

# Union Budget 2026-27

Transfer Pricing Perspective

February 2026

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## Background

The Finance Minister presented the Union Budget for 2026-27 today on 01 February 2026. Driven by the spirit of **Yuva Shakthi** the Budget is inspired by 3 kartavyas namely- accelerating and sustaining growth, fulfilling aspirations and building the capacity of people as a pathway to prosperity, and ensuring equal opportunity—the Budget reflects a bold vision for a resilient and inclusive India.

The budget speech featured significant transfer pricing reforms designed to ease the compliance burden on taxpayers while fostering economic stability through greater tax certainty. These measures signal a decisive step toward a more predictable, transparent, and growth-friendly fiscal environment, reinforcing India's commitment to sustainable development and global competitiveness.

The alert highlights the key changes in the Finance Bill, 2026, pertaining to Transfer Pricing provisions.

## Transfer Pricing Updates

### Key updates to the Safe Harbour regime

Significant updates to the safe harbour regime have been proposed with the objective of enhancing tax certainty and simplifying compliance for multinational enterprises. These changes are particularly relevant to the most prevalent and frequently litigated category of transactions - IT services, where Indian GCCs remain leading exporters.

While the Budget speech outlines key safe harbour measures, no corresponding amendments have been reflected in the Finance Bill or the accompanying memorandum. It is anticipated that the detailed notification will be issued shortly, for inclusion in the Income Tax Rules.

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## i. Information technology services

Particulars	Earlier provision	Budget update
<b>Safe harbour category</b>	4 Different buckets for Software development services, ITES services, KPO services and Contract R&D Services relating to software development	As these services are interconnected, they will be clubbed under a single category - <b>Information technology services</b> .
<b>Safe Harbour Mark-ups</b>	Ranging from 17-24%	Reduced to a common rate of 15.50%
<b>Revenue threshold</b>	Upto INR 300 crore	Upto INR 2000 crores
<b>Period</b>	To be opted every year	Once applied, the same Safe Harbour can be continued for a 5-year period, at the company's discretion
<b>Approval of application</b>	Verification of application by tax authorities to confirm whether valid on a year-on-year basis	Approved by an automated rule-driven process without any need for tax officer to examine and accept the application

- The threshold has been significantly increased, enabling a larger number of taxpayers to opt for the regime and achieve greater tax certainty.
- In addition, the safe harbour rate has been reduced for the first time in many years, enhancing the overall attractiveness of the scheme.
- The consolidation of SWD, ITES, KPO, and Contract R&D into a single category of 'IT services' is another positive development, as it eliminates any confusion in classifying similar service offerings across multiple buckets which was also a matter of dispute in various cases(e.g BPO/KPO)
- Automating the approval of safe harbour applications will also reduce approval timelines and eliminate the risk of bias during tax authority examinations.
- Overall, these changes will be particularly beneficial to captive centres operating in India, many of which have faced persistent tax disputes despite maintaining margins in the range of 15–16% on cost.

## ii. Foreign Cloud Service Providers

To strengthen India's critical infrastructure and attract global investment in data centres, a tax holiday until 2047 has been proposed in the Budget. This benefit will apply to foreign companies offering cloud services globally, provided they utilize data centre services provided from India. However, such companies must deliver services to Indian customers via an Indian reseller entity.

In cases where the data centre service provider in India is a related party, a specific safe harbour margin of 15% on cost is proposed, which has a slightly better expected mark-ups as compared to the new rates of 15.50% for IT services.

**iii. Safe harbour to non-residents for component warehousing in bonded warehouses**

To enhance just-in-time logistics in electronic manufacturing, a safe harbour framework has been introduced for non-residents for component warehousing in bonded warehouses. Safe harbour for warehousing components will be available at a profit margin of 2% of invoice value, resulting in an effective tax of approximately 0.7% - lower than rates in competing jurisdictions. This provision could help avoid disputes in connection with profit attribution relating to warehousing activities.

