USPTO Section 10 Fee Setting – Aggregate Revenue Estimates

This document provides a step-by-step instruction for reading the five alternative aggregate revenue estimate tables.

I. Alternative 1: Proposed Alternative

II. Alternative 2: Fee Cost Recovery

III. Alternative 3: Across-the Board Adjustment

IV. Alternative 4: Initially Proposed to PPAC

V. Alternative 5: Retain Current Fees (Status Quo)

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I. ALTERNATIVE 1: PROPOSED ALTERNATIVE

Columns A through H are fee rates from FY 2012 to FY 2017.

- Column A reflects the current fee rates effective during FY 2012. The current fee rates include the 15 percent surcharge established by the AIA and effective on September 26, 2011. In January and February 2012, the Office proposed rules setting fees for the new patent-related services authorized by the Act, but it did so using its rulemaking authority
under 35 U.S.C. 41(d). On January 5, 2012 (77 FR 448) (RIN 0651-AC67), the Office proposed fees for filing third party submissions; on January 25, 2012 (77 FR 3666) (RIN 0651-AC69), the Office proposed fees for ex parte reexaminations and supplemental examinations; on February 9, 2012 (77 FR 6879) (RIN 0651-AC70), the Office proposed fees for inter partes reviews, post-grant reviews, covered business method reviews, and derivation proceedings. Collectively, these rules are referred to herein as the “January and February 2012 Proposed Rules.” The fees included in the January and February Proposed rules (as adjusted by the final rules) will be effective on September 16, 2012 (during FY 2012). Therefore, fee amounts included in the final rules are also included in Column A.

- Column B and Column C reflect the fee rates effective during FY 2013:

  - Column B reflects an assumed (1.9% effective October 1, 2012) Consumer Price Index (CPI) increase to certain patent fees included in Column A. In a separate rulemaking on May 14, 2012 (77 FR 8331) (RIN 0651-AC55), the USPTO proposed to adjust certain patent fee amounts to reflect fluctuations in the Consumer Price Index (CPI) under 35 U.S.C. 41(f) (referred to herein as the “CPI rule”). The CPI rule sets forth particular fees to be adjusted and describes how the adjustment will be calculated based on the fluctuation in the CPI over the twelve months preceding the issuance of the final CPI rule. The aggregate revenue estimates presented in this section 10 proposed rule uses the estimate of a CPI increase of 1.9 percent (estimated as of December, 2011), which was the figure included in the USPTO FY 2013 President’s Budget, published on February 13, 2012, and the initial patent fee proposal delivered to the Patent Public
Advisory Committee on February 7, 2012. In the CPI rule, a hypothetical estimate of 2.9 percent was used for the CPI increase. This was the estimated annual CPI increase as of February, 2012 (the annual increase of February 2012 over February 2011). The actual CPI percentage will not be known until the CPI rule is issued in final. The section 10 final rule will be updated to reflect the actual CPI percentage included in the CPI final rule. The hypothetical fee rates used in Column B are based on the 1.9 percent CPI estimate and are assumed to be effective through the effective date of the section 10 fees, as described below for Column C and Column E.

- Column C indicates fees proposed in this NPRM that are assumed to be effective on March 1, 2013. Most of these fee rates remain the same through FY 2017 (Column H). The fee rates that change are described below for Column E.

- Column D and Column E reflect the fee rates effective during FY 2014:

  - Column D are the same fee rates that are included in Column C, representing fees proposed in this NPRM that are assumed to be effective on March 1, 2013.

  - Column E is substantially the same as Column D, except for the changes in issue, pre-grant publication (PGPub), and assignment fees, which are assumed to be effective on January 1, 2014. The issue and PGPub fee changes can be found in fee codes 1501 – 1503, and 1511; 2501 – 2503, and 2511; 3501 – 3503, and 3511; and 1504, 1505, 1803, and 1808. The assignment fee changes are related to fee code 8021.
• Columns F, G, and H reflect the fee rates effective during FY 2015, FY 2016, and FY 2017, respectively. The fee rates are the same as those included in Column E.

Columns I through Q are fee payment workloads projected from FY 2013 to FY 2017. Each column represents the workloads for each fiscal year, unless it indicates a specific period in the column header.

