

# INCOME-TAX RULES, 1962

## FORM NO. 3CED

[See sub-rule (1) of rule 10-I]

### Application for an Advance Pricing Agreement

To,

The Competent Authority of India

or

Director General of Income-tax (International Taxation)

New Delhi

Sir/Madam,

This is to state that ..... (Name of the Applicant)..... wishes to negotiate an APA with the Central Board of Direct Taxes. I am submitting herewith the necessary particulars hereunder:

#### I. General

1. Particulars of the applicant:

a. Full name of the applicant:

b. Permanent account number:

c. Address of the applicant:

d. Address for communication:

e. Location(s) of the business enterprises in India:

f. E-mail Id and the contact numbers of the person with whom correspondence is required to be made:

g. Names and designation of the authorised representatives who would be appearing before the authorities for negotiations of the APA:

2. Whether pre-filing discussions were sought by the applicant? If yes, please furnish:

a. Date of application for pre-filing meeting:

b. Date of pre-filing meeting(s) with the APA Team:

<b>3. Particular(s) of the Associated Enterprises with whom the APA is requested for :</b>	
<i>a. Name(s) of the Associated Enterprise(s):</i>	
<i>b. Name(s) of the country(ies) in which the associated enterprises mentioned in clause (a) are located:</i>	
<i>c. Taxpayer Registration Number/ Taxpayer Identification Number/ Functional equivalent/ Any unique number used for identification of the Associated Enterprise by the Government of that country/specified territory in which the Associated Enterprise claims to be located:</i>	

<b>4. Particulars of the Parent Company(ies) of the applicant:</b>	
<i>a. Name of Immediate parent company of applicant:</i>	
<i>b. Address of Immediate parent company of applicant:</i>	
<i>c. Country of residence of Immediate parent company of applicant:</i>	
<i>d. Taxpayer Registration Number/ Taxpayer Identification Number/ Functional equivalent/ Any unique number used for identification of the Immediate parent company by the Government of that country/specified territory of which it claims to be a resident:</i>	
<i>e. Name of Ultimate parent company of applicant:</i>	
<i>f. Address of Ultimate parent company of applicant:</i>	
<i>g. Country of residence of Ultimate parent company of applicant:</i>	
<i>h. Taxpayer Registration Number/ Taxpayer Identification Number/ Functional equivalent/ Any unique number used for identification of the Ultimate parent company by the Government of that country/specified territory of which it claims to be a resident:</i>	

5. a. Are you applying for a  Unilateral  
Unilateral, Bilateral or  
Multilateral APA:  Bilateral  
 Multilateral
- b. If you are applying for a  Yes  No  
Bilateral or Multilateral APA,  
have the Associated Enterprises  
applied for APA with the  
Competent Authority in the  
country of its residence?
- c. If yes, enclose evidence of   
furnishing such application  
with the other Competent  
Authority:
- d. If no, by what date the   
application is proposed to be  
furnished to the other  
Competent Authority:
- e. If the application is for   
Unilateral APA and it involves  
international transactions with  
an entity located in a  
jurisdiction with which India  
has an agreement under section  
90 or 90A of the Act for  
avoidance of double taxation,  
kindly provide explanation for  
why the request is not for  
bilateral or multilateral APA.
- f. Whether any rollback request is  Yes  No  
made.
- i. If yes, enclose copy of relevant  
Form No. 3CEDA

6. Particulars of fee paid by the applicant: Amount in Rs.  
Challan No. :  
Dated:
7. Period of APA proposed along with the date from which APA is sought to be applicable:
8. Details of the international transactions proposed to be covered in the APA (Description of the property or services to which the proposed APA relates):
9. Proposed Transfer Pricing Method(s):
10. Proposed terms and conditions, and critical assumptions, for the APA:
11. History and background of the applicant and the associated enterprise:
12. General description of business and products/services:
13. Multinational structure, organizational arrangement, operational set-up, including major transaction flows:
14. Identify all other transaction flows of the multinational enterprise (volumes, directions and amounts) that may have an impact on the pricing of the covered transactions:
15. Functional currency for each entity and the currency which is used for the proposed transactions to be covered under the APA:
16. Accounting and costing system, policies, procedures, and practices, including any significant financial and tax accounting differences that may affect the TPMs:

