

4. Case allocation to APA teams
5. First Questionnaire
6. Site Visit(if needed)
7. Post-visit Questionnaire
8. Discussion with applicant
9. Preparation of Position Paper
10. Final negotiations with applicant
11. Draft APA preparation
12. Signing and communication of Agreement to CIT
13. Filing of modified returns
14. Annual Compliance Report submission
15. TPO review and monitoring
16. Cancellation or revision if violated

Q12. What are the benefits of APA?

Ans.

- Provides certainty in tax matters
- Reduces compliance burden
- Assures fair taxation
- Reduces litigation pressure
- Prevents double taxation through agreed arm's length pricing

Q13. What are the reasons to apply for an APA?

Ans.

- Stability and long-term business planning
- Non-adversarial resolution
- Collaborative negotiation approach
- Flexibility to convert Unilateral to Bilateral APA
- Option to withdraw or revise signed APA

Q14. What are the forms in APA for various purposes?

Ans.

- Form 3CEC – Application for pre-filing consultation
- Form 3CED – Application for entering into APA
- Form 3CEDA – Rollback of APA to prior years
- Form 3CEE – Withdrawal of APA request
- Form 3CEF – Annual Compliance Report (ACR)



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Income Tax Department
Central Board of Direct Taxes



Advance Pricing Agreement (APA)



Q1. What is an APA?

Ans. (i) It is an agreement between the taxpayer and the tax authority [Central Board of Direct Taxes (CBDT) in India] determining the Arm's Length Price (ALP) in relation to certain international transactions, or the manner of determination of ALP.
(ii) Introduced in 2012 to reduce tax litigation and provide tax certainty.
(iii) Ensures certainty and unanimity in determining ALP for international transactions.
(iv) Reduces transfer pricing disputes.

Q2. What are the types of APAs?

Ans. (i) Unilateral APA – An agreement between the taxpayer and the tax authority, [Central Board of Direct Taxes (CBDT) in India] of a single country.
(ii) Bilateral APA – This agreement involves the taxpayer, the tax authority of the taxpayer's country, an associated enterprise (AE) in a foreign country, and that foreign country's tax authority. This type of APA offers stronger protection against double taxation.
(iii) Multilateral APA – This agreement involves the taxpayer and AEs in two or more different foreign countries, along with all corresponding tax authorities.

Q3. Where to furnish an application for APA?

Ans. The application (in Form No. 3CED) shall be furnished to Principal Chief Commissioner of Income-tax (International Taxation) in case of unilateral agreement and to the competent authority in India in case of bilateral or multilateral agreement.

Q4. How to withdraw an application for agreement?

Ans. The applicant may withdraw the application (in Form No. 3CEE) for agreement at any time before the finalization of the terms of the agreement.

Q5. What are the areas of Transfer Pricing disputes where APAs are effective?

Ans.

- IT/ITES and Software development services
- KPO
- Contract R&D services
- Contract manufacturing
- Auto components
- Business restructuring
- Captive intra-group service
- Use of intellectual property
- Agency or commission services
- Sales supply chain structures
- Procurement and sales support services
- Limited risk distributors
- Diamond mining
- Headquarter and management fees
- Financial transactions (loans/guarantees)
- Commodity trading

- Low margin companies with inter-company transactions

Q6. Is APA functioning in other countries of the world and since when?

Ans

- Japan – 1987
- US – 1991
- Canada – 1994
- Australia, New Zealand, Mexico – 1995
- Korea – 1996
- China – 1998
- UK, Netherlands, France – 1999
- Germany – 2000
- India – 2012

Q7. When was APA introduced in India?

Ans. Introduced in 2012 vide Finance Act, 2012 through Sections 92CC and 92CD of the Income-tax Act, effective July 2012.

Q8. What are the Key Provisions of APA in India?**A. Section 92CC – Key Provisions:**

- CBDT may enter into APA to determine ALP or manner of determining ALP for international transactions.
- APA binding on taxpayer and Income-tax authorities unless law/facts change.
- Valid up to 5 years; renewable for another 5 years, as also roll back being available for previous 4 years.
- CBDT may declare APA void ab-initio.
- No TPAudit required for transactions covered under APA.

B. Section 92CD – Effect of APA:

- Modified return to be filed within 3 months from the end of the month in which APA is executed.
- AO gets one additional year for completing pending assessment.
- If assessment completed, AO must modify income within one year from the end of FY of filing modified return.

Q9. What is an APA Scheme?

Ans. Introduced via Notification No. 36/2012 dated 30 August 2012; inserted Rules 10F to 10T in the Income-tax Rules, 1962.

Q10. What is a Rollback Scheme?

Ans. Introduced in 2014 via Finance Act 2014 (effective July 2014) by insertion of sub-section 9A in Section 92CC. Rules notified on 14 March 2015 as Rule 10MA and 10RA.

Q11. What are the steps in processing and finalization of APA?

Ans.

- Prefiling Consultation (optional)
- Filing of APA application
- Preliminary processing