this subsection was moved from IRM 4.60.3.3.3.2.
 - f. IRM 4.60.3.5.3.3, Unagreed and Miscellaneous - The content in this subsection was moved from IRM 4.60.3.3.3.3.
- (30) IRM 4.60.3.6, Correlative Taxpayers - IRC 482- Added subsection with content moved from IRM 4.60.3.4. Related subsections that were added:
- a. IRM 4.60.3.6.1, Examination Procedures - The content in this subsection was moved from IRM 4.60.3.4.1
 - b. IRM 4.60.3.6.1.1, Processing Agreed Cases - The content in this subsection was moved from IRM 4.60.3.4.1.1
 - c. IRM 4.60.3.6.1.2, Processing Unagreed Cases - The content in this subsection was moved from IRM 4.60.3.4.1.2
- (31) Exhibit 4.60.3-1, Terms/Definitions/Acronyms - Updated table for additions and changes to the various terms, definitions, and acronyms used throughout the IRM.
- (32) Exhibit 4.60.3-2, Procedures for Pre-filing Review - Added content from Interim Guidance Memorandum LB&I-04-0423-0006, Interim Guidance on Review and Acceptance of Advance Pricing Agreement (APA) Submission, dated April 25, 2023, to detail the procedures to follow for a pre-filing memorandum review.
- (33) Exhibit 4.60.3-3, Procedures for APA Review - Added content from Interim Guidance Memorandum LB&I-04-0423-0006, Interim Guidance on Review and Acceptance of Advance Pricing Agreement (APA) Submission, dated April 25, 2023, to detail the procedures to follow for an APA submission review.
- (34) Various editorial changes throughout the IRM for clarification. Reviewed and updated grammar, plain language, titles, website links, and other editorial changes.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 4.60.3, International Procedures, Tax Treaty Related Matters dated September 13, 2021, and incorporates Interim Guidance Memorandum LB&I-04-0423- 0006, Review and Acceptance of Advance Pricing Agreement (APA) Submissions, dated April 25, 2023.

AUDIENCE

All LB&I personnel.

Ronald H. Hodge II
Assistant Deputy Commissioner Compliance Integration
Large Business and International Division

4.60.3

Tax Treaty Related Matters

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4.60.3.1
(09-08-2025)
**Program Scope and
Objectives**

- (1) **Purpose:** The purpose of this IRM is to provide guidance on the Mutual Agreement Procedure (MAP) process and the responsibilities of the U.S. Competent Authority.
- (2) **Audience:** The intended audience is all LB&I personnel.
- (3) **Policy Owner:** LB&I Policy under the Strategy, Policy & Governance (SPG) office within Assistant Deputy Commissioner Compliance Integration (ADCCI) and Director, Treaty and Transfer Pricing Operations (TTPO).
- (4) **Program Owner:** TTPO.
- (5) **Primary Stakeholders:** LB&I personnel.
- (6) **Contact Information:** To recommend changes or to make any other suggestions to this IRM, contact the IRM author or see SPDER's IMD Contacts list by referencing guidelines provided in IRM 1.11.6.5, Providing Feedback About an IRM Section - Outside of Clearance. A request or inquiry can also be made at the *LB&I Policy Office Gateway*.

4.60.3.1.1
(09-13-2021)
Background

- (1) The Mutual Agreement Procedure (MAP) articles of U.S. tax treaties and tax coordination agreements grant taxpayers the right to request the assistance of the appropriate competent authority specified in the treaty or agreement when the taxpayer believes that the actions of the United States or the applicable U.S. treaty partner or U.S. territory result or will result in the taxpayer being subject to taxation not in accordance with the applicable treaty or tax coordination agreement. This situation typically arises from U.S. or foreign initiated adjustments resulting from an examination but can arise from other U.S. or foreign initiated actions.

4.60.3.1.2
(09-13-2021)
Authority

- (1) Generally, the MAP articles of U.S. tax treaties and tax coordination agreements provide the authority for taxpayers to request, and competent authorities to provide, relief from taxation not in accordance with a tax treaty or tax coordination agreement. The U.S. Competent Authority procedural authority is provided by Treasury Order 150-10 and IRS Delegation Order 4-12 Rev. 4, Authority to Act as Competent Authority or Taxation Authority Under Certain International Agreements, Authorize the Disclosure of Tax Information Under Mutual Legal Assistance Treaties, and Disclose Certain Tax Convention Information (see also, IRM 1.2.2.5.11, Delegation Order 4-12 (Rev. 4)).

4.60.3.1.3
(09-08-2025)
**Roles and
Responsibilities**

- (1) The Director, TTPO, is responsible for the policies and procedures discussed in this IRM.
- (2) The Advance Pricing and Mutual Agreement (APMA) director is responsible for overseeing the activities of the U.S. Competent Authority as carried out by APMA managers and employees in relation to the MAP, advance pricing agreement (APA), and discretionary limitation on benefits (LOB) request processes per the procedures in this IRM.
- (3) An APMA assistant director (AD) is responsible for overseeing team and employee handling of MAP, APA, and discretionary LOB requests per the procedures in this IRM. An APMA AD, among other responsibilities, reviews the recommendations of APMA frontline managers (FLMs), determines whether to recommend accepting or declining an APA request, and elevates recommendations to decline an APA request to the APMA director for concurrence.

- (4) An APMA FLM is responsible for overseeing employee handling of MAP, APA, and discretionary LOB requests per the procedures in this IRM. An APMA FLM, among other responsibilities, reviews APA pre-filing memoranda and MAP, APA, and discretionary LOB requests and makes recommendations regarding those requests.
- (5) APMA employees, including APMA team leaders and Treaty Assistance and Interpretation Team (TAIT) competent authority analysts, handle MAP, APA, and discretionary LOB requests per the procedures in this IRM.
- (6) Transfer Pricing Practice (TPP) economists may be included on an APA team to assist with an APA request; the exact scope of participation will depend on the specifics of the case and on coordination and collaboration between APMA and TPP team member management.
- (7) TPP tax law specialists may be included on an APA team to assist with an APA request; the exact scope of participation will depend on the specifics of the case and on coordination and collaboration between APMA and TPP team member management.
- (8) Cross Border Activities (CBA) revenue agents may be included on an APA team to assist with an APA request; the exact scope of participation will depend on the specifics of the case and on coordination and collaboration between APMA and CBA team member management.
- (9) Geographic Practice Area (GPA) and Pass-Through Entity (PTE) examination team members participate in most phases of the APA process after APMA has accepted a taxpayer's APA request, primarily by executing consent agreements, as necessary, to extend the period of limitations for assessment and collaborating with APMA to monitor statutes.

4.60.3.1.4
(09-08-2025)
**Program Management
and Review**

- (1) TTPO practice area directors prepare periodic briefing reports for the LB&I Commissioner on the MAP process, covering:
 - a. Significant accomplishments and opportunities for improvement
 - b. Changes in procedures that have been implemented
 - c. Operational, technical, and staffing updates
 - d. Any other key information

4.60.3.1.5
(09-08-2025)
Program Controls

- (1) The relevant TTPO directors, including the Director of Field Operations (DFO), Director, TPP, and the Director, APMA Program, report to the TTPO practice area director on a continual basis.
- (2) TTPO directors identify goals and objectives to be achieved by their organizations based on annual commitments of LB&I priorities.

4.60.3.1.6
(09-08-2025)
**Terms/Definitions/
Acronyms**

- (1) See Exhibit 4.60.3-1, Terms/Definitions/Acronyms, for a list of commonly used acronyms and terms in this IRM.

4.60.3.1.7
(09-08-2025)
Related Resources

- (1) IRM 4.46.6, LB&I Examination Process, Workpapers and Reports Resources
- (2) IRM 4.60.1, Exchange of Information
- (3) IRM 4.60.2, Mutual Agreement Procedures and Report Guidelines
- (4) IRM 21.8.2.12.2.2, Claims for Tax Withheld at Source

4.60.3.2
(09-13-2021)
**Competent Authority
and the Mutual
Agreement Procedure
(MAP)**

- (1) MAP, undertaken by the U.S. Competent Authority, provides taxpayers a means to secure relief from the actions of the United States or a treaty country that result or will result in the taxpayer being subject to taxation not in accordance with the applicable U.S. tax treaty. Rev. Proc. 2015-40 (or successor guidance) sets forth the procedures that taxpayers should follow to request assistance from the U.S. Competent Authority, acting through APMA, which includes TAIT.

