



CBDT issues Annual Report on APA

For FY 2019-20 to 2021-22
and FY 2022-23

September 2023



Summary

The Central Board of Direct Taxes (CBDT) recently has issued the fourth¹ and fifth² Annual Report, in the month of August and September respectively, on the Advance Pricing Agreement (“APA”) Programme for FY 2019-20 to FY 2021-22 and FY 2022-23. The APA Report captures data and various statistics of the APA programme ending FY 2021-22 and FY 2022-23.

The APA annual reports includes data on APA applications filed, status of APAs, concluded APAs, nature of transactions covered in APA and location of associated enterprises (AE). APAs play a vital role in ease of doing business in India, through providing tax certainty for transfer pricing. As at FY 2022-23, APA is said to have brought certainty for income around INR 19,000 crores. The data is presented across Unilateral APA (UAPA) and Bilateral APA (BAPA). The Annual report also touches upon the key statistics on Mutual Agreement Procedure (MAP). The closing inventory of MAP cases for 2022 stood at 697 cases and continued the trend of decrease in cases from 2020.

FY 2021-22 marks the conclusion of 10 years of the APA programme and is a milestone reached in the arena of dispute resolution. The latest APA Annual report shows increase in the pace of conclusion of APAs as well as maturity of the APA programme. The key aspects of the APA annual report are captured in the below sections.



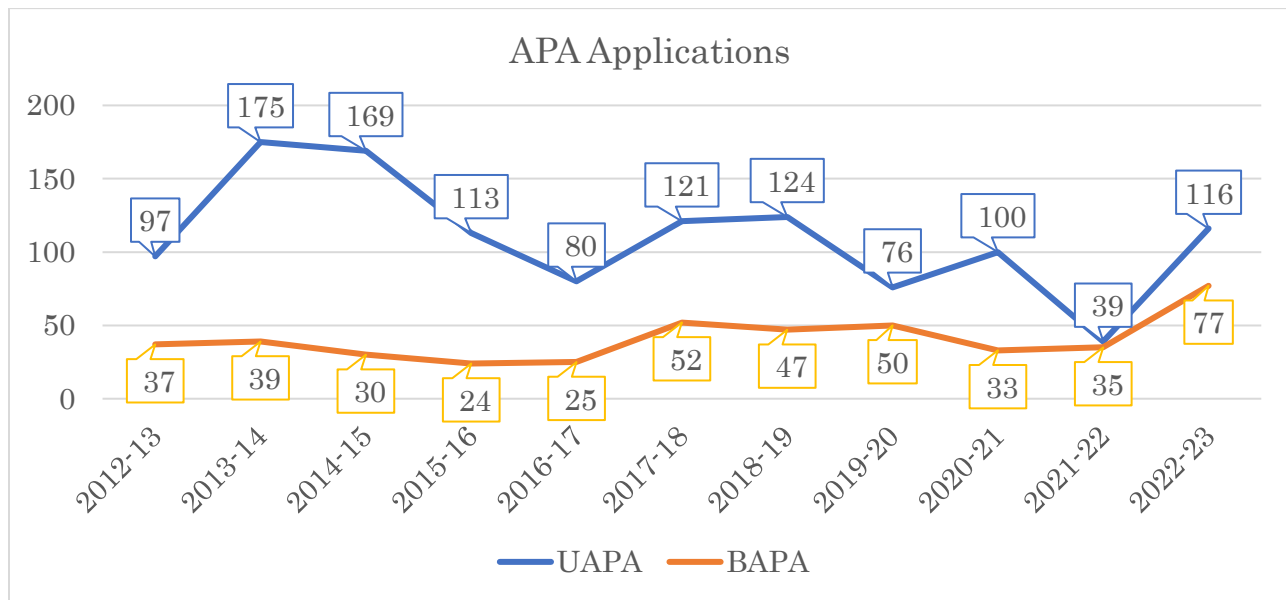
APA - Applications

The APA programme has been maturing over the years, witnessed through the change in the UAPA: BAPA ratio. The number of BAPA applications has almost been steady over the years. Though there were reduction in the applications during FY 2019-20 and FY 2021-22, applications for FY 2022-23 were one of

¹ <https://incometaxindia.gov.in/news/advance-pricing-agreement-apa-report.pdf>

² <https://incometaxindia.gov.in/news/apa-report-final-2023.pdf>

the highest. Annual report attributes reduction to two major reasons. One, on account of reduction of cases for transfer pricing audits due to adoption of risk-based audit approach. Two, uncertainty to businesses due to COVID pandemic. Below chart summarizes the applications over the first decade of the APA programme.



The number of BAPA applications have reached the highest since the commencement of the APA programme. This, along with reducing UAPA:BAPA ratio implies a shift in taxpayer’s mindset towards adopting a wholistic dispute resolution by way of BAPA.



