

Global Transfer Pricing

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## India, United States Reach Agreement to Solve Backlog of Competent Authority Cases



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In separate statements to the media, India's Competent Authority Akhilesh Ranjan and U.S. Competent Authority Douglas O'Donnell confirmed that the two tax authorities have reached broad agreement on a framework for resolving many pending U.S.-India Mutual Agreement Procedure cases to resolve double taxation arising from India-initiated transfer pricing adjustments.

The agreement follows meetings in India on January 15 and 16 attended by O'Donnell, Hareesh Dhawale (acting IRS APMA director), and John Hughes (IRS APMA senior manager responsible for India cases). While the details of the framework are still being finalized, discussions we have had with the tax authorities indicate that the framework includes the following:

- The settlement framework relates to IT Enabled Services (ITES) and software development services. These cases represent the majority of the MAP inventory between the two countries. The framework includes the commitment to resolve both the appropriate cost plus markup as well as the related cost base on which the markup is applied. Each case will be settled separately based on its unique facts. The number of tax years to be covered by the settlement framework has not been finalized.
- The IRS APMA team will soon contact companies included in the settlement framework to request additional information and to discuss the proposed settlement.
- The two competent authorities plan to schedule a formal MAP meeting this year, but the date has not been scheduled. In the meantime, the two tax authorities plan to communicate via phone and email to resolve cases.
- The IRS has not formally agreed to accept bilateral APAs at this time. However, the IRS understands that taxpayers have a March 31 APA filing deadline in India and it has stated that it will accept bilateral APA requests once the cases included in the settlement framework have been resolved. The IRS will also consider accepting APA requests from taxpayers that want to convert their unilateral India APA requests into bilateral requests.

Samir Gandhi, Deloitte India's Transfer Pricing leader, said "This is a timely development on the eve of President Obama's visit to India. It's a welcome step, given that the United States is India's biggest trading partner and investor. Transfer pricing disputes are complex, and resolving disputes through the MAP

and APAs is most efficient, because the normal appeals process in India is time consuming and uncertain.”

We will learn more about the settlement framework as the two tax authorities begin resolving the affected cases. For more information, please contact the transfer pricing professionals listed.

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