China Advance Pricing Arrangement

State Taxation Administration
People's Republic of China
Time stops for no one and the seasons run by. 2018 is the opening year to implement the spirit of the 19th National Congress of the Communist Party of China, the crucial year to carry out the Central Committee of the Communist Party of China and the State Council’s decision on the reform for tax collection and administration system, also the 40th anniversary of China’s reform and opening up. China’s international taxation has constantly kept in step with the opening up policy and followed new situations for international cooperation in order to grasp new opportunities for opening up and give support to economic growth in the new normal of economic development, thus opening a window for China’s taxation to participate in the global economic governance.

In the year of 2018, the rising trend of trade protectionism, unilateralism and hegemonism brought huge challenges for trade and investment liberalization and facilitation. In the face of unprecedented changes in the past century, in order to put Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era and the guiding principles of the 19th National Congress of the Communist Party of China into action, the State Taxation Administration (STA) highly focused on the Central Committee of the Communist Party of China and the State Council’s overall work arrangement on taxation in the new era. To be more specific, the STA has devoted itself to deepen taxation reform and built consensus with all parties to create enabling environment for international taxation cooperation and development.

Firstly, the STA comprehensively deepened the Belt and Road Initiative (BRI) tax cooperation. In 2018, the STA jointly organized the BRI Tax Cooperation Conference (BRITCC) and facilitated the announcement of Astana Proposal by BRITCC Participating Jurisdictions for Enhancing Cooperation in Tax Matters, laying the foundation of the establishment of long-term mechanism for BRI tax cooperation. The 48th annual conference of Study Group on Asian Tax Administration and Research (SGATAR) was successfully held in China. As the output, a series of significant consensus for strengthening tax cooperation to support BRI and optimizing business
environment were reached. In addition, 84 Country (Region) Taxation Guidelines for Cross-Border Investment, which covered most BRI participating jurisdictions, were issued by the STA to help taxpayers better understand tax policy of their investment destinations.

Secondly, the STA was devoted to serving for the opening up policy. The STA facilitated cross-border tax dispute settlements and conducted bilateral consultations with 11 treaty partners on 167 case-time, so as to avoid or eliminate double taxation of about 3.6 billion RMB for taxpayers, thus significantly reducing the operational burden of multinational enterprises. The tax treaty network was expended to establish a positive, beneficial and impartial legal environment for cross-border investments and trades. The Taxation Guideline for China's “Going Out” Enterprises, which summarized common tax problems that the “going out” enterprises might face, was released to help taxpayers to effectively avoid tax risks.

Lastly, the STA played an active part in constructing international and domestic tax rule system. The latest versions of OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations and OECD Model Tax Convention on Income and on Capital were preliminarily translated in 2018. The STA also perfected the domestic anti-avoidance mechanism and continued to participate in the studies and discussions on BEPS-related international taxation hot topics to promote the two-way connectivity of international rules and domestic ones and create a healthy and neutral international taxation environment.

At the beginning of 2019, the Law of the People's Republic of China on Foreign Investment was deliberated and approved by the National People's Congress of the People's Republic of China, and it would come into force on January 1, 2020. The release of this law demonstrates China's firm determination to expand its opening up to the outside world and puts forward higher requirements for the effective utilization of foreign investment and the protection of the legitimate rights and interests of foreign investment. As one of the important measures to improve the business environment, promote unimpeded trade and facilitate investment, the STA will continue to steadily promote the APA program, strive to provide more tax certainty for cross-border investment, and more effectively avoid and eliminate international double taxation.

This Report introduces the latest tax policies, implementation procedures and work development of China's APA program, and presents and analyses relevant statistical data. It is expected that the Report will be helpful for cross-border taxpayers as well as the general public to better understand China's taxation environment and APA program.

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This is the tenth Advance Pricing Arrangement (hereinafter referred to as APA) annual report released by the State Taxation Administration (hereinafter referred to as STA) to describe the latest mechanisms, procedures, and implementation of the APA program in China. This report is intended to provide guidance to enterprises interested in entering into APAs with the Chinese tax authority, and to serve as a reference for competent authorities of other countries (regions) and the general public to better understand China’s APA program. It does not have legal validity, and therefore should not be regarded as a legal basis for enterprises or the Chinese tax authority to negotiate or conclude an APA.

This report contains data pertaining to period between January 1, 2005 and December 31, 2018.

By December 31, 2018, the cumulative total of APAs signed is 156, 89 unilateral and 67 bilateral.

In 2018, a total of 2 unilateral APAs and 7 bilateral APAs were signed. Of the 7 bilateral APAs signed in 2018, 5 were signed with Asian countries, 1 was signed with European country while the other one was signed with North American country. Most of the APAs signed in 2018 still involve manufacturing industry, which demonstrates the role of taxation on serving the real economy.
In 2018, STA focused on steadily promoting the work of APA negotiation and signing, and deeply engaging in BEPS projects advocated by G20. As the implementation programme of BEPS action plans, the Public Notice of the State Taxation Administration on Issuing the Administrative Measures for Special Tax Adjustment and Investigation and Mutual Agreement Procedures (Public Notice of the State Taxation Administration 〔2017〕 No. 6, hereinafter referred to as Public Notice No. 6) and Public Notice of the State Taxation Administration on Matters Regarding Enhancing the Administration of Advance Pricing Arrangements (Public Notice of the State Taxation Administration 〔2016〕 No. 64, hereinafter referred to as the Public Notice No. 64) jointly provide regulatory basis and process guidance for APA matters. In 2018, Public Notice No. 6 and Public Notice No. 64 were revised to align with the reformed organizational structure of the tax administrations at provincial level and below. The latest changes are reflected in the APA annual report (2018).

Required by the BEPS Action 5 minimum standard, the unilateral APAs signed after April 1, 2016 are subject to the compulsory spontaneous exchange framework.

It is expected that the APA request will arise against the backdrop of concern about uncertainty drawn out by the universal implementation of BEPS projects and the increased transfer pricing scrutiny by tax administrations. The STA has therefore determined to prioritize certain APA requests, taking into account the following factors:

a) Overall principle: first come, first served. b) The quality of the request submission, e.g. whether all required documents have been submitted, whether sufficient documentation clearly evidencing the transactions throughout the entire value chain or supply chain has been provided, whether the applied transfer pricing method is appropriate, and whether the calculation is correct. Applicant will be required to make additions or revisions to the submission when necessary. c) Whether the applicant is in a specific industry or located in a specific region that merits prioritized attention. d) For a bilateral APA (BAPA) request, whether the BAPA partner country (region) has the intention to accept the case and pursue the BAPA will also be an important factor for consideration. Among the four factors, the one the STA values most is the quality of the submission. A submission that presents innovative application of transfer pricing methods or high quality quantitative analysis for intangibles, cost savings or market premiums will merit the STA’s prioritized attention.
Introduction to China's APA Program

1. Definition

An APA refers to an arrangement whereby an enterprise applies in advance to negotiate and reach agreement with the tax authorities in respect of the transfer pricing methods and corresponding calculation methods to be applied to its related party transactions for future years in accordance with the arm’s length principle. An APA applies to related party transactions over a period of 3 to 5 consecutive years starting from the year during which Notice on Tax Matters is issued by the in-charge tax administration(s) notifying the acceptance of enterprise’s intent for the APA.

2. Categorization

An APA may be categorized as unilateral, bilateral or multilateral based on the number of competent authorities involved in the APA.

In a unilateral APA, the enterprise enters into the APA with one country’s tax authority. A unilateral APA can only provide certainty to the enterprise’s pricing methodologies and calculation process with respect to its related party transactions within one country (region), but cannot ensure the effective avoidance of transfer pricing audits or adjustments from the tax authority of the overseas related party(ies) it transact with. Thus, a unilateral APA cannot prevent international double taxation.

In a bilateral or multilateral APA, the enterprise negotiates and enters into the APA with two or more countries’ competent authorities. These authorities will need to reach an agreement with regard to the pricing methodologies and calculation process used in the cross-border related party transactions of the enterprise in question. Bilateral and multilateral APAs can be used to effectively avoid international double taxation and provide certainty regarding the transfer pricing policies of the enterprise.
3. Advantages

An APA is an effective approach to deal with transfer pricing issues and potential transfer pricing disputes through the collaboration between tax authorities and an enterprise. An APA between the tax authority (ies) and the enterprise(s) is binding on all parties. The enterprise shall proactively conform to all the provisions and requirements of the arrangement, while tax authority(ies) shall monitor the implementation of the agreement.

