



Crowe



Crowe Transfer Pricing  
Wednesday

China

# APA Annual Report for 2021 Summary

5 April 2023

## Executive Summary

On November 21, 2022, the *China Advance Pricing Arrangement Annual Report (2021)* (2021 Annual Report) was issued by the PRC State Taxation Administration (STA). This is the 13<sup>th</sup> APA annual report released by the PRC STA to explain on the latest mechanism, procedure, and implementation of the APA program in China. This report contains data pertaining to period between January 1, 2005 and December 31, 2021. This report is intended to provide guidance to enterprises interested in entering into APAs with the Chinese tax authority, and to serve as a reference for competent authorities of other countries (regions) and the general public to better understand China’s APA program.

## Data Summary

Since 2009, the number of APAs approved by the STA has increased gradually over the years, as shown in the table below.



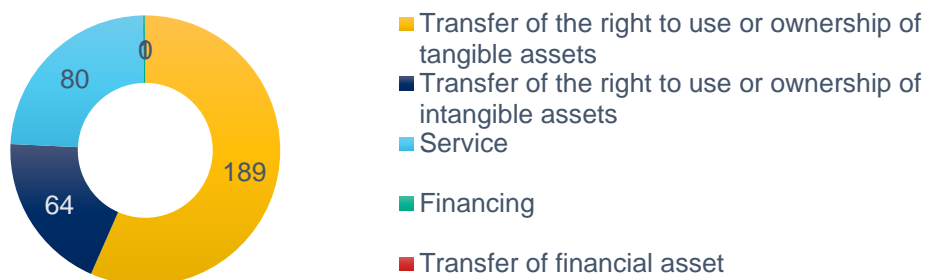
By December 31, 2021, the cumulative signed APAs by the STA is 226.

Total APAs signed	Unilateral	Bilateral
226	125	101

In 2021, a total of 20 APAs were signed, including 9 unilateral and 11 bilateral APAs.

Region	Asian	North American	European	Total
Bilateral	8	2	1	11

Transaction types of APAs concluded by December 31, 2021.



A significant number of the APAs signed in 2021 involve taxpayers from the manufacturing industry, comprising 78.76% of the total APAs. The high number of APAs demonstrates the importance of having certainty in the transfer pricing treatment for inter-company transactions.

It is noted that the transactional net margin method (TNMM) is the most commonly used transfer pricing method, with 81.82% of the APAs adopted TNMM.

## APA Procedure Optimization

To further implement BEPS action plan, the STA has gradually issued several statements.

- ✓ *The Public Notice of the State Taxation Administration on Issuing the Administrative Measures for Special Tax Adjustment and Investigation and Mutual Agreement Procedures (Public Notice of the State Taxation Administration [2017] No. 6) and Public Notice on Matters Regarding Enhancing the Administration of Advance Pricing Arrangements (Public Notice of the State Taxation Administration [2016] No. 64) jointly provide regulatory basis and process guidance for APA matters.*
- ✓ *Public Notice of the State Taxation Administration on Matters Regarding the Application of the Simplified Procedure for Unilateral Advance Pricing Arrangements (Public Notice of the State Taxation Administration [2021] No. 24) is released in order to optimize business environment and make the process of unilateral APA more efficiently.*

It is expected that the number of application for APAs will continue to rise against the backdrop of tax uncertainty drawn out by the universal implementation more stringent tax measures introduced under the Base Erosion and Profit Shifting (“BEPS”) Action Plans, and the increased transfer pricing scrutiny by tax administrations.

In 2022, Shenzhen Tax Service and Shenzhen Customs jointly released the *Notice on Related Issues Concerning the Coordinated Management of Transfer Pricing of Importing Goods from Related Parties (Shen Guan Shui [2022] No. 62)*. Through this beneficial practice in Unilateral APA domain, the Shenzhen Tax Service and Shenzhen Customs explored the way of joint administration, synergetic law enforcement and extend the shared governance in the taxation field.

## Insights

- ✓ Demand and approved APAs tend to increase. From the statistics of PRC APAs signed from 2005 to 2021, we could clearly see the trend that the number of APAs signed in China is increasing. This trend shows the need for APAs to be in place to eliminate any economic uncertainty for multinational enterprises operating in China.
- ✓ PRC SAT has been releasing more regulations from time to time to optimize the APA application. The implementation procedure for unilateral APAs has been simplified. At the same time, PRC SAT is also trying on system innovation, for instance, by exploring inter-departmental collaboration mechanism.
- ✓ Small and medium enterprises still need to find alternative methods instead of APAs which are only available to larger enterprises, to manage their potential transfer pricing risks.

## How Crowe China can help you:

For entities that meet the APA application requirement, especially unilateral APAs, Crowe China could assist with the APAs application procedure. The requirement is as below:

- Access to APA is available to enterprises with **annual related party transaction amount exceeding RMB 40 million for the three years prior to the year** in which the Notice on Tax Matters is issued by the in-charge tax administration(s) notifying the acceptance of enterprise's intent for the APA.

The tax administration(s) may prioritize APA requests from the enterprise that meets one of the following conditions:

- (1) The enterprise's annual reporting forms for related party dealings and contemporaneous transfer pricing documentation are well completed with adequate disclosures;
- (2) The enterprise's tax compliance rating is "A";
- (3) The enterprise was once under special tax adjustment investigation and the investigation was closed;
- (4) The enterprise is applying for a renewal of an existing APA that is about to expire provided that there has been no substantial changes to the facts and operating environment specified in the existing APA;
- (5) For the APA request, the enterprise has provided complete and adequate information including but not limited to clear and thorough value chain/supply chain analysis taking into account of location specific advantages such as cost savings and market premium, and appropriate pricing methodologies and calculation process;
- (6) The enterprise has been cooperative with the tax administration(s) during the APA process;
- (7) For a bilateral/multilateral APA, the competent authority(ies) of the other contracting state(s) of treaty(ies) have displayed strong intention to move forward with the APA negotiation or attached a high importance to the APA;
- (8) Any other factors facilitating the APA process is present.

For entities that DO NOT meet the APA application requirement, Crowe China could also provide TP compliance and advices to reduce the potential TP risk for enterprises.

- ✓ Tax advisory for TP defense;
- ✓ Transfer pricing planning and benchmarking analysis;
- ✓ Contemporaneous documentation service; and
- ✓ Review of transfer pricing policy and risk control.

## Contacts Crowe China

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