

## Income Tax Rules Alert

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### Legislative Background

The Indian Transfer Pricing ('TP') regime has undergone a reformatory change as part of the introduction of the Income-tax Act, 2025 ('Act') and the accompanying Draft Income-tax Rules, 2026 ('Draft Rules') issued by the Central Board of Direct Taxes ('CBDT') for stakeholder feedback. These provisions are to be effective from 01 April 2026 (Assessment Year 2026-27) and aim to modernise and streamline TP compliance, reduce disputes and align with the best practices.

The Draft Rules incorporates the following major concepts and key changes that brings shifts in the current TP landscape:

- » Block Transfer Pricing Assessments
- » Harmonisation amendments

### Block Assessment Mechanism

The Block Assessment mechanism is to streamline multiple tax-year TP proceedings and reduce repetitive annual TP litigation. The framework is governed by **Section 166(9)** of the Act (amended), read with **Rule 82** of the Draft Rules for determining the Arm's Length Price ('ALP') for multiple tax years in a single year proceeding, subject to prescribed conditions.

This concept aims to bring procedural efficiency, consistency in TP determinations, and reduced compliance burden for taxpayers engaged in recurring International Transactions or Specified Domestic Transactions ('SDT').

**Block Assessment Period = Tax Year under scrutiny + 2 Consecutive Years**

#### Conditions for opting Block Assessment Mechanism

##### Nature of Documentation

- » Similar International Transactions / SDTs for the Block Assessment Period
- » Application of methodology for determining ALP should be unchanged
- » FAR, business model, accounting, and tax treatment remain materially unchanged
- » Contractual terms, responsibilities and benefits between entities remain unchanged
- » Applicable even if there is a change in business results or holding structure or AE ownership, provided no material change in transaction character or FAR profile

##### Compliance Requirements

- » Assessee declaration in Form 46 and Certification by an Accountant in Form 47
- » Accountant's report (i.e. Form 48) under Section 172 of the Act to be filed for first and second years within the specified due dates
- » Return of Income ('RoI') to be filed within due dates referred to under Section 263(1) of the Act
- » Undertaking to furnish the required Accountant Report and Return of Income for third year within the due dates

##### Exceptions

- » Case not covered under Chapter XVI-B (special audit / search-related block provisions)
- » Associate Enterprises are not resident of a jurisdiction notified under Section 176 of the Act

## Block Assessment Process

### Reference to TPO

Case selected for scrutiny for year 1

### Exercise of Option

Filing of Form 46 (for consecutive 2nd and 3rd tax years) beginning from end of 3rd tax year and ending on 30 June succeeding the 3rd tax year

### Accountant Certificate

Form 47 to accompany Form 46

### TPO Order on Validity

Within 1 month from end of month in which option exercised

### Objection to TPO Order

In case of invalid order, the taxpayer can object before Commissioner within 15 days of receipt of such order

Cancellation requires opportunity of being heard & prior approval of Commissioner

## Overview Of Forms and Certifications Requirements

Form 46	Form 47
<b>Purpose</b>	<b>Purpose</b>
<ul style="list-style-type: none"> <li>» To exercise option for ALP determination for Block Assessment Period</li> </ul>	<ul style="list-style-type: none"> <li>» Accountant's certification for eligibility and compliance under Section 166 of the Act</li> </ul>
<b>Details Required</b>	<b>Details Required</b>
<ul style="list-style-type: none"> <li>» Applicant Particulars</li> <li>» Transaction &amp; Compliance Details</li> </ul>	<ul style="list-style-type: none"> <li>» Applicant Particulars</li> </ul>
<b>Certification</b>	<b>Certification</b>
<ul style="list-style-type: none"> <li>» Declaration by the Taxpayer that there are no material changes with respect to specified conditions for opting the mechanism</li> <li>» Compliance Commitment that ROI and Form 48 will be filed within due dates</li> </ul>	<ul style="list-style-type: none"> <li>» Assurance that no material factual, functional, contractual, or economic deviation exists across the consecutive block years</li> <li>» Verification of timely compliance of RoI and Form 48</li> <li>» Applicability of case from Chapter XVI-B &amp; Section 176</li> </ul>

## Harmonisation Amendments

The draft rules have structured the TP documentation standards from a compliance perspective through many clarificatory amendments, to refine ALP methodologies, safe harbor provisions, tighten documentation standards, and align the secondary adjustment benchmark and accountant's report requirements with current practice.