An APA is a voluntary agreement conducted on the basis of equality and mutual trust. It serves as an effective mechanism to enhance understanding, strengthen collaboration, and mitigate disputes between enterprises and tax authorities. APAs have the following benefits:

(1) Provide certainty for tax authorities and enterprises in regards to transfer pricing issues for future years, and hence will offer certainty with regard to taxpayers’ operations and relevant tax obligations and provide tax authorities with an expectation of steady tax revenue inflows;

(2) Reduce tax authorities’ costs related to transfer pricing administration and audit as well as enterprises’ tax compliance costs by mitigating the risk of a transfer pricing audit;

(3) Improve the quality of tax compliance services provided by the tax authorities, facilitate the balanced development of administration and service, and assure taxpayers of the relevant rights and benefits.

Bilateral and multilateral APAs can also provide the following advantages:

(1) Facilitate communication and collaboration among the competent tax authorities of different jurisdictions;

(2) Help enterprises avoid transfer pricing adjustments as well as double taxation risks in two (for bilateral APA) or more (for multilateral APA) tax jurisdictions.
1. History

China began using APAs on a trial basis in the late 1990s. In 1998, an APA was included as one of “other reasonable methods of transfer pricing adjustments” in Article 28 of the *Regulation on the Taxation of Transactions between Related Parties (Trial)*[1] (Guo Shui Fa 〔1998〕 No. 59). In 1998, the first unilateral APA was reached between the tax authority and an enterprise.

In 2002, the APA program was formally introduced in Article 53 of the *Rules for the Implementation of the Law of the People’s Republic of China on the Administration of Tax Collection*[2] (Decree No. 362 of the State Council), and APAs were elevated from an adjustment method to a program.

In 2004, the STA promulgated the *Implementation Rules on Advance Pricing Arrangements for Transactions between Related Parties (Trial)* (Guo Shui Fa 〔2004〕 No. 118), which provides details of the APA program and specific procedures such as negotiation and conclusion procedures, requirements, follow-up execution and monitoring, as well as guidance on APA administration in China. Such a step further regulated the administration of China’s APA program. From 1998 to 2004, a number of local Chinese tax authorities have attempted to negotiate and conclude several unilateral APAs with taxpayers on a trial basis. However, due to the absence of nationwide standardized and clearly defined implementation guidance, overly-simplified APA articles, insufficient functional and risk analysis and inadequate comparability analysis were found to be prevalent in APAs concluded during the period. For this reason, this report does not

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[1] Article 28  Transfer Pricing Adjustment Methods for Purchases and Sales of Tangible Assets:

... (IV) Other appropriate methods: If none of the first three methods are applicable, the tax authorities can choose other reasonable methods, such as “profit-comparison method” “profit-split method” and “net profit method”, among others. The enterprise can also adopt an “advance pricing arrangement” after applying for and obtaining approval from the tax bureau in charge...

[2] Article 53  The taxpayer may propose a pricing principle and calculation method to the in-charge tax authority concerning the transactions between them and associated enterprises. The in-charge tax authority shall examine, verify and decide whether to approve the proposal. If approval is given, an advance agreement shall be reached with the taxpayer concerning pricing related matters and the tax authority shall supervise the implementation.
contain statistics on APAs concluded during this period.

In order to standardize and ensure consistency of China’s APA administration across the country, the STA has implemented rules for APA monitoring and administration since 2005 requiring the local tax authorities to submit the draft unilateral agreement to the STA for review and approval before its conclusion. Meanwhile, local tax authorities are required to steadily promote APA programs and strictly conform to the relevant regulations to improve the administration of the APA program. The program has since entered into a well-regulated time. On April 19, 2005, China and Japan signed China’s first bilateral APA. Subsequently, China reached the first bilateral APA with the United States and the Republic of Korea on April 20, 2007 and November 17, 2007 respectively. From 2005 to 2008, the Chinese tax authorities concluded 41 APAs, including 36 unilateral and 5 bilateral APAs.

At the beginning of 2009, the Implementation Measures of Special Tax Adjustments (Trial) (Guo Shui Fa [2009] No. 2, hereinafter referred to as the Measures) was promulgated to facilitate the implementation of the Law of the People’s Republic of China on Enterprise Income Tax and its Implementation Regulations. Chapter Six of the Measures provides more detailed rules and implementation guidance on China’s APA program. On October 26, 2009, China signed the first bilateral APA with the Kingdom of Denmark, marking the start of bilateral cooperation between China and European countries in the transfer pricing area. In 2009, China’s bilateral APA program began to gain significant momentum with 12 APAs (including 5 unilateral and 7 bilateral) being signed in the year.

In 2010, the Chinese tax authorities signed 8 APAs in total, including 4 unilateral APAs and 4 bilateral APAs.

In 2011, the Chinese tax authorities signed 12 APAs in total, including 8 unilateral APAs and 4 bilateral APAs. On December 29, China signed the first bilateral APA with the Republic of Singapore.

In 2012, the Chinese tax authorities signed 12 APAs in total, including 3 unilateral APAs and 9 bilateral APAs.

In 2013, the Chinese tax authorities signed 19 APAs in total, including 11 unilateral APAs and 8 bilateral APAs.

In 2014, the Chinese tax authorities signed 9 APAs in total, including 3 unilateral APAs and 6 bilateral APAs. On December 5, China signed the first bilateral APA with the Swiss Confederation.

In 2015, the Chinese tax authorities signed 12 APAs in total, including 6 unilateral APAs and 6 bilateral APAs.
In 2016, the Chinese tax authorities signed 14 APAs in total, including 8 unilateral APAs and 6 bilateral APAs. In October, the STA issued the Public Notice No. 64 aiming at implementing the achievements of BEPS project and streamlining the APA workflow. On December 1, China signed the first bilateral APA with the Kingdom of the Netherlands.

In 2017, the Chinese tax authorities signed 8 APAs in total, including 3 unilateral APAs and 5 bilateral APAs. In March, in order to incorporate measures recommended by the BEPS Action 14 which requires participating jurisdictions to increase efficiency of resolving Mutual Agreement Procedure (hereinafter referred to as MAP) cases to eliminate double taxation, the STA issued the Public Notice No. 6.

In 2018, the Chinese tax authorities signed 9 APAs in total, including 2 unilateral APAs and 7 bilateral APAs.

2. Existing Legal and Regulatory Basis

The legal basis and relevant laws, regulations and regulatory documents governing APAs primarily include the following:

(1) The relevant clauses in the treaties, agreements or arrangements for the avoidance of double taxation (hereinafter referred to as tax treaty) between the government of China and the government of the corresponding country (region);

(2) Article 42 of the Law of the People’s Republic of China on Enterprise Income Tax;

(3) Article 113 of the Regulations for the Implementation of the Law of the People’s Republic of China on Enterprise Income Tax;

(4) Article 53 of the Rules for the Implementation of the Law of the People’s Republic of China on the Administration of Tax Collection;

(5) Public Notice of the State Taxation Administration on Matters Regarding Enhancing the Administration of Advance Pricing Arrangements (Public Notice of the State Taxation Administration [2016] No. 64);

III APA Procedures

1. Prerequisites to an APA Application

Access to APA is available to enterprises with annual related party transaction amount exceeding RMB 40 million for the three years prior to the year in which the Notice on Tax Matters is issued by the in-charge tax administration(s) notifying the acceptance of enterprise’s intent for the APA.

The tax administration(s) may prioritize APA requests from the enterprise that meets one of the following conditions:

(1) The enterprise’s annual reporting forms for related party dealings and contemporaneous transfer pricing documentation are well completed with adequate disclosures.

(2) The enterprise’s tax compliance rating is “A”.

(3) The enterprise was once under special tax adjustment investigation and the investigation was closed.

(4) The enterprise is applying for a renewal of an existing APA that is about to expire provided that there has been no substantial changes to the facts and operating environment specified in the existing APA.

