



ADVANCE PRICING AGREEMENTS - JAPAN EXPERIENCE

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ABSTRACT

Every civilized country has its own taxation system in one form or another whether by legislation or by autocratic Rules and orders. The birth place of taxation system cannot be ascertained as it is in existence since, say, not less than five thousand years in ancient Europe. An increasing number of multinationals are participating in the booming Japan economy. Accordingly, the cash and complexity of associated enterprises transactions with the Japan affiliates and, consequently, the international tax and transfer pricing issues have increased manifold. Most of multinationals don't mind paying their fair share of taxes. However, they seek a level of certainty for the costs/implications from these covered transactions. Japan to achieve certainty of tax treatment and to resolve real or potential transfer pricing disputes before they arise, companies may seek an Advance Pricing Agreement,

KEYWORDS: taxation, pricing, Japan economy, Advance pricing agreement

INTRODUCTION

Every civilized country has its own taxation system in one form or another whether by legislation or by autocratic Rules and orders. The birth place of taxation system cannot be ascertained as it is in existence since, say, not less than five thousand years in ancient Europe. An increasing number of multinationals are participating in the booming Japan economy. Accordingly, the cash and complexity of associated enterprises transactions with the Japan affiliates and, consequently, the international tax and transfer pricing issues have increased manifold. Most of multinationals don't mind paying their fair share of taxes. However, they seek a level of certainty for the costs/implications from these covered transactions. Japan to achieve certainty of tax treatment and to resolve real or potential transfer pricing disputes before they arise, companies may seek an Advance Pricing Agreement.

This article main through some light on developments of Advance pricing agreement in Japan and Mechanism of APAs and different stages to complete APA process. Japan provides more information assistance to multinationals to smoothen to practice the APA and get to connect with other cross countries to develop the trade cycle in good manner.

REVIEW OF LITERATURE

Since, the research study belongs to International Taxation area the researchers reviewed the recent research works in the area of Advance Pricing Agreement; the following important works have been reviewed:

Eric Mehta and Piyush Gupta, (2011)¹, in their paper Advance pricing agreements, describe the structure of APAs in select countries and suggest that the



CBDT takes into account the various recommendations under OECD TP Guidelines.

Sanjay Kapadia and Saitej Kuchimanchi, (2012)², in their study APA – A game changer for India’s TP landscape?, have discussed the APA structure in India, USA, UK, China, Japan and Australia and conclude that APAs could well be the harbinger of a paradigm shift in India’s ever litigations TP.

Sharma, Apoorva and Navlani Manisha, (2013)³, the Paper provides a useful and practical insight and proves helpful to understand the new APA regime.

Manoj Pardasani and Vani Sharma, (2014)⁴, Show in their study elaborates upon the salient feature of a typical APA program and what it entails for a taxpayer. It discusses the Indian APA program in-depth, including the regulations, experiences thus far, and a view of what is on the anvil for the taxpayers. .

OBJECTIVES OF THE STUDY

In the light of above background the researchers have set the following main objectives:

1. To review the Advance Pricing Agreement mechanism in Japan context.
2. To analyse development of Advance Pricing Agreements mechanism in Japan.

METHODOLOGY

I. Sources of Data:-

The data for the study has been gathered from the secondary sources, though the secondary data includes Publications of the Government, professional and academic journals, prominent websites dealing with tax matters, and other literature relating to the subject under study.

THE STUDY:

Advance Pricing Agreement –

Meaning:-

- APA is an arrangement that determines, in Advance of controlled transactions, an appropriate set of criteria for the determination of the transfer pricing for those transactions over a fixed period of time (OECD, 2010).

ADVANCE PRICING AGREEMENTS (APAs):-

Japan is one of the earliest countries to formulate APA scheme. It introduced APA scheme as early as 1987 itself. It has been making continuous updation of the APA system then onwards for positive results. The major objective of APAs in Japan is to adopt most rational method of calculating arm’s length price for companies and thereby ensuring proper enforcement of transfer pricing legislation⁵.

