



Advance Pricing Agreements in Transfer Pricing

**International Taxation
Conference**

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“the world is moving in the APA direction”

(March 2000 report prepared for the Canada Customs & Revenue Agency)

Endorsements:

Japan:

- “the most effective way to resolve transfer pricing questions”

Canada:

- “the preferred dispute resolution mechanism for transfer pricing issues”

Australia:

- “preferred means of resolving the complexities of transfer pricing”

APA basic features

Multiyear agreement (5+ years)

Unilateral, Bilateral, or Multilateral

Prospective

with possibility of rollback

Binding (1- or 2-way depending on jurisdiction)

**Requires Taxpayer commitment of time, money,
and candor**

Taxpayer benefits

Non-adversarial process – access to impartial transfer pricing expertise

Mechanism to achieve

multi-year certainty (5+ years)

reduced annual compliance burdens

resolution of prior year controversy

If bilateral, tool to achieve double-tax protection and to enlist help against overly aggressive demands of other country

Government benefits

“to some extent about improved service to taxpayers and to some extent about improved compliance” - IRS Commissioner

Improved service

Improved efficiency

Improved expertise and insight

APA taxpayer self-selection

APA process attracts taxpayers that value certainty over tax minimization

Voluntary nature of process leads to taxpayer self-selection

Reinforced by APA process demands - time, money, candor

Thus, mostly

bilateral requests with other high-tax jurisdictions

responsible proposals

responsible compliance



APA Taxpayer compliance in 100+ cases involving arm's length ranges

Maximum allowed US income

1993-2003:

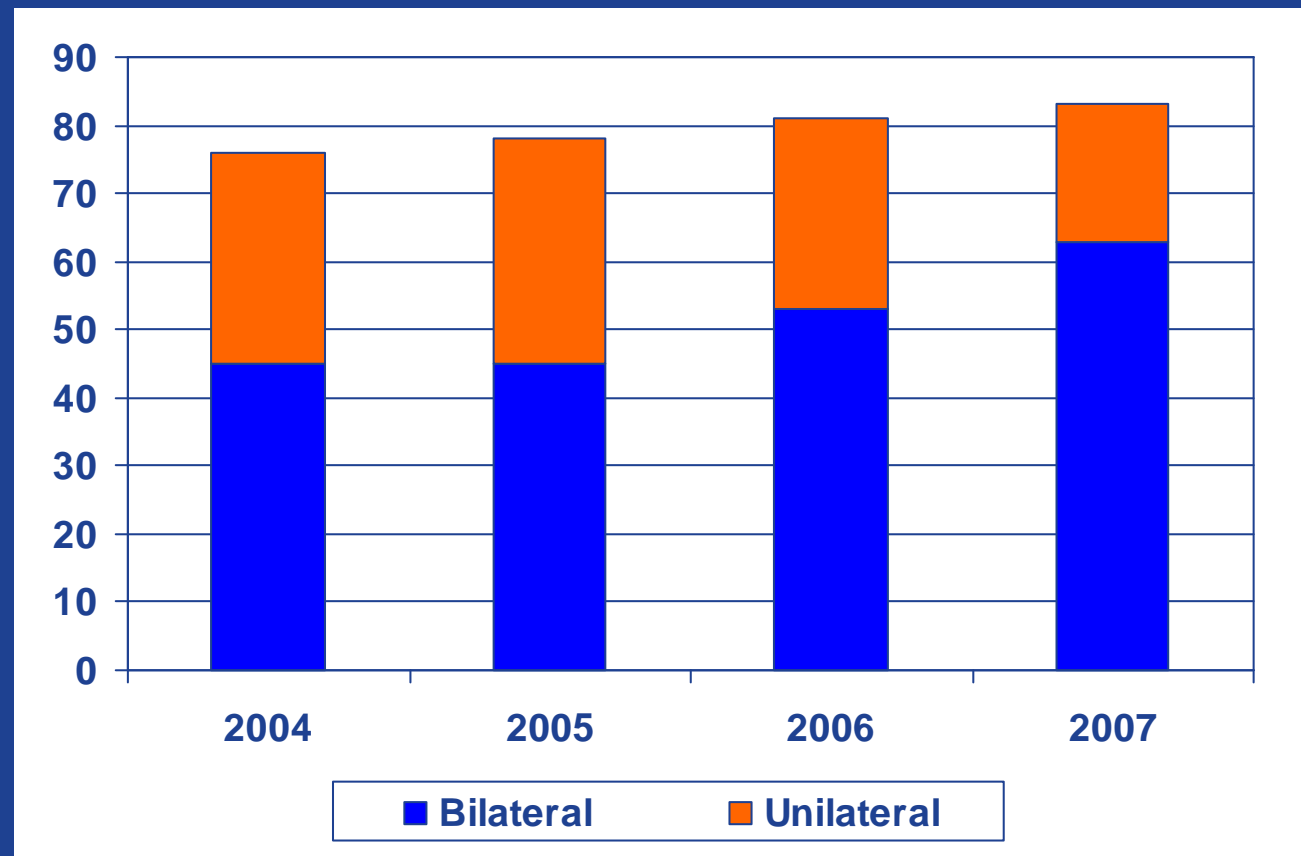
Based on sample of 100+ cases involving APAs with prescribed arm's length ranges, APA Taxpayers reported results on average in the middle of the prescribed range



Minimum required US income

APA Receipts in the U.S.

- About 80 a year
 - A slowly rising tide
 - Bilaterals increasing

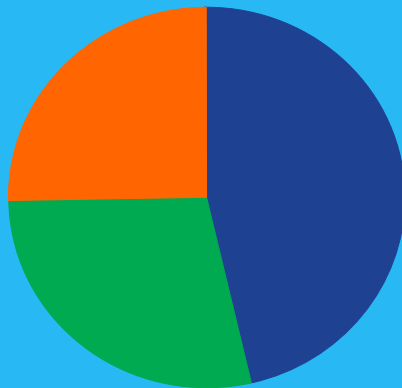


APA Case Characteristics (U.S.)

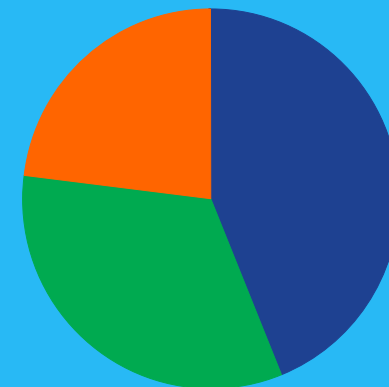
- **Covered Transactions**

- ■ Tangible goods 45%
- ■ Intangible goods 25%
- ■ Services 30%

2004-06



2007



APA Case Characteristics (U.S.)

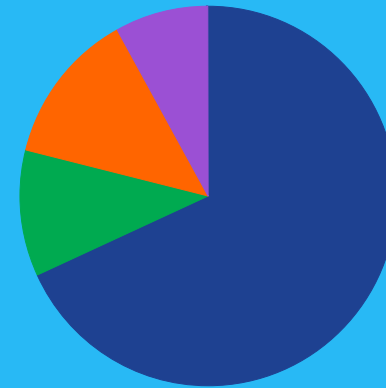
- **Transfer Pricing Methods**

- **CPM/TNMM** 64%
- **Cost Plus/Resale Profit Split** 10%
- **CUP/CUT** 10%
- **Other** 16%

2004-06



2007



Concluding thoughts about APAs in India (and elsewhere)