

What's New

News Flash



April 2013

Tolerance band for FY 2012-13 notified - 1% for wholesale traders and 3% for others

Prior to Finance Act, 2011, the second proviso to section 92C(2) of the Income-tax Act, 1961 (the Act) provided for a tolerance band of 5% with respect to the arithmetic mean for the purpose of computing the arm's length price. Vide Finance Act, 2011, which was effective from FY 2011-12 (AY 2012-13), this tolerance band of 5% was replaced with variable percentages for different industries to be notified by the Central Government (the Government) from time to time.

Thereafter, Finance Act 2012 further amended the tolerance band for FY 2012-13 and onwards. The upper limit of the tolerance band was not to exceed 3%, i.e., the transaction was to be considered at arm's length if the difference between the transfer price and arithmetic mean did not exceed the number as notified by the Government, subject to an upper limit of 3%. In this regard, the Government has now issued a notification for FY 2012-13 (AY 2013-14), which specifies the tolerance band to be 1% for wholesale traders and 3% in all other cases. There is, however, no clarification provided in the notification as to which taxpayers would be classified as 'wholesale traders'. The term 'wholesale trader' could have a wide connotation in common commercial parlance, and would therefore require clarification.

The text of the above referred notification is reproduced below for your reference.

SECTION 92C OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING - COMPUTATION OF ARM'S LENGTH PRICE - NOTIFIED TOLERABLE LIMIT FOR DETERMINATION OF ALP

NOTIFICATION NO. 30/2013 [F.NO.500/185/2011-FTD-I], DATED 15-4-2013

In exercise of the powers conferred by the second proviso to sub-section (2) of section 92C of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies that where the variation between the arm's length price determined under section 92C and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed one per cent of the latter for wholesale traders and three per cent of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for assessment year 2013-14.

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PwC TRS Team

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