

2017/02

February 2017

## China issued Advance Pricing Arrangement Annual Report (2015)

### Contacts

#### China

Martin Ng  
Managing Partner  
[martin.ng@wts.cn](mailto:martin.ng@wts.cn)  
+ 86 21 5047 8665 ext.202

Ened Du  
Manager  
[ened.du@wts.cn](mailto:ened.du@wts.cn)  
+ 86 21 5047 8665 ext.215

Sunny Ye  
Consultant  
[sunny.ye@wts.cn](mailto:sunny.ye@wts.cn)  
+ 86 21 5047 8665 ext. 217

### In brief

- » On 23 December, 2016, State Administration of Taxation (SAT) released China Advance Pricing Arrangement Annual Report (2015), which is the 7<sup>th</sup> APA report issued by SAT.
- » The 2015 annual APA report introduces China APA mechanisms, procedures, as well as development, and provides statistics for the period of 2005 ~ 2015 together with an analysis of the statistics.
- » With the increasing number of APA applications, as well as the improvement of China APA related regulations, China APA examination and procedure is becoming stricter and more standardized.

### WTS – strong presence in about 100 countries/regions

Albania • Angola • Argentina • Australia • Austria • Azerbaijan • Belarus • Belgium • Bolivia • Bosnia-Herzegovina • Brazil • Bulgaria • Cambodia • Canada • Chile • China • Colombia • Costa Rica • Croatia • Cyprus • Czech Republic • Denmark • Egypt • Ecuador • El Salvador • Estonia • Finland • France • Germany • Ghana • Greece • Guatemala • Honduras • Hong Kong • Hungary • India • Indonesia • Iran • Ireland • Island • Israel • Italy • Japan • Kazakhstan • Kenya • Korea • Kuwait • Laos • Latvia • Lebanon • Lithuania • Luxembourg • FYR Macedonia • Malaysia • Malta • Mauritius • Mexico • Mongolia • Montenegro • Morocco • Netherlands • New Zealand • Nicaragua • Nigeria • Norway • Oman • Pakistan • Panama • Peru • Philippines • Poland • Portugal • Qatar • Romania • Russia • Saudi Arabia • Serbia • Singapore • Slovakia • Slovenia • South Africa • Spain • Sri Lanka • Sweden • Switzerland • Taiwan • Thailand • Tunisia • Turkey • Turkmenistan • UK • United Arab Emirates • Ukraine • Uruguay • USA • Uzbekistan • Venezuela • Vietnam

2017/02

February 2017

**In detail**

**1. Introduction**

On 23 December, 2016, China SAT released Chinese and English version of China Advance Pricing Arrangement Annual Report (2015) (2015 APA report), which is the 7th APA report issued by the SAT. The 2015 annual APA report introduces China APA mechanisms, procedures, as well as development, and provides statistics for the period of 2005 ~ 2015 together with an analysis of the statistics.

Regular publication of APA regulations and statistics contributes to SAT's administration of APAs, raising public awareness and improving transparency of APAs. 2015 annual APA report introduces China APA programs in 2015, related human sources, and the key factors to consider when SAT approaches an APA application. This sheds light upon SAT's effort in improving transparency and convenience of APAs, as well as its aim to service tax payers.

**2. General contents of the APA report**

The 2015 APA annual report mainly covers the following contents:

- By 31 December 2015, the cumulative total of APAs signed is 125, in which 76 unilateral and 49 bilateral.
- In 2015, a total of 6 unilateral APAs and 6 bilateral APAs were signed. Most of the unilateral APAs were concluded within 2 years. Of the 6 bilateral APAs signed in 2015, 4 were signed with Korea and 2 with Japan. Most of the APAs signed in 2015 still involve manufacturing industry but we see a further diversification in the types of industries covered.
- From 1 January 2005 through 31 December 2015, the Chinese tax authority has received 192 submitted intentions for bilateral APAs in total (of which 49 have been concluded) and 16 countries (regions) have been involved.
- Having an accessible APA program in place, the SAT has focused its efforts in building a professional team dedicated to anti-avoidance and boosting work efficiency in 2015. Anti-avoidance Division II was set up in the beginning of 2015. As the roles and responsibilities of the two anti-avoidance divisions were further clarified, the SAT has taken it up a notch to better serve the taxpayers. The SAT headquarters has 6 people working in areas related to transfer pricing and APA. The staff members are tasked with different responsibilities based on their professional qualifications and expertise. The Anti-avoidance Division I is in charge of APA requests with related parties residing in Japan and Korea whereas the Anti-avoidance Division II is handling the rest.
- When prioritizing the APA requests, the tax authority normally will consider the following factors: a) Overall principle: first come, first served. b) The quality of the request submission, e.g. whether all required documents have been submitted, whether sufficient documentation clearly evidencing the transactions throughout the entire value chain or supply chain has been provided, whether the applied transfer pricing method is appropriate, and whether the calculation is correct. Applicant will be required to make additions or revisions to the submission when necessary. c) Whether the applicant is in a specific industry or located in a specific region that merits prioritized attention. d) For a BAPA request, whether the BAPA partner country (region) has the intention to accept the case and pursue the BAPA will also be an important factor for consideration. Among the four factors, the one the SAT values most is the quality of the submission. A submission that presents innovative application of TP methods or high quality quantitative analysis for intangibles, cost savings or market premiums will merit the SAT's prioritized attention.