(5) For the APA request, the enterprise has provided complete and adequate information including but not limited to clear and thorough value chain/supply chain analysis taking into account of location specific advantages such as cost savings and market premium, and appropriate pricing methodologies and calculation process.

(6) The enterprise has been cooperative with the tax administration(s) during the APA process.

(7) For a bilateral/multilateral APA, the competent authority(ies) of the other contracting state(s) of treaty(ies) have displayed strong intention to move forward with the APA negotiation or attached a high importance to the APA.

(8) Any other factors facilitating the APA process is present.
2. APA Process and Implementation

APA process involves the following six stages: pre-filing meeting, letter of intent, analysis and evaluation, formal application, negotiation and signing, and implementation and monitoring.

- **Pre-filing Meeting**: The enterprise shall submit the APA Pre-filing Meeting Application Letter to the charge tax administrator(s). (For bilateral or multilateral APA, the enterprise shall submit the application to ITA as well.)
- **Letter of Intent**: The enterprise shall submit the APA Formal Application Letter to the ITA before the APA can be considered by the ITA. The formal application package submitted to the ITA shall include:
  - Application to Inherit Transfer Pricing Mutual Agreement Procedure
  - Detailed information on the APA process and implementation
- **Negotiation and Signing**: The enterprise and charge tax administrator(s) shall submit the APA Letter of Intent to the charge tax administrator(s) to the ITA. The charge tax administrator(s) shall submit the formal application for the APA.
- **Implementation and Monitoring**: The enterprise shall submit the APA, APA or MAPA, or other tax treaty, in the new or modified APA agreement package to the ITA. The enterprise shall submit the formal application for the APA.

**Chart 3-1 The APA Process**
A. Pre-filing Meeting

An enterprise with the intention to apply for an APA should submit a written application for pre-filing meeting to the tax administration(s). The tax administration(s) may schedule one or several pre-filing meetings with the enterprise.

(1) For a unilateral APA, the enterprise shall submit a written application for pre-filing meeting in the form of *APA Pre-filing Meeting Application Letter* to the in-charge tax administration(s). The in-charge tax administration(s) may schedule one or several pre-filing meetings with the enterprise.

For a bilateral/multilateral APA, the enterprise shall submit a written application for pre-filing meeting in the form of *APA Pre-filing Meeting Application Letter* to both the STA and the in-charge tax administration(s). The STA may schedule one or several pre-filing meetings with the enterprise.

(2) During the pre-filing meeting stage, the enterprise shall provide brief information on the following aspects:

i. Tax years to be covered by the APA;

ii. Related parties and related party transactions to be covered by the APA;

iii. Organizational and management structure of the enterprise and the group it belongs to;

iv. Business operations and contemporaneous transfer pricing documentation of the enterprise for the most recent 3 to 5 years, etc.;

v. Functions performed and risks assumed by the related parties covered by the APA, including the allocation keys based used to allocate the functions and risks, such as facilities, personnel, expenses, assets involved, etc.;

vi. Market conditions, including industry developments and trends, competitive environment, etc.;

vii. Location specific advantages such as cost savings and market premium (if any);

viii. Proposed rollback years (if any);
ix. Any other relevant information.

For a bilateral/multilateral APA, the enterprise should also provide information on the following aspects:

i. Status of APA request to the competent tax authority(ies) of the other Contracting State(s) of the tax treaty(ies);

ii. Business operations of the related parties covered by the APA and their related party transactions for the most recent 3 to 5 years;

iii. Double taxation involved and relevant explanations (if any).

(3) During the pre-filing meeting stage, the enterprise shall submit additional information as requested by the tax administration(s).

B. Letter of Intent

Where the tax administrations and the enterprise reach an agreement during the pre-filing meeting stage, the in-charge tax administration(s) shall issue a *Notice on Tax Matters* to the enterprise to inform the latter to submit the intent for the APA. The enterprise shall submit the intent for the APA to the tax administrations upon receipt of the *Notice on Tax Matters*.

(1) For a unilateral APA, the enterprise shall submit the *APA Letter of Intent* to the in-charge tax administration(s), with the draft unilateral APA application package attached.

For a bilateral/multilateral APA, the enterprise shall submit the *APA Letter of Intent* to both the STA and the in-charge tax administration(s), with the draft bilateral/multilateral APA application package attached.

(2) The draft unilateral APA application package should include information on the following aspects:

   i. Tax years to be covered by the APA;

   ii. Related parties and related party transactions to be covered by the APA;
iii. Organizational and management structure of the enterprise and the group it belongs to;

iv. Business operations, financial and accounting reports, audit reports, and contemporaneous transfer pricing documentation of the enterprise for the most recent 3 to 5 years, etc.;

v. Functions performed, risks assumed by the related parties covered by the APA, including the allocation keys used to allocate the functions, risks, such as facilities, personnel, expenses, assets involved, etc.;

vi. Proposed pricing methodologies and calculation process in the APA, and the functional and risk analysis, comparability analysis and assumptions supporting the proposed pricing methodologies and calculation process;

vii. Value chain analysis or supply chain analysis, taking into account of location specific advantages such as cost savings and market premium, etc.;

viii. Market conditions, including industry developments and trends, and competitive environment, etc.;

ix. Annual scale of operation, profit and loss forecasts and business plans for the years to be covered by the APA;

x. Proposed rollback years (if any);

xi. The relevant industry laws and regulations in and outside China that have implications for the APA;

xii. Explanation that none of the circumstances listed in Clause (3) of this Article applies to the enterprise;

xiii. Any other relevant information.

The draft bilateral/multilateral APA application package should also include information on the following aspects:

i. Status of the APA request to the competent tax authority(ies) of the other Contracting State(s) of the tax treaty(ies);
ii. Business operations of the related parties covered by the APA and their related party transactions for the most recent 3 to 5 years;

iii. Double taxation involved and relevant explanations (if any).

(3) Tax administration(s) may disallow the enterprise to submit the intent for an APA if one or more of the following circumstances is present:

i. The enterprise is under open special tax adjustment investigation or other tax investigations;

ii. The enterprise fails to file the annual reporting forms for related party dealings of enterprises pursuant to the relevant regulations and requirements;

iii. The enterprise fails to prepare, keep and provide the contemporaneous transfer pricing documentation pursuant to the relevant regulations and requirements;

iv. No agreement is reached between the tax administration(s) and the enterprise during the pre-filing meeting stage.

C. Analysis and Evaluation

After receiving the intent for an APA from the enterprise, tax administration(s) shall analyse the draft APA application package and evaluate whether the proposed pricing methodologies and calculation process are in line with the arm’s length principle. The tax administration(s) may request additional information based on the findings from their analysis and evaluation.

The analysis and evaluation may cover the following aspects:

(1) Functional and risk profile. Tax administrations(s) will analyse and evaluate functions performed and contribution made with respect to supply, production, logistics, sales, and research and development of intangibles, etc., as well as risks such as inventory risk, credit risk, foreign exchange risk and market risk assumed by the enterprise and its related parties respectively.

(2) Comparability analysis. Tax administration(s) will analyse and evaluate comparable information provided by the enterprise, and make adjustment for substantial comparability differences.
(3) Related party transaction. Tax administration(s) will analyse and evaluate whether the revenue, cost, expenses and profits associated with the related party transactions cover by the APA are separately accounted for or determined based on reasonable allocation keys.

(4) Pricing methodologies and calculation process. Tax administration(s) will analyse and evaluate the proposed pricing methodologies and calculation process in the APA. Additional statement and explanation should be provided if an APA rollback is proposed.

(5) Value chain analysis and contribution analysis. Tax administration(s) will analyse and evaluate whether the value chain analysis or contribution analysis is complete and clear and whether due consideration is given to location specific advantages such as cost savings and market premium as well as to the contributions to the value creation made by the local enterprise.

(6) Transaction price or profit level. Tax administration(s) will determine the arm’s length transaction price or profit level based on the findings from the analysis and evaluation on the aforementioned aspects.

(7) Assumptions. Tax administration(s) will analyse and evaluate the factors influencing the enterprise’s profitability and business operation and the extent of the influence. Appropriate assumptions applied to the APA shall be established accordingly.

During the analysis and evaluation stage, tax administration(s) may discuss with the enterprise about the draft APA application package and conduct on-site functional interviews.