## Rule 79 - Determination of Arm's Length Price

- » Under the application of Resale Price Method ('RPM') the taxpayer must now re-examine the cost allocation methodologies to ensure only expenses incurred **directly** in connection with the purchase of property or obtaining of services may now be deducted when calculating the ALP
- » Under the application of Profit Split Price Method ('PSM'), two sub-methods have been formally introduced (A) **Contribution Profit Split Method** and (ii) **Residual Profit Split Method**. Further under residual profit split method it is specifically mentioned that the arm's length return can be 'reliably benchmarked using comparable uncontrolled transactions' thereby implies that the taxpayers need to undertake comparability analysis for benchmarking the routine returns
- » Further, the PSM scope is now expanded and explicitly applicable to the transactions involving "**unique and valuable contributions by each enterprise**", not limited to unique intangible transfers

## Definitional changes made under Sub Rules 1 to 5 of

- » Under Rule 10B(2) it was mentioned that "comparability of an International Transaction/SDT shall be judged with reference to certain conditions" and the conditions were listed down in the Rule. However, Under Rule 79(2), the term "**comparability factors**" is added after the conditions which needs to be considered in determining the ALP, providing clearer guidance for relevant parameters for TP analysis
- » Under Sub Rule 2(a), the term "**Specific**" has been removed from the reference to characteristics of property or services, which slightly broadens the scope of comparability parameters
- » Under Sub Rule 2(d), the term "**Depth**" is added as a market conditions comparability factor, which enhances the assessment of economic circumstances affecting the transactions
- » Under Sub Rule 4, the provisos (referring about the allowability to use the data relating to 2 years prior to the current year on or before April 2014) have now been deleted, as it became redundant pursuant to the introduction of multiple year data and weighted average computation
- » The term "assessment year" has been replaced with "tax year"
- » The phrase "financial year immediately preceding the current year" has been shortened to "first preceding year" for clarity and concise

## Rule 83 - Secondary Adjustment: Interest Benchmark

Benchmarking to compute imputed interest income on unrepatriated excess money in foreign currency transactions has changed from LIBOR based rates. The reference rate of the relevant foreign currency mentioned under Rule 89(3) - As on 30th September of the relevant year, + 300 basis points (spread unchanged) is the new benchmark.

## Rule 84 & 85 - TP Compliance Impact

### Contemporaneous Period Requirement

- » The description of ownership structure information should reflect the position during the relevant tax year

### Threshold Clarification

- » Aggregation of all the International Transactions to be computed during the tax year

### Authentic Documents

- » Email communications are expressly recognized as formal audit evidence

### Retention Period

- » 9 years from end of tax year

### Furnishing of Form No. 48

- » Must be furnished at least one month before the due date for filing the return of income

## Key Takeaways

- » **Documentation Must Precede Filing:** TP documentation can no longer be deferred to the point of scrutiny. It must be prepared before Form 48 is filed, with Form 48 itself due at least one month prior to the return of income deadline
- » **Multi-Year TP Certainty:** The MNEs may now opt to have the ALP determined across three consecutive years in a single proceeding, significantly reducing the burden of repetitive annual TP litigation for the recurring transactions
- » **Broadening the scope of Profit Split Method:** All the Indian entities that are part of MNEs, involved in unique and valuable contributions need to revisit their transfer pricing policy in relation to such contributions in light of the broadened scope
- » **Email Communications recognized as Audit Evidence:** Broadens the evidentiary base available to taxpayers when substantiating their positions during audit or litigation
- » **Secondary adjustment – interest benchmark:** Introduction of reference rate of the relevant foreign currency under Rule 89(3) is a welcome move to avoid the litigation and ambiguity around the interest rates applicability
- » **Documentation Retention Period Extended to Nine Years:** MNEs are required to retain all transfer pricing documentation for a period of nine years from the end of the relevant tax year, necessitating a review of existing document management and record retention frameworks

### About us



VSTN Consultancy is a Global Transfer Pricing firm with extensive expertise in the field of international taxation and transfer pricing. VSTN Consultancy has been awarded by International Tax Review (ITR) as Best Newcomer in Asia Pacific – 2024 and is ranked as one of the recommended transfer pricing firms. VSTN has also been nominated in 9 Categories under APAC, EMEA and Middle East Region ITR awards 2025. VSTN has its offices in India, UAE, Singapore and USA.

Nithya Srinivasan, Founder of VSTN Consultancy, was named Middle East Transfer Pricing Practice Leader of the Year, recognizing her outstanding leadership and contribution to the profession. VSTN also received the Best Newcomer in the Middle East award from International Tax Review, showcasing its rapid growth and excellence in global transfer pricing advisory.

VSTN Consultancy has been honored with the Best Global Transfer Pricing Consultancy 2025 – India award at the prestigious Wealth & Finance Management Consulting Awards 2025.

Our offering spans the end-to-end Transfer Pricing value chain, including design of intercompany policy and drafting of Interco agreement, ensuring effective implementation of the Transfer Pricing policy, year-end documentation and certification, BEPS related compliances (including advisory, Masterfile, Country by Country report), safe harbour filing, audit defense before all forums and dispute prevention mechanisms such as Advance Pricing agreement. VSTNs senior partners have been ranked in ITR in the list of recognized Practitioners.



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