

EY Tax Alert

**Indian Tax Administration issues
6th Annual Report on India's
advance pricing agreement
(APA) program for the financial
year 2023-24**

EY Alerts cover significant tax news, developments and changes in legislation that affect Indian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor.

Executive summary

India's apex tax administration, the Central Board of Direct Taxes (CBDT) or the Indian Tax Administration, issued its 6th Annual Report on India's advance pricing agreement (APA) program (the Annual Report or the Report). The annual report covers the financial year (FY) 2023-24. The report provides various statistical and qualitative aspects of India's APA program since its inception in 2012, with a particular focus on activities during the FY 2023-24, with a view to encouraging discussion and debate among taxpayers, policy makers, media, economists, and similar interests on the strengths and weaknesses of the program.

India launched the APA program in 2012 as a major initiative of the Indian government towards fostering a non-adversarial tax regime. The APA program allows the Indian Tax Administration to enter into APAs with taxpayers in respect of their international transaction for a maximum period of five years with the objective of determining the arm's length price (ALP) or to specify the manner in which the ALP is to be determined. Post notification of the APA program, roll back provisions were introduced in March 2015. The roll back provision allows the taxpayer to roll back the agreement reached in the APA to earlier years, subject to a maximum of four years prior to the first year of the APA period. Accordingly, the Indian APA program allows the taxpayer to obtain certainty in matters of transfer pricing for a total period of nine years.

This annual report presents ample numerical data cataloguing the popularity and success of the APA program in India. FY 2023-24 has been one of resounding success for the APA program with several milestones in terms of the number of signings surpassed in unilateral as well as bilateral APAs. At the same time, the report also indicates the challenges faced and provides an assurance on the commitment of the CBDT to take steps to address these challenges.

This alert captures the key information regarding the Indian APA program as may be discerned from the annual report.



The better the question.
The better the answer.
The better the world works.



**Shape the future
with confidence**

Main Alert

▶ Status of applications

- ▶ Under the Indian APA program, APAs can be (a) Unilateral (UAPA)- agreement between taxpayer and Indian Tax Administration only, (b) Bilateral/Multilateral (BAPA/MAPA) - agreement between taxpayer, Indian Tax Administration and tax authorities of one or more countries.
- ▶ Over the last 12 years, 1847 (1320 unilateral and 527 bilateral) applications have been filed in India. While the numbers indicate a preference of UAPAs over BAPAs, the share of BAPAs in the total applications filed has been steadily increasing, signifying the need of the taxpayers for bilateral tax certainty and also maturity of India's bilateral program. For example, while BAPAs accounted for 27% and 18% of the total APA applications filed in FY 2012-13 (37 out of 135) and FY 2013-14 (39 out of 218) respectively, the share of BAPAs were 39% in FY 2022-23 (77 out of 195) and 41% in FY 2023-24 (78 out of 188).
- ▶ Out of the filed APAs, a total of 641 (506 UAPA and 135 BAPA) APAs have so far been signed. The number of APAs signed has shown an upward trend since FY 2021-22. In the current fiscal year, the CBDT achieved an all-time high by signing 125 APAs, including a record 39 BAPAs- the most in any year to date.

▶ Duration of processing

- ▶ The average duration of processing UAPAs since the beginning of the APA program is approximately 45.97 months. However, it is seen that the average duration for closure of applications in FY 2023-24 increased to approximately 54.65 months.
- ▶ The average time taken to conclude BAPAs during the FY 2023-24 has gone up to approximately 65.61 months. The average time taken for all BAPAs concluded till 31 March 2024 is approximately 63.11 months.
- ▶ It is also significant to note that out of the 641 APAs signed so far, nearly 35% of them (228 APAs) were signed within 36 months. This indicates that taxpayers can expect shorter timelines for concluding APAs by adopting a more proactive and responsive approach to the process.

- ▶ In the recent years, the focus of the APA program has been on closure of backlog as well as more complex cases pending for a longer duration. Further, a number of BAPAs are actually resolved much before they are finally signed. However, due to several reasons the formal signing takes longer even after bilateral resolution, which increases the final duration of processing of BAPA.

▶ Industries

- ▶ The service sector of the Indian economy continues to be the pre-dominant activity in the UAPAs during FY 2023-24. A majority of these, in turn, are captive companies involved in software development of Information Technology (IT) and IT enabled services (ITES), engineering design services, research & development (R&D) services, and Knowledge Process Outsourcing (KPO).
- ▶ Further similar to UAPAs, the service sector mainly the IT Industry continues to be predominant in BAPAs concluded in FY 2023-24.

