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Summary of the Finance Bill, 2026

The Finance Bill, 2026 introduces a set of reforms that:

- Soften the compliance issues for technical TP defaults.
- Tighten APA implementation across group entities.
- Tie digital-infrastructure incentives with administrable TP certainty, building out a certainty regime for the IT services sector.
- Tighten procedural certainty on TP/DRP timelines and limit annulments on the basis of limitation.

Union Budget 2026: Recalibrating India's Transfer Pricing and Cross-Border Tax Framework

The Union Budget 2026 was announced by the Hon'ble Finance Minister of India on 1st February, 2026. It demonstrates a significant shift in India's international tax policy, shifting the focus on fine-tuning of a framework for greater certainty. Instead of limiting changes to rate adjustments or procedural refinements, the Finance Bill, 2026, recalibrates the key aspects of the transfer pricing regime. The primary focus is on dispute prevention & resolution, systematic management of technical defaults, and strict enforcement of statutory timelines to improve closure discipline.

This article details the key international taxation initiatives within the Finance Bill, 2026, which impact transfer pricing and cross-border taxation. Emphasis is on compliance rationalization as well as enhancement of Safe Harbour and APA mechanisms, with specific focus on the IT services sector, and the evolution of tax systems targeting digital infrastructure. It also offers a synopsis of the consequences these amendments may have on the compliance side for multinational groups, ranging from governance to visibility in planning.

The Bill proposes to amend the fixed penalty exposure for failure to furnish the accountant's report for international/specified domestic transactions with a tiered fee regime linked to the length of time of delay. It signals a shift in approach where compliance discipline is retained, but the response to procedural delay becomes proportionate rather than punitive. Alongside this, the Safe Harbour certification ecosystem is supported through a rationalisation of the accountant definition, aimed at easing access and operational frictions in dispute-prevention entry points.

The Bill addresses a known implementation gap by enabling associated enterprises covered by

an APA (not only the applicant) to align return positions through return/modified return filing within a prescribed statutory window, limited to the APA's scope. This improves group-level coherence and reduces residual disputes arising from correlative impacts of APA outcomes.

The Bill provides long-term tax certainty for foreign participation in India's data centre and cloud ecosystem through an extended exemption window for specified procurement models, while preserving tax jurisdiction over India-facing revenue streams via structuring conditions. Complementing this, a Safe Harbour margin for related-party data centre services introduces a clear pricing rule

for a segment where benchmarking disputes are structurally frequent.

The Bill consolidates dispute prevention for IT services by expanding Safe Harbour eligibility, shifting processing towards rule-driven automation, providing multi-year pricing continuity once opted, and fast-tracking unilateral APAs through a defined completion timeline with a taxpayer-request extension. The reforms, in aggregate, are intended to shift routine IT/ITeS pricing out of an extended controversy cycle into certainty predictable resolutions.

Further, the bill reinforces procedural certainty in TP and DRP assessments by codifying limitation mechanics that have driven technical litigation. It clarifies the computation of the sixty-day TPO order buffer (including leap-year treatment) and aligns timelines across the 1961 Act and the Income-tax Act, 2025. It also ring-fences DRP finalisation timelines from general limitation rules, reducing limitation-based annulments.

Overall, the package signals a clear direction: certainty-first administration for scaled cross-border service models, reduced controversy for technical defaults, and better operational alignment of APA outcomes across group entities.

Procedural Rationalisation and Compliance Liberalisation

Decriminalisation of Technical Transfer Pricing Defaults

Legislative Amendment

Under the earlier framework of the Income-tax Act, 2025, Section 447 provided for a penalty of ₹1,00,000 for failure to furnish the report from an accountant as required under Section 172, which relates to reporting of international transactions or specified domestic transactions.

The Finance Bill, 2026 proposes to replace Section 428¹ and replace the penalty provision under Section 447 with a compliance mechanism based on fee.

Therefore, under the substituted Section 428(d):

- Where any person fails to furnish a report from an accountant as required under Section 172, he shall be liable to pay by way of fee:
 - ₹50,000 for delay up to one month; and
 - ₹1,00,000 where the delay exceeds one month.²

This replaces the earlier fixed penalty structure under Section 447 with a graded fee regime.

Rationale

The previous regime imposed the same penalty regardless of the time of delay.

The amendment attempts to:

- Decriminalise technical non-compliance,
- Introduce proportionality through graded fees, and
- Distinguish procedural lapses from substantive tax violations.

Impact Assessment

The reform reduces adversarial escalation in routine compliance and aligns enforcement with international documentation standards. Substituting punitive penalties with proportionate monetary levies, it improves the compliance framework without weakening reporting obligations.

Rationalised Definition of "Accountant"

Legislative Amendment

The Hon'ble Finance Minister, in her speech, also announced to revise the definition of "accountant" for the purposes of the Safe Harbour Rules by widening professional eligibility



under the certification framework.³ The change is primarily financial in nature, aimed at easing entry barriers for practitioners.

