



Transfer pricing dispute resolution services—U.S.-Japan advance pricing agreements:

KPMG LLP Leads the way



Advance pricing agreements may reduce transfer pricing compliance and risk

Multinational companies may be more at risk for transfer pricing examinations, adjustments, and double taxation than ever before. A number of additional governments have been pursuing transfer pricing enforcement. The Organisation for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting (BEPS) project, which recommends a masterfile and country-by-country reporting requirements, is expected to increase the incidence of proposed transfer pricing adjustments and exposure to double taxation. Based on these trends, companies may experience increased compliance burdens and transfer pricing risks.

Some companies are actively seeking to mitigate the increased transfer pricing compliance burdens and risks. One approach is to proactively demonstrate compliance with transfer pricing rules through the negotiation of an advance pricing agreement (APA) with the involved countries. An APA can provide certainty regarding tax treatment of the transfer price, the transfer pricing methodology, and the arm's-length range of results for the transactions within the scope of the APA. In exchange for the up-front cost and effort of negotiating an APA, a company can potentially enjoy a reduced compliance burden and reduced risk associated with those transactions, usually for a term of five years.

The majority of Internal Revenue Service APAs are U.S.-Japan APAs

Many companies with U.S.-Japan transactions have been particularly interested in the certainty and reduced compliance burden associated with APAs. The certainty obtained in a bilateral APA allows for long-term business planning, with potentially reduced transfer pricing compliance burden and risk. In 2016, U.S.-Japan cases accounted for 53 percent of all APAs resolved by the Internal Revenue Service (IRS)¹. The Japanese National Tax Agency (NTA) identifies the United States as the country with which it settled the most mutual agreement procedures and bilateral APAs in the fiscal year ended June 2016.²

https://www.nta.go.jp/kohyo/press/press/2016/sogo_kyogi/index.htm

The U.S. and Japan tax authorities historically have successfully resolved a substantial number of cases every year.³

Many U.S.-Japan cases involve U.S. distribution companies owned by a Japanese parent company; however, certain U.S. companies with Japanese subsidiaries have also chosen to pursue U.S.-Japan APAs. Further, in certain instances, companies have begun to use an agreed U.S.-Japan bilateral APA as a rough benchmark of the appropriate arm's-length result for similar operations in other countries. These "benchmark" APAs could have greater utility in a transfer pricing enforcement environment as a result of the OECD's BEPS recommended country-by-country reporting.

¹ Source: When it comes to APAs, including U.S.-Japan APAs, substantive transfer pricing skills may not be enough. Negotiating experience with the IRS in the United States and the NTA in Japan—understanding what each tax authority wants and requires—is an important component to reaching a successful resolution.

² Sources: Announcement 2016-12, I.R.B. 2016-16 (April 18, 2016), and Announcement 2017-03, I.R.B. 2017 (March 27, 2017).

³ http://www.nta.go.jp/foreign_language/map-report/2012.pdf
https://www.nta.go.jp/foreign_language/map_report/index.htm

KPMG LLP – The leader in U.S.-Japan APAs

KPMG LLP (KPMG in the U.S.) has consistently been one of the leaders in U.S.-Japan APAs since very early in the development of the APA programs in the United States and Japan—KPMG currently represents clients in nearly 40 percent of all U.S.-Japan bilateral APAs.

As part of the KPMG International member firm network, KPMG in the U.S. and KPMG in Japan maintain an effective working relationship for the benefit of our respective clients. Our offices communicate regularly to address requests by the government of either country. Because a member firm's APA approach relies upon thorough communication with clients and government personnel, KPMG in the U.S. and KPMG in Japan have taken steps to enhance our position as the leader in U.S.-Japan APAs:

- KPMG International member firms each utilize a team of experienced transfer pricing dispute resolution professionals to help effectively resolve disputes, including prominent KPMG in the U.S. and KPMG in Japan professionals with prior government and private experience in dealing with APAs. KPMG in the U.S.'s team includes two former IRS APA directors and KPMG in Japan's team includes a former NTA head of the International Tax Affairs Division.
- To facilitate effective communications, both KPMG in the U.S. and KPMG in Japan have a large number of bilingual professionals with strong technical skills and extensive experience. These bilingual professionals work closely with the transfer pricing team in the other country to provide effective client representation.

The KPMG International member firm network has established a robust secondment program and short-term rotations to help KPMG in the U.S. and KPMG in Japan professionals understand the working environment occupied by their member firm colleagues:

- KPMG in the U.S. and KPMG in Japan recognize that successful APA negotiations require more than substantive transfer pricing capability. Utilizing KPMG in the U.S.'s and KPMG in Japan's advisers and their substantial APA experience can contribute to the success of APA negotiations. Effective communication between KPMG in the U.S. and KPMG in Japan can prevent small issues from getting larger. Based on all of these factors, each member firm has developed a leading team of U.S.-Japan APA negotiators.

APAs: A great fit for U.S. companies operating in Japan:

- OECD country-by-country reporting could create exposure for multinationals operating in Japan.
- U.S. companies operating in Japan face expectations for corporate responsibility similar to their Japanese peers.
- IRS and NTA have a consistent record of resolving cases.
- KPMG in Japan has the experience to advocate for U.S. clients before the NTA.

