



TaxNewsFlash

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IRS opens application period for 2023 Compliance Assurance Process (CAP) program

The IRS today announced the opening of the application period for the Compliance Assurance Process (CAP) program for 2023.

The application period begins September 15, 2022, and ends November 15, 2022.

According to today's IRS release—[IR-2022-158](#)—the IRS will inform taxpayers if they are accepted into the program in February 2023.

New corporate applicants can apply for the CAP program if they meet certain eligibility requirements including:

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

To be eligible to participate in the CAP program, taxpayers must adhere to CAP program limits on the number of open years.

- Additional information about the CAP program is available on a dedicated [IRS webpage](#).
- Information about the CAP program highlights and updates for 2023 are provided on a separate [IRS webpage](#).

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. It also enables the IRS and taxpayers to review and resolve tax issues through open, cooperative, and transparent interactions before the return is filed.

From its inception and launch in 2005, a relatively small and select group of taxpayers under the jurisdiction of the IRS Large Business & International (LB&I) division have participated in CAP.

KPMG observation

From the taxpayer’s perspective, a principal benefit of CAP is obtaining earlier certainty on the proper treatment of material positions. Among other things, 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, during 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, additional information is now required to be submitted with a CAP application. The additional information is designed to allow a better evaluation as to whether a taxpayer’s circumstances can be best addressed within CAP or through the more traditional post-filing processes.

The IRS also benefits from CAP. By reducing the time and expense required to identify, audit, and resolve issues, the CAP can free up resources for the IRS to use for other audits while addressing 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.

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