4.60.3.2.1
(09-13-2021)
**U.S. Competent
Authority's Role - U.S.
Initiated Adjustments**

- (1) For competent authority issues that arise from an examination conducted by the IRS, the U.S. Competent Authority will not accept a competent authority request before the IRS has communicated the amount of the proposed adjustment to the taxpayer in writing (e.g., by issuing Form 5701, Notice of Proposed Adjustment or Form 4549, Report of Income Tax Examination Changes).
- (2) The U.S. Competent Authority sends a request to the appropriate international referral recipient (IRR) to have an examiner assigned to the case and informs the examiner of any significant differences between the U.S. Competent Authority's proposed negotiating position and Examination's position.
- (3) The U.S. Competent Authority secures a MAP report from Examination. A MAP report contains factual and technical information on an adjustment that the U.S. Competent Authority may use to discuss the issue with a treaty partner and to develop a negotiating position for the issue. More information on the MAP report can be found in IRM 4.46.6, LB&I Examination Process, Workpapers and Reports Resources.
- (4) The U.S. Competent Authority presents a position paper to the foreign competent authority. A position paper states the U.S. Competent Authority's recommended course of action for a MAP request. The U.S. Competent Authority endeavors to provide an initial position paper to the foreign competent authority within six months of receipt from the taxpayer of all information necessary to analyze the case. This timeline may be updated as needed based on the facts and circumstances of a particular case.
- (5) The U.S. Competent Authority's position paper contains:
 - a. The legal name, address, and taxpayer identification number(s) of the taxpayer requesting assistance;
 - b. The taxpayer's related persons in the other country, if applicable, and the basis for determining the association;
 - c. The contact details of the TAIT competent authority analyst or APMA team leader assigned to the case;
 - d. An overview of the issue, transactions, business, and basis for adjustment;
 - e. The applicable taxable years;
 - f. The amount of income and tax adjusted for each taxable year, if applicable;

- g. A summary of relevant information from the original tax return, if applicable;
- h. A description of the exact nature of the issue or adjustment and the relevant domestic laws and treaty articles;
- i. If relevant, calculations with supporting data (may include financial and economic data and reports relied upon and explanatory narratives as well as taxpayer documents and records where relevant and appropriate); and
- j. In transfer pricing cases, an outline of comparable transactions and methods for adjusting differences, a description of the methodology employed for the adjustment, and an explanation of the appropriateness of the transfer pricing methodology employed for the adjustment (e.g., an explanation as to why the adjustment achieves an arm's length outcome; identification of tested party, if applicable; industry and functional analysis, if a relevant study is not already included elsewhere in the taxpayer's request).

4.60.3.2.2
(09-13-2021)

**U.S. Competent
Authority's Role -
Foreign Initiated
Adjustments**

- (1) For competent authority issues that arise from a foreign initiated action, the U.S. Competent Authority requests a position paper from the foreign competent authority to evaluate the request. The U.S. Competent Authority then presents the U.S. position paper to the foreign competent authority.
- (2) The U.S. Competent Authority endeavors to respond to the foreign competent authority (in writing or verbally) within six months of receipt of the foreign competent authority's initial position paper. This timeline may be updated based on the facts and circumstances of a particular case.
- (3) The U.S. Competent Authority typically engages in consultations with the foreign competent authority to determine the amount of correlative relief, if any, that should be granted. If the U.S. Competent Authority is satisfied that the foreign initiated action is justified, correlative relief may be granted without a consultation.
- (4) The U.S. Competent Authority requests an evaluation of the issue(s) from Examination, if necessary. An evaluation provides Examination's opinion about adjustments proposed by a foreign tax authority. Evaluations are not typically requested for recurring issues or small adjustments.

4.60.3.2.3
(09-13-2021)

**U.S. Competent
Authority's Coordination
with Examination**

- (1) When a competent authority request or issue arises from an open examination proceeding, the U.S. Competent Authority forwards a copy of the MAP request to the appropriate IRR, with a copy to the IRR's territory manager.
- (2) When a competent authority request or issue did not arise from an open examination proceeding, Examination has notice that the U.S. Competent Authority has jurisdiction over the related competent authority issue affecting a tax return by the competent authority analyst or team leader entering a 'TC 971 AC 080' activity code on the taxpayer account in the Master File for the return year (i.e., this activity code indicates the return(s) has an accepted, unresolved/open competent authority request associated with it). The U.S. Competent Authority analyst or team leader makes a request to add this activity code by using Form 3177, Notice of Action for Entry on Master File. See IRS Document 6209 (IRS Processing Codes and Information), Section 8C (Master File Codes) Subsection 9 (TC 971 Action Codes) for additional information.

- (3) Additional information on the coordination between the U.S. Competent Authority and Examination can be found in IRM 4.60.2, Mutual Agreement Procedures and Report Guidelines.

4.60.3.2.4
(09-13-2021)

U.S. Competent Authority's Coordination with a Foreign Competent Authority

- (1) The U.S. Competent Authority notifies the foreign competent authority in the affected treaty country of the MAP request.
- (2) The U.S. Competent Authority notifies and (where appropriate) consults with the foreign competent authority before deciding to accept or decline a MAP request.
- (3) The U.S. Competent Authority consults with the foreign competent authority, as necessary, to discuss or clarify specific issues throughout the MAP process. All such discussions are documented in the case file to provide a historical summary for ease of case administration and for record-keeping purposes.
- (4) The U.S. Competent Authority negotiates the case with the foreign competent authority or U.S. territory tax authority. The U.S. Competent Authority engages in discussions with other competent authorities in a principled, fair, and objective manner, with each case being decided on its own merits and not by reference to any balance of results in other cases.

4.60.3.2.5
(09-13-2021)

U.S. Competent Authority's Coordination with the Taxpayer

- (1) The U.S. Competent Authority communicates with taxpayers to provide an opportunity to correct or remedy any deficiencies in the MAP request or subsequent submissions during the MAP process.
- (2) The U.S. Competent Authority provides a status update to U.S. taxpayers (via telephone, email, or letter) after each substantial MAP discussion and at the conclusion of the case. The update does not provide details of the government-to-government discussions, which are generally protected from disclosure under the applicable U.S. tax treaty or coordination agreement and IRC 6105 . Rather, the update gives the taxpayer a general sense of the direction of its case, and if possible, an estimation of the time needed to resolve the case.

4.60.3.2.6
(09-08-2025)

U.S. Competent Authority's Documentation of a MAP Case

- (1) The U.S. Competent Authority tracks the case status on the Issue Management System (IMS) and, if applicable, coordinates with the foreign competent authority to track the case milestones (start date, milestone 1 (if applicable), end date, and outcome) for the Organisation for Economic Co-operation and Development (OECD) MAP statistics reporting framework purposes. The U.S. Competent Authority reports its MAP statistics in accordance with the OECD reporting framework requirements no later than May 31 of the following calendar year, for publication on the *OECD website*. See Organisation for Economic Co-Operation and Development, BEPS Action 14 on More Effective Dispute Resolution Mechanisms (2023) for additional information.
- (2) The U.S. Competent Authority staff submits all documentation requiring the signature of the U.S. Competent Authority for review by the TAIT or APMA manager(s) supervising the MAP case and by the U.S. Competent Authority or their delegate. This review process is necessary to confirm the U.S. Competent Authority's review and approval of formal communications to other competent authorities, U.S. Competent Authority position papers, disposition memoranda, and MAP case closing letters to taxpayers and foreign competent authorities.

- (3) Upon the taxpayer's acceptance or rejection of the terms of a tentative competent authority resolution, the U.S. Competent Authority proceeds to formally close the case.
- (4) The U.S. Competent Authority prepares a disposition memorandum, which is forwarded to the appropriate IRR (or Examination office in some circumstances), with a copy to the IRR's territory manager, for implementation. A disposition memorandum is prepared for all MAP cases. The disposition memorandum is signed by the U.S. Competent Authority or their delegate. Both Examination and the taxpayer are responsible for implementing the terms of the resolution set out in the disposition memorandum. To the extent authorized under the applicable tax treaty, the competent authority resolution is implemented even if such implementation otherwise would be barred by an applicable domestic period of limitations or other procedural limitation. In certain circumstances, the IRS may request the taxpayer to execute a closing agreement reflecting the terms of the competent authority resolution.
- (5) The U.S. Competent Authority prepares and transmits closing letters summarizing the MAP agreement to the taxpayer and the foreign competent authority. The U.S. Competent Authority and the foreign competent authority exchange closing letters confirming the terms of the MAP agreement. In cases where the taxpayer is eligible for a refund of U.S. tax pursuant to the MAP agreement, the taxpayer may be required to submit an original or amended U.S. income tax return to claim the refund. The closing letter to the taxpayer provides implementation instructions, including, but not limited to, the address where the taxpayer should mail an original or amended U.S. income tax return to claim a refund of U.S. tax pursuant to a MAP agreement. A copy of the U.S. Competent Authority closing letter to the taxpayer must be attached to any U.S. income tax returns filed pursuant to the MAP agreement.