• For example, Column I displays fee workloads from October 1, 2012 to February 28, 2013, which represent fee workloads after the 1.9 percent CPI increase in FY 2013, but before the section 10 fee changes. The fee workloads in this column relate to the fee rates in column B.

• Likewise, column J exhibits the forecasted fee workloads after the proposed fee restructure on March 1, 2013 through September 30, 2013 (the end of FY 2013).
  - These two Columns, I and J, are added together to calculate the aggregate workloads for FY 2013 in column K.

• Similarly, FY 2014 fee payment workloads (Column N) are also divided into two columns, Columns L and M, to represent workloads before and after the changes in issue, pre-grant publication (PGPub), and assignment fees on January 1, 2014.

• Columns O, P, and Q reflect the estimated fee workloads during FY 2015, FY 2016, and FY 2017, respectively.
Columns R through Z are the aggregate revenue calculations from FY 2013 to FY 2017. Fee collections (aggregate revenue) are calculated by multiplying a fee rate column for a particular period of time by a fee workload column for the corresponding time period.

- For instance, Column R, which represents fees collected between October 1, 2012 and February 28, 2013, is calculated by multiplying Columns B and I.

- Similarly, Column S, which shows fees collected after the proposed fees are effective on March 1, 2013, is calculated by multiplying Columns C and J.
  - Columns R and S are then added together to obtain the total aggregate revenue (fee collections) for FY 2013, in Column T.

- Likewise, Columns D and L, and Columns E and M are multiplied to calculate Columns U and V, respectively. These two columns, U and V, are added to compute the aggregate revenue (fee collections) for FY 2014 in column W.

- Columns X, Y, and Z are calculated by multiplying columns F and O, G and P, and H and Q, correspondingly.

The total aggregate revenue for each fiscal year is shown in the last row, titled “Total Patent Fees.”

- FY 2013 total aggregate revenue is at the bottom of Column T;
- FY 2014 total aggregate revenue is at the bottom of Column W;
- FY 2015 total aggregate revenue is at the bottom of Column X;
- FY 2016 total aggregate revenue is at the bottom of Column Y;
II. ALTERNATIVE 2: FEE COST RECOVERY

Columns A through H are fee rates from FY 2012 to FY 2017.

- Column A reflects the current fee rates effective during FY 2012. The current fee rates include the 15 percent surcharge established by the AIA and effective on September 26, 2011. In January and February 2012, the Office proposed rules setting fees for the new patent-related services authorized by the Act, but it did so using its rulemaking authority under 35 U.S.C. 41(d). On January 5, 2012 (77 FR 448) (RIN 0651-AC67), the Office proposed fees for filing third party submissions; on January 25, 2012 (77 FR 3666) (RIN 0651-AC69), the Office proposed fees for ex parte reexaminations and supplemental examinations; on February 9, 2012 (77 FR 6879) (RIN 0651-AC70), the Office proposed fees for inter partes reviews, post-grant reviews, covered business method reviews, and derivation proceedings. Collectively, these rules are referred to herein as the “January and February 2012 Proposed Rules.” The fees included in the January and February Proposed rules (as adjusted by the final rules) will be effective on September 16, 2012 (during FY 2012). Therefore, fee amounts included in the final rules are also included in Column A.

- Column B and Column C reflect the fee rates effective during FY 2013:
  - Column B reflects an assumed (1.9% effective October 1, 2012) Consumer Price Index (CPI) increase to certain patent fees included in Column A. In a separate
rulemaking on May 14, 2012 (77 FR 8331) (RIN 0651-AC55), the USPTO proposed to adjust certain patent fee amounts to reflect fluctuations in the Consumer Price Index (CPI) under 35 U.S.C. 41(f) (referred to herein as the “CPI rule”). The CPI rule sets forth particular fees to be adjusted and describes how the adjustment will be calculated based on the fluctuation in the CPI over the twelve months preceding the issuance of the final CPI rule. The aggregate revenue estimates presented in this section 10 proposed rule uses the estimate of a CPI increase of 1.9 percent (estimated as of December, 2011), which was the figure included in the USPTO FY 2013 President’s Budget, published on February 13, 2012, and the initial patent fee proposal delivered to the Patent Public Advisory Committee on February 7, 2012. In the CPI rule, a hypothetical estimate of 2.9 percent was used for the CPI increase. This was the estimated annual CPI increase as of February, 2012 (the annual increase of February 2012 over February 2011). The actual CPI percentage will not be known until the CPI rule is issued in final. The section 10 final rule will be updated to reflect the actual CPI percentage included in the CPI final rule. The hypothetical fee rates used in Column B are based on the 1.9 percent CPI estimate and are assumed to be effective through the effective date of the alternative 2 fees, as described below for Column C.

