

## China publishes annual APA report

On 29 October 2020, China's State Administration of Taxation released the "2019 Advanced Pricing Arrangement Annual Report" (2019 APA report). The 2019 APA report introduces the latest TP policies, application procedure and statistics of the China APA program by 2019, which also serves as a practical guidance and manual for the companies interested in an APA.

### More APA cases signed

2019 has seen increased efficiency in dealing with APA applications. By 2019, China has signed a total of 101 cases of unilateral APAs, and 76 cases of bilateral APAs. In 2019 alone, 12 unilateral APAs and 9 bilateral APAs were signed, a record high in the APA history.

### Average time to settle an APA

According to the report, almost 90% of unilateral APAs and 62% of bilateral APAs can be settled within 2 years after the APA applications have been officially submitted. Nevertheless, the process is still characterised by a long pre-negotiation period. Pre-negotiation may be influenced by many factors, such as the quality of the information, the nature of the transactions and the extent of disclosure, etc. In 2019, the APA pre-negotiation requests have doubled with a surprising 77 cases (2018: 39 cases). New APA applicants may need to expect more waiting time due to the considerable backlog.

### More focus on services and intangibles

More than 60% of the signed APA cases are for tangible assets transfer. Yet there is a rising trend of APAs in service transactions (21.72%) and intangible transactions (17.62%). This corresponds with the recent Chinese developments in service sectors, and focus on non-tangible transactions, such as R&D services, intangible assets and marketing activities.

### Diversified transfer pricing methods

The transactional net margin method is still the most widely adopted transfer pricing method in APAs. However, the Chinese tax authority is open to accepting more complicated methods such as the profit split method (2019: 5 cases). After all, Chinese entities are assuming more important roles than ever in group value creation these days and are calling for more complicated methods for profit allocation.

### Our observation

The Chinese tax authorities have gone to considerable efforts to process APA applications, such as building a professional team with well-founded experience in transfer pricing and anti-tax avoidance, improving the transparency and convenience of APAs, and shortening the time for concluding the APA cases. More companies with substantial related-party transactions can have access to the Chinese APA programme so as to obtain more taxation certainty.

Besides, companies having on-going APAs, but who were severely impacted by special events such as COVID-19 or the trade war, need to report to the tax authority in a timely manner, and request any offered flexibility with regard to APA implementation.