APA Conclusions

There has been an increase at the pace at which APAs are being concluded. This can be seen through reduction in the APA average inventory over the last three annual reports (viz., FY 2018-19, FY 2021-22 and FY 2022-23). Though there has been a reduction in the APA applications in the two years, the reduction in APA inventory is organic due to an increase in the number of APA cases concluded. Apart from the summary data provided in the Annual report, we have also computed **Average inventory** and **Average APA signed per year³** in the below table:

Particulars	Applications (A)	Concluded (B)	Disposed (C) ⁴	Pending (D = A-B-C)	Avg Inv % (E=D/A)%	No of Years (F)	Avg APA Signed (G=B /F)
FY 2012-13 to FY 2018-19	1155	271	82	802	69%	7	39
FY 2012-13 to FY 2021-22	1499	421	194	884	59%	10	42
FY 2012-13 to FY 2022-23	1659	516	315	828	50%	11	47

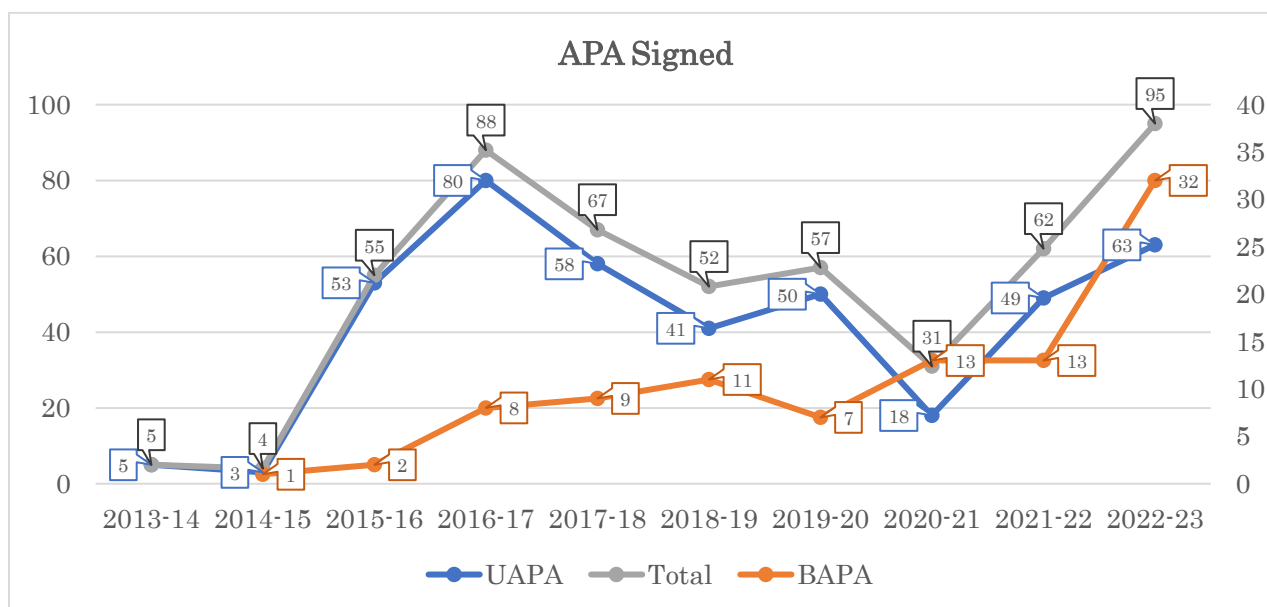
³ Data points from APA Annual Report is provided in black and the computed ratios / indicators is provided in orange.

⁴ APA Applications disposed due to reasons other than conclusion / sign-off

The pending inventory of APA applications filed in the respective financial year is computed from the latest annual report and is summarized in the below table. It reflects the tax authority’s focus on completion of earlier APA applications.

FY	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Pending Inventory (%) ⁵	4%	9%	16%	22%	36%	64%	62%	85%	88%	97%	99%

The number of APAs signed in each financial year is plotted in the below chart. There was a reduction in number of APAs concluded in FY 2020-21 due to the COVID pandemic, but there has been strong rebound in number of APAs concluded from FY 2021-22 with record conclusions in FY 2022-23. During the pandemic period, adaptive measure such as virtual discussions and remote signing protocols are said to have aided in sign-off / conclusion of APAs.



Unilateral APA (UAPA)

UAPA has witnessed an increase in the pace of sign-off. The average inventory has reduced from **66%** as at FY 2018-19, **53%** as at FY 2021-22 to **43%** as at FY 2022-23. Similarly, the average number of APAs concluded per year has increased from **34** as per Annual report of FY 2018-19, to **36** as per annual report of FY 2019-20 to 2021-22, to **38** as per annual report FY 2022-23 - implying organic reduction in inventory. Analysis of the mean, median and mode of time taken to conclude UAPA provides insights on closure of UAPA applications. The combined reading of increase in the pace of conclusions and increase in the mean and median of conclusions also indicate that there has been focus on clearing of APA applications filed in the initial years.