D. Formal Application

Where the proposal in the draft APA application package is not in line with the arm’s length principle, the enterprise shall consult with the tax administration(s) and make adjustments accordingly. Where the proposal in the draft APA application package is in line with the arm’s length principle, the in-charge tax administration(s) will issue the Notice on Tax Matters to notify the enterprise to submit the formal application for the APA. Upon receiving the notice, the enterprise shall submit the APA Formal Application Letter to the tax administration(s), with the formal APA application packaged attached.

(1) For a unilateral APA, the enterprise shall submit the aforementioned information and documents to
the in-charge tax administration(s). For a bilateral/multilateral APA, the enterprise shall submit the aforementioned information and documents to both the STA and the in-charge tax administration(s) and simultaneously apply for the MAP process pursuant to the relevant regulations and requirements.

(2) Tax administration(s) may disallow the enterprise to submit the formal application for an APA if one or more of the following circumstances is present:

i. The proposed pricing methodologies and calculation process in the draft APA application package is found to be inappropriate and the enterprise refuses to consult with tax administration(s) and make adjustments;

ii. The enterprise fails to provide relevant information or provide additional and/or correct information despite the information originally provided has not met the requirements of the tax administration(s);

iii. The enterprise fails to cooperate with tax administration's request to conduct on-site functional interviews;

iv. Any other circumstances warranting the discontinuance of the APA process.

E. Negotiation and Signing

Tax administration(s) will form position on an APA based on the findings from the analysis and evaluation and conduct negotiation accordingly.

(1) For a unilateral APA, where an agreement is reached between the in-charge tax administration(s) and the enterprise, a unilateral APA agreement will be prepared.

For a bilateral/multilateral APA, where an agreement is reached between the STA and the competent authority(ies) of other contracting state(s) of the tax treaty(ies), a bilateral/multilateral APA agreement will be prepared.

(2) An APA agreement may include the following elements:

i. Basic information such as names and addresses of the enterprise and its related parties;
ii. Related party transactions and years covered by the APA;

iii. Selected pricing methodologies and calculation process, comparable prices or profit levels, etc.;

iv. Terms and definitions related to applied transfer pricing methodologies and calculation basis;

v. Assumptions and obligation to notify changes to the assumptions;

vi. Obligation to submit annual APA implementation report;

vii. Binding effect of the APA;

viii. Renewal of the APA;

ix. Validity, amendment and termination of the APA;

x. Dispute resolution;

xi. Confidentiality of information and documents pertaining to the APA;

xii. Exchange of information on unilateral APAs;

xiii. Appendices.

(3) Where a unilateral APA agreement is reached between the in-charge tax administration(s) and the enterprise, legal representatives or representatives authorized by the legal representatives of the two parties shall sign the unilateral APA agreement.

Where a bilateral/multilateral APA agreement is reached between the STA and the competent authority(ies) of other contracting state(s) of the tax treaty(ies), authorized representatives of all the parties shall sign the bilateral/multilateral APA agreement. The STA shall forward a copy of the agreement to the in-charge tax administration(s). The in-charge tax administration(s) shall issue the Notice on Tax Matters with the copy of the agreement attached to the enterprise and ensure the implementation of the APA.

(4) Where an APA involves additional tax payments or tax refunds for the prospective years or rollback years, tax administration(s) shall calculate the amount of tax payable or tax refundable on a tax year-by-tax year basis and issue the Notice on APA Tax Payable/Refundable.
F. Implementation and Monitoring

Tax administration(s) shall monitor the implementation of APA.

(1) During the APA covered period, the enterprise shall keep the relevant information and documents (including accounting records and other relevant records) intact and shall not lose, destroy or remove such information and documents.

The enterprise shall file the annual APA implementation report in both hard copy and electronic copy with the in-charge tax administration(s) within 6 months of the end of each tax year. The in-charge tax administration(s) shall forward the electronic copy to the STA. For a bilateral/multilateral APA, the enterprise shall file the annual APA implementation report in both hard copy and electronic copy with the in-charge tax administration(s) and simultaneously file the electronic copy with the STA.

The annual APA implementation report shall document the enterprise’s business operations and implementation of the APA during the reporting period. The enterprise shall also explain in the annual APA implementation report if there is a need to amend or terminate the APA, or if there are any unsettled issues or foreseeable issues.

(2) During the APA covered period, the in-charge tax administration(s) shall monitor the enterprise’s implementation of the APA on a yearly basis. Major areas for monitoring include: whether the enterprise complies with the terms and conditions in the APA; whether the information provided in the annual APA implementation report reflects the actual operation results of the enterprise; whether the assumptions specified in the APA are still valid, etc.

(3) During the APA covered period, where there are substantial changes to the enterprise which may have an impact on the APA, the enterprise shall file a written report on substantial changes with the in-charge tax administration(s) within 30 days. The report should explain in detail the impact of the changes, with relevant supporting information and documents attached. If the enterprise is forced to delay the reporting due to circumstances beyond its control, an up to 30 days extension can be applied.

Upon receiving written report from the enterprise, tax administration(s) shall analyze to what extent
the substantial changes have impacted the APA. Tax administration(s) may amend or terminate the APA depending on the extent of the impact. If the existing APA is terminated, tax administration(s) and the enterprise may start the APA process for the purpose of concluding a new APA pursuant to the relevant provisions and requirements of Public Notice No. 64.

3. Rollback

Where the related party transactions in prior years are the same as or similar to those covered by the APA, per the enterprise's request, the tax administration(s) may apply the agreed pricing methodologies and calculation process specified in the APA to such related party transactions. The maximum rollback period is 10 years.

The conclusion of an APA does not preclude the enterprise from special tax adjustment investigation on related party transactions or years not covered by the APA.

Enterprises which have reached agreement in the pre-filing meeting with the tax authorities and submitted the APA Letter of Intent and applied for retroactive application of the APA, or enterprises which have submitted the APA Renewal Application, can be temporarily exempted from special tax audit. This exemption does not apply to the period and the related transactions which are not covered under the APA.

4. Renewal

(1) An APA automatically becomes invalid upon its expiration. The enterprise may apply for a renewal by filing an APA Renewal Application with the tax administration(s) within 90 days prior to the expiration of the existing APA. The enterprise shall also provide relevant supporting information and documents including annual APA implementation reports for the existing APA, documents explaining whether there have been any substantial changes to the facts and operating environment specified in the exiting APA, and forecast for the years to be covered by the APA renewal, etc.

(2) For an APA with a target price/profit within an interquartile range, if the enterprise's actual operating price/profit falls outside the interquartile range for any year during the APA covered period, tax administration(s) shall adjust the actual operating result to the median for the year. Upon expiration
of the APA, if the calculated weighted average operating price/profit of the enterprise for the APA covered period falls below the median of the agreed range and is not adjusted to the median, tax administration(s) will not accept the enterprise’s APA renewal application.

Where a bilateral/multilateral APA is involved, the in-charge tax administration(s) shall report the aforementioned issues to the STA in a timely manner.

5. Termination or Cancellation

(1) Either the tax administration(s) or the enterprise can suspend or terminate an APA process at any point of time before the conclusion of the APA. If the enterprise is found to have purposefully withheld relevant information, or provided false or incomplete information, or been uncooperative in other matters rendering the conclusion of the APA impossible, the tax administration(s) may suspend or terminate the APA process. For a bilateral/multilateral APA, the APA process may be suspended or terminated after consultation between the competent authorities involved. Where the tax administration(s) initiate the suspension or termination of the APA process, the tax administration(s) shall issue a Notice on Tax Matters to notify the enterprise of the decision and underlying reasons. Where the enterprise initiates the suspension or termination of the APA process, the enterprise shall submit a written explanation to the tax administration(s).

(2) In case any dispute arises during the implementation of an APA, the in-charge tax administration(s) and the enterprise shall endeavor to resolve the disputes through negotiations. Where the disputes remain unresolved after negotiations, the in-charge tax administration can report the disputes to the tax administration(s) at the higher level for mediation. Disputes that involve a bilateral/multilateral APA shall be reported to the STA for mediation. Decisions made by the tax administration(s) at the higher level or the STA shall be enforced by the in-charge tax administration(s). The APA may be terminated if the enterprise still finds the decisions unacceptable.

