

IRS News Release

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IRS to Begin Accepting Bilateral Advance Pricing Agreement Requests for India on February 16

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WASHINGTON – IRS officials announced today that on February 16 the Advance Pricing and Mutual Agreement office (APMA), a representative office of the U.S. competent authority, will begin accepting requests for bilateral advance pricing agreements (bilateral APAs) between the United States and India.

This announcement represents an important step forward in strengthening ties between the two governments in the taxation of multinationals. Bilateral APAs provide greater predictability in taxation, easing the uncertainty of doing business in each country.

“We appreciate the efforts of the Indian Competent Authority and his team, as well as the IRS team, for working to reach common understandings and procedures for resolving differences fairly,” said IRS Commissioner John Koskinen. “Multi-national firms operating in both the U.S. and India are the beneficiaries of this effort.”

An APA is an agreement between the IRS and a taxpayer covering issues arising under section 482 of the Code or other issues for whose resolution transfer pricing principles are relevant. A bilateral APA is an APA in which the issues and methods covered by the agreement are premised on an underlying competent authority resolution reached between the U.S. competent authority and a foreign competent authority.

In January 2015, the U.S. and Indian competent authorities jointly announced that they had reached agreement on a framework for resolving longstanding competent authority cases involving Indian-resident affiliates performing information technology-enabled services or software development services. In light of this agreement, APMA began accepting requests in March 2015 for pre-filing conferences (PFCs) for bilateral APAs between the United States and India.

As a result of the competent authorities’ progress in concluding cases since that time, the U.S. competent authority and the Indian competent authority are now ready to accept requests for bilateral APAs covering information technology-enabled services, software development services, or other issues for whose resolution transfer pricing principles are relevant.

The IRS’s APA program increases the efficiency of tax administration by encouraging taxpayers to come forward and present all the facts necessary for a proper evaluation of their proposed covered issues and to work towards a resolution of such issues in a

spirit of openness and cooperation. The voluntary and prospective nature of the APA process lessens the burden of compliance by giving taxpayers greater certainty regarding covered issues and promotes the principled resolution of these issues by allowing for their discussion and resolution in advance.

All requests for bilateral APAs covering Indian transactions, whatever the issue, must be submitted to APMA in accordance with Rev. Proc. 2015-41, 2015-35 IRB 263.

Taxpayers with questions about this announcement should contact John Hughes, Senior International Advisor, Treaty and Transfer Pricing Operations, 202-515-4307.