4.60.3.2.7
(09-13-2021)
MAP Case Timeline

- (1) The U.S. Competent Authority endeavors to resolve a MAP case within two years from the date of acceptance of the taxpayer's MAP request. This timeline may be updated depending on the facts and circumstances of a particular case.
- (2) The U.S. Competent Authority also aims to consider a MAP case as efficiently as possible. During a MAP case, the U.S. Competent Authority may request information from a foreign competent authority. Before requesting information from a foreign competent authority, the U.S. Competent Authority will first exhaust domestically available information. To facilitate efficient communication, the U.S. Competent Authority engages in secure, electronic communication when possible, consistent with cybersecurity and privacy policies and considerations. When possible, the U.S. Competent Authority attempts to negotiate and resolve MAP cases prior to face-to-face meetings with foreign competent authorities.
- (3) For a MAP case that has exceeded, or is likely to exceed, a reasonable amount of time, delegates of the U.S. Competent Authority and the foreign competent authority may undertake a review of the case to determine the reasons for the delay and agree on an approach to ensure the efficient completion of the case.

4.60.3.2.8
(09-13-2021)
Arbitration

- (1) If the U.S. Competent Authority and a foreign competent authority do not reach a competent authority resolution, the MAP case may be eligible for resolution through arbitration under the terms of the applicable U.S. tax treaty. In treaties with arbitration provisions, the MAP article requires that the competent authorities refer certain MAP cases to mandatory arbitration in the event direct consultation does not lead to a competent authority resolution within a prescribed amount of time. The MAP article in these treaties sets forth detailed procedures regarding the resolution of cases that are eligible for arbitration as prescribed by the relevant treaty. Section 10 of Rev. Proc. 2015-40 (or successor guidance) addresses general procedural issues associated with mandatory arbitration. See the *Competent Authority Arrangements website* for the arbitration board operating guidelines for various countries.

4.60.3.2.9
(09-13-2021)
**Coordination with
Litigation**

- (1) In general, the U.S. Competent Authority will not accept or continue to consider a taxpayer's competent authority request regarding any competent authority issue and taxable period designated for litigation with respect to the same taxpayer, or any competent authority issue and taxable period that are pending in a U.S. federal court and that were under IRS Appeals jurisdiction with respect to the same taxpayer before the commencement of the litigation (see generally Rev. Proc. 2015-40, sections 6.04 and 7.02(3)(d)).
- (2) In other cases where a taxpayer has made a competent authority request with respect to a taxable period involved in pending litigation concerning the federal tax liability of the taxpayer, the U.S. Competent Authority may accept, or continue to consider, the competent authority request after consulting with the Associate Chief Counsel (International).
- (3) During the competent authority process, a taxpayer may be asked to join the IRS in a motion to sever any competent authority issues, delay trial, or stay proceedings pending the outcome of the taxpayer's competent authority case. A taxpayer may file a competent authority request with respect to a U.S. federal court's final determination of its tax liability, but only for the purpose of seeking correlative relief from a foreign competent authority. Such final determinations include litigation settlements with the Office of Chief Counsel or the Department of Justice. See Rev. Proc. 2015-40, section 6.05 (or successor guidance) for additional information.

4.60.3.2.10
(09-13-2021)
Withholding Tax Issues

- (1) If applicable, in cases with U.S. withholding tax at issue, the U.S. Competent Authority confirms amounts of U.S. tax withheld by requiring the taxpayer to furnish Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding or, if necessary, other documentation (e.g., bank statements) verifying

4.60.3.2.11
(09-13-2021)
**Multilateral MAP
Requests**

- (1) Competent authority assistance may be available in cases of multilateral disputes involving three or more treaty countries. To proceed with a multilateral MAP request, the competent authorities of all affected treaty countries must accept the case.

#

4.60.3.2.12
(09-13-2021)

Informal Consultations

- (1) TAIT and APMA are available for informal consultations with taxpayers (including consultations in which the taxpayer chooses to be anonymous) regarding any competent authority issue. Informal consultations may be conducted by telephone, email, letter, or in person. Only general information is provided to taxpayers during informal consultation (e.g., general guidance, procedural requirements, or best practices). Taxpayer-specific guidance, return filing instructions, or a U.S. Competent Authority position is not provided. Any advice provided through such consultations is general advice only and is not binding on the IRS. See Rev. Proc. 2015-40, section 2.03 (or successor guidance) for additional information.

4.60.3.2.13
(09-13-2021)

U.S. Competent Authority's Role in the Accelerated Competent Authority Procedure (ACAP)

- (1) A taxpayer may request that the terms of a competent authority resolution for a given taxable period be extended to include subsequent taxable periods. After reviewing the taxpayer's request, the U.S. Competent Authority:
 - a. Contacts Examination to recommend whether the issue should be resolved in a comparable manner for subsequent taxable periods.
 - b. Requests additional information from Examination or the taxpayer needed to analyze or negotiate the case.
 - c. Prepares and presents a position paper to the foreign competent authority.
 - d. Negotiates the case with the foreign competent authority.
 - e. Prepares a disposition memorandum and forwards to Examination for implementation.
 - f. Prepares and forwards closing letters to the taxpayer and the treaty partner.
- (2) The U.S. Competent Authority may also request that a taxpayer expand the scope of its competent authority request to include ACAP years.

4.60.3.2.14
(09-13-2021)

Simultaneous Appeals Procedure (SAP) When Filing for Competent Authority Assistance

- (1) SAP will be initiated only upon a request made by a taxpayer in accordance with Rev. Proc. 2015-40, section 6.04(2)(b).
- (2) SAP may be used when:
 - a. The taxpayer applies for competent authority assistance after Examination has proposed an adjustment and before a protest is filed;
 - b. The taxpayer has filed a protest for proposed adjustments, but decides to seek competent authority assistance for one issue that has been severed from the protest in accordance with Rev. Proc. 2015-40, section 6.04(3)(a), while the other issues are referred to Appeals; or
 - c. The taxpayer decides to request competent authority assistance with respect to an issue after the case has been assigned to Appeals and within 60 days after the date the taxpayer is first notified by Appeals that a potential competent authority issue exists. See Rev. Proc. 2015-40, sections 6.04(2) and (3), for additional information.

4.60.3.2.15
(09-13-2021)

SAP After Filing for Competent Authority Assistance

- (1) After filing a competent authority request, a taxpayer may request SAP review in a separate written submission filed no later than 60 days after the taxpayer receives notification that the U.S. Competent Authority has accepted its competent authority request. See Rev. Proc. 2015-40, section 6.04(2)(b), for additional information.

- (2) Rev. Proc. 2015-40 does not limit the ability of a taxpayer to obtain Appeals review of a competent authority issue that remains unresolved after the competent authority process has concluded. See Rev. Proc. 2015-40, section 6.04(4).
- 4.60.3.2.16
(09-13-2021)
SAP Cases Pending in Court
- (1) The U.S. Competent Authority will not accept or continue to consider a request for SAP when:
- The matter is pending before a U.S. federal court; or
 - The matter has been designated for litigation. Also see, IRM 4.60.3.2.9 for details on competent authority requests involving issues designated for litigation.
- 4.60.3.2.17
(09-13-2021)
Appeals' Role in SAP
- (1) The Chief, Independent Office of Appeals, forwards a copy of the SAP request to the appropriate Director, Appeals who assigns an Appeals officer to the case. The assigned Appeals officer will:
- Review the positions previously taken on the competent authority issues by Examination and the taxpayer.
 - Consult with the taxpayer and the U.S. Competent Authority, using established Appeals procedures (except that the U.S. Competent Authority will participate in meetings held between Appeals and the taxpayer), to resolve the unagreed issue.
 - Coordinate the appeals process with competent authority procedures.
- 4.60.3.2.18
(09-13-2021)
U.S. Competent Authority's Role in SAP
- (1) The U.S. Competent Authority has sole discretion to decide whether to accept the taxpayer's request for SAP.
- (2) The U.S. Competent Authority has jurisdiction for the competent authority issue when SAP is involved and is responsible for:
- Notifying the taxpayer of an accepted request.
 - Coordinating the process and time frame with the taxpayer and Appeals.
 - Determining the manner in which the SAP review is conducted after consulting with Appeals.
 - Evaluating the points raised in SAP when determining its position to present to the foreign competent authority.
 - Determining whether to terminate SAP for one or more competent authority issues after consulting with Appeals.
- 4.60.3.3
(09-08-2025)
Competent Authority and Advance Pricing Agreements (APAs)
- (1) This section discusses APAs and U.S. Competent Authority's role in the APA process. It also discusses the roles of TPP, CBA, and examination teams in the APA process.
- 4.60.3.3.1
(09-08-2025)
Advance Pricing Agreement (APA) Overview
- (1) As defined in Rev. Proc. 2015-41, an APA is a binding agreement between the taxpayer and the IRS on the methods ("covered method(s)") for resolving one or more issues ("covered issue(s)") eligible to be covered by such an agreement, including issues arising under IRC 482 and other issues for whose resolution transfer pricing principles are relevant, which in a particular case could include issues arising under IRC 367(d), issues arising under the business profits and associated enterprises articles of U.S. tax treaties, and

the determination of the income effectively connected with the conduct of a trade or business within the United States.

