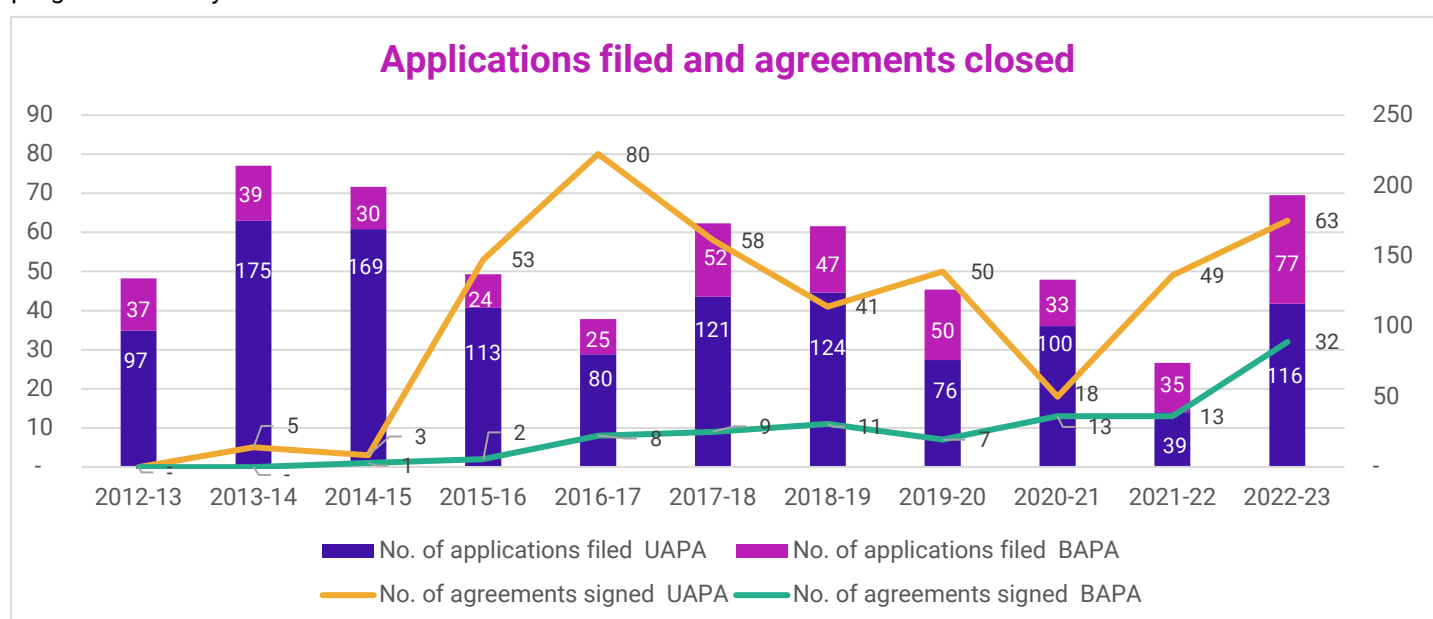


## Highlights of CBDT's 4<sup>th</sup> and 5<sup>th</sup> Annual Report on APA Program

The Advance Pricing Agreement (APA) program has been proven to be an effective tool for dispute resolution since its inception in 2012 in India. The 4<sup>th</sup> Annual Report encapsulating FYs 2019-20, 2020-21 and 2021-22 and 5<sup>th</sup> Annual Report which was released within a span of three days encapsulating FY 2022-23 clearly highlights the progress made by the Central Board of Direct Taxes

(CBDT) in entering into the APAs. The last annual report was issued in November 2019, covering the statistics till FY 2018-19<sup>1</sup>.