- Column C indicates fees included in alternative 2 that are assumed to be effective on March 1, 2013. All of these fee rates remain the same through FY 2017 (Column H) because the changes to issue, pre-grant publication (PGPub), and
assignment fees, which are proposed in alternative 1, are not changing on January 1, 2014 in this alternative.

- Column D and Column E reflect the fee rates effective during FY 2014 are the same fee rates that are included in Column C.

- Columns F, G, and H reflect the fee rates effective during FY 2015, FY 2016, and FY 2017, respectively. The fee rates are the same as those included in Columns C, D, and E.

Columns I through Q are fee payment workloads projected from FY 2013 to FY 2017. Each column represents the workloads for each fiscal year, unless it indicates a specific period in the column header.

- For example, Column I displays fee workloads from October 1, 2012 to February 28, 2013, which represent fee workloads after the 1.9 percent CPI increase in FY 2013, but before alternative 2 fee changes. The fee workloads in this column relate to the fee rates in column B.

- Likewise, column J exhibits the forecasted fee workloads after the alternative 2 fee restructure on March 1, 2013 through September 30, 2013 (the end of FY 2013).

  - These two Columns, I and J, are added together to calculate the aggregate workloads for FY 2013 in column K.

- Similarly, FY 2014 fee payment workloads (Column N) are also divided into two columns, Columns L and M, to represent workloads corresponding to fee rates in Columns D and E, respectively.
- Columns O, P, and Q reflect the estimated fee workloads during FY 2015, FY 2016, and FY 2017, respectively.

Columns R through Z are the aggregate revenue calculations from FY 2013 to FY 2017. Fee collections (aggregate revenue) are calculated by multiplying a fee rate column for a particular period of time by a fee workload column for the corresponding time period.

- For instance, Column R, which represents fees collected between October 1, 2012 and February 28, 2013, is calculated by multiplying Columns B and I.

- Similarly, Column S, which shows fees collected after the alternative 2 fees are effective on March 1, 2013, is calculated by multiplying Columns C and J.

  - Columns R and S are then added together to obtain the total aggregate revenue (fee collections) for FY 2013, in Column T.

- Likewise, Columns D and L, and Columns E and M are multiplied to calculate Columns U and V, respectively. These two columns, U and V, are added to compute the aggregate revenue (fee collections) for FY 2014 in column W.

- Columns X, Y, and Z are calculated by multiplying columns F and O, G and P, and H and Q, correspondingly.

The total aggregate revenue for each fiscal year is shown in the last row, titled “Total Patent Fees.”

- FY 2013 total aggregate revenue is at the bottom of Column T;
• FY 2014 total aggregate revenue is at the bottom of Column W;
• FY 2015 total aggregate revenue is at the bottom of Column X;
• FY 2016 total aggregate revenue is at the bottom of Column Y;
• FY 2017 total aggregate revenue is at the bottom of Column Z;

III. ALTERNATIVE 3: ACROSS-THE-BOARD ADJUSTMENT

Columns A through G are fee rates from FY 2012 to FY 2017.

• Column A reflects the current fee rates effective during FY 2012. The current fee rates include the 15 percent surcharge established by the AIA and effective on September 26, 2011. In January and February 2012, the Office proposed rules setting fees for the new patent-related services authorized by the Act, but it did so using its rulemaking authority under 35 U.S.C. 41(d). On January 5, 2012 (77 FR 448) (RIN 0651-AC67), the Office proposed fees for filing third party submissions; on January 25, 2012 (77 FR 3666) (RIN 0651-AC69), the Office proposed fees for ex parte reexaminations and supplemental examinations; on February 9, 2012 (77 FR 6879) (RIN 0651-AC70), the Office proposed fees for inter partes reviews, post-grant reviews, covered business method reviews, and derivation proceedings. Collectively, these rules are referred to herein as the “January and February 2012 Proposed Rules.” The fees included in the January and February Proposed rules (as adjusted by the final rules) will be effective on September 16, 2012 (during FY 2012). Therefore, fee amounts included in the final rules are also included in Column A.
Column B and Column C reflect the fee rates effective during FY 2013:

