

Report on recent US international tax developments - 11 December 2020

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The Director of the Internal Revenue Service (IRS) Advance Pricing and Mutual Agreement (APMA) Program said this week that the United States (US) Government is seeing more questions about the transfer pricing consequences of the COVID-19 pandemic from taxpayers with existing, or in process, advance pricing agreements (APAs). John Hughes, APMA's Director, was quoted as saying APMA will work with its foreign counterparts for taxpayers in the APA negotiation phase, to develop a method that avoids possible complications resulting from the pandemic. It will be more difficult to address the pandemic for those with existing APAs, Hughes said. In those cases, APMA will need "good, cold, hard data" to determine whether the APA should be modified. "We need to know exactly what happened with your business, and exactly what is the assistance that you're seeking."

An Organisation for Economic Co-operation and Development (OECD) official this week was quoted as saying that draft transfer pricing guidance that addresses COVID-19 pandemic issues has been submitted to the Inclusive Framework for approval and is expected to be released at the end of this year or early in 2021. The new guidance will address a narrow set of issues not currently addressed in the OECD transfer pricing guidelines. She said comparability analysis for 2020 will be addressed, as well as losses and the allocation of COVID-specific costs.

The OECD Forum on Tax Administration (FTA) met this week and issued an [8 December communiqué](#) in which the FTA announced that the piloted International Compliance Assurance Program (ICAP) will become an established program among an expanded group of tax administrations. ICAP, a voluntary joint risk assessment initiative that is designed to stem the flow of issues into mutual agreement procedures, has been piloted by a small group of major tax administrations, including those of Australia, Canada, Italy, Japan, the Netherlands, Spain the United Kingdom and the US, along with several multinational enterprises.

An IRS spokesperson was quoted as saying the agency “intends to continue in ICAP as it transitions from a pilot to an established FTA program in 2021.” The IRS spokesperson said more information on the ICAP program will be provided in early January 2021. More information is available on the OECD’s [ICAP website](#).

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