THE INTERNATIONAL COMPLIANCE ASSURANCE PROGRAMME (ICAP)

Introduction for MNE groups
The International Compliance Assurance Programme (ICAP)

- ICAP is an innovative voluntary programme, developed by the OECD Forum on Tax Administration, to provide greater certainty to MNE groups over key international tax risks.

- ICAP involves a co-ordinated risk assessment of an MNE group’s transfer pricing and PE risks using standardised documentation and agreed timelines.

- A roll-out of ICAP was announced in December 2020, following two pilots, which commenced in 2018 and 2019.
The ICAP process: An overview

Stage I: Selection

- 4-6 weeks twice a year (March and September)

Stage II: Risk assessment ...

- 20-36 weeks from the start date agreed with each MNE group

Stage III: Outcomes

- 4-8 weeks following the end of the risk assessment

... and issue resolution
The ICAP process: Selection

- ICAP commences with a request from an MNE group to its lead tax administration, accompanied by basic information, by one of the two application deadlines each year.
- This information is shared with relevant participating tax administrations, each of which determines whether it will join the MNE group’s ICAP risk assessment.
- Specific transactions may be excluded from scope by a tax administration (e.g. if an APA is already in place).
- The planned scope of an ICAP risk assessment is discussed with the MNE group.
The ICAP process: Risk assessment

• The start date for an ICAP risk assessment is agreed with the MNE group

• A risk assessment begins with delivery of a standard package of documentation, usually via a secure data room managed by the MNE group

• Typically there will be at least one face-to-face meeting with the MNE group and all tax administrations, physically or online

• Each tax administration conducts its own risk assessment, but benefits from greater information and engagement with the MNE and other tax administrations, co-ordinated by the lead tax administration
The ICAP process: Issue resolution

- Tax administrations may request additional information and clarification for the purposes of risk assessment.
- Requests are co-ordinated by the lead tax administration, ensuring a single point of contact for enquiries.
- Where possible, issues identified as part of a risk assessment will be addressed within the programme, avoiding the need for further time-consuming compliance activity such as audit (followed by MAP).
The ICAP process: Outcome letters

- Each tax administration will issue an outcome letter containing the outcomes of its risk assessment.

- The form and content of these letters will vary, reflecting domestic rules on what they should contain.

- For transactions found to be low risk, letters typically include a statement that a tax administration does not anticipate any additional enquiries to be needed for the periods covered by the risk assessment, plus the next two periods if there are no changes.

- If a transaction is found not to be low risk, this will be stated in the outcome letter.
ICAP vs other routes to tax certainty

- The level of legal certainty an MNE group obtains from ICAP is less than from an APA, but:
  - the timeframe for an ICAP risk assessment is 6-12 months compared with 3-4 years for a bilateral APA
  - ICAP potentially provides comfort over all of an MNE group’s TP and PE risk in covered jurisdictions, rather than only over specific transactions
  - under ICAP, comfort is typically provided by 6-8 tax administrations, rather than just 2 under a bilateral APA
- ICAP is not a replacement for a bilateral or multilateral APA, but may complement these tools by providing a straightforward route to greater comfort for certain transactions
Tax administrations participating in ICAP

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More to be added........
Next steps

• Keep an eye on the OECD website for news of further tax administrations joining the programme
• Contact your lead tax administration or the OECD ICAP Secretariat if you have any questions
• Engage with your lead tax administration early to discuss possible participation in the programme
• The deadline for applications to participate in the next round of ICAP is 30 September 2021
• Going forward, there will be two intakes of MNE groups into ICAP each year, on 31 March and 30 September
Where to find out more

www.oecd.org/tax/administration/international-compliance-assurance-programme

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