▶ Nature of transactions covered

- ▶ The statistics further show as many as 35 types of international transactions are covered in the unilateral APAs and 70 types of international transactions in the BAPAs.
- ▶ Provision of software development services and IT enabled Services feature predominantly in both UAPAs and BAPAs, followed by availing of intragroup services by the Indian applicants.

▶ Transfer pricing method used

- ▶ The transaction net margin method has been used in 56% of the unilateral cases and 86% of the bilateral cases.
- ▶ It is also interesting to note that in at least 115 international transactions (90 in UAPA and 25 in BAPA), the other method (residuary method provided in Indian Transfer Pricing Regulations) has been chosen as the most appropriate method.
- ▶ This is an indicator that the APA authorities are taking up resolution of more complex transactions using non-routine TP methods.

▶ Countries

- ▶ The UAPAs have covered transactions with 74 countries where the affiliates of

the Indian applicants are located. Not surprisingly, the USA tops the list and finds its entities in 51 UAPAs followed by the UK, Australia, France, Germany, Japan, etc. Many Associated Enterprises are also located in investment and business hubs such as Singapore, Hong Kong, Netherlands and Ireland.

- ▶ The statistics also show that about 70% BAPA applications that are under processing are with six countries - the USA, the UK, Japan, Germany, Switzerland and Singapore. Out of the 343 BAPAs under process, 162 relate to USA, 38 to UK, 27 to Japan, 16 to Germany, 15 to Switzerland and 14 to Singapore. In addition, the BAPA inventory includes applications with most of India's significant trade and investment partners such as Finland (11), France (7), Sweden (12), South Korea (10), the Netherlands (4), Australia (4) and Denmark (3).
- ▶ With 135 BAPAs signed till FY 2023-24, the maximum number of BAPAs signed so far have been with the USA (69) followed by the UK (19) and Japan (16). In addition, 6 BAPAs signed relate to Switzerland and Singapore, 7 to Denmark, 5 to Australia and 3 to Netherlands and Finland, respectively.
- ▶ In FY 2023-24, out of the 39 Agreements signed with taxpayers, 24 pertained to the USA, 6 to Japan, 4 to Singapore, 2 to Australia and 1 each to the UK, Canada and Denmark.

▶ **Renewal of BAPA**

- ▶ Majority of the applicants who have signed a BAPA with the CBDT have opted to file a renewal. Out of the 135 BAPAs signed till 31 March 2024, 66 applicants have opted for a renewal of the APA till date.

▶ **Other dispute resolution process**

- ▶ Another dispute resolution channel available under India's Double Taxation Avoidance Agreements (DTAAs) is Mutual Agreement Procedure (MAP). It is an alternate dispute resolution process involving two treaty partners, that seeks to remove taxation not in accordance with the DTAA arising from action by one or both treaty partners.
- ▶ The number of MAP cases closed in calendar year 2023 are substantially more than the number of new MAP applications invoked. As a result, the total number of MAP in India's inventory is gradually reducing.

Comments

- ▶ The Indian APA program enhances the ease of doing business by resolving complex transfer pricing issues and reducing prolonged litigation.
- ▶ It provides certainty to taxpayers for five to nine years, depending on rollback options, and allows the Tax Administration to divert resources away from the audit and litigation processes to more productive work.
- ▶ The program follows a collaborative, fact-intensive approach, emphasizing consultation and outcome convergence.
- ▶ Despite its benefits, delays in finalizing APAs remain a challenge that the Indian Tax Administration aims to address by allocating adequate resources.

Our offices

Ahmedabad

22nd Floor, B Wing, Privilon
Ambli BRT Road, Behind Iskcon Temple
Off SG Highway
Ahmedabad - 380 059
Tel: + 91 79 6608 3800

8th Floor, Building No. 14A
Block 14, Zone 1
Brigade International Financial Centre
GIFT City SEZ
Gandhinagar - 382355, Gujarat
Tel +91 79 6608 3800

Bengaluru

12th & 13th Floor
"UB City", Canberra Block
No.24 Vittal Mallya Road
Bengaluru - 560 001
Tel: + 91 80 6727 5000

Ground & 1st Floor
11, 'A' wing
Divyasree Chambers
Langford Town
Bengaluru - 560 025
Tel: + 91 80 6727 5000

