



Background

Generally, Transfer Pricing (TP) refers to the prices charged between related parties in respect of cross-border transactions. However in India, TP provisions cover specified domestic transactions (SDT) as well if the aggregate value of the transactions exceeds INR 50 million.

These transactions may involve the transfer of tangible goods, intangible properties such as technology or brand names, services or financing.

While on the one hand transfer pricing provides tax planning opportunities for multinational entities, on the other hand, these companies face significant new risks in tax regimes with different rules and expanding requirements.

Transfer Pricing Regulations in India

Transfer Pricing in India was introduced in 2001 for curbing tax avoidance by laying down norms for computation of income arising from international transactions. The Indian Transfer Pricing Regulations (TP Regulations) guides computation of the transfer price and suggests detailed documentation procedures.

The Finance Act, 2012 expanded the scope of TP regulations include SDTs within its ambit. SDTs would include transactions entered into by domestic related parties, or by an undertaking with another undertaking of the same tax payer. In addition the Finance Act, 2012 also

introduced Advance Pricing Agreement Regime in the Indian transfer pricing environment.

Key features of the TP Regulations

Every person who has undertaken an international transaction with an associated enterprise shall maintain information and contemporaneous documentation as prescribed under the Rules

Stringent penalties have been prescribed for non-adherence to the TP Regulations

Issuance of Accountants Report

The taxpayer is required to file an Accountant's Report in Form 3CEB with the Income Tax Department within the due date of filing of return of income which is 30th November following the end of the financial year, for taxpayers subject to transfer pricing.

WTS India- Transfer Pricing Services Practice

While we have access to our own Transfer Pricing Resources, the professionals of WTS India Transfer Pricing team, are also members of WTS Global Transfer Pricing Services Network.

This provides us with access to WTS transfer pricing resources worldwide, including, for example, sourcing for requisite technical support from across WTS, regular training on transfer pricing trends – via webcast or attending conferences – and access to transfer pricing industry specialists worldwide.

We are also able to perform multi-country transfer pricing assignments as one team.

Our Area of Expertise

Our teams can provide you with the expertise to manage all the phases of inter-company transfer pricing, in particular the following:

Planning and design

Our planning approach is fact specific and would cover the following:

- Supply chain Re- engineering
- New transactions planning
- Comparability/ economic analysis
- Preparation of inter-company agreements from a transfer pricing perspective

Transfer Pricing Documentation

Our documentation approach is non-standard and in-fact specific or unique for each client to ensure

- Practical and robust defence during TP Assessments.
- Identification of international transactions and associated enterprises
- Functions, Assets and Risks analysis (FAR)
- Economically characterising entities / functions
- Documentation – all the above steps are detailed in a report and the required documentation/ recommendation is prepared

Due Diligence Review, Compliance and Dispute resolution

Our services cover the following:

- Representation before all adjudicating Authorities including CESTAT
- Representation before Advance Ruling Authority
- Representation before Ministry of Finance
- Representation before Settlement Commission for settlement of cases
- Day-to-day litigation support on notices, summons etc. received from tax authorities

Our services cover the following for Domestic Transfer Pricing:

- Diagnostic review of transactions & policies and develop transaction matrix to defend the current policy adopted by the group
- Planning – functional analysis and economic analysis for determination of appropriate TP policy for SDT

Advance Pricing Agreement

Our services would include the following:

- Assistance in carrying out a cost benefit analysis, understanding the pros and cons, helping in determining the type of APA etc
- Preparing and representing in the pre-filing consultation
- Preparing the APA application (bi-lateral or multilateral through assistance from our relevant overseas offices)
- Assistance with compliance reports audits, revision, renewal and cancellation of APAs

Defense – Assistance, Representation & Advisory

Keeping in mind the year-on-year rapid escalation in transfer pricing disputes, it is imperative to handle the Transfer pricing disputes strategically and with great caution.

In this connection we provide representation services before AO/ TPO, DRP, CIT (A), ITAT, HC & SC

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