

The developing APA programme

2016 marks the first year of China's 13th Five-Year Plan and features a series of tax reforms led by its tax organisation, State Administration of Taxation ("SAT"). SAT has exercised its strong support of and active role in BEPS action plans, notably in refining its APA workflow. For instance, as of 1 April 2016, all unilateral APAs concluded by China will be included in the tax data exchange framework.

Against the above background, SAT has issued the "Public Notice on Enhancing APA Administration" ("Public Notice 64") to replace the previous APA rule. Public Notice 64 has updated the conditions for APA applications and enhanced the post-APA monitoring mechanism, as summarised below:

- 1) Priority treatment is offered to APA applicants who have closed a TP audit, have scored a top tax credit rating, are seeking an APA renewal with no substantial change to their business, or have well prepared their value chain analysis and TP methodology proposal, etc.;
- 2) An APA application should include an analysis on location-specific advantages, such as location savings, market premiums and value chain analysis or supply chain analysis;
- 3) Additional steps for APA application are required. APA candidates have to go through pre-filing and analysis stages and obtain pre-approval before proceeding to the stage of concluding a letter of intent and submitting a formal APA application.

The new APA regulation has strengthened the tax authority's oversight over the APA process and imposed stricter requirements on compliance, cooperation and transparency.

So far, China has signed 84 unilateral APAs and 55 bilateral APAs in the past 12 years, with a considerable amount of bilateral APA cases still in progress. Having benefited from its experience, SAT is becoming more sophisticated in handling APA cases and is becoming more prudent, stricter and more efficient in reviewing APA applications. SAT expects that a normal APA process lead-time will be 12 months for a unilateral APA and 24 months for a bilateral APA.

With more APA information being made public, SAT is showcasing its open attitude in welcoming APA applications and its endorsement of APA's contribution to lessening tax disputes. The current movement also reflects China's determination to resolve international tax issues and eliminate double taxation by improving transparency and TP practices.