⁵ Application under processing/Applications filed

Time period	Mean	Median	Mode
FY 2012-13 to FY 2018-19	33 months (25-36 Months)	33 months (25-36 Months)	25-36 Months
FY 2012-13 to FY 2021-22	38 months (37-48 Months)	37 months (37-48 Months)	25-36 Months
FY 2022-23	44 months (37-48 Months)	40 months (37-48 Months)	25-36 Months

For FY 2018-19, majority of the APAs signed pertain to service sector approx. 50%, followed by manufacturing & trading. Similarly, for the period from FY 2019-20 to FY 2021-22, 63% of APAs signed pertained to service sector, followed by manufacturing & trading. Major industries for which APA were concluded include IT and Pharmaceuticals/Chemicals.

The below table illustrates the top transactions covered in descending order:

FY 2018-19 - List of major transactions	FY 2019-20 to FY21-22 - List of major transactions	FY 2022-23 - List of major transactions
Royalty/license fees	Management services	Reimbursement / Recovery of expenses
Administrative services	Provision of ITeS	Provision of ITeS
Purchase of goods	Provision of SWD services	Purchase of Capital goods
Provision of ITeS	Royalty/licence fee	Import of materials
Provision of IT services	Purchase of goods	Provision of SWD services
Availing of management services	Export of goods	Outstanding receivable/payables

Major jurisdictions in which AEs were located for the covered transactions were United States, United Kingdom and Singapore in FY 2018-19 and FY 2019-20 to FY 2021-22. During FY 2022-23, major jurisdictions were United States, China and United Kingdom. The transfer pricing methods used were majorly Transactional net margin method (TNMM) and other method for FY 2018-19, FY 2019-20 to FY 2021-22 as well as FY 2022-23.



Bilateral APA (BAPA)

The APA programme has been maturing towards complete dispute resolution, which is witnessed through consistent BAPA applications. This is furthered by increased momentum in signing BAPA. Average BAPA inventory reduced from **81%** as at FY 2018-19, **76%** as at FY 2021-22 and **69%** as at FY 2022-23. This reduction was also organic due to increase in average BAPA signed per year. As per the FY 2018-19 Annual report the average BAPA concluded was **4** per year, as per annual report for FY 2019-20 to 2021-22 it was **6** per year and as per FY 2022-23 Annual report it was **9** per year. The mean, median and mode of time taken to conclude BAPA too has increased, implying increase focus on conclusion of long pending applications.

Time period	Mean	Median	Mode
FY 2012-13 to FY 2018-19	44 months	44 months	37-48 Months
FY 2012-13 to	59 months	56 months	37-48 Months

Time period	Mean	Median	Mode
FY 2021-22	(49-60 months)	(49-60 months)	
FY 2022-23	59 months (49-60 months)	55 months (49-60 months)	37-48 Months and 49-60 months

Service was the major sector in which BAPA was concluded during FY 2018-19, followed by manufacturing. In FY 2019-20 to FY 2021-22 and FY 2022-23, service was the major sector followed by manufacturing & trading. Major industries for which APA were concluded include IT and Pharmaceuticals/Chemicals.

Major covered transactions in FY 2019-20 to FY 2021-22 were provision of SWD services, provision of ITeS, purchase of capital goods, reimbursement / recovery of expenses and intra-group services. For FY 2022-23, major transactions were reimbursement/recovery of expenses, provision of ITeS, trade receivable/payable and provision of SWD services.

United States, United Kingdom, Japan and Switzerland were the major jurisdictions with which BAPA applications were filed and BAPA were concluded during FY 2019-20 to FY 2021-22 and FY 2022-23. The transfer pricing method used most to conclude BAPA was TNMM followed by profit split method (PSM) during FY 2018-19. For the period FY 2019-20 to FY 2021-22 and FY 2022-23, the most common method continued to be TNMM followed by the other method.

The annual report also noted that out of 96 BAPA signed (until FY 2022-23), 63 applicants had opted for renewal, implying the taxpayers had trust in the APA programme in obtaining tax certainty.



Conclusion and Key Takeaways

The APA programme has completed its first decade and has provided significant relief to taxpayers through dispute prevention. Despite the COVID pandemic, APA programme has shown resilience through faster conclusion of both UAPA and BAPA, displaying CBDT commitment towards tax certainty. APA programme is maturing towards providing complete dispute resolution through steady inflow of BAPA applications as well as increased pace of conclusions.

With the goal of further reducing the turnaround time in conclusion of APA, one option could be to making available standard questionnaires and checklists in case of typical covered transactions to taxpayers during the initial phase of the APA. This can be through inclusion of questionnaire and checklist during the application or requirement to file within a stipulated time-frame post filing of the APA application (such as 6/9 months window). Increase in staffing to fill vacancies in the APA programme can further lower the turnaround time in concluding APAs, that would be welcome by taxpayers at large and increase participation in the programme as well.

The Organisation for Economic Co-operation and Development (OECD) in January 2023 has issued APA statistics reporting framework, where Inclusive Framework countries will be sharing APA related statistics in a standardized format, that will be published in OECD's website jurisdiction wise. Such disclosure can provide a region-wise benchmark on time-frame for conclusion and promote speedier conclusion in a healthy manner.

About us



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