**iv. Accountant definition**

To support the government's vision of home-grown accounting and advisory firms to become global leaders, the definition of Accountant for the purposes of Safe Harbour Rules will also be rationalised. Currently the definition of Accountant is relied in the Rules only in connection with the management services safe harbor for certification of the cost pool. Under this it provides a preference to Global firms for the certification as it requires the firm certifying the same to be present in more than 2 countries. However, more information on this is awaited in this regard.

**Advance Pricing Agreement (APA)****i. Extension of modified return facility for Associated Enterprises**

Budget 2026 rationalises the APA framework by amending section 169 of the Income-tax Act, 2025, corresponding to section 92CD of the Income-tax Act, 1961, to extend the modified return facility beyond the APA applicant to the impacted Associated Enterprise (AE).

While the earlier provision allowed only the APA signatory to file a modified return, the amended section now enables both parties to file a return or modified return, within three months of entering into the APA and limited strictly to the agreement.

This change fills a critical procedural gap by allowing AEs to give effect to corresponding income adjustments and claim refunds of excess tax or TDS, which was not possible earlier. The impact is expected to be particularly significant in cases involving royalty and fees for technical services (FTS), where AEs often suffer withholding tax upfront and were unable to seek refunds despite downward adjustments under APAs for the Indian entity.

Overall, the amendment ensures tax symmetry, improved cash-flow efficiency, and smoother implementation of APA outcomes for multinational groups.

**ii. Fast-tracking of Unilateral APAs for IT services**

For companies engaged in Information technology service, a fast-track Unilateral APA process is proposed, with an objective to conclude such APAs within two years, extendable by six months on the taxpayer's request. The timeline of 2 years resonates with the median time period of APA conclusions as indicated in OECD peer review and thereby it is visibly seen that Indian APA program is marching towards aligning with Global best practices starting off with the IT Industry.

In spite of being a successful programme for achieving tax certainty, significant delay in concluding the APA cases pose major challenges to the taxpayer in the form of facing continued TP adjustments till

conclusion, handling litigation simultaneously during the APA tenure, etc., While detail implementation guidance is awaited, this a welcome move towards prevention of probable backlogs of APA cases.

### Clarifications on time limits in case of assessments

Considering the judgments of the various courts on interpreting the timelines of assessments, the Finance Bill, 2026 has proposed following amendments to end any scope for multiple interpretations:

Particulars	Existing provisions	Reason for amendment	Amendment	Effect
<b>Computation of sixty days for passing the order by the Transfer Pricing Officer</b>	As per section 92CA(3A), the TPO may pass the order at any time <b>60 days prior</b> to the expiry of the limitation period prescribed under section 153 or section 153B for completion of assessment or reassessment.	Courts excluded the <b><i>date of limitation while computing the 60 days</i></b> resulting in annulment of multiple assessments <sup>1</sup>	<b>It has been clarified</b> that the date of limitation is to be included while computing the 60 days. This clarification shall come into force with retrospective effect from June 1 <sup>st</sup> , 2007 in case of old Act and corresponding amendment is made in New Act which is effective from 1 April 2026.	<b>Old Act:</b> Due dates for issuance of TP Order are 30 Jan (non-leap year)/ 31 January (leap year)/ 1 November (where limitation of assessment expires on 31 December)  <b>New Act:</b> Due date for issuance of TP order is one month prior to the month in which the period of limitation expires, i.e., 31 January/ 31 October.
<b>Clarification on time-limit for completion of assessment under section 144C</b>	Section 153 provides a time limit for completion of assessment, and recomputation. Section 153B provides time limit for completion of assessment in search cases.  Notwithstanding anything contained in section 153 or section	In various judgements, courts have taken a view that the entire process of section 144C has to satisfy the overall time limit	notwithstanding the time limit provided in section 153 and section 153B, it is proposed to clarify in section 153 and section 153B that timelines in these sections govern the draft order stage and the timelines provided in section 144C operate for finalization of assessments.	<b>The time available for completing the assessment by the Assessing Officer post ITAT/ CIT(A)/ is extended by the time limit available for completing the proceedings under the Dispute Resolution Panel ("DRP") route (if taxpayers opt).</b>

