

In a First, CBDT Inks 'Rollback' Transfer Pricing Deal with MNC

The Central Board of Direct Taxes (CBDT) has concluded a first ever tax agreement with a multinational, specifying the liabilities the firm may incur in the next decade for intra-group, cross-border transactions.

The 'rollback' advance pricing agreement (APA) was signed between a US multinational and the tax department at about 6 pm on Monday and is aimed at resolving knotty, tax disputes by listing rules and rates under which intra-group transactions will be taxed.

The development is important as it provides clarity to a foreign investor on tax issues and removes the need for costly, time consuming litigation. Multinational companies usually spend a lot of time and energy in disputes with tax departments and an agreement like this simplifies matters. Eight more such agreements are expected to be signed in the next one month, people close to the development said.

Transfer pricing relates to transactions between different units of a company. An advanced pricing agreement or APA determines the transfer pricing methodology and taxation rate on an international transaction. The government in the July budget in 2015 had first mentioned about the rollback agreements. In March this year, the CBDT issued notification that amended the Income Tax Act to allow a rollback APAs.

APAs are mainly unilateral, bilateral and multilateral. India signs unilateral APAs with multinationals that belong to countries with which it doesn't have tax treaties. Unilateral APAs involve only the taxpayer and the tax authority.

Bilateral APAs involve the taxpayer, its local subsidiary, the Indian tax authority and that of the country the company is headquartered in. Multilateral APAs involve the taxpayer, two or more of its subsidiaries in different foreign countries, the Indian tax authority and that of the country where the company is headquartered.

Broadly a rollback agreement allows an agreement between the Indian tax authorities and the companies to agree on terms for five prospective years as well as four years thereafter. Such agreements are valid on a principal that other things remain constant.

People close to the development said that the US company's APA is a unilateral one "This is a major achievement for the government as we had not expected that a roll back agreement would be done within few months after the rules were introduced Also it is important to note that the first rollback APA is signed with a non-IT firm showing the government's seriousness towards even manufacturing sectors," said SP Singh, senior director, Deloitte who advised the US firm in the talks.

On May 21, ET reported that the CBDT is taking a close look at 120 transfer pricing disputes with a view to settling them. Most of the disputes would be resolved through APAs in the ITITeS and other sectors.

(Economic Times)