

CAP Material Inter-Company Transaction Template (MITT)

Instructions for completing the MITT

Background to MITT: The MITT is being requested of taxpayers applying for CAP to assess the complexity and magnitude of the taxpayer's cross border related party transactions and for risk analysis. Use of the MITT will allow LB&I to more quickly assess taxpayer's suitability for CAP. The MITT will be used in other phases of CAP for selection and de-selection of transfer pricing issues and for post filing review. All material transactions between the taxpayer and foreign related parties should be reported on the MITT and this will be used to achieve an agreed upon issues list for the CAP year, if accepted into CAP. General materiality thresholds are shown in the CAP website and taxpayer specific materiality thresholds will be agreed with the CAP team, if selected into CAP.

CAP Application version of MITT: For the CAP application version of the MITT, taxpayers should use the information from form(s) 5471, 5472, 8865 & 8858 and their IRC 6662 Transfer Pricing Documentation to complete the MITT based on their last filed tax return prior to the CAP year. All terms in the MITT relate to the IRC section 482 regulations standard terminology and definitions. Only transactions that are transferred using the same pricing policy and that are analyzed using the same transfer pricing method should be included on the same line. Do not aggregate transactions where the related party performs different functions, employs different assets or assumes different risks unless the taxpayer's method as discussed in the Transfer Pricing Documentation requires such aggregation. Any discrepancies between information reported by the taxpayer in form(s) 5471, 5472, 8856 & 8858 and their IRC 6662 Transfer Pricing Documentation should be identified and taxpayer should report the correct actual amounts on the application MITT. Once accepted into CAP, taxpayer should report such discrepancies to the CAP team and explain how the discrepancy arose. Changes to taxpayer's Tax Control Framework or other internal control processes may be suggested by the CAP team to avoid such discrepancies in future tax filings. If the taxpayer has entered into a Cost Sharing Agreement and or Platform Contribution Transaction an explanation of the transaction should be provided with supporting documentation. Taxpayers are encouraged to attach additional explanations and documentation as necessary to support related party transactions.

Quarterly versions of MITT: For quarterly meetings with the CAP team, an updated MITT showing current CAP year to date information is needed. New transfer pricing transactions should be included on the MITT as soon as possible in the CAP cycle and checked as "new" in column v of the MITT. Inform the CAP team if estimates are used instead of actual amounts for year to date MITT updates. Any changes in methods or new material transactions should be clearly identified. Additional information on items shown on the MITT may be requested by the CAP team as part of the risk assessment process to select and de-select transfer pricing issues during the CAP year. Some selected issues may be best resolved by applying for an APA and the CAP team will discuss with the CAP taxpayer when an APA is recommended.

Post-filing version of MITT: Once taxpayer has filed the tax return for the CAP year, a final MITT will be provided the CAP team for their post-filing review. The information should be from form(s) 5471, 5472,

8865 & 8858 and the applicable IRC 6662 Transfer Pricing Documentation for the completed CAP year. Any changes in methods or new material transactions should be clearly identified.

Column Instructions:

Column a: *CC Payor* - Insert the IRS code for the country or countries from which payment(s) originates from the list at https://www.irs.gov/pub/irs-schema/mef_country_codes_ty200920102011.pdf.

Column b: *CC Payee* - Insert the IRS code for the country in which payment(s) is received from the list at https://www.irs.gov/pub/irs-schema/mef_country_codes_ty200920102011.pdf.

Column c: *Treaty* - Indicate if there is an existing treaty between the US and the foreign jurisdiction that may apply to this transaction.

Column d: *Sub F* - Indicate if the foreign related party had income that required a computation for Subpart F purposes.

Column e: *BEAT* - Indicate if payments made are subject to the Base Erosion and Anti-abuse minimum Tax enacted as part of the The Tax Cuts and Jobs Act of 2017.

Column f: *Transaction* - Briefly describe the transaction and include legal company names of the parties to the transaction.

Column g: *TPS Sec Ref* - Reference the contemporaneous transfer pricing documentation study and the section/page where this transaction is analyzed OR Indicate "N" if a study was not prepared.

Column h: *APA* - "Yes" if an APA exists, "No" if there is no APA and "A" if an APA has been applied for.

Column i: *Form* - A - Form 5472, B - Form 5471, C - Form 8865 & D - Form 8858

Column j: *Amt Reported Form 5471/8865 Schedule M* - Indicate the amount that was reported on schedule M.

Column k: *Schedule M Line* - Indicate the line number of schedule M the amount was included on.

Column l: *Schedule M Column* - Indicate the column of schedule M the amount was included on.

Column m: *Transfer Pricing Policy* - Indicate the policy under which the transaction was completed.

Column n: *Transfer Pricing Method* - Indicate the method under which the transaction was completed. See §1.482 for methods.

Column o: *Tested Party* - Indicate the legal company name of the tested party.

Column p: *Tested Party Function* - Indicate the function/business activity of the tested party.

Column q: *Tested Party OM* - Indicate the operating margin for the tested party for the period.

Column r: *PLI/Rate* - Indicate the profit level indicator, rate used to analyze and benchmark the transaction, or profit/residual profit split percentages.

Column s/t/u: *Benchmark Range* - Indicate the upper, median and lower quartile ranges which resulted from the search for comparables.

Column v: *Actual Results* - Calculate the actual results of the transaction.

Column w: *Change* - Indicate if there is a change in policy or method from the subsequent year for the application version or from a previously submitted MITT for that CAP year. Enter "New" to indicate a new transaction. Enter "End" if the transaction was discontinued.

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