The summary of the number of applications filed and the number of agreements signed (year-wise) is given below for ease of reference:

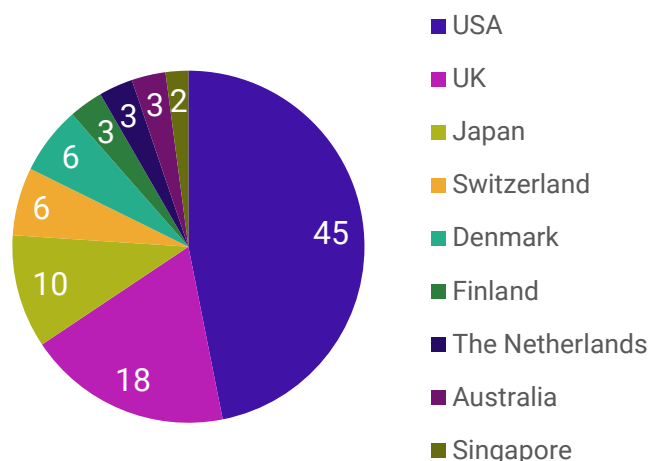


The number of agreements signed during FY 20-21 reflected a significant fall due to the spread of COVID-19, which immediately bounced back in the later years to hit a record high in FY 22-23. It is also interesting to note that taxpayers now prefer Bilateral APAs (BAPAs) over Unilateral APAs (UAPAs) to ensure bilateral tax certainty, which is evident as the highest-ever BAPA's have been signed in the FY 22-23. It was a milestone year for CBDT as it entered into its 400<sup>th</sup> UAPA and 500<sup>th</sup> APA in the FY 22-23.

A total of 1659 applications were filed in 11 years, starting from FY 2012-13 to FY 2022-23. Out of these, 516 applications were concluded till FY 2022-23. Out of the balance of 1,143 pending applications, 315 applications were disposed off for other reasons. Accordingly, balance 828 applications are in process as of FY 2022-23.

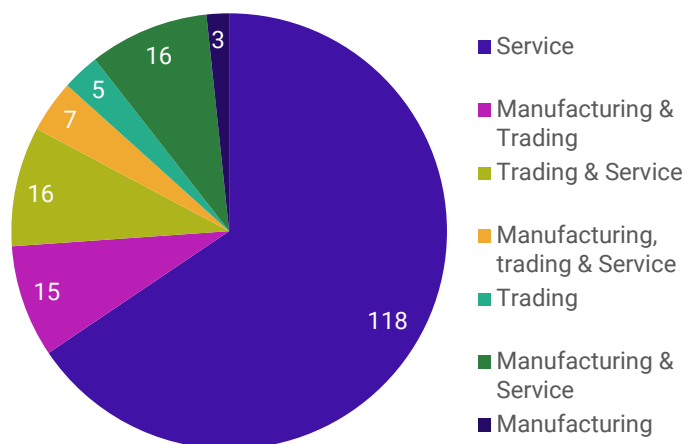
A total of 96 out of the 516 agreements signed are BAPAs, the maximum of which are signed with the USA, followed by the UK and Japan.

### Location wise AEs - BAPAs



1. [https://incometaxindia.gov.in/Lists/Latest%20News/Attachments/360/FINAL\\_ANNUAL\\_REPORT\\_29\\_11\\_19.pdf](https://incometaxindia.gov.in/Lists/Latest%20News/Attachments/360/FINAL_ANNUAL_REPORT_29_11_19.pdf)

## Agreements signed - UAPAs



As can be seen from the chart above, the agreements signed during FY 2019-20 to FY 2022-23 predominantly involve the service sector. Among these, a significant portion pertains to captive companies engaged in software development and Business Process Outsourcing (BPO). Furthermore, some of these companies also provide services in engineering design, research and development (R&D), and Knowledge Process Outsourcing (KPO). This trend underscores India's prominent status as an outsourcing hub for information technology and business processes, with numerous foreign multinationals establishing a presence in IT clusters in India. The pharmaceutical/chemical industry has also been increasingly reflected in the APAs signed, which is highlights the importance of the Indian pharmaceutical industry globally.