- (2) The execution of an APA is designed to be a voluntary, problem-solving process, conducted in a principled and cooperative manner, for the resolution of covered issues on a prospective basis. The APA process increases the efficiency of tax administration by encouraging taxpayers to come forward and present to APMA all of the facts necessary for a proper evaluation of their proposed covered issues and to work with APMA towards a resolution of such issues in a spirit of openness and cooperation. The voluntary and prospective nature of the APA process lessens the burden of compliance by giving taxpayers and the IRS greater certainty into the future regarding covered issues, and it promotes the principled resolution of these issues by allowing for their discussion and resolution in advance, before the consequences of such resolution are fully known to either taxpayers or the IRS. As such, the APA process is intended to address issues that are ongoing in nature or have already arisen (or, based on firm commitments, are expected to arise).
- (3) There are three types of APAs:
 - a. A **unilateral APA** is one in which the covered issue(s), covered method(s), and APA terms and conditions are not premised on an underlying competent authority resolution reached pursuant to negotiations with one or more foreign competent authorities.
 - b. A **bilateral APA**, which is the most common type of APA, is one in which the covered issue(s), covered method(s), and APA terms and conditions are premised on an underlying competent authority resolution reached between the U.S. competent authority and one foreign competent authority.
 - c. A **multilateral APA** is different from a bilateral APA only in that more than one foreign competent authority is involved in reaching a resolution.

4.60.3.3.2
(09-08-2025)
**APMA's Role in the APA
Process**

- (1) APA requests and the APA process are governed by Rev. Proc. 2015-41. A taxpayer's APA request will include one or more covered issues, as applied to certain proposed taxable years, and (in the case of bilateral and multilateral APA requests) involve one or more foreign competent authorities.
- (2) APMA is responsible for the following:
 - a. Reviewing and determining whether to accept a taxpayer's APA request, including whether to accept taxpayer's covered issue(s) as proposed or whether to request that covered issue(s) be modified.
 - b. Coordinating the APA process, which includes all steps involved in reaching an APA.
 - c. Forming the APA team, comprising of members from APMA, a GPA or a PTE revenue agent (collectively, the examination team), and as needed, one or more revenue agents from CBA or TPP.
 - d. Evaluating the covered issue(s) and covered method(s) proposed by the taxpayer and developing APMA's position on the taxpayer's proposed covered issue(s) and proposed covered method(s) for submission to the foreign competent authority(ies) in the case of bilateral or multilateral APAs.

- e. Conducting negotiations with the applicable foreign competent authority(ies) towards resolution of a bilateral or multilateral APA or discussing and resolving APA terms directly with the taxpayer in the case of a unilateral APA.
- f. Preparing closing documents for disposition of the case to PTE, GPA, and, as needed, the applicable IRRs in CBA or TPP.

4.60.3.3.3
(09-08-2025)
**Pre-filing Memorandum
Review**

- (1) Section 3.02(4) of Rev. Proc. 2015-41 describes when a pre-filing memorandum is required before a taxpayer submits an APA request. Where a pre-filing memorandum is optional (see Rev. Proc. 2015-41, section 3.02(5)), APMA will recommend a taxpayer seeking an APA to submit a pre-filing memorandum to allow the taxpayer to benefit from a Pre-filing Memorandum Review.
- (2) The Pre-filing Memorandum Review provides a rapid and high-level process through which APMA may provide taxpayers with information regarding the suitability and conditions for acceptance of an APA request for consideration and alternative workstreams to achieve transfer pricing certainty. The Pre-filing Memorandum Review will be conducted by an APMA team leader or economist (“the APMA team leader”) in accordance with the review procedures at Exhibit 4.60.3-2, Procedures for Pre-filing Memorandum Review.
- (3) Based on the results of the review, the APMA team leader will make a written recommendation to the APMA FLM for taxpayer consideration. The recommendation will be one of the following:
 - a. Proceed with submission of an APA request as described in the pre-filing memorandum.
 - b. Consider available alternative workstreams because the proposed APA is unlikely to be accepted by APMA. The rationale supporting the recommendation should be included, along with information on alternative workstreams that may be better suited to the proposed covered issues.
 - c. Provide additional information to APMA about the proposed APA for APMA to make a more informed recommendation about whether the request would be better addressed through an APA or possible alternative workstreams. This recommendation also could suggest the taxpayer schedule a pre-filing conference with APMA to address concerns or questions identified during the Pre-filing Memorandum Review. After receipt of the additional requested information, the APMA team leader will reconsider whether to recommend the taxpayer proceed with submission of an APA request and will submit a recommendation to the APMA FLM.
- (4) The APMA FLM will consider the APMA team leader’s recommendation and, after obtaining concurrence from their assistant director (AD), communicate APMA’s views regarding the suitability of and conditions for acceptance of an APA request to the taxpayer. To allow APMA to collect information and data for monitoring consistency and validating effectiveness of the process, documentation of the APMA team leader’s written recommendation, the APMA FLM’s decision, the AD’s concurrence and communication with the taxpayer will be included in the IMS case. If the decision is different from the recommendation of the APMA team leader, support for that decision should be included in the APMA IMS case.
- (5) The Pre-filing Memorandum Review should generally be completed, and recommendation made to the taxpayer, within four weeks of the submission date

of the pre-filing memorandum or the date when additional information requested by APMA is submitted to APMA, whichever is later.

4.60.3.3.4
(09-08-2025)
**APA Request Review
and Acceptance**

- (1) Rev. Proc. 2015-41, section 3.04, and the Appendix define the required form and content for an APA request to be considered complete. Upon receipt of a substantially complete APA request, APMA will review it to determine whether the APA workstream is best suited to successful resolution to achieve certainty for the proposed covered issues.
- (2) The APA Request Review will be conducted by an APMA team leader in accordance with the review procedures at Exhibit 4.60.3-3, Procedures for APA Submission Review. A TAIT analyst may be consulted or assigned to address non-transfer pricing treaty issues raised by the request.
- (3) Based on the results of the review, the APMA FLM will make a written recommendation to their APMA AD regarding suitability of the proposed APA for potentially achieving successful conclusion.
- (4) The APMA team leader will document their analysis and recommendation to the IMS case. The APMA FLM will aim to develop a consensus; however, in the absence of consensus, the APMA FLM will decide what recommendation to send to the APMA AD. The APMA FLM will document the recommendation, including reasons for not accepting the APMA team leader's recommendation resulting in a lack of consensus in the IMS case. The APMA FLM's recommendation will be one of the following:
 - a. Accept the taxpayer's APA request into the APA program. Depending on the specifics of the request, a recommendation to accept the APA request may include conditions including, but not limited to, addition or deletion of proposed covered issues, alternate proposed transfer pricing methods, or that rollback years will not be accepted. A recommendation to accept the APA request may also be conditioned on communicating to the taxpayer challenges that increase the likelihood that the process could result in a failure to conclude an APA and any specific expectations regarding the taxpayer's provision of information and engagement in the process.
 - b. Decline to initiate the APA process with the taxpayer. Support for the recommendation based on the criteria above should be included in the recommendation from the APMA FLM to the APMA AD.
- (5) The APMA FLM will document the recommendation in the IMS case.
- (6) The APMA AD will review the APMA FLM recommendations and will determine whether to recommend accepting or declining the APA request.
- (7) If the APMA AD concurs with the APMA FLM recommendation to accept an APA request into the APA program, the APMA FLM will begin the APA process.
- (8) In certain situations, (e.g., APMA's experience with the treaty partner in MAP is better than the corresponding APA experience, or there is favorable support for consideration of the proposed covered issues in International Compliance Assurance Program (ICAP)), the APMA AD may recommend declining the APA request even when the APMA FLM has recommended acceptance. If the APMA AD recommends declining the APA request, they will elevate this recommendation to the APMA director for concurrence. If the APMA AD concurs with

the APMA FLM's recommendation to decline to initiate the APA process with the taxpayer, the APMA AD will elevate this recommendation to the APMA director for concurrence.

- (9) The APMA director will review all APMA AD recommendations to decline an APA request.
- (10) When the APMA director concurs with the APMA AD's recommendation to decline an APA request, the APMA AD will communicate the decision and provide a summary of the basis for the decision to the taxpayer orally. APMA will then send a formal decision letter to the taxpayer in accordance with Rev. Proc. 2015-41, section 4.01. The APMA AD will consult with the TPP territory manager regarding APMA's decision to decline.
- (11) If the APMA director decides to proceed with the APA process against the APMA AD's recommendation to decline, the APMA FLM will begin the APA process per existing procedures. In such a case, the APMA director will provide documentation of their decision to the APMA AD, FLM, and team leader for insertion in the IMS case.
- (12) If the APMA AD does not accept the recommendation of the APMA FLM, the APMA AD will elevate an alternate recommendation to the APMA director along with the APMA FLM recommendation and the corresponding support for both recommendations for final decision by the APMA director. Documentation supporting the APMA AD's recommendation and the APMA director's decision should be included in the APMA IMS case.
- (13) The Request Review and Acceptance process should be completed within eight weeks of the filing date of the completed taxpayer APA request.