**2017/02**

February 2017

China's APA program has been running on a steady pace against China's huge volume of foreign investment. With access to the APA program, taxpayers can rely on a more stable business environment and more manageable tax expectations especially in a time of uncertainty caused by the fragile world economy. APAs are instrumental in preventing and eliminating double taxation, reducing tax burden and fostering cross-border trading.

### **WTS observation**

In recent years, SAT is active on promoting China APA arrangements, paying utmost attention to transfer pricing. Compared to 2014 (during which 6 unilateral APAs and 6 bilateral APAs were signed), the number of APAs signed in 2015 has increased. We can see the trend that SAT is enhancing its practices on APA arrangement in quality and examination on APA application.

In the meantime, on 11 October 2016, SAT issued new regulations (referred to as Bulletin 64) to improve the administration of APAs. Bulletin 64 is released as the second significant revision, following the previous revision by SAT bulletin [2016] No. 42 (referred to as Bulletin 42) in June 2016 on reporting of related party transactions and contemporaneous documentation, to the relevant chapters of the implementing measures for the Special Tax Adjustments (for Trial Implementation) (referred to as Circular 2) and become another important rule of the Chinese special tax adjustment.

With the increasing number of APA applications, as well as the improvement of China APA related regulations, China APA examination and procedure is becoming stricter and more standardized. Enterprises which intend to apply for an APA should pay close attention to the changing environment of APA in China, including the adjusted application procedure, stricter requirements of application documentations, as well as the examination and monitoring steps carried out by relevant departments. In order to make the application more sufficient, enterprises should spare no effort to improve the quality of application materials and pay more attention to the special factors related to industrial and geographic environment. Moreover, it is worth it to note that, under the current BPES environment where SAT is increasingly paying attention to intangibles, location saving and market premium related factors, an APA application is more likely to be considered if it covers quantitative analysis of the above mentioned special factors.

2017/02

February 2017

**Author**

**WTS China Co., Ltd.**

**WTS Shanghai**

Unit 031, 29F, Hang Seng Bank Tower  
1000 Lujiazui Ring Road  
Pudong New Area,  
Shanghai 200120 PRC  
Tel: +86 21 5047 8665  
Fax: +86 21 3882 1211  
[www.wts.cn](http://www.wts.cn)  
[info@worldtaxservice.cn](mailto:info@worldtaxservice.cn)

**WTS Beijing**

Unit 601, Landmark Tower1,  
8 North Dongsanhuan Road,  
Chaoyang District, Beijing,  
100004 PRC  
Tel: +86 10 6590 6338  
Fax: +86 10 6590 7903

**Contact**

Martin Ng  
Managing Partner  
[martin.ng@wts.cn](mailto:martin.ng@wts.cn)  
+ 86 21 5047 8665 ext. 202



Ened Du  
Manager  
[ened.du@wts.cn](mailto:ened.du@wts.cn)  
+ 86 21 5047 8665 ext. 215



Sunny Ye  
Consultant  
[sunny.ye@wts.cn](mailto:sunny.ye@wts.cn)  
+ 86 21 5047 8665 ext. 217



Xiaolun Heijenga  
Partner  
[xiaolun.heijenga@wts.de](mailto:xiaolun.heijenga@wts.de)  
+ 49-69-1338 456 320



**Disclaimer**

The above information is intended for general information on the stated subjects and is not exhaustive treatment of any subject. Thus, the content of this Infoletter is not intended to replace professional tax advice on the covered subjects. WTS China Co., Ltd. cannot take responsibility for the topicality, completeness or quality of the information provided. None of the information contained in this Infoletter is meant to replace a personal consultation. Liability claims regarding damage caused by the use or disuse of any information provided, including any kind of information which is incomplete or incorrect, will therefore be rejected. If you wish to receive the advice of WTS China Co., Ltd., please make contact with one of our advisors. All copyright is strictly reserved by WTS China Co., Ltd.