

**IRS APMA Program "Functional Cost Diagnostic" (FCD) Model Available
March 1, 2019**

IRS officials have announced that the IRS's Advance Pricing and Mutual Agreement Program (APMA) is making available, for general reference, an Excel workbook that APMA may request taxpayers to complete during the APA process in certain cases, typically representing a distinct minority of APMA's overall APA inventory, in which two or more controlled taxpayers make material, non-benchmarkable contributions to their intercompany arrangement.

The workbook guides the user through entering in the various "functional" costs that the controlled taxpayers incur in relation to the activities surrounding what the user identifies as one or more core functions – value drivers of the business – that are within the scope of the proposed APA. In populating the workbook, taxpayers are requested to analyze and take a position on the economic value of the contribution for which each of the functional costs is incurred. While the taxpayer may determine that many functional costs relate only to "routine" activities, which would thus have an economic value readily determined by reference to comparables, other functional costs may support or give rise to contributions of the types described in Chapters II (among "profit splitting factors") and VI (intangibles) of the OECD Transfer Pricing Guidelines. Rather than determining benchmarks for these costs, the workbook accumulates them and capitalizes them according to standard formulas and techniques – common to those APMA finds in APA requests involving similar issues – using factual assumptions supplied by the taxpayer, such as the useful life of an identified "unique and valuable" contribution made by one or more related taxpayers.

Although these calculations allow a pro forma split of residual profits (losses) to be derived from the relative stocks of identified capitalized functional costs, a request to complete this "functional cost diagnostic" model (FCD model) does not imply APMA has preselected the residual profit split method as the "best" or "most appropriate" method in the taxpayer's case. APMA will reach a conclusion regarding method only after it has evaluated, and held discussions with the taxpayer and treaty partner about, the factual support and corroboration regarding the data provided and assumptions made by the taxpayer in filling out the FCD model. If the cooperative, organized due diligence and dialogue does not support selection of the residual profit split method, APMA would stand prepared to adopt an alternative, "one-sided" method, confident it had full and fair opportunity to make its determination of the economic values of the contributions underlying the taxpayer's intercompany arrangement.

Taxpayers interested in obtaining the Excel workbook containing the FCD model, together with accompanying instructions and guidance and an example of a completed workbook, may send an e-mail to lbi.ttpo.apma.feedback@irs.gov (APMA Mailbox) with the subject line "FCD Model Request". General questions about the FCD model should similarly be directed to the APMA Mailbox. Taxpayers with pending APA cases should contact their assigned APMA team with questions about the FCD model.