(3) Where the conclusion of an APA is found to be resulting from an APA process inconsistent with the relevant regulations and requirements or the fact that the enterprise has withheld information, the tax administration(s) will annul the APA and issue the Notice on Tax Matters to notify the enterprise of the decision and the underlying reasons. Where the enterprise is found to fail to implement an
APA or violate the terms and conditions of an APA in other manners, the tax administration(s) may, depending on the circumstances, take necessary measures including terminating the APA to address the incompliance.

6. Particular Situations Referred to Multiple Tax Authorities

(1) Where an APA involves two or more provinces, autonomous regions, municipalities directly under the central government or cities specifically designated in the state plan, the APA process shall be organized and coordinated by the STA.

The enterprise applying for a unilateral APA that falls under one of the aforementioned categories shall submit the application to both the STA and the tax administration(s) designated by the STA. The STA may sign the unilateral APA with the enterprise by itself or authorize the designated tax administration(s) to sign the unilateral APA with the enterprise. Alternatively the STA may arrange for each relevant in-charge tax administration to sign the unilateral APA with the enterprise respectively.

(2) Where a unilateral APA involves two or more in-charge tax administrations within the same province, autonomous region, municipality directly under the central government or city specifically designated in the state plan, the APA process shall be organized and coordinated by the tax administration(s) at the level of the province, autonomous region, municipality directly under the central government or city specifically designated in the state plan.
1. Confidentiality of Taxpayers’ Information

(1) Both the tax administration(s) and the enterprise are legally bound to keep the information and documents obtained through the APA process confidential. Except for situations where the tax administration(s) are required by laws and regulations to share the information and documents with the relevant government agencies, the tax administration(s) are prohibited from disclosing the information and documents in any way without the consent of the enterprise.

(2) The STA may exchange information on unilateral APAs concluded after 1 April, 2016 with relevant competent authorities of other countries (regions) pursuant to the relevant international conventions, treaties, agreements between China and other countries (regions) unless the information concerns national security. The enterprise shall provide a list consisting of jurisdictions of its ultimate parent company, jurisdictions of its immediate parent company and jurisdictions of related party with whom it enters into a transaction covered by the APA to the tax administration(s) upon the conclusion of the APA.

2. Taxpayers’ Freedom of Contract

Either the tax administration(s) or the enterprise can suspend or terminate an APA process at any point of time before the conclusion of the APA.

Where the tax administration(s) and the enterprise fail to conclude an APA, the tax administration(s) are refrained from using the nonfactual information such as proposals, inferences, views and positions obtained through the APA process in the special tax adjustment investigation on the related party transactions covered by the proposed APA.
V Statistics

1. APAs Signed by Year

Exhibit 5-1 summarizes the number of unilateral and bilateral APAs that the Chinese tax authorities signed during each of the 2005 to 2018 calendar years.

<table>
<thead>
<tr>
<th>Year</th>
<th>Unilateral APAs</th>
<th>Bilateral APAs</th>
<th>Multilateral APAs</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>13</td>
<td>1</td>
<td>0</td>
<td>14</td>
</tr>
<tr>
<td>2006</td>
<td>10</td>
<td>0</td>
<td>0</td>
<td>10</td>
</tr>
<tr>
<td>2007</td>
<td>7</td>
<td>3</td>
<td>0</td>
<td>10</td>
</tr>
<tr>
<td>2008</td>
<td>6</td>
<td>1</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>2009</td>
<td>5</td>
<td>7</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td>2010</td>
<td>4</td>
<td>4</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>2011</td>
<td>8</td>
<td>4</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>(Renewals in 2011)</td>
<td>(4)</td>
<td>(0)</td>
<td>(4)</td>
</tr>
<tr>
<td>2012</td>
<td>3</td>
<td>9</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>(Renewals in 2012)</td>
<td>(1)</td>
<td>(6)</td>
<td>(7)</td>
</tr>
<tr>
<td>2013</td>
<td>11</td>
<td>8</td>
<td>0</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>(Renewals in 2013)</td>
<td>(0)</td>
<td>(4)</td>
<td>(4)</td>
</tr>
<tr>
<td>2014</td>
<td>3</td>
<td>6</td>
<td>0</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>(Renewals in 2014)</td>
<td>(1)</td>
<td>(0)</td>
<td>(1)</td>
</tr>
<tr>
<td>2015</td>
<td>6</td>
<td>6</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>(Renewals in 2015)</td>
<td>(0)</td>
<td>(2)</td>
<td>(2)</td>
</tr>
<tr>
<td>2016</td>
<td>8</td>
<td>6</td>
<td>0</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>(Renewals in 2016)</td>
<td>(0)</td>
<td>(2)</td>
<td>(2)</td>
</tr>
<tr>
<td>2017</td>
<td>3</td>
<td>5</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>(Renewals in 2017)</td>
<td>(0)</td>
<td>(3)</td>
<td>(3)</td>
</tr>
</tbody>
</table>
The chart 5-1 compares the number of unilateral APAs and bilateral APAs signed from 2005 through 2018.

As shown in the exhibit 5-1 and chart 5-1, China has signed 89 unilateral APAs and 67 bilateral APAs during this 14 year period, accounting for 57.05% and 42.95% of the total number of signed APAs in China respectively. So far China has not signed any multilateral APA. The number of APAs signed each year has fluctuated from 2010 to 2018. Of the 7 bilateral APAs signed in 2018, 6 were signed for the first time and 1 was renewal. Of the 2 unilateral APAs signed in 2018, 1 was signed for the first time and another one was renewal. Altogether there were 9 APAs signed in 2018.

<table>
<thead>
<tr>
<th>Year</th>
<th>Unilateral APAs</th>
<th>Bilateral APAs</th>
<th>Multilateral APAs</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>2 (Renewals in 2018)</td>
<td>7 (1)</td>
<td>0 (0)</td>
<td>9 (2)</td>
</tr>
<tr>
<td>Total</td>
<td>89</td>
<td>67</td>
<td>0</td>
<td>156</td>
</tr>
</tbody>
</table>
2. APAs by Phase

Exhibit 5-2 provides statistics of APAs by phase as of December 31, 2018.

<table>
<thead>
<tr>
<th>Phases</th>
<th>Unilateral</th>
<th>Bilateral</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intent</td>
<td>7</td>
<td>32</td>
<td>39</td>
</tr>
<tr>
<td>Application</td>
<td>9</td>
<td>56</td>
<td>65</td>
</tr>
<tr>
<td>Signing</td>
<td>89</td>
<td>67</td>
<td>156</td>
</tr>
</tbody>
</table>

According to the *Public Notice of the State Taxation Administration on Matters Regarding Enhancing the Administration of Advance Pricing Arrangements* (Public Notice of the State Taxation Administration 〔2016〕 No. 64), Exhibit 5-2 adjusts and divides APA program into three phases, which are intent, application and signing ①.

As can be seen clearly in Exhibit 5-2, there are more bilateral APAs than unilateral APAs in intent phase and application phase. The above figures suggest that more and more enterprises prefer to apply for bilateral APA to gain certainty and avoid double taxation. They also demonstrate that the workload of Chinese tax administration in dealing with bilateral APA issues will dramatically increase as the growth of APA applications.

① The intent refers to the phase that the tax administrations accept the letter of intent of taxpayers; application refers to the phase that the tax administrations accept the formal application; signing refers the phase that the tax administrations are going to sign unilateral or bilateral APA with the taxpayers.
3. APAs by Transaction Type

Exhibit 5-3 below illustrates the types of transactions involved in the concluded APAs as of December 31, 2018.

**Exhibit 5–3  Concluded APAs by Transaction Type** (2005–2018)

<table>
<thead>
<tr>
<th>Transaction Type</th>
<th>Number of APAs</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transfer of the right to use or ownership of tangible assets</td>
<td>136</td>
<td>65.07%</td>
</tr>
<tr>
<td>Transfer of the right to use or ownership of intangibles</td>
<td>31</td>
<td>14.83%</td>
</tr>
<tr>
<td>Services</td>
<td>42</td>
<td>20.1%</td>
</tr>
<tr>
<td>Financing</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Transfer of financial assets</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>209</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

As shown in Exhibit 5-3, transfer of the right to use or ownership of tangible assets accounts for the largest portion of transactions covered by China’s APA program. Of the concluded APAs, 65.07% involve transfer of the right to use or ownership of tangible assets, 14.83% involve transfer of the right to use or ownership of intangibles, and 20.1% involve services. As China’s tertiary industry develops, an increasing number of service companies may decide to apply for APAs. Thus, more APAs may involve transactions related to transfer of the right to use or ownership of intangibles, services, financing and transfer of financial assets.