## II. Functional analysis

17. Detailed functional analysis of the applicant and all relevant entities with respect to the covered transactions:

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18. Business strategies - current and future Budget statements, projections and business plans for future period covered by proposed APA, general business and industry trends, future direction/business strategy including R&D, production and marketing:

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19. Financial and operating information, including corporate annual reports: (Please enclose copies)

*a.* Financial statements on a consolidated and unconsolidated basis for the prior five years, or the most recent business cycle as appropriate (Also provide interim statements for the most recent period prior to the date of the submission):

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*b.* Income-tax returns and related supporting schedules for the prior three years including Form 3CEB:

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*c.* Operating data (gross and net) segmented by product line, division, unit, and geographic region for the prior five years, or the most recent business cycle as appropriate:

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20. Relevant marketing and financial studies: (Please enclose copies)

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21. Copies of all relevant inter-company agreements (pricing, cost sharing, licensing, distributorship etc.): (Please enclose copies)

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## III. Industry and market analyses

22. Detailed industry analysis:

a. Comprehensive description of industry as well as generally accepted industrial and commercial practices:

b. Identification and general profile of competitors, including respective market shares:

c. Industry and general business statistics, financial ratios, and analyses/studies:

d. Critical success factors:

23. Detailed analysis of the markets for all countries involved:

#### **IV. Transfer pricing background**

24. Discussion of relevant legal considerations and requirements as per:

a. Indian law

b. Foreign law

c. Income-tax treaty between India and the foreign country

25. Discussion of transfer pricing methodologies, policies, and practices used by the applicant and associated enterprises for the covered transactions during the past three years, or business cycle as appropriate:

26. Discussion of relevant rulings, APAs/BAPAs/MAPAs, and other similar arrangements entered into with foreign tax administrations, for transfer pricing or other valuation bases, or other taxation matters entered into by the applicant (or its associated enterprises) and Indian or foreign tax administrations:

27. Discussion of relevant Indian income-tax audit, appeals, judicial and competent authority history:

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28. Discussion of relevant foreign income-tax audit, appeals, judicial and competent authority history:

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29. Discussion of un-assessed taxation years (Indian and foreign) and related outstanding tax, legal and other pertinent issues:

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**V. Transfer Pricing Methodology analysis**

30. Provide all information, including detailed analyses and explanations needed to establish the appropriateness of a proposed TPM, in accordance with transfer pricing regulations as contained in the Indian Income-tax law:

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31. Discussion and analysis of each transfer pricing method, applied or rejected, for each covered transaction. In particular provide details on accepted or rejected internal comparables. (Indicate assumptions, strategies and policies that may have influenced the acceptance or rejection of each TPM):

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32. Summary of selected TPMs and secondary TPMs, if used as a sanity check:

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**VI. Impact of proposed TPMs**

33. Application of the proposed TPMs to the covered transactions for the three prior years' operations or the most recent business cycle, and discuss results:

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34. Application of the proposed TPMs to the time period applicant wants the APA to cover and discuss results:

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35. Discussion and quantification of the variance, if any, from the methodology applied in section IV:

I declare that to the best of my knowledge and belief, the information furnished in the application is correct and truly stated.

*Place:*

*Yours faithfully,*

*Date:*

*Applicant*

**Notes:**

1. Bilateral or multilateral APA application shall be filed with the Competent Authority *i.e.* the Joint Secretary FT&TR-I, New Delhi in triplicate.
2. Unilateral APA application shall be filed with the Director General of Income-tax (International Taxation), New Delhi in triplicate.
3. If the space provided for answering any item in the application is found insufficient, separate enclosures may be used for the purpose. These enclosures should be signed by the person authorised to sign the application.
4. The fee shall be computed in accordance with the sub-rule (5) of rule 10-I.
5. The application shall accompany with all the relevant documents.