

Transfer pricing agreement information

Introduction:

Transfer pricing is the setting of prices for the international transfer of goods, services and intangibles between associated parties [one of whom is a New Zealand taxpayer]. If these are manipulated profits may be shifted out of New Zealand.

The purpose of New Zealand's transfer pricing rules is to ensure that for tax purposes taxpayers price their international related-party dealings as truly independent parties would have done in the same situation, i.e. on an arm's length basis.

To provide certainty for taxpayers in relation to these international related-party dealings, New Zealand's tax law provides for the issuing, upon application, of unilateral Advance Pricing Agreements ("APAs") in the form of binding rulings. Bilateral and multilateral APAs may also be entered into in line with New Zealand's double tax treaties. A unilateral APA is a ruling binding the Commissioner of Inland Revenue on an appropriate transfer pricing methodology to be applied to the taxpayer's specified international related-party transactions over a fixed period.

The legislation governing transfer pricing arrangements is contained in sections GC 6 - 19 of the Income Tax Act 2007. In respect of Branches any allocations of income and expenditure are made in terms of section YD 5 of the Act.

Issuing an APA:

Inland Revenue will issue an APA when it is satisfied that the transfer pricing methodology to be used by the taxpayer results in an arm's length price for the international related-party transactions. Further information on Inland Revenue's approach can be found on our website www.ird.govt.nz/international/business/transfer-pricing/transfer-pricing/practice/transfer-pricing-practice-apas.html

Applying for an APA:

The transfer pricing documentation and information provided by a taxpayer in connection with its application for a unilateral APA is central to the process of explaining and justifying the pricing methodology for its cross-border transactions. A taxpayer should be able to readily demonstrate to Inland Revenue that its transfer prices are consistent with the arm's length principle.

For this reason a taxpayer considering an application for an APA should contact a Transfer Pricing Specialist at transfer.pricing@ird.govt.nz to discuss the requirements and necessary information for the advance pricing agreement process before making the application.

An application for an APA is made on Form IR713 and is to be accompanied by this additional declaration.

Additional declaration:

Section 91ED(1B) of the Tax Administration Act 1994 requires an applicant for a private ruling on how sections GC 6 - 19 or YD 5 of the Income Tax Act 2007 applies, to state, in a notice signed by them and sent to the Commissioner at the same time as the application, that they have examined the application and to the best of their knowledge and belief the information disclosed for the application is comprehensive.

Declaration explained:

The additional declaration requires applicants for private rulings relating to advance pricing agreements to be more explicitly involved in the application process compared with other private ruling applications. This additional declaration is to ensure that a person holding a role in the applicant's business with sufficient knowledge of the applicant's international related-party transactions and transfer pricing methodology and having the necessary authority to make the declaration, is able to declare that the information provided to Inland Revenue in connection with the application is sufficiently expansive and complete.