Notably, during this period, Reimbursement/recovery of expenses has been the most covered transaction in the agreements, followed by intra-group services (IGS) and Information Technology enabled Services. IGS-related international transactions, a total of 57 during the said period, are often subject to litigation, and their inclusion in APAs demonstrates the potential for harmonious resolution through collaboration between the tax department and the industry.

The Transactional Net Margin Method (TNMM) is the preferred method to conclude the determination of Arm's Length Price (ALP) of the covered transactions.

Since its launch, the APA program has been able to expedite the resolution of more intricate cases successfully. On average, the processing time for applications stands at approximately 44.20 months for UAPAs and 62.10 months for BAPAs. However, it's important to note that the time required to conclude BAPAs has extended from an average of 44.32 months in FY 2018-19 to around 58.77 months in the period spanning FY 2019-20 to FY 2022-23. This lengthening of the timeline is largely attributed to the impact of the COVID-19 pandemic.

The report also briefly touches upon the Mutual Agreement Procedure (MAP) cases resolved during this period.

Sl. No.	Calendar Year	Opening Inventory	Invocations during the year	Closures during the year	Closing Inventory
1	2019	866	206	125	947
2	2020	947	108	182	873
3	2021	873	62	184	751
4	2022	740*	101	144	697

\*opening inventory is corrected by agreement with the respective treaty partners

Through its foundation on principles of mutual trust and cooperation between taxpayers and tax authorities, the program has effectively reinforced the Indian tax administration's dedication to enhancing the ease of doing business. The signed APAs have ensured certainty for over 3,200 assessment years (including around 777 years of roll-back), which is a significant relief in the long-drawn litigation process. The Indian Government's dedication to the program's success is evident in its recognition of challenges (especially during the COVID-19 pandemic) and assurance to continually improve the APA program.

APAs have globally served as an effective mechanism to address transfer pricing issues. Taxpayers have successfully achieved assurance over transfer pricing matters for durations ranging from five to nine years.

The collective effect of 516 signed APAs is estimated to have brought about income certainty of approximately INR 190 billion. This, in turn, equates to a tax and interest settlement amount of around INR 70 billion, achieved without litigation or any ensuing disputes.

India's proposition of bringing in certainty for ease of doing business in India is largely dependent on the success of the APA program, and it seems to be going in the right direction. More closures of the pending APA cases and in a shorter time frame would help achieve this objective.



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Nexdigm is an employee-owned, privately held, independent global organization that helps companies across geographies meet the needs of a dynamic business environment. Our focus on problem-solving, supported by our multifunctional expertise enables us to provide customized solutions for our clients.

We provide integrated, digitally driven solutions encompassing Business and Professional Services, that help companies navigate challenges across all stages of their life-cycle. Through our direct operations in the USA, Poland, UAE and India, we serve a diverse range of clients, spanning multinationals, listed companies, privately-owned companies, and family-owned businesses from over 50 countries.

Our multidisciplinary teams serve a wide range of industries, with a specific focus on healthcare, food processing, and banking and financial services. Over the last decade, we have built and leveraged capabilities across key global markets to provide transnational support to numerous clients.

From inception, our founders have propagated a culture that values professional standards and personalized service. An emphasis on collaboration and ethical conduct drives us to serve our clients with integrity while delivering high quality, innovative results. We act as partners to our clients, and take a proactive stance in understanding their needs and constraints, to provide integrated solutions. Quality at Nexdigm is of utmost importance, and we are ISO/ISE 27001 certified for information security and ISO 9001 certified for quality management.

We have been recognized over the years by global organizations, like the International Accounting Bulletin and Euro Money Publications, World Commerce and Contracting, Everest Group Peak Matrix® Assessment 2022, for Procurement Outsourcing (PO) and Finance and Accounting Outsourcing (FAO), ISG Provider Lens™ Quadrant 2023 for Procurement BPO and Transformation Services and Global Sourcing Association (GSA) UK.

**Nexdigm** resonates with our plunge into a new paradigm of business; it is our commitment to **Think Next**.

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Reach out to us at [ThinkNext@nexdigm.com](mailto:ThinkNext@nexdigm.com)

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