4.60.3.3.5
(09-08-2025)
**CBA and TPP's Role in
the APA Process**

- (1) CBA revenue agents and TPP tax law specialists or economists may be included on an APA team to assist with an APA request. The exact scope of the participation that an assigned CBA or TPP team member will have depends upon the specifics of the case and on coordination and collaboration between APMA and the CBA or TPP team member management.
- (2) A CBA and TPP team member will be assigned to an APA team pursuant to a request made by the APMA team leader at the outset of the APA process. The request will be made by the APMA team leader through a communication to the appropriate IRRs for CBA and TPP.
- (3) The assigned CBA and TPP team member will be invited to participate in most phases of the APA process after APMA has accepted the taxpayer's APA request. The APA process will begin with an opening conference after the taxpayer has filed its APA request and APMA has accepted the APA request.
- (4) Ways in which the CBA and TPP team member can be involved in and contribute to the APA process as part of the APA team include providing their perspective on procedural matters, such as the taxpayer's current or past audit history, on the taxpayer's proposed covered issue(s) and method(s), and on any interrelated issues or matters, such as the taxpayer's involvement in transactions with other affiliates that are similar to, or impacted by, those proposed to be covered by the APA. The CBA and TPP team member will also play an important role in coordinating and following through with CBA and TPP in the rare instance in which the APA process ends without an executed agreement.

- (5) The APMA team leader will coordinate and collaborate with the taxpayer and the assigned CBA and TPP team member to ensure that the requirements of Rev. Proc. 2015-41 are fulfilled throughout the APA process.

4.60.3.3.6
(09-08-2025)

Examination (GPA or Pass-Through Entities (PTE)) Team's Role in the APA Process

- (1) As noted in Rev. Proc. 2015-41, section 2.03(3), throughout the APA process, the taxpayer and the IRS will execute a consent agreement, as necessary, to extend the period of limitations for assessment of tax for each proposed APA year. As the APA process progresses, the taxpayer must submit executed consents to the IRS to extend the period of limitations for assessment of tax.
- (2) For APA cases not currently under examination, GPA/PTE examination team members are integral to APA teams for (i) executing consent agreements, as necessary, to extend the period of limitations for assessment (Form 872) or to make partnership adjustments (Form 872-M) for each proposed APA year, and (ii) monitoring statute of limitations. GPA/PTE examination team members will be assigned to an APA team pursuant to a request made by the APMA team leader at the outset of the APA process. The assigned examination team member will be invited to participate in most phases of the APA process after APMA has accepted the taxpayer's APA request. For APA cases already under examination, the GPA/PTE examination team member will collaborate with APMA to monitor statutes as part of the regular examination procedures. See Rev. Proc. 2015-41.
- (3) Upon completion of the APA process, the GPA/PTE examination team member will continue to control and monitor statutes for years under examination.

4.60.3.4
(09-08-2025)

Discretionary Limitation on Benefits (LOB) Requests

- (1) TAIT is responsible for requests for discretionary tax treaty benefits submitted to the U.S. Competent Authority under a U.S. tax treaty's LOB article. The taxpayer's request must comply with the procedures set forth in Rev. Proc. 2015-40, section 3.06(2), (or successor guidance).

4.60.3.4.1
(09-08-2025)

TAIT's Role in LOB Requests

- (1) With respect to discretionary LOB requests, TAIT:
 - a. Requests additional information and representations from the applicant, if necessary.
 - b. Sends a letter to the taxpayer either accepting or denying the applicant's request for consideration. An LOB request will be accepted for consideration if the applicant represents that, and explains why, it does not qualify for the requested benefits under the relevant LOB provisions. Furthermore, an LOB request will be accepted only if the ownership or organizational structure at issue is or was in place already and is not merely prospective. The U.S. Competent Authority will not issue a determination regarding whether an applicant satisfies an objective LOB test. See Rev. Proc. 2015-40, section 3.06(2), for additional information.
 - c. Sends (If the LOB request is accepted for consideration) an acceptance letter to the applicant notifying the applicant of the acceptance and requests a user fee in accordance with Rev. Proc. 2021-1 (or successor guidance). See Rev. Proc. 2021-1 (or successor guidance) and Rev. Proc. 2015-40, section 14.02, for additional information.
 - d. Determines whether to grant or deny the requested discretionary treaty benefits. To obtain a favorable determination, the applicant must demonstrate to the satisfaction of the U.S. Competent Authority that it does not qualify for the requested benefits under the relevant LOB provisions of

the applicable U.S. tax treaty, that the applicant has a substantial non-tax nexus to the treaty country, and that, if benefits are granted, neither the applicant nor its direct or indirect owners will use the treaty in a manner inconsistent with its purposes. See Rev. Proc. 2015-40, section 3.06(2)(d), for additional information.

- e. Prepares a disposition memorandum describing the request, the facts at issue, and the principles underlying the decision to grant or deny the requested treaty benefits.
- f. Sends a proposed disposition memorandum to the Office of Associate Chief Counsel (International) for its review and concurrence.
- g. Consults with each affected foreign competent authority prior to grant or denial of the requested treaty benefits.
- h. Transmits a determination letter to the applicant, a notification letter to each affected foreign competent authority, and a disposition memorandum to the appropriate IRR, with a copy to the IRR's territory manager once a conclusion is made whether to grant or deny the requested treaty benefit.

4.60.3.4.2
(09-08-2025)
Triennial Statement

- (1) An applicant that received a favorable discretionary LOB determination must file a triennial statement to keep that determination in force.
- (2) The statement must declare that:
 - a. There has not been a material change with respect to any relevant facts as set forth in the discretionary LOB request (or in any supplemental requests, submissions (including past triennial statements), or oral representations made with respect to that request).

Example: Changes in ownership structure, assets or activities of the applicant or relevant related entities.
 - b. There has not been a material change in law relevant to the benefits being sought.

Example: The enactment of a special tax regime that materially alters the applicant's tax liability.
 - c. The applicant is not claiming any benefits different from those granted.
- (3) The statement must contain the following declaration: "Under penalties of perjury, I declare that I have examined this statement and accompanying documents, if any, and that, to the best of my knowledge and belief, this statement contains all relevant information relating to the triennial reporting requirement, and that the representations in this statement are true, correct, and complete." The statement also must include any other representations or items that the U.S. Competent Authority may instruct the applicant to include.
- (4) The applicant must file the first triennial statement with TAIT no later than three years from the date of the letter notifying the applicant of the U.S. Competent Authority's determination to grant discretionary benefits, or by such other date to which the U.S. Competent Authority and the applicant agree. The applicant must file each additional triennial statement with TAIT no later than three years after the most recent triennial statement, or by such other date to which the U.S. Competent Authority and the applicant agree.
- (5) The U.S. Competent Authority will review each triennial statement and notify the applicant if any information must be clarified or supplemented. Any request

the applicant receives to clarify or supplement information in a triennial statement does not constitute an examination or the commencement of an examination for purposes of IRC 7605(b) or any other provision of the Code. Failure to timely file a triennial statement will result in a termination of the grant of discretionary benefits from the due date of the triennial statement. See Rev. Proc. 2015-40, section 3.06(2), for additional information.

4.60.3.5
(09-08-2025)
Rev. Proc. 99-32

- (1) Rev. Proc. 99-32, which superseded Rev. Proc. 65-17, addresses situations where an adjustment is made under IRC 482 ("primary adjustment") that requires a secondary adjustment to conform the taxpayer's accounts to reflect the primary adjustment. Rev. Proc. 99-32 allows U.S. taxpayers to avoid the federal income tax consequences of a secondary adjustment that would otherwise result from a primary adjustment.

4.60.3.5.1
(09-08-2025)
Purpose

- (1) Rev. Proc. 99-32 accomplishes the following:
 - a. Outlines the technical policy and procedure governing the adjustment of accounts.
 - b. Allows taxpayers to elect treatment regarding a primary adjustment under IRC 482 without the adverse tax consequences of the secondary adjustment.
- (2) The provisions of Rev. Proc. 99-32 apply to U.S. taxpayers in the following situations:
 - a. Where the primary adjustment was initiated by either the taxpayer or the IRS;
 - b. Where there is a secondary adjustment under IRC 482;
 - c. Where the IRS initiated a primary adjustment under IRC 61 or IRC 162, but the adjustment also could have been made under IRC 482; or
 - d. Where the adjustment relates to a domestic corporation or a foreign corporation engaged in a trade or business within the U.S., or to controlled transactions between a controlled foreign corporation of a domestic corporation and a related foreign corporation.

