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Re: Announcement 2004-98 - Comments Regarding the Advance Pricing Agreement Program

Dear Sirs:

The National Association of Manufacturers has long supported IRS' Advance Pricing Agreement Program as a way to avoid conflicts between the IRS and taxpayers on prices charged between affiliates for goods and services, thus reducing costly audits and litigation. Now that the program has been in place for more than 15 years, we welcome the opportunity to comment on the operation of the program.

Of particular interest to NAM members is the need for consistent treatment of similarly-situated taxpayers under the program. Recent court cases, coupled with anecdotal information, have raised concerns among some members that APA participants are treated differently depending on whether the trade flow is inbound or outbound. Moreover, these concerns apply to the U.S. APA program as well as other countries' programs.

NAM members believe that, in order to continue to maintain an attractive and vigorous program, it is important for the U.S. APA program to be fair and balanced as well as to be perceived as fair and balanced with respect to inbound and outbound situations. In addition, ensuring that the United States is the leader in principled integrity with regard to APA programs will help U.S.-based taxpayers deal with foreign APA programs that may not meet this standard.

Consequently we believe, that, if the fairness issue is not addressed, taxpayers will no longer view APAs as an acceptable alternative to a full-fledged audit, jeopardizing the future of the APA program. This is a development that would hurt both taxpayers and tax administrations.

Because of the importance of the APA program, NAM members also are concerned about current resources devoted to the program. In recent years, some taxpayers are finding that it is taking longer for the APA office to review their cases and we urge the Service is explore ways to supplement current staffing levels. Similarly, the lack of travel money for the APA office consistently is a problem that negatively impacts the program's operations and its value to taxpayers.

In a time of increased international competition, it is more important that ever to have an APA program that provides taxpayers with the certainty on transfer pricing issues they need to operate effectively in the global marketplace. We applaud the IRS' current efforts to evaluate the program and welcome the opportunity to work with you tc ensure the future viability of APAs.

Sincerely,

Dorothy B. Coleman
Vice President, Tax Policy
National Association of Manufacturers