Simplifying ALP, Expanding Safe Harbour Norms to Curb Disputes

Block transfer pricing audit will address these challenges

Team ET

The budget's proposals to simplify the process of determining arm's length pricing in related-party transactions and expanding safe harbour rules can provide much-needed certainty and reduce disputes in transfer pricing, tax experts said.

Transfer pricing disputes and complexity of multiple proceedings in India have been a major bugbear for multinational companies in India for a long time.

The budget aims to address these challenges by introducing a block transfer pricing audit or assessment option for a three-year period, subject to tax authority validation. It also proposes expanding safe harbour rules.

"The new mechanism allows taxpayers to apply the outcome of a transfer pricing assessment for one financial year to the next two," said Amit Agarwal, partner – transfer pricing at Nangia Andersen India. "If a taxpayer chooses this option, the arm's length price (ALP) determined for one year can extend to the following two years. Simply put, the ALP for a transaction in one year will apply to similar transactions in the next two years," he explained.

While Advance Pricing Agreements (APAs) have been working well in India, they are often time consuming, creating problems for both taxpayers and tax authorities. A few irritants stand out, but the government has been trying to iron them out, experts said.

"The efficacy of the existing safe harbour rules has been questioned because of the revenue thresholds and high margins that limit their application to the real world. The new proposals will definitely lend certainty," said Gouri Puri, partner at Shardul Amarchand Mangaldas and Co.

Safe harbour rules provide taxpayers with predefined transfer price margins for certain related-party transactions to reduce tax disputes. The budget proposes to expand these rules to a larger set of taxpayers and simplify its regime for transfer pricing compliances. The details of the revised scope and revised safe harbour margins will be prescribed through separate rules or circular.

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"These measures surely will provide clarity on tax costs and help avoid time-consuming litigation," said Sandeep Puri, partner at Price Waterhouse & Co LLP. Experts said the move will reduce the compliance burden on the taxpayer and the administrative load on transfer pricing officers (TPOs).

"However, it remains to be seen whether the freed-up resources and energy of the TPOs will lead to a more detailed and focused scrutiny," said Karishma Phatarphekar, partner at Deloitte India.

Regulation, but with a **light touch**

Proposed reforms cover taxation, power sector, urban development, mining, financial sector

Manas Pimpalkhare &
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NEW DELHI

KEY ANNOUNCEMENTS

▶TCS & TDS SIMPLIFIED
TDS on interest to be raised to ₹1 lakh from ₹50,000 for senior citizens

▶CORPORATE MERGERS
Procedure for corporate mergers will also be simplified, fast-tracked

▶ELECTRICITY REFORMS
Atomic Energy Act and the Civil Liability for Nuclear Damage Act will be amended

Finance minister Nirmala Sitharaman on Saturday announced the NDA government's plan to undertake transformative reforms to spur economic growth and aid the country's efforts to become a developed economy. Reforms cover taxation, power sector, urban development, mining, financial sector and regulations.

Taxation is a key element of the reforms. A Bill to replace the more than six decade old Income Tax Act with a new statute having half the words and chapters will be tabled in Parliament shortly.

The minister announced simplifying taxes collected and deducted at source (TCS and TDS). Accordingly, on three transactions, relief is given on the rate of tax, while the threshold for this levy has been raised in 13 cases including dividend payments and on rent payments.

Threshold for tax deduction on interest will be raised to ₹1 lakh from ₹50,000 for senior citizens and the TDS threshold on rent will be raised to ₹6 lakh from ₹2.4 lakh. This would reduce transactions liable to TDS, benefitting small taxpayers receiving small payments, the minister said.

The regulatory reforms seek to offer a light-touch, trust-based regulatory framework. Transfer pricing or the valuation of intra-group transactions of multinational companies is another area of de-regulation. Sitharaman announced steps to reduce litigation and provide certainty in international taxation by expanding the scope of safe harbour rules under which the declared value of transaction is accepted subject to riders.

"This budget aims to initiate transformative reforms across six domains," the minister said, adding that these will augment the economy's growth potential and global competitiveness. The domains are taxation, power sector, urban development, mining, financial sector and regulatory reforms," the minister said. The light touch regulatory framework is an essential reform aligned with India's goal to be a developed economy, said Sanjay Nayar, President of industry body Assocham.

Mint had reported on 25 January that he Union Budget for 2025-26 will present a blueprint of reforms planned during Narendra Modi administration's third term to boost investments and create jobs. Sitharaman described reforms as the fuel for the growth engines of agriculture, micro, small and medium enterprises, investments and exports.

The minister explained that the union budget for FY26 continues NDA government's efforts to accelerate growth, secure inclusive development, invigorate private sector investment, uplift household sentiment and enhance spending power of India's rising middle class.

"Together, we embark on a journey to unlock our nation's tremendous potential for greater prosperity and global positioning," the minister said.

The government will form a high-level committee to review all non-financial sector regulations, and come up with a report in one year, the minister said. Also, the government will decriminalise 100 more provisions in various laws through the Jan Vishwas bill 2.0. In its first iteration in 2023, the Jan Vishwas Bill had decriminalised as many as 183 provisions.

The government will launch a revamped Know Your Customer (KYC) mechanism in 2025, which will be periodically updated. Procedure for corporate mergers will also be simplified, the minister said, adding that the scope for fast-track mergers will be widened.

Streamlining regulatory approvals will ensure companies, particularly mid-sized enterprises and startups, to execute mergers more efficiently, reducing compliance burdens and transaction timelines, said Amit Agarwal, Partner, Nangia & Co LLP., a tax advisory firm.

Sitharaman said the government will incentivise electricity distribution reforms and increase intra-state transmission capacity by states. States will be allowed extra borrowing of 0.5% of their gross state domestic product based on progress in implementing these reforms. The minister said the Atomic Energy Act and the Civil Liability for Nuclear Damage Act will be amended to incentivise private sector participation in a new Nuclear Energy Mission, aimed at producing 100 GW of nuclear energy by 2047 mission with an allocation of ₹20,000 crore.

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The amendment aims to reduce transfer pricing disputes and multiplicity of transfer pricing proceedings for determining ALP. The amendment emphasizes the CBDT's intent in fostering an investment-friendly environment while ensuring tax equity for multi nationals.

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Amit Agarwal

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EXPERT OPINION

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Partner - M&A Tax Advisory, Nangia & Co LLP

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