<sup>1</sup> Madras High Court Judgment in case of DCIT v Pfizer Healthcare India Private Limited (Writ Appeal No. 1148, 1149/2021)

Particulars	Existing provisions	Reason for amendment	Amendment	Effect
	<p>153B, the period for completing the assessment in this case is provided in section 144C(4) which is one month from the end of the month in which the acceptance from the eligible Assessee is received or the period of 30 days of filing objections before DRP expire.</p> <p>Similarly, Notwithstanding anything contained in section 153 or section 153B, where the eligible Assessee files objection to the DRP, the DRP is required to pass directions as per section 144C(12) and time limit for passing these directions is nine months from the end of the month in which draft order is forwarded to the eligible Assessee.</p>	of section 153 or 153B <sup>2</sup>	<p>Corresponding amendment is made in New Act which is effective from 1 April 2026.</p> <p>The clarification in the old Act shall come into force with retrospective effect from 1 April 2009 in respect of section 153 and from 1 October 2009 in respect of section 153B. The amendment in Income-tax Act, 2025 shall come into force with effect from 1st day of April, 2026.</p>	

<sup>2</sup> Hon'ble Supreme Court in the case of *Shelf Drilling Ron Tappmeyer Ltd.* Appeal arising out of SLP (C) Nos. 20569-72/2023 and SLP(C) No. 25798/2024 and Writ Petition No.2340 Of 2021

Hon'ble High Court of Madras in the case of Commissioner of Income-tax Vs. Roca Bathroom Products (P.) Ltd. [2022] 445 537 (Madras)

## Amendments with respect to Penalties & Prosecutions

### i. Failure to furnish TP Accountant's Report (Form No. 3CEB)

Section 447 provided for a penalty of ₹ 1,00,000/- for failure to furnish report under section 172 of the Act (i.e. Form 3CEB) within the due date. In the Union budget certain penalties have been reclassified and officially termed as 'fees'. In line with the same, the existing penalty has been removed, and new section 428 (4) has been introduced wherein it is proposed to charge a **graded fee of ₹ 50,000 and ₹ 1,00,000 depending on the period of delay.**

### ii. Imposition of Interest for under-reporting or misreporting of income within Assessment Order

Under the existing provisions i.e. Sec 274 of the Income Tax Act, 1961, penalty procedures are required to be initiated separately, and penalty cannot be levied without providing the assessee an opportunity of being heard for. With an intention to promote consistency and integrate the assessment-penalty framework, it is now proposed that a single combined order for both assessment and penalty for under-reporting and mis-reporting of income can be issued which has been provided for in Section 439(11) of the Income Tax Act, 2025. At this juncture it raises a critical concern amongst the taxpayers as to whether the levy of penalty proceedings, which was under the discretion of the Assessing officer earlier, is being made automatic vide this amendment.

Further, it is proposed that interest on pending/ additional demand (u/s 220 of 1961 Act) can be charged only after the order is passed by CIT(A) or ITAT (for appeal against DRP orders). This amendment is applicable from 1<sup>st</sup> March of 2026 on any draft assessment order or reassessment made after 1<sup>st</sup> April 2027.

### iii. Expansion of Immunity from penalty in case of under-reporting or mis-reporting of income

Section 440 of the Income-tax Act, 2025 expands immunity from penalty (Section 439) and prosecution (Section 478 and 479) to misreporting cases, subject to payment of additional tax, thereby promoting early dispute resolution and reducing litigation.

Earlier, immunity under section 440 was available only in cases of under-reporting of income, and not in cases where under-reporting arose due to misreporting. It is now proposed to extend immunity to cases of misreporting, provided the assessee pays additional tax equal to 100% of tax payable on such misreported income, in lieu of penalty. This amendment will take effect from the 1st day of March, 2026 for Assessment Year 2026-27 (Previous Year 2025-26) or any earlier Assessment years.

