



# Income Tax Department

Ministry of Finance, Government of India

## Introduction

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Transfer Pricing regulations aim to curb profit shifting by multinational enterprises (MNEs) through the manipulation of intra-group prices. Introduced by the Finance Act, 2001, these provisions ensure that income from international or specified domestic transactions is computed at arm's length price (ALP), thereby safeguarding India's tax base. From A.Y. 2013-14, the scope was extended to cover specified domestic transactions as well.

## Applicability of Transfer Pricing Provisions

### Applicability of Transfer Pricing Provisions

Transfer pricing rules apply when:

- There is an international or specified domestic transaction.
- The transaction occurs between two or more associated enterprises (AEs).
- The transaction is not conducted at arm's length price (ALP).

ALP is the price applied in a transaction between unrelated parties under uncontrolled conditions.

## Associated Enterprise (AE)

### Associated Enterprise (AE)

An AE is an entity, an enterprise that participates directly/indirectly in management, control or capital of another enterprise, or where one/more persons participate in the management/control/capital of two enterprises.

Further, Section 92A(2) lists 13 specific deeming criteria to identify control through shareholding, loans, guarantees, or supply dependence. Two enterprises are deemed associated if any of the following conditions exist during the previous year:

- One holds 26%+ voting power in the other
- Same person holds 26%+ voting power in both
- Loan from one to other constitutes 51%+ of book value of total assets
- One guarantees 10%+ of other's total borrowings
- One appoints majority of board/executive directors of other
- Same person appoints majority of board/executive directors of both
- One's business fully dependent on other's know-how/patents/copyrights
- 90%+ raw materials supplied by other with influenced pricing/conditions
- Goods manufactured by one sold to other with influenced pricing/conditions
- Both controlled by same individual/HUF or relatives
- One is firm/AOP/BOI and other holds 10%+ interest
- Any prescribed mutual interest relationship exists

## International Transaction

### International Transaction

It includes any transaction between AEs (one of which is a non-resident) involving purchase, sale, lease of property, provision of services, or finance, having a bearing on profits, income, or assets. Even third-party transactions may be deemed international if structured through an AE.

## Specified Domestic Transaction

### Specified Domestic Transaction

These cover certain domestic transactions, such as inter-unit transfers under Section 80A, dealings under Section 80-IA(8)/(10), and transactions under Sections 10AA, 115BAB(6), or 115BAE(4), provided the aggregate of the transactions exceeds Rs. 20 crore in a financial year.

## Methods for Determining ALP

### Methods for Determining ALP

The most appropriate method must be selected from:

- Comparable Uncontrolled Price (CUP) Method
- Resale Price Method
- Cost Plus Method
- Profit Split Method
- Transactional Net Margin Method
- Other prescribed methods

When multiple prices result, the ALP is the arithmetic mean unless the variation from the actual price is within the notified tolerance limits (1% or 3% as per Notification No. 46/2023).



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## Computation of Income

### Computation of Income

Income, expenses, or cost-sharing among AEs or related domestic entities are computed with reference to ALP. Adjustments that reduce income or enhance loss are disallowed.

## Role of Assessing Officer (AO) and Transfer Pricing Officer (TPO)

### Role of Assessing Officer (AO) and Transfer Pricing Officer (TPO)

If the AO suspects ALP is not determined correctly or documents are missing, a reference may be made to the TPO with prior approval. TPOs have powers of inquiry and their order is binding on the AO.

## Block TP Assessment

### Block TP Assessment

The Finance Act, 2025 has amended the transfer pricing (TP) provisions under Sections 92CA and 155 of the Income-tax Act to introduce the concept of block TP assessment. The key objective is to reduce repetitive litigation and compliance burden by allowing the application of the Arm's Length Price (ALP) determined for one year to similar international or specified domestic transactions (IT/SDT) in the following two years, subject to prescribed conditions.

#### Key Conditions for Block TP Assessment

- o The assessee must exercise the option in the prescribed form, manner and time for both subsequent years.
- o The transactions in the following two years must be "similar" to those for which ALP was determined in the base year.
- o The TPO must validate the option within one month of its exercise.
- o The provisions are not applicable in search and seizure cases.

## Advance Pricing Agreement (APA)

### Advance Pricing Agreement (APA)

An APA is an agreement between CBDT and the taxpayer to pre-determine ALP or the method of determination for up to five future years. A rollback provision extends the applicability to four preceding years. APAs ensure tax certainty and reduce disputes.

## Secondary Adjustment

### Secondary Adjustment

Where a primary adjustment results in excess money remaining with an AE, such excess must be repatriated. Failing which, it is deemed an advance, and interest is imputed or an additional tax at the rate of 18% may be paid.

## Maintenance and furnishing of information and documents

### Maintenance and furnishing of information and documents

Section 92D mandates every person entering into an international or specified domestic transaction to maintain prescribed information and documents (Rule 10D). Constituent entities of international groups must also maintain group-level documentation (Rule 10DA).

#### Furnishing Requirement

The Assessing Officer or Commissioner (Appeals) may require such information to be furnished within 10 days of notice, with an extension of up to 30 days upon application.

#### Submission by Constituent Entities

Constituent entities must furnish group documentation to the prescribed authority under Section 286(1) within the prescribed time and manner.

## Dispute Resolution Panel (DRP)

### Dispute Resolution Panel (DRP)

Eligible assessee may approach the DRP against any variations proposed in income by the AO or TPO. DRP's directions are binding on the AO.

## Country-by-Country Reporting (CbCR)

### Country-by-Country Reporting (CbCR)

Applicable to international groups with consolidated revenues exceeding ₹6,400 crore. The parent or constituent entity must file CbCR to enhance transparency and facilitate BEPS compliance.

## Safe Harbour Rules

### Safe Harbour Rules

These allow taxpayers to opt for prescribed ALPs in eligible international transactions, minimizing litigation and compliance burden. See rule 10TA to 10TG for more.

## Limitation on Interest Deduction in Certain Cases



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## Limitation on Interest Deduction in Certain Cases

Section 94B restricts interest deduction for Indian companies and permanent establishments (PEs) of foreign companies if interest paid to non-resident associated enterprises exceeds Rs. 1 crore.

### Interest Deduction Limit

Deduction is limited to 30% of EBITDA or actual interest paid to associated enterprises—whichever is lower.

### Deemed AE Loans

Loans from unrelated parties are deemed from an associated enterprise if a group entity guarantees or funds the lender.

### Circulars and Notifications

#### Circulars and Notifications

- **Notification No. 46/2023**, dated 26.06.2023 – Specifies tolerance limits for determining ALP.
- **Circular No. 10/2015**, dated 10.06.2016 – Clarifies APA rollback provisions and compliance requirements.