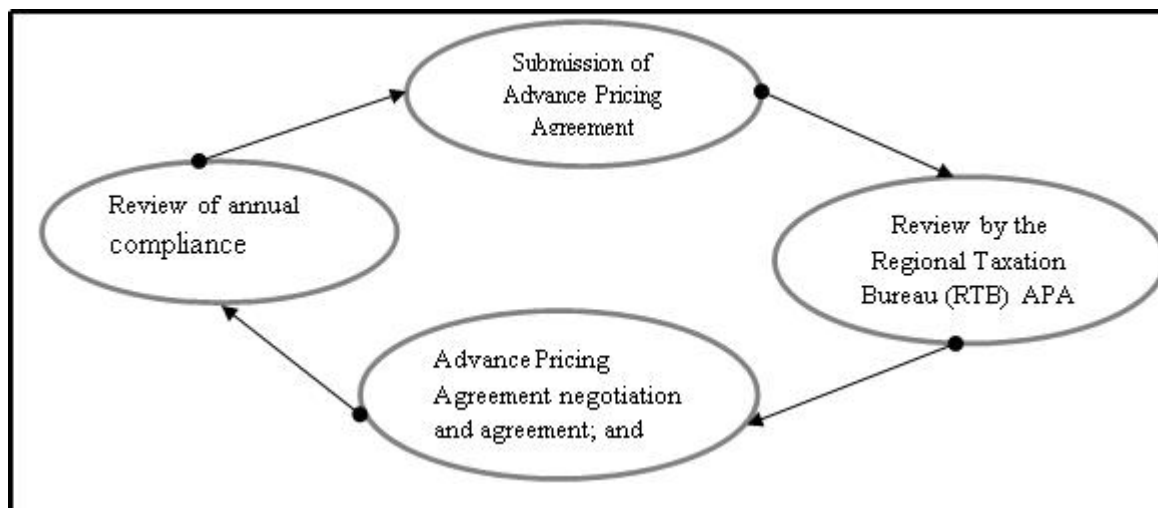
Japan has made significant improvements in its APA scheme and more recently being establishment of two new Advance Pricing Agreement (APA) sections within its Mutual Agreement Procedure (MAP) office and an APA division in the Osaka Regional Taxation Bureau. Japan has a formal APA programme accessible to all taxpayers. In practice, Japan’s tax authorities reserve the right to reject APA applications in certain cases (e.g., where a local entity in Japan is still in a start - up period and lacks sufficient history in the Japanese market) or if the application is deemed to be part of a tax avoidance scheme⁶.

Features of APAs:-

- 1) APAs cover goods, services, financing transactions and IP royalties.
- 2) The process of APA consists of pre-filing consultation, review by Regional Tax Bureau, finalizing agreement and review of annual compliance.
- 3) The process of APA requires about two year’s period to complete.
- 4) The APAs have duration of three to five years (usually future period). Depending upon the need and circumstance APAs may cover earlier (retrospective) period.

APAs Process:1:-

In Japan, APA commences at the request of the taxpayer. The National Tax Agency (NTA) does not charge any fee for Advance Pricing Agreement proceedings. APA procedures as a rule, can be divided into the following four steps-



Source: Data compiled from Advance Pricing Agreement Program report, Tax Agency, office of Mutual Agreement Procedures.

Submission of APA request:-

The taxpayer may have a pre-filing consultation with the tax authority before deciding whether to apply for an APA. Where Mutual Agreement Procedure (MAP), proceedings are likely to be requested at a later date, the MAP Office of the NTA Head Quarter may participate in the consultation in addition to the relevant divisions of the Regional Taxation Bureau (RTB) and of the NTA Head Office in charge of the APA program. Further, there may be a case where the taxpayer applies for an APA, after a transfer pricing examination which resulted in transfer pricing adjustment, in order to avoid future risk of taxation and to ensure tax predictability for its business.

Reviews by the Regional Taxation Bureau (RTB) APA Review Team:-

When the APA request is submitted; the relevant division of the RTB designates a tax examiner to be responsible for the request and commences the review immediately. The designated APA review staff designated requests documents necessary for the review in addition to the documents attached to the APA request. The APA review group of the RTB then reports the results of its review to the division in charge at the NTA Head Office. NTA division reviews the report internally and sends it to the NTA's Office of Mutual Agreement Procedures. The RTB's APA review team conducts its review in accordance with the Transfer Pricing Administrative Guidelines 5-11 (Review of APA Requests).

APA negotiation and agreement:-

In the case of APA, Competent Authorities' (CA) analyst drafts a position paper based on the conclusion

reached by the APA review team of the RTB. Face-to-face negotiations between the CA staff of the countries concerned are generally held several times a year.