- Column B reflects an assumed (1.9% effective October 1, 2012) Consumer Price Index (CPI) increase to certain patent fees included in Column A. In a separate rulemaking on May 14, 2012 (77 FR 8331) (RIN 0651-AC55), the USPTO proposed to adjust certain patent fee amounts to reflect fluctuations in the Consumer Price Index (CPI) under 35 U.S.C. 41(f) (referred to herein as the “CPI rule”). The CPI rule sets forth particular fees to be adjusted and describes how the adjustment will be calculated based on the fluctuation in the CPI over the twelve months preceding the issuance of the final CPI rule. The aggregate revenue estimates presented in this section 10 proposed rule uses the estimate of a CPI increase of 1.9 percent (estimated as of December, 2011), which was the figure included in the USPTO FY 2013 President’s Budget, published on February 13, 2012, and the initial patent fee proposal delivered to the Patent Public Advisory Committee on February 7, 2012. In the CPI rule, a hypothetical estimate of 2.9 percent was used for the CPI increase. This was the estimated annual CPI increase as of February, 2012 (the annual increase of February 2012 over February 2011). The actual CPI percentage will not be known until the CPI rule is issued in final. The section 10 final rule will be updated to reflect the actual CPI percentage included in the CPI final rule. The hypothetical fee rates used in Column B are based on the 1.9 percent CPI estimate and are assumed to be effective through the effective date of the alternative 3 fees, as described below for Column C.
Column C indicates fees included in alternative 3 that are assumed to be effective on March 1, 2013. All of these fee rates remain the same through FY 2017 (Column H) because the changes to issue, pre-grant publication (PGPub), and assignment fees, which are proposed in alternative 1, are not changing on January 1, 2014 in this alternative.

- Column D through Column G reflect the fee rates effective during FY 2014 through FY 2017 are the same fee rates that are included in Column C.

Columns H through N are fee payment workloads projected from FY 2013 to FY 2017. Each column represents the workloads for each fiscal year, unless it indicates a specific period in the column header.

- For example, Column H displays fee workloads from October 1, 2012 to February 28, 2013, which represent fee workloads after the 1.9 percent CPI increase in FY 2013, but before alternative 3 fee changes. The fee workloads in this column relate to the fee rates in column B.

- Likewise, column I exhibits the forecasted fee workloads after the alternative 3 fee restructure on March 1, 2013 through September 30, 2013 (the end of FY 2013).
  
  - These two Columns, H and I, are added together to calculate the aggregate workloads for FY 2013 in column J.

- Columns K, L, M, and N reflect the estimated fee workloads during FY 2014, FY 2015, FY 2016, and FY 2017, respectively.
Columns O through U are the aggregate revenue calculations from FY 2013 to FY 2017. Fee collections (aggregate revenue) are calculated by multiplying a fee rate column for a particular period of time by a fee workload column for the corresponding time period.

- For instance, Column O, which represents fees collected between October 1, 2012 and February 28, 2013, is calculated by multiplying Columns B and H.

- Similarly, Column P, which shows fees collected after the alternative 3 fees are effective on March 1, 2013, is calculated by multiplying Columns C and I.

  - Columns O and P are then added together to obtain the total aggregate revenue (fee collections) for FY 2013, in Column Q.


The total aggregate revenue for each fiscal year is shown in the last row, titled “Total Patent Fees.”

- FY 2013 total aggregate revenue is at the bottom of Column Q;
- FY 2014 total aggregate revenue is at the bottom of Column R;
- FY 2015 total aggregate revenue is at the bottom of Column S;
- FY 2016 total aggregate revenue is at the bottom of Column T;
- FY 2017 total aggregate revenue is at the bottom of Column U;
IV. ALTERNATIVE 4: INITIALLY PROPOSED TO PPAC

Columns A through H are fee rates from FY 2012 to FY 2017.