The provision of immunity is subject to the following conditions:

- Tax and interest as per the assessment order are paid within the prescribed time, and
- No appeal is filed against the assessment order.

The assessee must apply for immunity within one month from the end of the month in which the assessment order is received, and the Assessing Officer must pass an order within three months from receipt of the application.



**iv. Rationalization of prosecution proceedings**

- Rigorous imprisonment of up to 7 years for tax-related offences has been decriminalized. Maximum imprisonment reduced from 7 years to 2 years (first offence) & 3 years (subsequent offences).
- Graded punishments have been prescribed based on the amount of tax involved.
- Imposition of fines alone where tax evasion does not exceed ₹10 lakh.
- Fine introduced in lieu of or in addition to imprisonment.

**v. Payment of demand for seeking stay**

Pre-deposit requirement is reduced from 20% to 10%, to be computed only on the core tax demand, detailed implementation guidance is awaited

**Our Thoughts**

The New Bill marks a significant stride in easing the compliance burden, streamlining assessment procedures, and aligning India's transfer pricing framework with global best practices. These amendments are poised to usher a simplified and more transparent transfer pricing environment. Further, certain notable amendments targetting specific industry / business, such as changes to Safe harbor rules and APA program benefitting the IT companies, lead the country into a positive growth trajectory. India being a hub for GCC, these amendments directed towards IT companies will evidently present a vibrant climate for GCCs.

The Government's intent to ease compliance is reflected in the H'ble Finance Minister's budget speech highlighting that the simplified Income Tax Rules and Forms will be notified shortly that can be easily comprehended by ordinary citizens as well without difficulty. Further it is expected that the Simplified rules to be notified will remove the anomalies and amguities surrounding the new Income Tax Act, 2025 for instance with respect to clarity on definition of "Control" and "Management" with respect to Associated Enterrpises .

That said, expectations around the introduction of Pillar Two regulations remained high. India appears to be adopting a cautious "wait-and-watch" approach, yet Indian-headquartered multinationals cannot afford complacency. With filing requirements under Pillar Two commencing in several jurisdictions this year, proactive preparedness is essential. Organizations must anticipate cross-border obligations, strengthen internal processes, and ensure readiness to meet evolving global compliance standards.

### About us



VSTN Consultancy is a Global Transfer Pricing firm with extensive expertise in the field of international taxation and transfer pricing having its offices in India, UAE and Singapore . VSTN Consultancy has been awarded by International Tax Review (ITR) as Best Newcomer in Asia Pacific – 2024 | Middle East Transfer Pricing Practice Leader of the Year 2025 | Middle East Best Newcomer of the year - 2025 and is ranked as one of the recommended transfer pricing firms. VSTN Consultancy has been shortlisted in other awards as finalist by ITR for Tax Innovator, Tax Compliance and Reporting Firm, Transfer Pricing Leader , Transfer Pricing Rising Star in Asia Pacific – 2025 | Best Newcomer, Tax Innovator and Transfer Pricing Leader in EMEA – 2025. VSTNs senior partners have been ranked in ITR in the list of recognized Practitioners.

Our offering spans the end-to-end Transfer Pricing value chain, including design of intercompany policy, drafting of Interco agreement, ensuring effective implementation of the Transfer Pricing policy, year-end documentation and certification, Global Transfer Pricing Documentation, BEPS related compliances (including advisory, Masterfile, Country by Country report), safe harbor filing, audit defense before all forums and dispute prevention mechanisms such as Advance Pricing agreement.

We are structured as an inverse pyramid where leadership get involved in all client matters, enabling clients to receive the highest quality of service.

Being a specialized firm, we offer advice that is independent of an audit practice and deliver it with an uncompromising integrity.

Our expert team brings in cumulative experience of over several decades in the transfer pricing space having worked with multiple Multinational Companies across sectors/industries and have cutting edge knowledge and capabilities in handling complex TP engagements.



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