

Government to Implement Advance Pricing Arrangements

Free Medicines for All

LexCounsel, Law Offices

C-10, Gulmohar Park
New Delhi 110 049, INDIA.

Tel.: +91.11.4166.2861
Fax: +91.11.4166.2862

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The Government of India (“GoI”) has decided to give a breather to various multinational companies having business in India, from the aggressive tax administration in transfer pricing matters. The GoI has confirmed that it will soon notify guidelines for Advance Pricing Arrangements (“APAs”).

In common parlance, APAs are agreements executed in advance between tax payers and the tax authorities with respect to pricing of transactions between the foreign and local entities of the same group, operative for a specific period. Transfer pricing norms seek to prevent manipulation of prices in transactions between related parties, which manipulation may lead to transfer of income from high tax jurisdictions to lower tax jurisdictions. In the process, the high tax jurisdiction tends to lose on tax collections. Administration of transfer pricing norms leads to tax disputes and transfer pricing adjustments.

By virtue of the APAs, the multinational companies will be in a position to negotiate their potential tax liability in related party transactions with the tax authorities in advance. APAs therefore reduce possibility of post transaction pricing related disputes. In addition, the APAs, being for a specified duration, accord a certain level of protection to the multinational parties against retroactive tax, a practice Indian tax authorities have been much criticized for in the recent past.

The GoI would however need to prescribe time bound determinations and stringent confidentiality norms for the mechanism to be frequently used by the multinational corporations.

Free Medicines for All

The GoI is planning to distribute free medicines across India through Government hospitals as also making such medicines available through Government stores at a nominal price.

The GoI model is inspired by the “Medicines Supply Corporation” established in the State of Tamil Nadu in India, which procures generic medicines in bulk at almost 1/20th of the market price, and supplies them to the in-house patients in the Government hospitals. The Central Government is planning to set-up a similar ‘Central Procurement Agency’ (“CAP”) to procure generic medicines in bulk and at cheaper rates, to be distributed across India in cooperation with the state governments. The CPA will also be responsible for specifying uniform standards for procurement of the medicines, and to monitor the procurement process.

This ambitious initiative of the GoI is expected to take a couple of years of pre-implementation planning.

By: Alishan Naqvee, Partner (anaqvee@lexcounsel.in) and Swagateeka Patel, Associate (spatel@lexcounsel.in)

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