



# Transfer Pricing

Globalisation coupled with rapid growth of international trade has made inter-company Transfer Pricing (TP) a prerequisite for Multinational Enterprises (MNEs) operating worldwide. Since there is no absolute and comprehensive rule for determining the right transfer price for any kind of international transaction with associated enterprises, there is a huge potential for disagreement as to whether the correct amount of taxable income has been reported in a particular jurisdiction. Governments worldwide are responding to the globalisation of business operations by strengthening legislation, demanding rigorous documentation of TP practices and imposing higher penalties for non-compliance.

In India, the stringent enforcement of TP regulations with newer, more complicated adjustments being initiated each year have brought to fore the reality that TP controversies are expensive and time consuming. Further, with the advent of Base Erosion and Profit Shifting (BEPS) provisions, master file and Country by Country (CbC) reports have been made part of Indian regulations and many other jurisdictions worldwide which may result in TP becoming a focus area for India and other jurisdictions as well.

## Our service offerings

KPMG in India advises multinational companies on adopting a TP policy that balances opportunity and risk management, weighing effective tax-rate enhancement against fiscal-authority challenges and the costs of compliance.

## Planning

Forward-thinking companies recognise that effective global TP policies should do more than simply enable them to comply with their domestic legislation. They know TP issues need to be addressed well before transactions actually occur and they try to make their transfer pricing policies into strategic tools for investment and supply chain decisions, as well as for global tax planning.

We assist companies in developing and implementing economically supportable TP policies.

## Compliance and documentation

It is important to have contemporaneous documentation as a strong, first-line defense against tax authority challenges to help manage risk in the current environment of detailed transfer pricing regulations, strict documentation requirements, sophisticated audit practices and significant penalties for noncompliance.

We assist in preparation of contemporaneous documentation in a timely manner as required under Indian TP regulations. We provide advice on developing and implementing policies, procedures, controls and systems for setting, monitoring, and testing intercompany transactions.

## Controversies and dispute resolution

Tax authorities in India are getting more vigilant about TP policies of multinational companies resulting in an increase in TP disputes and enforcement efforts.

We assist taxpayers involved in TP disputes by providing support in proceedings before the Transfer Pricing Officers (TPOs), Commissioner of Income Tax (Appeal) [CIT(A)], Dispute Resolution Panel (DRP), Income Tax Appellate Tribunal (ITAT) and briefing legal Counsels appointed by taxpayers in case of High Court/Supreme Court in relation to TP matters. We also provide expert guidance and assistance for other dispute resolution mechanisms such as Advance Pricing Agreement (APAs), Mutual Agreement Procedures (MAPs) and Safe Harbours.

### Advance Pricing Agreement (APA)

APAs are emerging as a preferred method of dispute resolution among taxpayers in India. We provide assistance in preparing and applying for APAs and provide expert advice before and during negotiation and agreement with the tax authorities. This includes assistance in preparing documentation to support APA applications, negotiating with APA authorities, facilitating discussions and site visits, preparing appropriate responses to inquiries by APA team, preparing annual compliance report and providing assistance during the APAs implementation period.

## Mutual Agreement Procedure (MAP)

The MAPs are a dispute resolution tool to safeguard from the risk of economic double taxation. We provide assistance to the taxpayer in lodging a MAP application and in facilitating MAP related discussions between the competent authorities, as required.

## Safe Harbour

We provide guidance on eligibility, feasibility and preparation of documentation for exercising the Safe Harbour option. We also provide assistance in complying with the prescribed Safe Harbour regulations and in representations before the Revenue authorities.

## Master File and Country-by-Country (CbC) Report

The Organisation for Economic Co-operation and Development's (OECD's) BEPS project has fundamentally changed the tax landscape, putting the spotlight on how members of a MNE interact with one another. The increased focus on TP has resulted in important changes to OECD's TP Guidelines for MNEs and tax administrations and countries have introduced new legislation to align their TP rules to new global standards. In this environment, MNEs are increasingly facing challenges from tax authorities.

We assist MNE groups in complying with requirements of preparing and filing the master file and CbC report.

## Why KPMG in India

KPMG in India leverages on the globally integrated multidisciplinary network of tax and business professionals who have a vast resource pool of knowledge and expertise.

Our team includes experienced tax practitioners and TP specialists who are well versed in dealing with complex TP matters which helps us deliver TP services that are customised for our client's requirements, and compliant with the regulations.

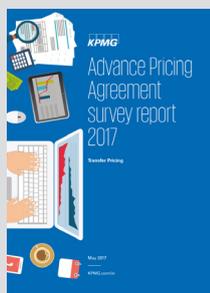
### Our credentials

KPMG in India was awarded the **'India Transfer Pricing firm of the year'**

at ITR's Asia Tax Awards for 2016 and 2017.

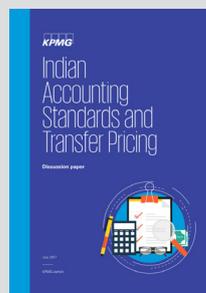


## Thought leadership publications



### APA Survey Report 2017

With a view to put forth taxpayers' feedback and plans and objectives of the Central Board of Direct Taxes (CBDT) going forward, KPMG in India released its APA Survey Report 2017. This is the first of its kind survey which collates an all-round perspective, key insights and observations about APAs from both taxpayers and the CBDT.



### Indian Accounting Standards and Transfer Pricing

The onset of Indian Accounting Standards (Ind AS) has an impact on various areas, including Transfer Pricing. Thus, KPMG in India released its report on Ind AS and Transfer Pricing outlining various aspects such as impact of Ind AS on transfer pricing, considering the need to report transactions based on economic substance, need for adjustments while conducting benchmarking analysis etc.

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