- Column A reflects the current fee rates effective during FY 2012. The current fee rates include the 15 percent surcharge established by the AIA and effective on September 26, 2011. In January and February 2012, the Office proposed rules setting fees for the new patent-related services authorized by the Act, but it did so using its rulemaking authority under 35 U.S.C. 41(d). On January 5, 2012 (77 FR 448) (RIN 0651-AC67), the Office proposed fees for filing third party submissions; on January 25, 2012 (77 FR 3666) (RIN 0651-AC69), the Office proposed fees for *ex parte* reexaminations and supplemental examinations; on February 9, 2012 (77 FR 6879) (RIN 0651-AC70), the Office proposed fees for *inter partes* reviews, post-grant reviews, covered business method reviews, and derivation proceedings. Collectively, these rules are referred to herein as the “January and February 2012 Proposed Rules.” The fees included in the January and February Proposed rules (as adjusted by the final rules) will be effective on September 16, 2012 (during FY 2012). This alternative reflects the proposed fees and assumptions used at the time this alternative was proposed to PPAC, in January 2012. Therefore, fee amounts included in the January and February 2012 Proposed rules are also included in Column A.

- Column B and Column C reflect the fee rates effective during FY 2013:
  
  o Column B reflects an assumed (1.9% effective October 1, 2012) Consumer Price Index (CPI) increase to certain patent fees included in Column A. In a separate rulemaking on May 14, 2012 (77 FR 8331) (RIN 0651-AC55), the USPTO
proposed to adjust certain patent fee amounts to reflect fluctuations in the Consumer Price Index (CPI) under 35 U.S.C. 41(f) (referred to herein as the “CPI rule”). The CPI rule sets forth particular fees to be adjusted and describes how the adjustment will be calculated based on the fluctuation in the CPI over the twelve months preceding the issuance of the final CPI rule. The aggregate revenue estimates presented in this section 10 proposed rule uses the estimate of a CPI increase of 1.9 percent (estimated as of December, 2011), which was the figure included in the USPTO FY 2013 President’s Budget, published on February 13, 2012, and the initial patent fee proposal delivered to the Patent Public Advisory Committee on February 7, 2012. In the CPI rule, a hypothetical estimate of 2.9 percent was used for the CPI increase. This was the estimated annual CPI increase as of February, 2012 (the annual increase of February 2012 over February 2011). The actual CPI percentage will not be known until the CPI rule is issued in final. The section 10 final rule will be updated to reflect the actual CPI percentage included in the CPI final rule. The hypothetical fee rates used in Column B are based on the 1.9 percent CPI estimate and are assumed to be effective through the effective date of the alternative 4 fees, as described below for Column C and Column E.

- Column C indicates fees proposed in this NPRM that are assumed to be effective on February 1, 2013. Most of these fee rates remain the same through FY 2017 (Column H). The fee rates that change are described below for Column E.

- Column D and Column E reflect the fee rates effective during FY 2014:
o Column D are the same fee rates that are included in Column C, representing fees included in this alternative that are assumed to be effective on February 1, 2013.

o Column E is substantially the same as Column D, except for the changes in issue and pre-grant publication (PGPub) fees, which are assumed to be effective on January 1, 2014. The issue and PGPub fee changes can be found in fee codes 1501 – 1503, and 1511; 2501 – 2503, and 2511; 3501 – 3503, and 3511; and 1504, 1505, 1803, and 1808.

- Columns F, G, and H reflect the fee rates effective during FY 2015, FY 2016, and FY 2017, respectively. The fee rates are the same as those included in Column E.

Columns I through Q are fee payment workloads projected from FY 2013 to FY 2017. Each column represents the workloads for each fiscal year, unless it indicates a specific period in the column header.

- For example, Column I displays fee workloads from October 1, 2012 to January 31, 2013, which represent fee workloads after the 1.9 percent CPI increase in FY 2013, but before the alternative 4 fee changes. The fee workloads in this column relate to the fee rates in column B.

- Likewise, column J exhibits the forecasted fee workloads after the alternative 4 fee changes on February 1, 2013 through September 30, 2013 (the end of FY 2013).

  o These two Columns, I and J, are added together to calculate the aggregate workloads for FY 2013 in column K.
- Similarly, FY 2014 fee payment workloads (Column N) are also divided into two columns, Columns L and M, to represent workloads before and after the changes in issue and pre-grant publication (PGPub) fees on January 1, 2014.

- Columns O, P, and Q reflect the estimated fee workloads during FY 2015, FY 2016, and FY 2017, respectively.