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1. As some APAs involve multiple transaction types, the total number of related party transactions is greater than the number of APAs.
4. Bilateral APAs by Region

From 2005 to 2018, China has signed 44 bilateral APAs with Asian countries, 16 with European countries and 7 with North American countries. The following chart displays the percentage of bilateral APAs accounted for by each of these regions.

![Chart 5-2 Bilateral APAs by Region (2005–2018)](chart)

5. APAs by Time Taken

Exhibit 5-4 illustrates the time taken to conclude unilateral and bilateral APAs signed by China in 2018.

<table>
<thead>
<tr>
<th>Type</th>
<th>from Application to Conclusion</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 year (including 1 year)</td>
</tr>
<tr>
<td>Unilateral</td>
<td>2</td>
</tr>
<tr>
<td>Bilateral</td>
<td>1</td>
</tr>
</tbody>
</table>
As shown in Exhibit 5-4, all unilateral APAs signed in 2018 were concluded within 1 year. Besides, of the 7 bilateral APAs signed in 2018, 1 was concluded within 1 year, 1 was concluded in 2-3 years while 5 took more than 3 years.

Exhibit 5-5 illustrates the time taken for the unilateral and bilateral APAs to be signed by China from 2005 to 2018.

<table>
<thead>
<tr>
<th>Type</th>
<th>from Application to Conclusion</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 year (including 1 year)</td>
<td>1-2 years (including 2 years)</td>
</tr>
<tr>
<td>Unilateral</td>
<td>51</td>
<td>33</td>
</tr>
<tr>
<td>Bilateral</td>
<td>31</td>
<td>9</td>
</tr>
</tbody>
</table>

As shown in Exhibit 5-5, 57.3% of China’s unilateral APAs were concluded within 1 year, 37.08% were concluded in 1 to 2 years while only 5.62% took more than 2 years. While bilateral APAs generally took more time, 46.27% were concluded within 1 year, 13.43% took 1 to 2 years, 14.93% took 2 to 3 years, and the remaining 25.37% were concluded in more than 3 years.

The time required to complete the entire APA process depends on many factors including the type of APA requested (i.e. unilateral, bilateral, or multilateral), the complexity of transactions involved, the quality of the documents provided by the taxpayer, the logistics of the review process performed by competent authorities. The Chinese tax authorities generally aim to complete the review and negotiation process within 12 months for unilateral APAs and within 24 months for bilateral APAs. Bilateral APAs involve negotiations with relevant competent authorities through the MAP process and therefore more time is required to reach a consensus on them than that of unilateral APAs.
6. APAs by Transfer Pricing Method

The chart 5-3 shows the transfer pricing methods applied in the unilateral and bilateral APAs signed from 2005 to 2018.

The data indicates that the transactional net margin method (TNMM) is the most commonly used transfer pricing method, being used 143 times and accounting for 79.44% of all the applied transfer pricing methods. The most commonly used profit level indicators are the Earning Before Interest and Tax (EBIT) operating margin (used in 59 APAs) and the Full Cost Mark-up (used in 82 APAs). Meanwhile, the STA and local tax

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Some APAs involve two or more types of transactions and multiple transfer pricing methods may be used.
administrations have been exploring the use of other appropriate transfer pricing methods including profit split method especially in dealing with transactions where both transacted parties have made significant contributions to the value creation or location specific advantages such as market premium or cost savings have been present. The second most popular transfer pricing method is the cost plus method, being used in 19 of the concluded APAs. The other transfer pricing methods are applied less frequently. The comparable uncontrolled price (CUP) method is used in 6 cases, the resale price method in 1 case, the profit split method in 5 cases and other methods in the other 6 signed APAs. As the CUP method requires a very high standard of comparability for application and the resale price method and profit split method require a heavy amount of information regarding the transaction and pricing, these methods tend to be applied less frequently in practice. The Chinese tax authorities hope that enterprises will better cooperate with tax officers during the APA review and evaluation phase and provide sufficient information regarding transactions and prices so that the resale price method and the profit split method may be more frequently applied in the APA program.

7. Industries covered by signed APAs

Exhibit 5-6 illustrates the industries covered by the unilateral and bilateral APAs signed by China from 2005 to 2018. 84.62% of the APAs signed from 2005 to 2018 still involve manufacturing industry.

<table>
<thead>
<tr>
<th>Industry Involved</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturing</td>
<td>132</td>
</tr>
<tr>
<td>Leasing and Commercial Services</td>
<td>5</td>
</tr>
<tr>
<td>Wholesale trade and retail</td>
<td>9</td>
</tr>
<tr>
<td>Transportation, warehousing, and postal services</td>
<td>4</td>
</tr>
<tr>
<td>Scientific and technical services</td>
<td>2</td>
</tr>
<tr>
<td>Information transmission, software and information technology services</td>
<td>2</td>
</tr>
<tr>
<td>Electricity, thermo, gas and water generation and supply</td>
<td>1</td>
</tr>
<tr>
<td>Construction</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>156</strong></td>
</tr>
</tbody>
</table>
## VI STA Contacts for APA Requests (by province)

