taxsutra All rights reserved

INCOME-TAX ACT, 2025

Chapter X: SPECIAL PROVISIONS RELATING TO AVOIDANCE OF TAX

Section 168 - Advance pricing agreement.

(1) The Board, with the approval of the Central Government, may enter into an advance pricing agreement with any person, determining the—

(a) arm's length price or specifying the manner in which the arm's length price is to be determined, in relation to an international transaction to be entered into by that person;

(b) income referred to in section 9(2), or specifying the manner in which the said income is to be determined, as is reasonably attributable to the operations carried out in India by or on behalf of that person, being a non-resident.

(2) The manner of determination of the arm's length price referred to in sub-section (1)(a) or the income referred to in sub-section 1(b) may include, respectively,––

(a) the methods referred to in section 165(1); or

(b) the methods provided by rules made under this Act,

with such adjustments or variations, as may be necessary or expedient so to do.

(3) Irrespective of anything contained in section 165 or 166 or the methods provided by rules made under this Act,––

(a) the arm's length price of any international transaction; or

(b) the income referred to in sub-section (1)(b),

in respect of which the advance pricing agreement has been entered into, shall be determined as per the advance pricing agreement so entered.

(4) The agreement referred to in sub-section (1) shall be valid for such period not exceeding five consecutive tax years as specified in the agreement.

(5) The advance pricing agreement entered into shall be binding—

(a) on the person in whose case, and in respect of the transaction in relation to which, the agreement has been entered into; and

(b) on the Principal Commissioner or Commissioner, and the income-tax authorities subordinate to him, in respect of the said person and the said transaction

(6) The agreement referred to in sub-section (1) shall not be binding if there is a change in law or facts having bearing on the agreement so entered.

(7) The Board may, with the approval of the Central Government, by an order, declare an agreement to be *void ab initio*, if it finds that the agreement has been obtained by the person by fraud or misrepresentation of facts.

(8) Upon declaring the agreement *void ab initio*,—

(a) all the provisions of this Act shall apply to the person as if such agreement had never been entered into; and

Downloaded by @weboapps.com at 29/11/26 09:29pm

taxsutra All rights reserved

(b) irrespective of anything contained in the Act, the period beginning with the date of such agreement and ending on the date of order under sub-section (7) shall be excluded for the purpose of computing any period of limitation under this Act and if immediately after the exclusion of the aforesaid period, the period of limitation, referred to in any provision of this Act, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(9) The agreement referred to in sub-section (1), may, subject to such conditions, procedure and manner as may be prescribed, also provide for determining the—

(a) arm's length price or specify the manner in which the arm's length price shall be determined in relation to the international transaction entered into by the person;

(b) income referred to in section 9(2), or specifying the manner in which the said income is to be determined, as is reasonably attributable to the operations, transactions and activities carried out in India by or on behalf of that non-resident person,

during any period not exceeding four tax years preceding the first of the tax years referred to in sub-section (4) and the arm's length price of such international transaction or the income of such person shall be determined in accordance with the said agreement.

(10) Where an application is made by a person for entering into an agreement referred to in sub-section (1), the proceedings shall be deemed to be pending in the case of the person for the purposes of this Act till such agreement is entered into, or such proceedings are closed as may be prescribed.

(11) For the purposes of this section, the Board may prescribe a scheme specifying therein the manner, form, procedure and any other matter in respect of the advance pricing agreement.

Downloaded by @weboapps.com at 29/11/26 09:29pm