
IRS International Practice Units provide roadmaps for IRS examiners on certain cross-border issues

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In brief

The Internal Revenue Service (IRS) Large Business and International division (LB&I) released 46 International Practice Units (IPUs) on December 15, 2014, and three more on July 17, 2015. These IPUs provide guidance to IRS examiners in addressing a range of issues involving US federal income taxation of cross-border activities. The IPUs are slide decks, ranging from 9 to 56 slides in length, using a common format to present the topics, issues, technical foundations, and conceptual approaches that IRS examiners should follow on each area covered. Some of the IPUs are overviews of certain major areas, such as subpart F or the arm's-length standard. Others focus on very specific technical issues, such as 'Disposition of a Portion of an Integrated Hedge' or 'Comparability Analysis for Tangible Goods Transactions – Outbound'. The IRS website requests public feedback on the IPUs and provides a specific email link for that purpose.

Taxpayers that may be subject to IRS examination in areas covered by one or more IPUs should be aware of the examiners' expected approach. This awareness can facilitate preparation for examination in those areas and provide a basis for questioning any approach an IRS examiner takes that does not follow the relevant IPU. This Insight introduces the IPUs generally; subsequent PwC Insights will cover specific IPUs. Note that the IRS will likely release more IPUs as they are completed, reviewed, and approved.

In detail

Background

The IPUs reflect the work of the IRS International Practice Network (IPN), a group of officials from various parts of LB&I that work together to establish more consistent guidance and training on cross-border issues. The IPN's general goal is to align subject matter expertise in order to facilitate centralized training,

audit tools, and thought leadership. The IPN effort gives IRS examiners a mode of training that explains a given concept or transaction, highlights the issues, and identifies the resources and questions that the examiner should ask while examining the issue.

Although the IPUs bear some similarity to the Internal Revenue Manual, the Manual is

not intended to be a training resource and has not been kept current. The IRS website indicates that the IPUs are expected to evolve over time.

Observation: In making the IPUs public, the IRS has provided helpful transparency to taxpayers. The availability of the IPUs and the request for public feedback could generate a dialogue with taxpayers, tax practitioners, and other

observers. Such a dialogue might ideally lead to mutual agreement about how the IRS should audit certain cross-border tax issues.

Organizational scheme

The IRS has classified its IPU's according to a new organizational scheme, the 'International Matrix,' which reflects an updated LB&I approach to cross-border issues generally.



The different faces represent the additional detail for the likely strategic issues worth examining for a given type of taxpayer. For example, the IRS assumes that US parent companies seek to receive foreign income at a low tax rate and to keep US tax on that income low – both while the income stays offshore and when it is repatriated. Thus, the 'business outbound' face of the International Matrix looks like this:

Business Outbound Face

Income Shifting	Deferral Planning	FTC Management	Repatriation
Strategic Priorities			
IP Transfers	Foreign Base Company Sales Issues	Creditability	Section 956 Issues
High Value Services	Foreign Base Company Services Issues	Accessing FTCs	Corporate Restructurings
Risk Allocation			
Core Transfer Pricing	Foreign Personal Holding Company Issues	Accessing FSI	Other Strategies
Gain Exportation / Loss Utilization			
Inversions	Special Regimes		
Treaties			
Foreign Currency			
Information Gathering			
Organizations/Restructuring			

The boxes in each column represent tax strategies that the IRS believes some taxpayers would employ in order to achieve their objectives. Each IPU is categorized by column and strategic priority.

Observation: This organizational scheme reflects growing IRS awareness of how taxpayers and their advisors may consider cross-border US federal income tax issues. For example, the previous IRS taxonomy did not distinguish between concerns of inbound and outbound taxpayers.

In March 2015, PwC professionals Mike Danilack, Joel Walters, and Natalie Hodapp published an article on heightened IRS enforcement of inbound US federal income tax issues. ([Read full article here](#)) The article presented, among other things, the

Business Inbound Face and the list of related IPUs.

List of all released IPUs

Below we have organized the list of IPUs (as titled by the IRS) by topic:

Transfer pricing

1. Arm’s Length Standard
2. Best Method Determination for an Inbound Distributor
3. Comparability Analysis for Tangible Goods Transactions – Inbound
4. Comparability Analysis for Tangible Goods Transactions – Outbound
5. Cost Sharing Arrangements vs Licensing Alternative

6. CPM Simple Distributor – Inbound
7. CPM Simple Distributor – Outbound
8. Distinguishing Between Sale, License and other Transfers of Intangibles to CFCs by US Transferors
9. Foreign Shareholder Activities and Duplicative Services
10. License of Foreign Owned Intangible Property by US Entity
11. License of Intangible Property from US Parent to a Foreign Subsidiary
12. Management Fees
13. Pricing of Platform Contribution Transaction in Cost Sharing Arrangements - Initial Transaction

14. Purchase of Tangible Goods from a Foreign Parent -- CUP Method

15. Rev. Proc. 99-32 - Outbound Guidance

16. Review of Transfer Pricing Documentation by Inbound Taxpayers

17. Sale of Tangible Goods from a CFC to a USP - CUP Method

18. Services Cost Method - Inbound Services

Foreign tax credits, including expense allocation and apportionment

1. Asset Valuation using the FMV Method for Interest Expense Allocation to Calculate FTC Limitation
2. Exhaustion of Remedies
3. Exhaustion of Remedies and Transfer Pricing
4. Exhaustion of Remedies in Non-Transfer Pricing Situations
5. How to Allocate and Apportion Research and Experimental Expenses
6. Overview of Interest Expense Allocation and Apportionment in Calculation of the FTC Limitation
7. Section 861 Home Office and Stewardship Expenses

Inbound and treaty considerations

1. Creation of a Permanent Establishment through the Activities of Seconded Employees in the United States
2. Interest Expense Limitation Computation under IRC 163(j)
3. Outbound Liquidation of US Corp to Foreign Parent - IRC Section 367(e)(2) Overview
4. Overview of FDAP

5. Qualification for Treaty Benefits under the Publicly Traded Test

Subpart F

1. CFC Purchase from Related Party with Same Country Sales
2. CFC Sale to Related Party with Same Country Unrelated Party Manufacturing
3. Computing Foreign Base Company Income
4. Interest Income Derived by CFC or QBU Engaged in Banking, Financing, or Similar Business
5. Receipt of Dividends or Interest from a Related CFC
6. Subpart F Overview

Other international corporate tax issues

1. Branch Profits Tax Concepts
2. Disposition of a Portion of an Integrated Hedge
3. Dual Consolidated Losses Overview
4. First Year Election under 7701(b)(4)
5. Outbound Transfers of Property to Foreign Corporation - IRC Section 367 Overview

International individual tax issues

1. Determining Tax Residency Status of Lawful Permanent Residents
2. Election under Section 6013(g)
3. Election under Section 6013(h)
4. French Foreign Tax Credits
5. IRC 911 Election and Revocation
6. Substantial Presence Test
7. Tax Home for Purposes of IRC Section 911

Procedural issues

1. Issuing a Formal Document Request when a US Taxpayer is Unresponsive to an IDR

Accessing the IPUs

The IRS website contains all of the released IPUs:

<http://www.irs.gov/Businesses/Corporations/International-Practice-Units>

The takeaway

The IRS LB&I division has provided additional transparency to taxpayers in publishing the IPUs. These IPUs set roadmaps for examiners addressing cross-border US federal income tax issues. The IPUs can help taxpayers anticipate and prepare for the likely IRS approach to examining those issues. Future PwC Insights will discuss individual (or related groups of) IPUs.

Let's talk

For a deeper discussion of how this may affect your business, please contact:

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