<table>
<thead>
<tr>
<th>Organization</th>
<th>Name</th>
<th>Telephone</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>STA Headquarters</td>
<td>Li Hanli</td>
<td>010–63417926</td>
<td>No. 5 Yangfangdian Xilu, Haidian District, Beijing</td>
</tr>
<tr>
<td>Beijing Municipal Tax Service, STA</td>
<td>Ma Xiaowen</td>
<td>010–60907182</td>
<td>No.72(A) Tiantan Donglu, Dongcheng District, Beijing</td>
</tr>
<tr>
<td>Tianjin Municipal Tax Service, STA</td>
<td>Wang Chunli</td>
<td>022–24465656</td>
<td>No.16 Minzhu Street, Hebei District, Tianjin</td>
</tr>
<tr>
<td>Hebei Provincial Tax Service, STA</td>
<td>Liu Yu</td>
<td>0311–88625325</td>
<td>No.35 Ping’ annan Street, Shijiazhuang, Hebei</td>
</tr>
<tr>
<td>Shanxi Provincial Tax Service, STA</td>
<td>Lv Wentao</td>
<td>0351–2387455</td>
<td>No. 31 Shuiximen Street, Taiyuan, Shanxi</td>
</tr>
<tr>
<td>Inner Mongolia Autonomous Region Tax Service, STA</td>
<td>Sui Hongfeng</td>
<td>0471–3309112</td>
<td>Houqiaobao Street, Jinqiao Development Zone, Huhehaote, Inner Mongolia</td>
</tr>
<tr>
<td>Liaoning Provincial Tax Service, STA</td>
<td>Liu Wei</td>
<td>024–23185436</td>
<td>No.256 Qingnian Street, Shenhe District, Shenyang, Liaoning</td>
</tr>
<tr>
<td>Jilin Provincial Tax Service, STA</td>
<td>Chai Jinsong</td>
<td>0431–80500257</td>
<td>No.1518 Nanhu Street, Changchun, Jilin</td>
</tr>
<tr>
<td>Heilongjiang Provincial Tax Service, STA</td>
<td>Deng Liming</td>
<td>0451–53611059</td>
<td>No.116 Dacheng Street, Nangang District, Haerbin, Heilongjiang</td>
</tr>
<tr>
<td>Shanghai Municipal Tax Service, STA</td>
<td>Xie Tian</td>
<td>021–54679568</td>
<td>No.800 Zhaojiahang Road, Shanghai</td>
</tr>
<tr>
<td>Jiangsu Provincial Tax Service, STA</td>
<td>Li Liuxi</td>
<td>025–83501018</td>
<td>No.55 Zhongshanbei Road, Gulou District,Nanjing, Jiangsu</td>
</tr>
<tr>
<td>Zhejiang Provincial Tax Service, STA</td>
<td>Wang Zhen</td>
<td>0571–85270907</td>
<td>No.256 Huanchengbei Road, Hangzhou, Zhejiang</td>
</tr>
<tr>
<td>Anhui Provincial Tax Service, STA</td>
<td>Ding Jiajia</td>
<td>0551–62831710</td>
<td>No.3398 Zhongshan Road, Binhu District, Hefei, Anhui</td>
</tr>
<tr>
<td>Organization</td>
<td>Name</td>
<td>Telephone</td>
<td>Address</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------</td>
<td>-----------------</td>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Fujian Provincial Tax Service, STA</td>
<td>Zheng Jing</td>
<td>0591–87098209</td>
<td>No.36 Tongpan Road, Fuzhou, Fujian, 350003</td>
</tr>
<tr>
<td>Jiangxi Provincial Tax Service, STA</td>
<td>Wang Haifang</td>
<td>0791–86204349</td>
<td>No.456 Honggunan Road, Honggutan New District Nanchang, Jiangxi</td>
</tr>
<tr>
<td>Shandong Provincial Tax Service, STA</td>
<td>Zhou Shenghai</td>
<td>0531–85656693</td>
<td>No.155 Yingxionghshan Road, Jinan, Shandong</td>
</tr>
<tr>
<td>Henan Provincial Tax Service, STA</td>
<td>Li Hong</td>
<td>0371–66767708</td>
<td>No.111 Fengchan Road, Zhengzhou, Henan</td>
</tr>
<tr>
<td>Hubei Provincial Tax Service, STA</td>
<td>Jiang Yuan</td>
<td>027–87322128</td>
<td>No.231 Yaojialing Road, Wuchang District, Wuhan, Hubei</td>
</tr>
<tr>
<td>Hunan Provincial Tax Service, STA</td>
<td>Zhou Zhiyong</td>
<td>0731–85525533</td>
<td>No.6 Huanbaoxi Road, Yuhua District Changsha, Hunan</td>
</tr>
<tr>
<td>Guangdong Provincial Tax Service, STA</td>
<td>Huang Rui</td>
<td>020–38358303</td>
<td>No.19 Huacheng Avenue, Tianhe District, Guangzhou, Guangdong</td>
</tr>
<tr>
<td>Guangxi Zhuang Autonomos Region Tax Service, STA</td>
<td>Hu Yu</td>
<td>0771–5562291</td>
<td>No.105 Minzu Avenue, Nanning, Guangxi</td>
</tr>
<tr>
<td>Hainan Provincial Tax Service, STA</td>
<td>Wang Kaixia</td>
<td>0898–66509357</td>
<td>No. 10 Longkunbei Road, Haikou, Hainan</td>
</tr>
<tr>
<td>Chongqing Municipal Tax Service, STA</td>
<td>Du Wenyuan</td>
<td>023–67572815</td>
<td>No.9 Xihu Road, Yubei District, Chongqing</td>
</tr>
<tr>
<td>Sichuang Provincial Tax Service, STA</td>
<td>Ren Huiyu</td>
<td>028–85458860</td>
<td>No.2 Linjiangdong Road, Wuhou District, Chengdu, Sichuang</td>
</tr>
<tr>
<td>Guizhou Provincial Tax Service, STA</td>
<td>Yan Hongyu</td>
<td>0851–85215543</td>
<td>No.71 Zhongshanxi Road, Guiyang, Guizhou</td>
</tr>
<tr>
<td>Yunnan Provincial Tax Service, STA</td>
<td>Lan Le</td>
<td>0871–63129989</td>
<td>No.304 Baita Road, Panlong District Kunming, Yunnan</td>
</tr>
<tr>
<td>Tibet Autonomous Region Tax Service, STA</td>
<td>Qiao Haijun</td>
<td>0891–6834079</td>
<td>No.51 Beijingham Road, Lhasa, Tibet</td>
</tr>
<tr>
<td>Shanxi Provincial Tax Service, STA</td>
<td>Zhao Ting</td>
<td>029–87695187</td>
<td>No.39 Erhuannan Road, Xi’an, Shaanxi</td>
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<tr>
<td>Organization</td>
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<td>Gansu Provincial Tax Service, STA</td>
<td>Song Weixia</td>
<td>0931–8837625</td>
<td>No.156 Jingning Road, Chengguan District, Lanzhou, Gansu</td>
</tr>
<tr>
<td>Qinghai Provincial Tax Service, STA</td>
<td>Ma Manxin</td>
<td>0971–8220441</td>
<td>No.11 Wenhua Street, Xining, Qinghai</td>
</tr>
<tr>
<td>Ningxia Hui Autonomous Region Tax Service, STA</td>
<td>Wang Li</td>
<td>0951–5065733</td>
<td>No.161 Beijingzhong Road, Jinfeng District, Yinchuan, Ningxia</td>
</tr>
<tr>
<td>Xinjiang Uygur Autonomous Region Tax Service, STA</td>
<td>Cao Peihao</td>
<td>0991–2681362</td>
<td>No.397 Qingnian Road, Tianshan District, Urumchi, Xinjiang</td>
</tr>
<tr>
<td>Dalian Tax Service, STA</td>
<td>Min Yixuan</td>
<td>0411–84384105</td>
<td>No.330 Gaoerji Road, Shahekou District, Dalian, Liaoning</td>
</tr>
<tr>
<td>Qingdao Tax Service, STA</td>
<td>Wang Zhongyu</td>
<td>0532–83931715</td>
<td>No.236 Yanansan Road, Qingdao, Shandong</td>
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<tr>
<td>Xiamen Tax Service, STA</td>
<td>Chen Gonghao</td>
<td>0592–2021901</td>
<td>No.318 Lujiang Road, Xiamen, Fujian</td>
</tr>
<tr>
<td>Ningbo Tax Service, STA</td>
<td>Wu Miner</td>
<td>0574–87732286</td>
<td>No.8 Baizhang Road, Yinzhou District, Ningbo, Zhejiang</td>
</tr>
<tr>
<td>Shenzhen Tax Service, STA</td>
<td>Tan Yuguang</td>
<td>0755–25843620</td>
<td>No.613 Baguaer Road, Futian District, Shenzhen, Guangdong</td>
</tr>
</tbody>
</table>
Appendix 1

APA Pre-filing Meeting Application Letter

: In accordance with:

☐ The Law of the People's Republic of China on Enterprise Income Tax and its Implementation Regulations;

☐ The Law of the People's Republic of China on the Administration of Tax Collection and its Implementation Rules;

☐ The relevant provisions in the tax treaty entered into by the government of the People's Republic of China and the government of for the transaction(s) between our Enterprise and our related party(ies), we apply for:

☐ Pre-filing Meeting (unilateral APA)

☐ Pre-filing Meeting (bilateral APA)

☐ Pre-filing Meeting (multilateral APA)

Contact person: Contact telephone number

Enclosures: Total ___ copies ___ pages

1. _________

2. _________

3. _________

……..

Name of Enterprise (Official Stamp):

Taxpayer Identification Number:

Legal Representative (Official Stamp):

(Date):
Appendix 2

APA Letter of Intent

______________________:

In accordance with:

☐ The Law of the People’s Republic of China on Enterprise Income Tax and its Implementation Regulations;

☐ The Law of the People’s Republic of China on the Administration of Tax Collection and its Implementation Rules;

☐ the relevant provisions in the tax treaty entered into by the government of the People’s Republic of China and the government of ________, and in accordance with the requirements in the Notice on Tax Matters (______ Shui Yi Xiang [ ] No. ) issued by your bureau on __________ (Date), we apply for:

☐ Intention for unilateral APA

☐ Intention for bilateral APA

☐ Intention for multilateral APA

for the transaction(s) between our Enterprise and ________ (name of the related party). Please sign and acknowledge receipt of this application.

Enclosures: Total ___ copies ___ pages

1. 

2. 

3. 

......