4.60.3.5.2
(09-08-2025)
General

- (1) The relevant office within the IRS with jurisdiction over the case is responsible for determining:
 - a. The amount of the adjustment allowable under Rev. Proc. 99-32.
 - b. Whether the taxpayer qualifies under Section 3 of Rev. Proc. 99-32.
- (2) A U.S. taxpayer seeking the benefits of Rev. Proc. 99-32 must file a written request with the DFO before closing action is taken on the primary adjustment.
- (3) In applying the provisions of section 5.01 of Rev. Proc. 99-32, the term "closing action" includes the first occurrence of any of the following:
 - a. Execution and acceptance of Form 870-AD, Offer to Waive Restrictions on Assessment and Collection of Tax Deficiency and to Accept Overassessment.
 - b. Execution of a closing agreement relative to the allocation under IRC 482, IRC 61, or IRC 162, as appropriate.
 - c. Stipulation of an IRC 482 allocation in the United States Tax Court.
 - d. Expiration of the statute of limitations for the taxable year of the allocation.

- e. Final determination of tax liability for the year to which the allocation relates by an offer in compromise, a closing agreement, or a court action.

4.60.3.5.3
(09-08-2025)
Procedures

- (1) When the issue team proposes an IRC 61, IRC 162, or IRC 482 adjustment, the taxpayer will be advised of the following:
- The taxpayer may be eligible for benefits allowed by Rev. Proc. 99-32.
 - The taxpayer may submit a request to the field director for Rev. Proc. 99-32 benefits if they tentatively agree to the IRC 482 allocations.
 - The taxpayer must submit to the DFO, the data listed in sections 5.01(2)(a) through (c) of Rev. Proc. 99-32 if it is applicable to the case. The DFO is responsible for verifying the information submitted.

If the issue team concludes:	Then the issue team will:	
The taxpayer qualifies for Rev. Proc. 99-32 treatment.	a.	Prepare a closing agreement.
	b.	Secure concurrence of the DFO, TPP by forwarding: <ol style="list-style-type: none"> The taxpayer's written request for Rev. Proc. 99-32 relief; and The closing agreement proposed to the taxpayer. <p>Note: U.S. Competent Authority will provide concurrence within 30 days.</p>
	c.	Process the case under established procedures.
The taxpayer qualifies for treatment but the proposed adjustments are erroneous.	a.	Discuss the matter with the taxpayer.
	b.	If the issue team and taxpayer are not able to reach an agreement, the taxpayer is entitled to the normal appeal rights.

4.60.3.5.3.1
(09-08-2025)

Joint Committee Cases

- (1) The Joint Committee case procedures will be implemented for cases involving a refund or credit greater than \$2,000,000 (or \$5,000,000 for C corporations).

- a. The issue team will process the case to the point of having the necessary closing agreement executed by the taxpayer.
 - b. The issue team will forward the case to the DFO for review and tentative approval.
 - c. The DFO will forward the case to Joint Committee for review.
- (2) After the Joint Committee approves the case, it will be returned to the DFO for closing.

4.60.3.5.3.2
(09-08-2025)

Tax Avoidance Cases

- (1) If the issue team determines that the taxpayer does not qualify for Rev. Proc. 99-32 benefits due to the application of the penalty provisions of IRC 6662(e)(1)(B) and IRC 6662(h), the issue team will submit a memorandum explaining this determination to the TPP territory manager for review.
- (2) The TPP territory manager will consider the issue team's recommendation and indicate concurrence or disagreement. The issue team will adopt the TPP territory manager's position.

If	Then
The taxpayer qualifies for treatment under Rev. Proc. 99-32.	The issue team follows Rev. Proc. 99-32 procedures, section (4) or (5).
The taxpayer does not qualify for the benefits of Rev. Proc. 99-32 due to the application of the penalty provided by IRC 6662(e)(1)(B) or IRC 6662(h).	<p>The taxpayer may:</p> <ol style="list-style-type: none"> 1. Withdraw the tentative agreement to the IRC 482 allocation and exercise its appeal rights for the issue; or 2. Tentatively agree to the IRC 482 allocation and appeal the issue regarding its qualification for the Rev. Proc. 99-32 benefits.

- (3) The benefits provided by Rev. Proc. 99-32 are subject to administrative discretion. Accordingly, the decision whether a particular taxpayer qualifies for relief is a matter within the discretion of the IRS.
- (4) The issue team will close the case using established procedures.

4.60.3.5.3.3
(09-08-2025)

Unagreed and Miscellaneous

- (1) Determinations about the issues listed below are made during the examination, even when the case is unagreed. This eliminates the need to reopen the examination at a later date.
 - The tax avoidance purpose test

- The dividends excludable under section 4.01(4) of the Rev. Proc. 99-32, and the foreign tax credit attributable to such dividends

4.60.3.6
(09-08-2025)
**Correlative Taxpayers –
IRC 482**

- (1) 26 CFR 1.482-1(a)(2) provides for making primary adjustments to the income of one member of a controlled group of taxpayers. Issue teams also make the appropriate correlative adjustments to the income of any other member of the controlled group affected by the primary adjustment.
- (2) All reports for the primary and correlative taxpayers, whether agreed or not, are prepared concurrently and remain together after the case is closed and transmitted to the review staff, appeals office, or service center.

4.60.3.6.1
(09-08-2025)
Examination Procedures

- (1) If the examination of the primary taxpayer results in adjustments under IRC 482, the examination of the correlative U.S. taxpayer is conducted concurrently by the issue team.
 - a. The correlative U.S. taxpayer should be notified in writing as early as possible that proposed adjustments may affect the tax liability of the correlative taxpayer.
 - b. The correlative U.S. taxpayer should be advised of the period of limitations under IRC 6511.
 - c. If the period for filing a claim for refund expires in less than 180 days, a Form 1040-X, Amended U.S. Individual Income Tax Return, or Form 1120-X, Amended U.S. Corporation Income Tax Return, should be solicited from the correlative U.S. taxpayer.
- (2) If the correlative adjustment affects the U.S. tax liability of the correlative taxpayer for any pending tax year, a separate report covering those years should be prepared by the issue team. The report should be prepared concurrently with the primary report, with the understanding that it may be sent to the correlative taxpayer.
- (3) The examiner will attach Form 3198, Special Handling Notice for Examination Case Processing, to the case jacket of the correlative adjustment taxpayer to ensure that overpayments resulting from the correlative adjustments are not scheduled and refunded to the taxpayer. The Form 3198 will note the need to delay making a refund to the correlative adjustment taxpayer until the primary adjustment taxpayer has paid the deficiency resulting from the IRC 482 adjustment.
- (4) Rules regarding the unauthorized disclosure of information apply to IRC 482 adjustments, despite the relationship between primary and correlative taxpayers. The correlative report should not disclose tax return information of the primary taxpayer except to the extent necessary to explain the correlative adjustment.
- (5) The report to the primary taxpayer will include one of the following statements:
 - a. A separate examination report reflects correlative adjustments to the taxable income of the correlative taxpayers.
 - b. A correlative adjustment is deemed to have been made since it does not affect the U.S. income tax liability of the correlative taxpayer for any pending tax year.

- (6) Taxpayers who seek correlative relief for foreign initiated adjustments should make a request to the U.S. Competent Authority for assistance. However, if the adjustment involves years under the jurisdiction of examination or Appeals, taxpayers should seek to obtain relief from these offices. If the adjustment involves a reallocation of income or deductions involving a related person in a country that has a tax treaty with the U.S., the taxpayer should be advised to contact U.S. Competent Authority. Failure to request assistance from the U.S. Competent Authority may result in denial of correlative relief with respect to the issue, including any otherwise available foreign tax credits.

4.60.3.6.1.1
(09-08-2025)
**Processing Agreed
Cases**

- (1) After review and approval of the examination reports for the primary and correlative taxpayers, the reviewer issues a special preliminary (30-day) letter to the correlative taxpayer. The letter advises the correlative taxpayer of the following:
- Nature of the adjustment(s)
 - Reason the overpayment cannot be processed at this time
 - Possible need to protect the statute of limitations from expiring

- (2) The case is then processed according to established procedures.

4.60.3.6.1.2
(09-08-2025)
**Processing Unagreed
Cases**

- (1) If the correlative adjustment is the only adjustment affecting the correlative taxpayer, the taxpayer receives the examination report with the appropriate 30-day letter. An agreement will not be solicited from the correlative taxpayer until the primary adjustments are agreed.
- (2) If there are adjustments in addition to the correlative adjustment, the taxpayer will receive the appropriate 30-day letter and a report reflecting all adjustments. The taxpayer will have the option to agree to the non-correlative adjustments only. If this occurs, Form 870 (Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment) must specifically state that the correlative adjustment is not reflected in the computation of the deficiency or overassessment.
- (3) If a statutory notice of deficiency is issued to the correlative taxpayer (for non-correlative adjustments), the correlative adjustments that decrease income will not be included in the deficiency computation. However, the statutory notice of deficiency must include an explanation of any correlative adjustments.
- (4) If the primary taxpayer's case goes to Appeals, Examination Support and Processing will also send the correlative taxpayer's case to Appeals.
- (5) If possible, the Examination office having jurisdiction over the primary taxpayer should manage the examination of the correlative taxpayer. If this is not possible, the Examination office with jurisdiction over the correlative taxpayer will manage the examination related to the proposed allocation.

