Tax Hotline

June 19, 2006

RAISING THE BAR: ARE YOU STILL GETTING COVERED?

In a recent move that will benefit the multinational companies entering into international transactions (as defined in the Indian transfer pricing regulations) with their Indian affiliates, the Finance Ministry has decided to increase the threshold limit for transfer pricing scrutiny of international transactions from INR 5 crore (approx. USD 1.10 million) to INR 15 crore (approx. USD 3.30 million).

The Indian transfer pricing regime was introduced in 2001 to plug the possible revenue leakages arising from the manipulation of prices of international transactions entered into by Indian entities with their overseas affiliates. In 2003, the Central Board of Direct taxes ("**CBDT**"), vide its Instruction No. 3 of 2003 (261 ITR (St.) 0051), had laid down that wherever the aggregate value of international transactions crosses the threshold of INR 5 crores, it should be referred to the Transfer Pricing Officer ("**TPO**") and picked up for "compulsory scrutiny". The transfer pricing audits for the fiscal years 2001-02 and 2002-03 have already been completed by the TPOs and transfer pricing adjustments to the extent of approximately INR 3,200 crores (approx. USD 71.1 million) have been made to the profits of the taxpayers.

The INR 5 crore threshold has been perceived for a while as being too low and has been creating a compliance and administrative burden on both the taxpayers and the Indian tax authorities. Keeping the above in perspective, recently the Finance Ministry has decided to increase the threshold limit for "compulsory scrutiny" of international transactions from the existing INR 5 crore to INR 15 crore. Thus, all cases, where the aggregate value of international transactions exceeds INR 15 crore, will be taken up for compulsory scrutiny by the Indian tax authorities. It is expected that this move would significantly reduce the compliance costs of majority of multinational companies having international transactions with their Indian affiliates.

The above enhancement of threshold has currently been finalized by CBDT for scrutiny of non-corporate taxpayers for the fiscal year 2006-07. However, senior Finance Ministry officials have indicated that the new norms are set to apply for compulsory scrutiny of corporate taxpayers as well. This would be a welcome relief for the sectors such as banking, diamond trade, IT, ITES, auto and pharma, which have been hardest hit by the recently concluded transfer pricing audits, due to the large number of international transactions entered into by the entities operating in these sectors.

In addition to above change, it also remains to be seen whether the Indian tax authorities would consider introducing "safe harbour" provisions for service providers where a specified mark-up over their costs would be deemed to meet the Indian transfer pricing regulations. Such a move could further ease the compliance costs for the Indian tax authorities and the taxpayers.

- Jitender Tanikella & Nishchal Joshipura

Source: The Economic Times (dated June 19, 2006) - "Transfer pricing scrutiny limit to be tripled".

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

Research Papers

Horizon Technologies
January 21, 2025

Compendium of Research Papers
January 11, 2025

FAQs on Setting Up of Offices in India
December 13, 2024

Research Articles

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals
January 15, 2025

Key changes to Model Concession Agreements in the Road Sector
January 03, 2025

The Revolution Realized: Bitcoin's Triumph
December 05, 2024

Audio

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice
December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps
November 19, 2024

Renewable Roadmap: Budget 2024 and Beyond - Part I
August 26, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

"Investment return is not enough" Nishith Desai with Nikunj Dalmia (ET Now) at FII8 event in Riyadh
October 31, 2024

Analysing SEBI's Consultation Paper

on Simplification of registration for FPIs

September 26, 2024

Scope of judicial interference and inquiry in an application for appointment of arbitrator under the (Indian) Arbitration and Conciliation Act, 1996

September 22, 2024