

Annual Reports

Taxpayers must file Annual Reports for each APA year. The reports are due 90 days after the tax return due date (including extensions) for the year covered by the report. *See* Rev. Proc. 96-53, ' 11.02.

Example: Taxpayer's return for the calendar year ending December 31, 2001, is due by September 15, 2002. Taxpayer must file its Annual Report no later than December 15, 2002.

An APA Team Leader processes and reviews each Annual Report. The Team Leader must ascertain whether the taxpayer has complied with all APA terms.

1. Obtain an APHA control number

Request an APHA control number for an Annual Report by completing the information on a **Reassignment Form** (sample attached). An APA Program Administrative Assistant will use the completed form to place the Annual Report on CASE and assign it an APHA control number. The Assistant will provide a manilla folder with the name of the Taxpayer and APHA number marked on the front.

2. Send Annual Report copies to the Primary Reviewer

The Taxpayer must file an original and four copies of each Annual Report. Rev. Proc. 95-53, ' 11.02. The Annual Report Program Analyst retains the original and forwards the remaining copies to the APA Team Leader's attention.

Maintain one working copy and send the remaining three copies to the IRS Operating Division for review by the IRS **Primary Reviewer**. The Primary Reviewer has 90 days to complete its review. The APA Team Leader should be available to assist the Primary Reviewer. The APA Program requests by cover letter that the Primary Reviewer coordinate with the APA Team Leader on issues to be raised with the taxpayer.

To determine the Primary Reviewer, ascertain (1) the taxpayer's main industry, and (2) which state has federal examination jurisdiction over the taxpayer.

1. Industry: The IRS is structured along five industries:

FSH - Financial Services & Health Care
CTM - Communication, Technology & Media
RFP - Retailers, Food & Pharmaceuticals

NR - Natural Resources

MCT - Heavy Manufacturing, Construction & Transportation

Determine which of the five industries the taxpayer falls under. This information may be evident from the company's name or reputation. *See also* the tax return accompanying the Annual Report. Form 1120, Schedule K, question 2, requests the filer to specify the business activity code number and business activity of the taxpayer. Other information sources may include the Annual Report, the APA, and the original APA request (in the section describing the taxpayer's business).

The taxpayer's industry is its *main* trade or business, which may or may not be the industry that the APA covers. For example, a company's main business may be retail, but the APA covers manufacturing transactions. There, the taxpayer's industry could be Retailers, Food & Pharmaceuticals, not Heavy Manufacturing, Construction & Transportation.

2. **Territory:** The IRS breaks each Industry into two territories (2 territories time 5 industries equals 10 total territories). The demarcations for each industry can differ. For example, Indiana may be in the West for one industry and in the East for another. Solicit from one of the ten International Territory Managers (ITMs) the name, phone number, and mailing address of the designated Primary Reviewer.

To determine which of the two industry ITMs to call, ascertain which state has federal-examination jurisdiction over the taxpayer. Usually this is the state in which the taxpayer conducts most of its business. If the APA Request does not indicate the examination jurisdiction or major business location, contact the taxpayer's representative on the Power of Attorney included in the APA Request.

a. *List of Territory Managers:* The following are the ITMs by their industries as of March 2001:

Industry	ITM
Financial Services & Health Care	Pat Chaback; Ed Mieszerski
Natural Resources	Ben Hyde; Eileen Jannazzo
Communication, Technology & Media	Nancy Bronson; Howard Martin
Heavy Manufacturing, Construction & Transportation	Tony Russo; Mike Shepherd
Retailers, Food & Pharmaceuticals	Stan Locke; Doug Kunze

To determine which ITM will receive the Annual Report, access the Chief Counsel Website (discussed

below) to locate the International Organizational (IO) chart for that industry. The IO chart should indicate the ITM assigned to the state with exam jurisdiction over the taxpayer.

Nb: If the taxpayer's industry is **Heavy Manufacturing, Construction & Transportation**, call the following to obtain the Primary Reviewer:

Kevin H. Schlatmann, Senior Program Analyst, IRS-LMSB
111 Wood Avenue South, Iselin, N.J. 08830
(732) 452-8118
Assistant: Veronica Miller (732) 452-8123.

b. *Website Containing Bifurcation of the US Distinguishing the Territories:*

1. Access: <http://www.hq.irs.gov/lmsb/>
2. Click on the appropriate industry under **Industries.**
3. Click on **Organization** on the left-hand side of the website page.
4. Click on **International Map,** which shows the ITM assigned to each state.

Ascertain the Taxpayer's EIN before calling the ITM (look to the opening paragraphs of the APA, or to the tax return, or the Annual Report). If the ITM does not identify a Primary Reviewer within a reasonable time frame (*e.g.*, 1 – 2 weeks), mail the Annual Report copies directly to the ITM.

Letter to Accompany Annual Reports to the Primary Reviewer

Draft cover letters to the Primary Reviewer (samples attached) to accompany the Annual Report. The APA Director signs the cover letter. The letter's date should reflect the day that the APA Director actually signs. The top of the letter specifies the Primary Reviewer's response due date. That due date is 90 days from the letter's date.

3. Designate Status Code 203

Prepare a **Status Code 203 Designation Form** (sample attached) for processing to change the Annual Report's Status Code from **"001"** to **"203"**. The Status Code 203 Designation Form provides space for the name and address of the Primary Reviewer for mailing. Upon mailing the Report and processing the form, CASE will indicate the mailing date and the Primary Reviewer's due date.

In summary, a complete package for submission to the APA Program Administrative Assistants for distribution includes:

- i. Status Code 203 Designation Form
- ii. Original Letter signed by the APA Program Director
- iii. Copies of the Annual Report for the Primary Reviewer.

4. Review the Annual Report

Review the Annual Report, the APA, the APA Request, any position paper (for unilateral APAs), the recommended negotiating position (for bilateral APAs), and other information as appropriate or necessary. If the Annual Report indicates that the taxpayer violated a critical assumption or the failed to comply with the TPM, contact the Team Leader who negotiated the APA (if different) and the Primary Reviewer. Before contacting the taxpayer (if necessary), the Team Leader and the Primary Reviewer should coordinate to determine what (if anything) they will request from the taxpayer (*e.g.*, further documentation, amended returns, an amended Annual Report).

The Annual Report may indicate that the taxpayer must adjust its results to comply with the TPM. Determine the appropriate mechanism (*e.g.*, amended return or other appropriate method) and coordinate with the Primary Reviewer.

5. Close the Annual Report file

The Annual Report is ready for closure when all reviewers have completed their reviews. The docket room should contain a copy of the Annual Report, the reviewers' notes, copies of any correspondence with the taxpayer and its representatives, any file memos or workpapers, and any case history worksheets. The Annual Report file for the docket room need not contain copies of the APA, position paper, and negotiating positions.

Complete a closing form (sample attached) and give the form and the file to an APA Program Administrative Assistant for processing. The Assistant will update CASE with the appropriate status code, file the casefile in the docket room, and return a copy of the closing sheet.