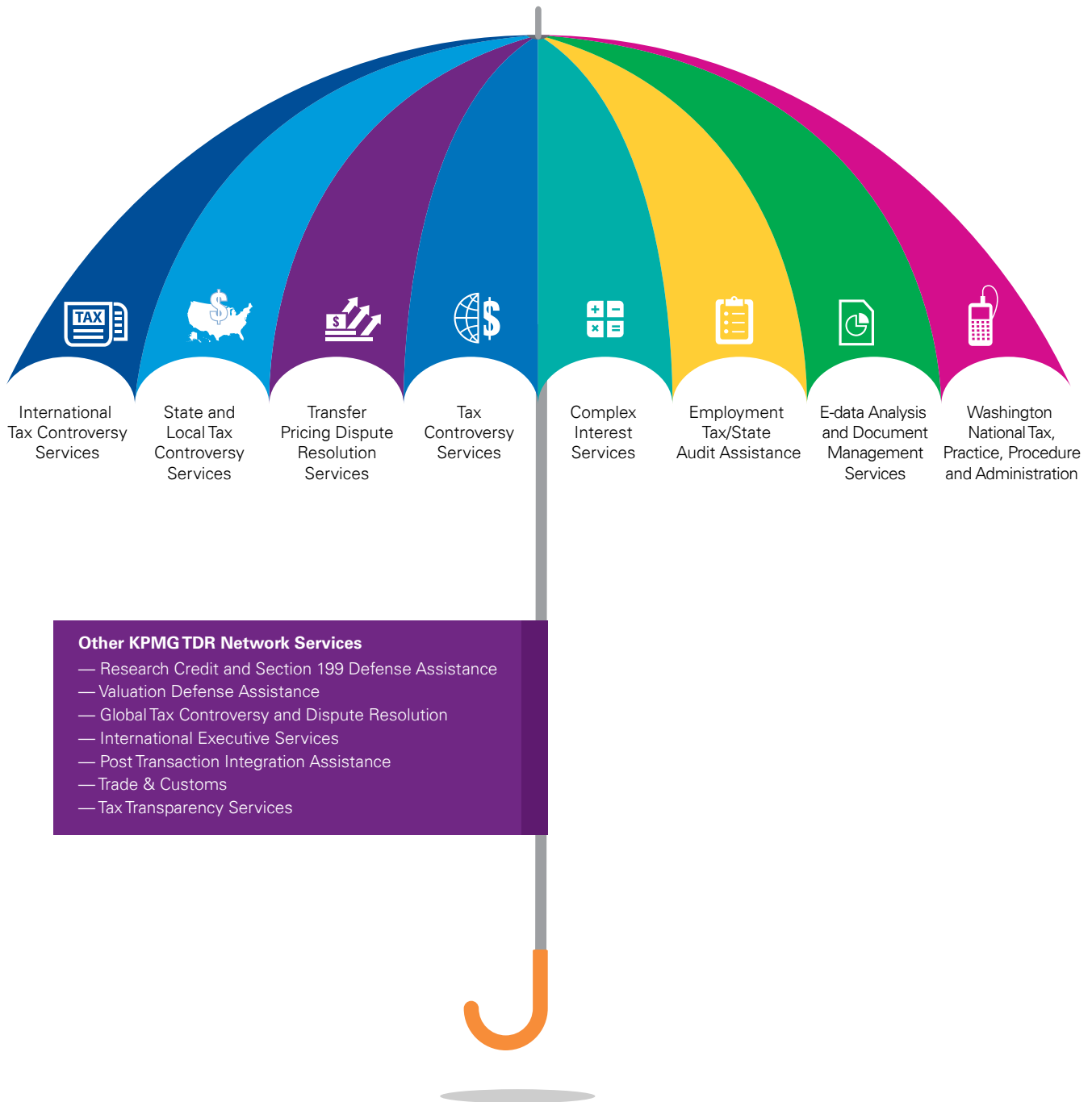
APAs for Japanese companies operating in the United States:

- The United States is generally an important market for Japanese companies.
- Generally, Japanese companies have a strong sense of corporate responsibility.
- IRS and NTA have a consistent record of resolving cases.



KPMG Tax Dispute Resolution (TDR) Network

Experience counts when facing a transfer pricing dispute. KPMG U.S. and KPMG in Japan can make a difference.



Contact us

To learn more about the Transfer Pricing Dispute Resolution Services practice, please contact:

Mark Martin

TPDR National Leader, Principal

T: 713-319-3976

E: mrmartin@kpmg.com

Steve Wrappe

Principal

T: 202-533-3077

E: swrappe@kpmg.com

Matt Frank

Principal

T: 212-872-6645

E: matthewfrank@kpmg.com

Mark Horowitz

Principal

T: 713-319-2840

E: mhorowitz@kpmg.com

Atsuko Kamen

Principal

T: 212-954-8241

E: akamen@kpmg.com

Jana Lessne

Managing Director

T: 202-533-3066

E: jlessne@kpmg.com

Tomotake Naka

Managing Director

T: 408-367-4162

E: tnaka@kpmg.com

Cameron Taheri

Managing Director

T: 202-533-3384

E: ctaheri@kpmg.com

Shigenori Iwaki

Senior Manager

T: 404-222-7646

E: siwaki@kpmg.com

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates.

kpmg.com/socialmedia



The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

© 2018 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. The KPMG name and logo are registered trademarks or trademarks of KPMG International. NDPPS 731790