Exhibit 4.60.3-1 (09-08-2025)**Terms/Definitions/Acronyms**

The following table lists terms, acronyms, and corresponding definitions used in this IRM:

Term	Definition
ACAP request	Under ACAP (accelerated competent authority request procedure), a taxpayer may request that the terms of a competent authority resolution for a given taxable period be extended to cover subsequent taxable periods for which it has filed tax returns. In appropriate cases, the U.S. Competent Authority may request that the taxpayer expand the scope of its competent authority request to include ACAP years, even if the taxpayer has not filed an ACAP request. See Rev. Proc. 2015-40, section 4.01, for additional information.
AD	Assistant director
ADCCI	Assistant Deputy Commissioner Compliance Integration
APA	Advance pricing agreement.
APMA	The Advance Pricing and Mutual Agreement Program, a representative office of the U.S. Competent Authority within LB&I's TTPO Practice Area. APMA has primary responsibility for cases arising under the Business Profits and Associated Enterprises articles of tax treaties. An example of a competent authority issue handled by APMA is the double tax that could be incurred because of an allocation made by the IRS under IRC 482 or by a foreign tax authority under an equivalent provision in its domestic law. APMA and TAIT each can consider cases arising under the Permanent Establishment articles of tax treaties, and both offices will coordinate and collaborate on such cases and on any other cases as appropriate.
Appeals	For purposes of IRM 4.60.3, Appeals generally refers to the appropriate IRS office or officer responsible for appeals function having administrative jurisdiction over the issue.
BEPS	Base Erosion and Profit Shifting
CAP	Compliance Assurance Process
CBA	Cross Border Activities

Exhibit 4.60.3-1 (Cont. 1) (09-08-2025)**Terms/Definitions/Acronyms**

Term	Definition
Competent Authority	A tax treaty requires the designation of a competent authority for each country that is a party to the treaty. The respective competent authorities administer the provisions of the treaty. This authority may be delegated to one or more subordinate officials.
Competent authority case	A case initiated by a competent authority request involving one or more competent authority issues.
Competent authority issue(s)	An issue that is addressed by the U.S. Competent Authority, typically under the MAP article of a tax treaty or tax coordination agreement (generally, an issue involving double taxation or other taxation not in accordance with a tax treaty or tax coordination agreement). A competent authority issue will usually arise from an action proposed by the United States or the U.S. treaty partner or U.S. territory that results or is likely to result in taxation not in accordance with a tax treaty or tax coordination agreement.
Competent authority process	All steps in the process of initiating and resolving a competent authority case, including steps in relation to pre-filing procedures. The competent authority process is generally addressed in paragraphs 1 and 2 of the MAP article in most tax treaties. See also, Rev. Proc. 2015-40, section 2.01(2), and Rev. Proc. 2006-23, section 2.03, which provide a summary of the competent authority process.

Exhibit 4.60.3-1 (Cont. 2) (09-08-2025)

Terms/Definitions/Acronyms

Term	Definition
Competent authority resolution	<p>The resolution of competent authority issues constituting a competent authority case reached:</p> <ol style="list-style-type: none"> 1. Unilaterally by one competent authority; 2. Bilaterally or multilaterally between the U.S. Competent Authority and one or more foreign competent authority(ies) (as reflected in a signed mutual agreement and any additional agreements or understandings achieved through the competent authority process); or 3. Through arbitration. <p>The terms of a competent authority resolution are generally provided in the following documents:</p> <ul style="list-style-type: none"> • A signed mutual agreement between the competent authorities, which is subject to the confidentiality rules under a tax treaty (or tax coordination agreement) and IRC 6105; • A closing letter to the taxpayer, which must be attached to any U.S. income tax returns filed based on the competent authority resolution; • An IRS-internal disposition memorandum, which explains the terms of the resolution to IRS personnel charged with its implementation. <p>See IRM 4.60.3.2.6 for additional information.</p>
Competent authority request	<p>A taxpayer request for relief from double taxation or other taxation inconsistent with a tax treaty or tax coordination agreement, under the MAP article of such tax treaty or tax coordination agreement (for tax treaties, the request is typically made under paragraph (1) of the MAP article). The process for requesting competent authority assistance from the U.S. Competent Authority under a tax treaty is described in Rev. Proc. 2015-40 (or its successor). The process for requesting competent authority assistance from the U.S. Competent Authority under a tax coordination agreement is described in Rev. Proc. 2006-23.</p>
Controlled group	<p>The group of controlled taxpayers (as defined in Treasury regulation section 1.482-1(i)(6)) of which the taxpayer filing the competent authority request is a member.</p>
Correlative Adjustment	<p>Adjustment that creates a corresponding decrease in the income of another member of the controlled group.</p>

Exhibit 4.60.3-1 (Cont. 3) (09-08-2025)**Terms/Definitions/Acronyms**

Term	Definition
Correlative Taxpayer	Taxpayer whose taxable income is affected by a correlative adjustment.
DFO	Director of Field Operations
Examination	For purposes of IRM 4.60.3, Examination office generally refers to the appropriate IRS office or officer responsible for the examination function that has administrative jurisdiction over the issue.
Foreign initiated	For purposes of IRM 4.60.3, “foreign-initiated” includes actions taken by another country or a U.S. territory. Most references to “foreign initiated” in IRM 4.60.3 refer to a U.S. treaty partner or U.S. territory, unless the context indicates otherwise.
FLM	Frontline manager
GPA	Geographic Practice Area
ICAP	International Compliance Assurance Program
IMS	Issue Management System. Software utilized by the IRS to track the status of cases.
IRR	International referral recipient. Additional information about IRR can be found at IRM 4.46.3, Planning the Examination.
LOB	Limitation on Benefits. A LOB article contains anti-treaty-shopping provisions that are primarily intended to prevent residents of third countries from benefiting from what is intended to be a reciprocal agreement between the two countries party to a tax treaty. The LOB article contains both objective and subjective tests. See IRM 4.60.2.7.1, Limitation on Benefits (LOB) Requirement, for additional information.
MAP	Mutual Agreement Procedure. MAP generally refers to the Mutual Agreement Procedure article of a tax treaty or tax coordination agreement. Note that “MAP” and “competent authority” are frequently used interchangeably when acting as modifiers (e.g., MAP request and competent authority request).
MAP Report	Certain documentation developed by the examination office which the U.S. Competent Authority may use in a competent authority case. See IRM 4.46.6, LB&I Examination Process, Workpapers and Reports, for additional information.

Exhibit 4.60.3-1 (Cont. 4) (09-08-2025)

Terms/Definitions/Acronyms

Term	Definition
MNE	Multinational enterprise
OECD	Organisation for Economic Co-operation and Development.
Primary Adjustment	The initial adjustment, which generally increases the taxable income of a member of a group of controlled taxpayers and creates a corresponding decrease in the taxable income of one or more members of the same group.
Primary Taxpayer	Taxpayer whose taxable income is affected by the primary adjustment.
PTE	Pass-Through Entity
SAP	Simultaneous Appeals Procedure, which is a process that allows taxpayers to request the services of Appeals and the U.S. Competent Authority simultaneously. SAP is intended to facilitate the U.S. Competent Authority's consideration of a unilateral resolution of the competent authority issue before it presents a position on the issue to the foreign competent authority. The U.S. Competent Authority in its sole discretion will decide whether to accept the taxpayer's request for SAP review after consulting with IRS Appeals and after considering whether SAP review would unduly burden tax administration, including the competent authority process. The U.S. Competent Authority may choose to accept SAP review with respect to only certain competent authority issues. See Rev. Proc. 2015-40, section 6.04(2), for additional information.
TAIT	The Treaty Assistance and Interpretation Team, a representative office of the U.S. Competent Authority within APMA. TAIT has primary responsibility for cases arising under all articles of tax treaties other than the Business Profits and Associated Enterprises articles. TAIT also has primary responsibility for cases arising under tax treaties with respect to estate and gift taxes. APMA and TAIT each can consider cases arising under the Permanent Establishment articles of tax treaties, and both offices will coordinate and collaborate on such cases and on any other cases as appropriate.

