

**PRESS INFORMATION BUREAU
GOVERNMENT OF INDIA**

**MINISTRY OF FINANCE NOTIFIES ADVANCE PRICE AGREEMENT
(APA) SCHEME**

**New Delhi: Bhadrapada 09, 1934
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The Ministry of Finance has notified an “Advance Pricing Agreement Scheme” (Rules 10F to 10T of Income Tax Rules, 1962) vide notification No. 36/2012 dated 30-8-2012. The Finance Act, 2012 had inserted sections 92CC and 92CD in the Income Tax Act 1961 introducing the provisions of Advance Pricing Agreement (APA). The APA Scheme shall come into effect from the date of its publication in the Official Gazette, i.e. from 30.08.2012.

An APA is an agreement between the Central Board of Direct Taxes and any person, which determines, in advance, the arm's length price or specifies the manner of the determination of arm's length price (or both), in relation to an international transaction. Hence, once APA has been entered into with respect to an international transaction, the arm's length price with respect to that international transaction, for the period specified in the APA, will be determined only in accordance with the APA. The APA process is voluntary and will supplement appeal and other Double Taxation Avoidance Agreement (DTAA) mechanism for resolving transfer pricing dispute. The term of APA can be a maximum of five years.

The APA scheme notifies three types of APA: unilateral, bilateral and multilateral. The choice is on the applicant to choose a particular type of APA at the time of making the application. Unilateral APA is an agreement between the Board and the applicant and this process does not involve any agreement with the treaty partner. In bilateral and multilateral APA request, the applicant is required to make an application with the Competent Authority of India as well as the Competent Authority of the other country.

As is the international practice, before formally applying for the APA there will be a pre-filing consultation between the taxpayer and the Government to enable the applicant and the APA team to assess the possibility of entering into an APA.

The formal APA application can be filed after the pre-filing consultation accompanied by the payment of fees as notified. In case of unilateral APA, the application is required to be furnished with the Director General of Income Tax (International Taxation), New Delhi and in case of bilateral/multilateral APA, the application is required to be furnished with the Competent Authority of India, i.e. Joint Secretary (FT&TR-I) in the Ministry of Finance. In case of bilateral/multilateral APA, the applicant must initiate the procedure for entering into APA with the other country as well and furnish evidence to the Competent Authority of India regarding the same.

The APA scheme has many advantages. It will provide tax certainty with regard to determination of arm's length price of the international transaction with respect to which the APA has been entered into, reduce the risk of potential double taxation through bilateral or multilateral APA, reduce compliance cost by eliminating the risk of transfer pricing audit and resolving long drawn and time consuming litigation and other dispute resolution process and alleviate the burden of record keeping as the taxpayer knows in advance the required documentation to be maintained to substantiate the agreed terms and conditions of the agreement.

The aforesaid Notification relating to "Advance Pricing Agreement Scheme" gives details regarding the process and relevant forms. It also contains information regarding the annual compliance report and provisions regarding cancellation and revision of APA.