Columns R through Z are the aggregate revenue calculations from FY 2013 to FY 2017. Fee collections (aggregate revenue) are calculated by multiplying a fee rate column for a particular period of time by a fee workload column for the corresponding time period.

- For instance, Column R, which represents fees collected between October 1, 2012 and January 31, 2013, is calculated by multiplying Columns B and I.

- Similarly, Column S, which shows fees collected after the proposed fees are effective on February 1, 2013, is calculated by multiplying Columns C and J.
  
  o Columns R and S are then added together to obtain the total aggregate revenue (fee collections) for FY 2013, in Column T.

- Likewise, Columns D and L, and Columns E and M are multiplied to calculate Columns U and V, respectively. These two columns, U and V, are added to compute the aggregate revenue (fee collections) for FY 2014 in column W.

- Columns X, Y, and Z are calculated by multiplying columns F and O, G and P, and H and Q, correspondingly.
The total aggregate revenue for each fiscal year is shown in the last row, titled “Total Patent Fees.”

- FY 2013 total aggregate revenue is at the bottom of Column T;
- FY 2014 total aggregate revenue is at the bottom of Column W;
- FY 2015 total aggregate revenue is at the bottom of Column X;
- FY 2016 total aggregate revenue is at the bottom of Column Y;
- FY 2017 total aggregate revenue is at the bottom of Column Z;

V. ALTERNATIVE 5: RETAIN CURRENT FEES (STATUS QUO)

Columns A through G are fee rates from FY 2012 to FY 2017.

- Column A reflects the current fee rates effective during FY 2012. The current fee rates include the 15 percent surcharge established by the AIA and effective on September 26, 2011. In January and February 2012, the Office proposed rules setting fees for the new patent-related services authorized by the Act, but it did so using its rulemaking authority under 35 U.S.C. 41(d). On January 5, 2012 (77 FR 448) (RIN 0651-AC67), the Office proposed fees for filing third party submissions; on January 25, 2012 (77 FR 3666) (RIN 0651-AC69), the Office proposed fees for \textit{ex parte} reexaminations and supplemental examinations; on February 9, 2012 (77 FR 6879) (RIN 0651-AC70), the Office proposed fees for \textit{inter partes} reviews, post-grant reviews, covered business method reviews, and derivation proceedings. Collectively, these rules are referred to herein as the “January and February 2012 Proposed Rules.” The fees included in the January and February
Proposed rules (as adjusted by the final rules) will be effective on September 16, 2012 (during FY 2012). Therefore, fee amounts included in the final rules are also included in Column A.

- Retaining the current fees means that fee rates do not change, therefore Columns B through G remain the same.

Columns H through N are fee payment workloads projected from FY 2013 to FY 2017. Each column represents the workloads for each fiscal year, unless it indicates a specific period in the column header.

- For example, Column H displays fee workloads from October 1, 2012 to February 28, 2013, which relate to the fee rates in Column B.

- Likewise, column I exhibits the forecasted fee workloads from March 1, 2013 to September 30, 2013 (the end of FY 2013) and relate to the fee rates in Column C.
  
  - These two Columns, H and I, are added together to calculate the aggregate workloads for FY 2013 in column J.

- Columns K, L, M, and N reflect the estimated fee workloads during FY 2014, FY 2015, FY 2016, and FY 2017, respectively.

Columns O through U are the aggregate revenue calculations from FY 2013 to FY 2017. Fee collections (aggregate revenue) are calculated by multiplying a fee rate column for a particular period of time by a fee workload column for the corresponding time period.
For instance, Column O, which represents fees collected between October 1, 2012 and February 28, 2013, is calculated by multiplying Columns B and H.

- Similarly, Column P, which shows fees collected from March 1, 2013 to September 30, 2012, is calculated by multiplying Columns C and I.
  - Columns O and P are then added together to obtain the total aggregate revenue (fee collections) for FY 2013, in Column Q.


The total aggregate revenue for each fiscal year is shown in the last row, titled “Total Patent Fees.”

- FY 2013 total aggregate revenue is at the bottom of Column Q;
- FY 2014 total aggregate revenue is at the bottom of Column R;
- FY 2015 total aggregate revenue is at the bottom of Column S;
- FY 2016 total aggregate revenue is at the bottom of Column T;
- FY 2017 total aggregate revenue is at the bottom of Column U;