Exhibit 4.60.3-1 (Cont. 5) (09-08-2025)**Terms/Definitions/Acronyms**

Term	Definition
Tax Coordination Agreement	An agreement (tax coordination or tax implementation) for coordinating tax administration between the IRS and a U.S. territory tax agency (i.e., American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands). Tax coordination agreements contain provisions allowing the competent authorities of the United States and the applicable U.S. territory to resolve by mutual agreement inconsistent tax treatment by the two jurisdictions. For additional information, see Rev. Proc. 2006-23 (or its successor).
Tax treaty	A convention governing income taxes to which the United States is a party and that has entered into force, together with its protocols, exchanges of diplomatic notes, memoranda of understanding, and competent authority arrangements. U.S. estate and gift tax treaties fall outside the scope of this IRM. Any questions related to estate and gift tax treaties should be directed to TAIT or the Treaties Practice Network (as applicable, see IRM 4.60.2.3.3, Contacting the U.S. Competent Authority).
TPM	Transfer pricing method
TPP	Transfer Pricing Practice
Treaties Practice Network	Practice Networks are communities of LB&I employees seeking to collaborate in areas of international tax compliance. Practice Networks are designed to provide the examination office the technical assistance they need to manage their cases more efficiently, consistently, and with the highest degree of technical proficiency. The Treaties Practice Network provides examination tools and resources to assist in identifying and analyzing tax treaty and tax coordination agreement issues. TAIT manages the Treaties Practice Network.
Treaty notification period	Referenced in the MAP articles of certain tax treaties. Refers to the specified timeframe in which a competent authority is required to notify another competent authority that it has received a request for competent authority assistance. See Rev. Proc. 2015-40, section 12, (or its successor) for additional information.
TTPO Practice Area	Treaty and Transfer Pricing Operations Practice Area

Exhibit 4.60.3-1 (Cont. 6) (09-08-2025)**Terms/Definitions/Acronyms**

Term	Definition
U.S. Competent Authority	Tax treaties and tax coordination agreements designate a competent authority for each country or U.S. territory that is a party to the treaty or agreement. The respective competent authorities administer the provisions of the tax treaty or tax coordination agreement. The U.S. Competent Authority is the LB&I Commissioner who, in matters relating to MAP, primarily acts pursuant to applicable delegation orders through two offices, APMA and TAIT. Generally, references in this IRM to the “U.S. Competent Authority” refer to APMA or TAIT (as appropriate) unless the context indicates otherwise.
U.S. territory	For purposes of this IRM, “U.S. territory” refers to a U.S. territory which has a tax coordination agreement in effect with the United States; specifically, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, and Puerto Rico (collectively, “U.S. territories”).
U.S. initiated	For purposes of IRM 4.60.3, “U.S. initiated” refers to actions taken by the IRS or the U.S. Competent Authority
U.S. treaty partner	A country that is party to a tax treaty with the United States.

Exhibit 4.60.3-2 (09-08-2025)**Procedures for Pre-filing Memorandum Review**

(1) When the APMA inventory coordinator receives a pre-filing memorandum submitted to APMA, the APMA inventory coordinator will send a copy of the pre-filing memorandum to the appropriate APMA AD, the APMA IMS coordinator, and the APMA statute program manager per standard operating procedures.

(2) Within the IMS system the APMA IMS coordinator will create an IMS case for tracking purposes and assign the IMS case to the appropriate APMA AD. The APMA AD will assign the IMS case to an APMA FLM, who in turn will assign the IMS case and the pre-filing memorandum to an APMA team leader. The APMA statute program manager will notify the assigned APMA FLM and team leader of the status of the period of limitations for assessment of tax for each year of the proposed APA term, including rollback years.

(3) The assigned APMA team leader is responsible for conducting the review.

(4) The APMA team leader will evaluate the pre-filing memorandum for suitability of the potential case for the APA program and the availability of alternative workstreams, taking into consideration the facts and circumstances of the proposed APA case, including but not limited to:

- a. Whether the proposed covered issues rise to a level of significance that justifies the use of resources necessary to engage in and complete an APA;
- b. Whether the proposed APA term, including rollback years, would meet the requirements of Rev. Proc. 2015-41, section 3.08, or successor guidance, regarding the remaining period of limitations for assessment of tax for each proposed APA year;
- c. For bilateral or multilateral cases, whether there is a high probability that, by engaging with our income tax treaty partner(s) in an APA negotiation, transfer pricing compliance will be significantly enhanced;
- d. For multilateral cases, whether the applicable international exchange agreements, including applicable income tax treaties, provide for the requisite exchange of information between the relevant tax administrations and the extent to which disclosure restrictions may constrain communications among the parties (see IRM 4.60.1.11.1.3(7));
- e. Whether there is a potential for the proposed APA to impact prior tax year or period compliance;
- f. Whether the taxpayer may consider resolution through participation in ICAP, based on factors including but not limited to:
 - The scope, materiality, and complexity of the multinational enterprise (MNE) group's proposed covered issues in the United States and the jurisdictions participating in ICAP;
 - The MNE group's history of transparent and cooperative engagement with the IRS; and
 - The MNE group's examination history with respect to transfer pricing and permanent establishment issues with the IRS.
- g. Whether, in the case of a Compliance Assurance Process (CAP) taxpayer, the IRS has suggested that the proposed covered issues might be suitable for resolution through an APA;
- h. Whether the proposed covered issues potentially are suitable for resolution through a future potential TPP examination or joint audit, based on factors including but not limited to:
 - Taxpayers (including foreign affiliates) with common tax years or periods under examination in the jurisdictions of the relevant tax administrations;
 - Common or complementary tax issues relevant to the tax administrations; and
 - Proposed covered issues that pose significant compliance risk to one or more tax administrations relative to the resources employed.

Exhibit 4.60.3-3 (09-08-2025)**Procedures for APA Request Review**

(1) When the APMA inventory coordinator receives an APA request from a taxpayer, the APMA inventory coordinator will send a copy of the request to the appropriate APMA AD, the APMA IMS coordinator, and the APMA statute program manager per standard operating procedures.

(2) The APMA IMS coordinator will create an IMS case for tracking purposes and assign the IMS case in the system to the appropriate APMA AD. The APMA AD will assign the IMS case to an APMA FLM, who in turn will assign the IMS case and the APA request to an APMA team leader. The APMA statute program manager will notify the assigned APMA FLM and team leader the status of the period of limitations for assessment of tax for each year of the proposed APA term, including rollback years.

(3) The APMA FLM will assign an APMA team leader and consider TAIT participation for any non-transfer pricing treaty issues raised by the APA request.

(4) To provide information to facilitate the APMA team leader's review of the APA request, the APMA inventory coordinator will provide the APMA FLM with a report including the taxpayer's open MAP and APA cases, MAP and APA cases closed in the past three years, and any other APAs for which years remain in the APA term.

(5) The APMA team leader will apply the following criteria to evaluate and develop a recommendation regarding suitability of the APA request for assignment of APMA resources and availability of alternative workstreams, considering the facts and circumstances of the proposed APA:

- a. If a Pre-filing Memorandum Review was not conducted for the proposed APA, the Pre-Filing Memorandum Review criteria defined above, including the materiality and complexity of the proposed covered issue;
- b. Whether, based on APMA's experience, there is an actual or potential transfer pricing dispute that would be most efficiently resolved through an APA, considering factors including the taxpayer's proposed covered method, and the taxpayer's examination history in the United States or applicable foreign jurisdiction;
- c. Whether the APA process likely will result in prospective APA years based on APMA's experience with the treaty partner, the type of proposed covered issue, and the taxpayer's industry;
- d. Whether there is arbitration with the treaty partner and other country-specific strategic considerations;
- e. The extent to which the transfer pricing issues posed by the proposed covered issues are secondary to the application of other domestic tax law provisions; and
- f. In the case of a request for a bilateral or multilateral APA, the views of the treaty partner(s), which the APMA team leader may solicit with approval of their FLM and AD.

(6) Additional considerations pertaining to unilateral APA requests:

- a. Whether a unilateral APA is the most efficient or only option to provide necessary certainty;
- b. Whether, in the case of a CAP taxpayer, the IRS has suggested that the proposed covered issues might be suitable for resolution through an APA;
- c. Whether the request is one of two or more bilateral APAs, or the taxpayer's proposed covered issues are such that IRS has a need to price the proposed covered issue under the unilateral APA to be consistent with related bilateral APAs for the same taxpayer; and
- d. Whether a unilateral APA would facilitate inappropriate base erosion or profit shifting in the other jurisdiction.

(7) Additional considerations pertaining to renewal APA requests:

- a. Whether there is a continuing risk of a tax dispute or need for APMA to accept the APA renewal request;
- b. Whether the request is a straightforward renewal of the terms and conditions of the current APA that APMA can work in a streamlined manner;

Exhibit 4.60.3-3 (Cont. 1) (09-08-2025)**Procedures for APA Request Review**

- c. Whether the treaty partner likely will agree to streamline the renewal process; and
- d. Whether the taxpayer is properly applying the transfer pricing method (TPM) agreed in the prior APA based on review of the APA Annual Report and taxpayer's tax returns.

(8) The APMA team leader will separately consider whether any requested rollback years should be accepted. Additional considerations pertaining to rollback APA requests:

- a. The amount of time remaining in the relevant periods of limitations on assessment at the time of the APA request;
- b. The IRS's interest in rolling back the TPM (including concerns regarding litigation and judicial determinations outlined in Rev. Proc. 2015-41, section 5.02(7));
- c. Whether APMA anticipates that an APA will result in an increase to U.S. taxable income for the rollback year;
- d. If APMA anticipates that an APA will result in a decrease to U.S. taxable income for the rollback year, whether MAP provides a more efficient process for tax administration; and
- e. Reasons the taxpayer did not apply for an APA for prior years.