Review of annual compliance reports:-

After the APA confirmation notice is received; the taxpayer is required to submit, by the deadline for its final tax return or by an otherwise designated date, the annual compliance report which explains whether or not the business results reported in the year's tax return meet with the agreement. The division of the RTB in charge may request further explanation from the taxpayer if necessary, and it may also visit the taxpayer's premises for review in case of need. In the case that income figures are under-reported compared with the figures agreed, they must be adjusted upward in the modified tax return. Review of Annual Compliance Reports by the division of the RTB in charge corresponds to tax examination for corporate tax.

Developments of APAs Programme in Japan:-

Transfer Pricing is one of the most controversial subjects worldwide. Japan successfully completed thirteen round of Advance Pricing Agreement. Japan has systematically applied APA mechanism is to avoid the Transfer Pricing disputes.

On the evidence of the statistics of Japan - APA Annual Reports are released on annual basis which are presented in table - 1:

Table - 1
Developments of Advance Pricing Agreement in Japan

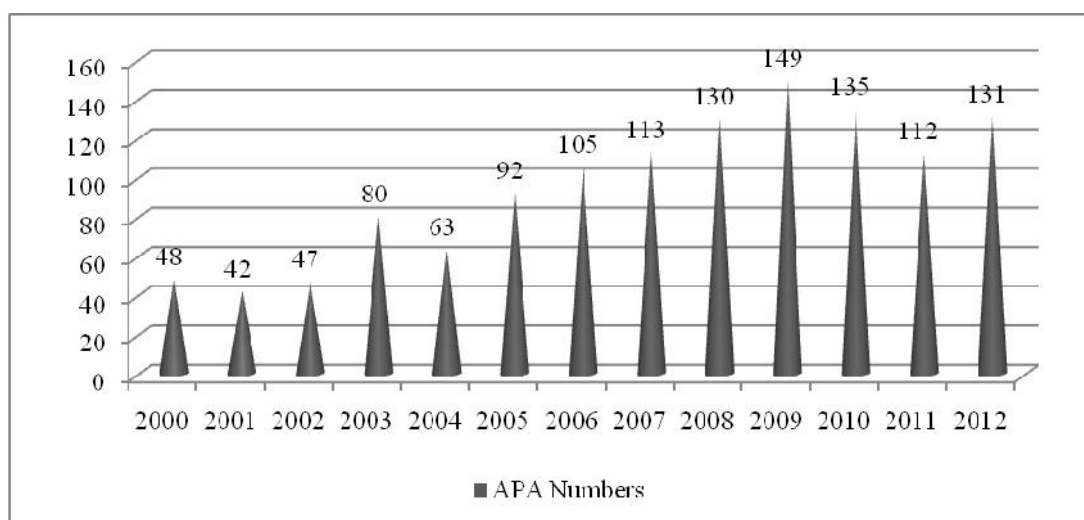
Year	Number of APAs
2000	48
2001	42
2002	47
2003	80
2004	63
2005	92
2006	105
2007	113
2008	130
2009	149
2010	135
2011	112
2012	131
Total	1247

Source: Japan – APA Annual Reports.

Table - 1 gives an idea about the number of APA agreements concluded between 2000 and 2012 in Japan, highest number of APA agreements took place in 2009 it is 149. Japan, which is 135 in 2010, in 2012, it is 131. The APAs in Japan in 2011 it is 112 and in 2007, 113, in 2006, 105, and in 2005, 2004, 2003, 2002, 2001 and 2000. It is

92,63, 80, 47, 42, and 48 respectively. This shows that Japan is aggressively pushing the APA scheme in Transfer Pricing framework. The table also indicates that Japan has successfully completed 1247 APA agreements (in thirteen years).

Chart - 1:
Developments of APAs Program in Japan



CONCLUSION

In the globalization arena the increase has become form the exponential growth in cross broader transactions and investments. Advance countries are providing more informative assistance to handle the critical situation in international tax matters. The main motive of the worldwide is to smooth handle the tax disputes matters. Japan is the father country to introduced this Advance pricing agreement to worldwide to control the double taxation for reduce the tax liability of the tax

assesses to encouragement to multinational to do the business with full of confidence in tax issues. Japan as give more encouragement to tax assesses to be safely enrolment of advance pricing agreement. Japan is rich experience in international tax issues. Japan is expertise in advance pricing agreement mechanism for usability. Therefore, Japan is a leader country in APAs.

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