

Global Tax Alert

News from EY Americas Tax and Transfer Pricing

US and Mexico renew competent authority agreement on unilateral APAs for maquiladoras

EY Tax News Update: Global Edition

EY's Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access more information about the tool and registration [here](#).

Also available is our [EY Global Tax Alert Library](#) on ey.com.

The United States (US) Internal Revenue Service (IRS) has [announced](#) that it has reached an agreement with the Mexican Tax Authority (SAT) to renew the competent authority agreement arrangement known as the Qualified Maquiladora Approach Agreement (QMA). Under the QMA, a US taxpayer can avoid double taxation on its maquiladora contract manufacturing and assembly functions by entering a unilateral advance pricing agreement (APA) with SAT's large taxpayer division under terms agreed in advance by the US and Mexican competent authorities.

The US and Mexican competent authorities last negotiated a QMA agreement in 2016. The 2016 QMA updated and expanded a 1999 agreement between the US and Mexican competent authorities on transfer pricing and other aspects of the tax treatment of maquiladoras of US multinational enterprises. The 2016 QMA included changes reflecting revisions to Mexican domestic transfer pricing rules, documentation requirements and other tax attributes of maquiladoras.

The 2020 renewal agreement follows the framework of the 2016 QMA, which the competent authorities agree has continued to work to produce arm's-length results. Following further collaboration between the US and Mexican competent authorities, however, the 2020 renewal agreement adds several new features. Specifically, the IRS notes that the 2020 agreement adds a mechanism for addressing situations in which the maquiladora has an outstanding accounts-receivable balance that the competent authorities agree is inconsistent with the transfer pricing profile of the Mexican entity.

The 2020 QMA covers tax years through 2019 and commits the competent authorities to continue collaborating on another renewal for tax years 2020 and beyond. The competent authorities intend discussions on future agreements to consider the impacts of current economic, commercial and public health conditions affecting taxpayers.

Over 700 US taxpayers with maquiladoras are expected to qualify for the QMA. SAT will directly notify qualifying Mexican taxpayers, and such notifications will include details on necessary steps for taxpayers with pending unilateral APA requests. Taxpayers can also reach out to the IRS Advance Pricing and Mutual Agreement program (APMA) with questions regarding whether the QMA or a bilateral APA would be more appropriate for its facts and circumstances.

Implications

Taxpayers with maquiladoras, particularly those with an outstanding accounts receivable balance, should consider the impact of recent revisions to Mexico's transfer pricing rules and the renewed QMA.

For additional information with respect to this Alert, please contact the following:

Ernst & Young LLP, US Transfer Pricing Controversy Services

- ▶ Tom Ralph, *Washington, DC* thomas.ralph@ey.com
- ▶ Enrique Gonzalez Cruz, *Houston* enrique.cruz@ey.com

About EY

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

© 2020 EYGM Limited.
All Rights Reserved.

EYG no. 008069-20Gbl

1508-1600216 NY
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

ey.com