3rd & 4th Floor
MARKSQUARE
#61, St. Mark's Road
Shantala Nagar
Bengaluru - 560 001
Tel: + 91 80 6727 5000

1st & 8th Floor, Tower A
Prestige Shantiniketan
Mahadevapura Post
Whitefield,
Bengaluru - 560 048
Tel: + 91 80 6727 5000

Bhubaneswar

8th Floor, O-Hub, Tower A
Chandaka SEZ, Bhubaneswar
Odisha - 751024
Tel: + 91 674 274 4490

Chandigarh

Elante offices, Unit No. B-613 & 614
6th Floor, Plot No- 178-178A
Industrial & Business Park, Phase-I
Chandigarh - 160 002
Tel: + 91 172 6717800

Chennai

6th & 7th Floor, A Block,
Tidel Park, No.4, Rajiv Gandhi Salai
Taramani, Chennai - 600 113
Tel: + 91 44 6654 8100

Delhi NCR

Aikyam
Ground Floor
67, Institutional Area
Sector 44, Gurugram - 122 003
Haryana
Tel: +91 124 443 4000

3rd & 6th Floor, Worldmark-1
IGI Airport Hospitality District
Aerocity, New Delhi - 110 037
Tel: + 91 11 4731 8000

4th & 5th Floor, Plot No 2B
Tower 2, Sector 126
Gautam Budh Nagar, U.P.
Noida - 201 304
Tel: + 91 120 671 7000

Hyderabad

THE SKYVIEW 10
18th Floor, "SOUTH LOBBY"
Survey No 83/1, Raidurgam
Hyderabad - 500 032
Tel: + 91 40 6736 2000

Jaipur

9th floor, Jewel of India
Horizon Tower, JLN Marg
Opp Jaipur Stock Exchange
Jaipur, Rajasthan - 302018

Kochi

9th Floor, ABAD Nucleus
NH-49, Maradu PO
Kochi - 682 304
Tel: + 91 484 433 4000

Kolkata

22 Camac Street
3rd Floor, Block 'C'
Kolkata - 700 016
Tel: + 91 33 6615 3400

Mumbai

14th Floor, The Ruby
29 Senapati Bapat Marg
Dadar (W), Mumbai - 400 028
Tel: + 91 22 6192 0000

5th Floor, Block B-2
Nirlon Knowledge Park
Off. Western Express Highway
Goregaon (E)
Mumbai - 400 063
Tel: + 91 22 6192 0000

3rd Floor, Unit No 301
Building No. 1
MindSpace Airoli West (Gigaplex)
Located at Plot No. IT-5
MIDC Knowledge Corridor
Airoli (West)
Navi Mumbai - 400708
Tel: + 91 22 6192 0003

Altimus, 18th Floor
Pandurang Budhkar Marg
Worli, Mumbai - 400 018
Tel: +91 22 6192 0503

Pune

C-401, 4th Floor
Panchshil Tech Park, Yerwada
(Near Don Bosco School)
Pune - 411 006
Tel: + 91 20 4912 6000

10th Floor, Smartworks
M-Agile, Pan Card Club Road
Baner, Taluka Haveli
Pune - 411 045
Tel: + 91 20 4912 6800

Ernst & Young LLP

EY | Building a better working world

EY is building a better working world by creating new value for clients, people, society and the planet, while building trust in capital markets.

Enabled by data, AI and advanced technology, EY teams help clients shape the future with confidence and develop answers for the most pressing issues of today and tomorrow.

EY teams work across a full spectrum of services in assurance, consulting, tax, strategy and transactions. Fueled by sector insights, a globally connected, multi-disciplinary network and diverse ecosystem partners, EY teams can provide services in more than 150 countries and territories.

All in to shape the future with confidence.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EYG member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

Ernst & Young LLP is one of the Indian client serving member firms of EYGM Limited. For more information about our organization, please visit www.ey.com/en_in.

Ernst & Young LLP is a Limited Liability Partnership, registered under the Limited Liability Partnership Act, 2008 in India, having its registered office at Ground Floor, Plot No. 67, Institutional Area, Sector - 44, Gurugram - 122 003, Haryana, India.

© 2025 Ernst & Young LLP. Published in India.
All Rights Reserved.

ED None.


This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither EYGM Limited nor any other member of the global Ernst & Young organization can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.


ey.com/en_in

 @EY_India

 EY

 EY India

 EY Careers India

 @ey_indiacareers



Download the EY India Tax Insights App