Name of Enterprise (Official Stamp):

Taxpayer Identification Number:

Legal Representative (Official Stamp):

(Date):
Appendix 3

APA Formal Application Letter

________________________ :

In accordance with:

☐ The Law of the People’s Republic of China on Enterprise Income Tax and its Implementation Regulations;

☐ The Law of the People’s Republic of China on the Administration of Tax Collection and its Implementation Rules;

☐ the relevant provisions in the tax treaty entered into by the government of the People’s Republic of China and the government of ________, and in accordance with the requirements in the Notice on Tax Matters (____ Shui Yu Yue [ ____ No. ] ) issued by your bureau on __________ (Date), we apply for:

☐ Formal application for unilateral APA

☐ Formal application for bilateral APA

☐ Formal application for multilateral APA

for the transaction(s) between our Enterprise and the _______ (name of the related party). Please sign and acknowledge receipt of this application.

Enclosures: Total ___ copies ___ pages

1. __________________________________________________________

2. __________________________________________________________

3. __________________________________________________________

......

Name of Enterprise (Official Stamp):

Taxpayer Identification Number:

Legal Representative (Official Stamp):

(Date):
Advance Pricing Arrangement (Unilateral)

(Text for Reference)

Pursuant to the *Law of the People’s Republic of China on Enterprise Income Tax* and its Implementation Regulations as well as the *Law of the People’s Republic of China on the Administration of Tax Collection* and its Implementation Rules, upon formal application of ________ (company name) and the confirmation of the Tax Bureau of ________ (tax office name), both parties would like to conclude this Advance Pricing Arrangement (hereinafter referred to as this “APA”).

**Article 1  General Definitions**

For the purposes of this APA, unless otherwise defined elsewhere:

The term “in-charge tax authority” refers to the Tax Bureau of ________ (tax office name).

The term “taxpayer” refers to ________ (company name); Taxpayer Identification Number: ________; Address: ________________________________.

**Article 2  Scope of Application**

Type of tax(es) covered: This APA is applicable to enterprise income tax and other tax types.

Type of related party transaction(s) covered: This APA is applicable to ________ (description of the transaction type) transactions between the taxpayer and ________ (company name), which is its related party.

**Article 3  Applicable Term**

This APA is applicable for ________ year to ________ year, totally ________ (number) tax years. Each taxable year is from ________ (month) ________ (day) to ________ (month) ________ (day).

**Article 4  Critical Assumptions**

The transfer pricing methodology and calculation method used in this APA are based on the following assumptions:

_________________________________________
During the covered period, in case any of the above critical assumptions should change, the taxpayer should report to the in-charge tax authority within 30 days after the change takes place. Depending on the circumstances, the in-charge tax authority and the taxpayer may amend or terminate this APA.

**Article 5  Transfer Pricing Method**

The transfer pricing principle and calculation method used in this APA for the transactions between (company name) and its related party(ies) is ______________ (Each related transaction should be separately listed).

**Article 6  Annual Compliance Report**

During the covered period of the APA, the taxpayer should file annual compliance reports in relation to the implementation situation of the APA within 6 months after the end of the taxable year, together with the following documents:

**Article 7  Legal Binding Force of this APA**

During the covered period of this APA, both of the tax authority and the taxpayer should comply with all the articles and requirements set out in this APA. If the taxpayer fails to comply with this APA, the in-charge tax authority may take actions according to the specific circumstances, or unilaterally terminate this APA.

**Article 8  Renewal of this APA**

This APA cannot be the basis to renew. The taxpayer should comply with relevant regulations to apply for renewal of APA.

**Article 9  Dispute Resolution**

In the event of disputes over the implementation and interpretation of this APA, the in-charge tax authority and the taxpayer should first negotiate to resolve such issues. If the disputes cannot be resolved through negotiation, both parties may petition the upper level tax authority for mediation; Where an APA involves two or more provinces, autonomous regions, municipalities directly under the central government or cities specifically designated in the state plan, both parties may petition the State Taxation Administration for mediation. If the taxpayer cannot accept the mediation resolution, it should consider revising or terminating this APA.
Article 10  Confidentiality and Responsibility

Both the in-charge tax administration(s) and the taxpayers are legally bound to keep the information and documents obtained through the APA process confidential.

The STA may exchange information on unilateral APAs with relevant competent authorities of other countries (regions) pursuant to the relevant international conventions, treaties, agreements between China and other countries (regions) unless the information concerns national security.

Article 11  Effectiveness, Amendment and Termination

This APA will come into effect once signed and stamped by the legal or authorized representatives of both parties.

This APA is signed by the legal or authorized representatives of the in-charge tax authority and the taxpayer in ________ (city), (province) on ________ (day-month-year).

If the in-charge tax authority or the taxpayer amends or terminates this APA, the party should notify the other party. The notification should include the time of and the reason for the amendment or termination in written form.

Article 12  Supplementary Provisions

This APA should be prepared in Chinese, in ________ (number) copies, one for the in-charge tax authority and the other for the taxpayer.

________ Tax Authority

Signature: Date: Signature: Date:

Title: Stamp: Title: Stamp:
Appendices: Forms and Schedules of the APA Program

Appendix  5

Tax Authority

Notice on APA Tax Payable (Refundable)

[Name of Taxpayer]

In accordance with

☐ The [name of unilateral APA] signed on [date-month-year] between our office and your company;

☐ The [name of bilateral or multilateral APA] signed on [date-month-year] between Tax authority of China and [name of the competent authority of the tax treaty contracting party],

the taxable year from [start year] to [end year] will be adjusted:

1. Make a upward (downward) adjustment to the taxable income for [amount] RMB, correspondingly paying (refunding) enterprise income tax for [amount] RMB and surcharging interest as stipulated.

2. Make a upward (downward) adjustment to the assessable income for [amount] RMB, correspondingly paying (refunding) [tax category] for [amount] RMB.

......

If additional tax payments were required, you have to pay the tax and interest to [tax authority] within [number] days after receiving this notice. The late payment will be punished in accordance with the Law of People’s Republic of China on the Administration of Tax Collection.

Hereby notified.

Attachments: 1. Enterprise Income Tax Adjustment Items

2. Other Tax(es) Adjustment Items

3. The Schedule of tax Payable(refundable)

Tax Authority (Stamp)

(Date)
APA Renewal Application

_________________________ Tax Authority:

□ The ______ (name of unilateral APA) signed on ________ (date-month-year) between your office and our company ________

□ The ______ (name of bilateral APA) signed on ________ (date-month-year) between Tax authority of the People’s Republic of China and ________ (name of the competent authority(ies) of the tax treaty contracting party)

will expire on ________ (date-month-year). After expiration, our company plans to apply for APA renewal of related party transactions in the future years (from ______ to ______).

Name of Enterprise (Official Stamp):

Taxpayer Identification Number:

Legal Representative (Official Stamp):

(Date):

Attachments: 1. The annual APA implementation reports for the existing APA (provided by taxpayers).

2. The documents explaining whether there have been any substantial changes to the facts and operating environment specified in the existing APA, and forecast for the year to be covered by the APA renewal (provided by taxpayers).
## Application to Initiate Transfer Pricing
### Mutual Agreement Procedures

<table>
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<th>Basic information of the applicant</th>
<th>The party in China</th>
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<td>Contact Person (Chinese and English)</td>
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<td>Postcode</td>
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<td>Contact information (telephone number, fax, email) of the tax authority in charge</td>
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<tr>
<td>Whether to apply other domestic remedy or not? (e.g. Administrative Reconsideration, Administrative Proceeding)</td>
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<td>If so, please provide the date to submit application, the date that the application is accepted and the progress of domestic remedy</td>
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### Summary of the issue to negotiate

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The applicant’s opinion on the issue and the relevant basis thereof

The opinion of the tax authority in charge in the other treaty country/region partner on the issue and the relevant basis thereof

### Attachment list (Total items):

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### Declaration: I hereby declare that all the application and the attachment provided are truthful, complete and accurate. All the data I provided can be shown to the treaty partner except for those which are listed in the special announcement. I will support and cooperate both contracting parties to carry out mutual agreement procedure, and provide required information in time. I understand and agree that the mutual agreement procedure is only operated between the representatives of competent authorities of both contracting parties. Accordingly, Our company would take part in only when we are invited.

Signature of declarant:

Date (Day-Month-Year):

(Tips: For individual applicants, please sign your name; For corporate entities and other organizations, please appoint your legal representative or person in charge to sign and stamp)