

Transfer pricing: CBDT notifies tolerance range for AY 2020-21

Government leaves tolerance range unchanged in pandemic times

OUR BUREAU

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The Central Board of Direct Taxes (CBDT) has notified the "tolerance range" of transfer price for the assessment year 2020-21.

It has re-notified the prevailing 1 per cent tolerance range for wholesale trading and the 3 per cent range for all other transactions undertaken during the financial year ending March 31, 2020.

The notified tolerance range has been consistently at 1 per cent and 3 per cent in the recent years. If the CBDT had been bit magnanimous, it could have expanded it and provided more comfort to MNCs, claimed tax experts.

"This is an opportunity lost as the CBDT could have used

The tolerance range can be seen as one of the effective tools available to the government to rationalise the transfer pricing risk perception of multinationals doing business in India

this to give more comfort to the multinational companies in the current Covid-19 times," said Amit Agarwal, Partner, Nangia & Co.

India's transfer pricing rules set an acceptable tolerance range for the variation between the arm's length price and the transaction price. The tolerance range can be seen as one of the effective tools available to the government to rationalise the transfer pricing risk perception of multinationals doing business in India. Put simply, if the variation between the taxpayers transaction price and the arm's length price is within the "tolerance

range", then no transfer pricing adjustment can be made by the taxman and no additional income will be brought to tax.

A higher tolerance range would mean that transfer pricing adjustments should not be made where the difference between the transaction price and the arm's length price falls within the tolerance range.

'Wholesale trading'

"Similar to previous years, no specific explanation or clarification has been provided regarding why wholesale traders have a different tolerance range," Agarwal said.

According to the notification, to qualify as "wholesale trading," the purchase cost of finished goods must be 80 per cent or more of the total cost pertaining to such trading activities. Further, the average monthly closing inventory of such goods must be 10 per cent or less of sales pertaining to such.

No transfer pricing tax relief for FY20

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New Delhi, 19 October

In a disappointment to businesses reeling from the Covid impact, the income tax department has kept the tolerance range for transfer pricing unchanged for 2019-20.

This implies that there will be no taxation relief for businesses dealing in related-party transactions.

The CBDT on Monday re-notified the prevailing 1 per cent tolerance range for wholesale trading and 3 per cent range for all other transactions undertaken during the financial year ending March 31, 2020.

Amit Agarwal, Partner Nangla & Co, said given the pandemic, it was expected the CBDT would take into account economic and business realities while notifying the tolerance range for transfer pricing cases.

CBDT keeps tolerance range for transfer pricing unchanged, experts surprised

Synopsis

The industry including multinationals were expecting some relaxation in the rules given the Covid 19 pandemic's impact on businesses, said experts, but that has not been addressed.



The Central Board of Direct Taxes has re-notified prevailing 1% tolerance range for wholesale trading and the 3% range for all other transactions during **financial year** ending 31 March 2020, for **transfer pricing** cases for **multinationals**.

"The Central Government hereby notifies that where the variation between the arm's length price determined under section 92C of the said Act and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed 1% of the latter in respect of wholesale trading and 3% of the latter in all other cases," the Board said in a notification on Monday.

The price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for assessment year 2020-2021, the notification added.

To qualify as "wholesale trading," the purchase cost of finished goods must be 80% or more of the total cost pertaining to such trading activities, the Board said, adding that the average monthly closing inventory of such goods must be 10% or less of sales pertaining to such trading activities.

Indian transfer pricing rules prescribe a range of the 35th to the 65th percentile, however the range concept is not applicable in certain circumstances where the arithmetic mean is used to measure the arm's length price and the tolerance range.

The tolerance range can be seen as one of the effective tools available to the government to rationalize the transfer pricing risk perception of multinationals doing business in India.

A higher tolerance range would mean that transfer pricing adjustments shall not be made where the difference between the transaction price and the arm's length price falls within the tolerance range.

The industry including multinationals were expecting some relaxation in the rules given the Covid 19 pandemic's impact on businesses, said experts, but that has not been addressed.

"While the government has provided a slew of tax and regulatory relaxations in order to enable the businesses' to meet the challenges erupting in the COVID-19 regime, it's surprising to see that the tolerance range for transfer pricing has been left unchanged," said Amit Agarwal, Partner Nangia & Co LLP.

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