



TaxNewsFlash

United States



No. 2019-446
September 12, 2019

IRS announces application period for 2020 Compliance Assurance Process (CAP) program

The IRS today announced the opening of the application period for the 2020 Compliance Assurance Process (CAP) program.

The application period begins September 16, 2019, and ends October 31, 2019. No new taxpayers have been accepted into CAP for the last three tax years, but today's announcement includes instructions for those new large corporate taxpayers that may wish to apply for the 2020 CAP program.

According to today's IRS release—[IR-2019-154](#)—the IRS will inform taxpayers if they are accepted into the program by approximately January 31, 2020.

The CAP program continues to consist of three phases: Pre-CAP, CAP and compliance maintenance

Today's IRS announcement states that new corporate applicants can apply for the CAP program if they meet certain eligibility requirements including:

- Have assets of \$10 million or more
- Be a U.S. publicly traded corporation with a legal requirement to prepare and submit SEC Forms 10-K, 10-Q, and 8-K
- Not be under investigation by, or in litigation with, any government agency that would limit the IRS's access to current tax records

What's new

To be eligible to participate in the CAP program, corporations must also adhere to newly articulated limits on the number of years that may be open. The general eligibility and suitability criteria specify that if currently under examination, the taxpayer must not have more than one filed return and one unfiled return open on the first day of an applicant's CAP year. For a new applicant currently under examination, to be eligible for participation in the CAP program, the current cycle must be closed and the subsequent cycle not started on the first day of the applicant's CAP year.

The 2020 program announcement directs interested taxpayers to the [CAP website](#) for additional forms that must accompany a CAP application. Those forms elicit information about an applicant's research credit, material intercompany transactions, "initial CAP issues," and tax control framework.

New CAP applicants should email an application to the CAP program mailbox. If the taxpayer meets the eligibility and suitability criteria, the application will be forwarded to the LB&I compliance practice area director with jurisdiction over the taxpayer, for an evaluation of the application. If a taxpayer's application is approved, the taxpayer will be notified, in writing, by the territory manager assigned to the taxpayer that it was accepted into the CAP program. If a taxpayer's application is not approved, it will be notified by the territory manager assigned to the taxpayer and will be given the reasons why it was not accepted into the program.

Background

The CAP program allows large corporate taxpayers to work collaboratively with an IRS team to identify and resolve potential tax issues before tax returns are filed. The IRS on August 27, 2018, announced both the continuation of and changes to the CAP program for 2019. Read [TaxNewsFlash](#)

The highly lauded CAP program, begun as a pilot in 2005 and made permanent in 2011, provides for "real-time audits" of taxpayers—i.e., the review and resolution of tax issues through open, cooperative, and transparent interactions between the IRS and taxpayers before the filing of a return.

From its inception some 14 years ago, the CAP program was intended for a select group of taxpayers under the jurisdiction of the IRS's Large Business & International (LB&I) division. The program began with 17 taxpayers, and when last reported, there were 169 CAP program participants.

KPMG observation

From the taxpayer's perspective, a principal benefit of CAP is obtaining earlier certainty on the proper treatment of material positions. This permits the taxpayer company to avoid having to set up financial statement reserves. Contemporaneous resolution of tax issues can in some instances also afford competitive advantages vis-à-vis competitors that are not part of CAP.

The "real time" resolution of issues was originally designed with the expectation that the process would create earlier certainty at a reduced cost to both the taxpayer and the government. However, in the review of CAP that resulted in its "recalibration," the IRS found that the current CAP engagements were generally taking longer and costing more than anticipated. As a result, much of the additional information now required as part of the application process is aimed at better evaluating whether a taxpayer's circumstances will be best addressed within CAP or through more traditional post-filing processes.

The IRS, too, benefits from CAP. By reducing the time and expense required to identify, audit, and resolve issues, CAP can free up resources for the IRS to use for other audits while ensuring compliance among participating taxpayers. The program also provides the IRS with a clear line of sight into emerging activities and issues, thereby potentially giving the IRS advance notice of issues requiring either guidance or specially tailored enforcement action.

Read a [September 2018 report](#) [PDF 101 KB] that examines the CAP program: *What's News in Tax: IRS Extends CAP Program, Modifying Some Rules and Signaling More Significant Changes May Lie Ahead*

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