Under the revised thresholds:

- The annual professional receipt limit for individual practitioners or valuers is reduced from ₹1 crore to ₹50 lakhs.
- For firms or entities engaged in accountancy or valuation services, the ceiling is lowered from ₹10 crores to ₹3 crores.

Importantly, the qualitative safeguards remain intact. The minimum ten-year professional experience requirement continues to apply, as does the condition relating to multi-country presence wherever relevant. Recognition of foreign-qualified professionals is also retained.⁴

Rationale

Previously, the higher receipt thresholds effectively limited participation to larger firms, restricting access for competent mid-sized practices. The revision is intended to widen the certification base without relaxing experience or competence criteria.

Impact Assessment

In practical terms, the expanded eligibility pool of accountants should ease procedural constraints and improve access to Safe Harbour certifications. Over time, this may reduce compliance inefficiencies

¹ Finance Bill, 2026, clause 83 (substituting section 428 of the Income-tax Act, 2025)

² Ibid.

³ Union Budget 2026–27 Speech, para 137

⁴ Draft Income-tax Rules, 2026, Rule 86 (definition of "accountant").

and improve overall efficiency of the framework.

Structural Strengthening of the APA Regime

APA Benefits Extended Across Associated Enterprises

Legislative Amendment

Earlier, under Section 169(1), the ability to file a modified return pursuant to an APA was confined to APA applicants only. The associated enterprises affected by the APA outcome had no statutory resort to align or revise their return accordingly.

Section 169(1) now permits both the APA applicant and any affected associated enterprise to file a return or modified return, restricting to the matters falling within APA's scope. Such filings must be made within three months from the end of the month in which the APA is entered into⁵, and applies to agreements entered into on or after 1 April 2026 and to tax years commencing thereafter.⁶

Rationale

In practice, transfer pricing adjustments under an APA frequently generate a corresponding effect across multiple group entities. Limiting the modified return facility to the APA applicant created structural imbalance and administrative rigidity in

implementing group-level outcomes where the associated enterprises are also liable to tax in India.

The amendment addresses this structural gap by enabling alignment of tax positions among group entities.

Impact Assessment

By means of extension of the modified return facility to AEs, the reform facilitates corresponding adjustments at the group level. Affected entities can realign their tax positions and, where relevant, seek refunds of taxes previously paid or withheld that no longer reflect the agreed APA pricing. This adjustment removes earlier administrative rigidity and supports coordinated implementation of APA outcomes. In doing so, it mitigates double taxation risk and reduces the likelihood of post-APA disputes.

Fast Track Unilateral APAs for IT Services⁷

Legislative Amendment

Draft rule 109 of the Income-tax Rules, 2026 (Erstwhile Rule 10L of Income-tax Rules, 1961) introduces defined timelines for concluding unilateral APAs. A new sub rule 3 has been added which states that a unilateral agreement be finalised within one year from the end of the financial year in which application is accepted for processing.

Further, newly inserted sub rule 13 & 14 states that if a unilateral APA application for IT services is not concluded within two years from the end of the quarter in which it was filed, the proceedings are deemed to be closed automatically.

However, the law allows the assessee to formally request an additional extension of six months beyond the initial two-year limit. This effectively allows a maximum window of up to two and a half years.

Rationale

This procedural mandate aligns with the government's strategic objective to provide forward visibility and certainty in transfer pricing governance for India's global leadership in software and IT-enabled services.

Impact Assessment

The proposed APA timelines materially re-balance the unilateral APA process towards time-bound certainty and administrative accountability, particularly for IT/ITeS transactions where volume is high and fact patterns are repeatable. Introducing a wherever possible one-year completion objective signals an institutional expectation of faster closures, which should improve forward pricing visibility and reduce the commercial cost of prolonged uncertainty. More importantly, the automatic closure mechanism for IT-services unilateral APA applications that remain unresolved after two years creates a hard outer boundary that is likely to compress internal processing timelines and reduce indefinite pendency, which has historically been one of the primary practical limitations of APAs as a dispute-prevention tool.

Overall, the change should increase the attractiveness of unilateral APAs for routine IT service models, but it will also reward disciplined documentation, early issue crystallisation, and proactive engagement to ensure that certainty is achieved within the statutory window.

Tax Architecture for Digital Infrastructure and Cloud Ecosystems

Long-Term Tax Certainty for Foreign Data Centre Procurement

Legislative Amendment

The Finance Bill, 2026 amends Schedule IV of the Income-tax Act, 2025 to provide an exemption to a



⁵ Finance Bill, 2026, Clause 45 (Substitution of section 169(1) of the Income-tax Act, 2025).

⁶ Memorandum Explaining the Provisions in the Finance Bill, 2026, p. 42.

⁷ Union Budget 2026–27 Speech, para 128

foreign company in respect of income accruing or arising in India, or deemed to accrue or arise in India, from procurement of data centre services from a specified data centre, for a period up to the tax year ending 31 March 2047.⁸

The explanatory memorandum indicates that this measure is intended to incentivise long-term investment in India's data centre ecosystem and support the growth of an advanced digital infrastructure, including AI-driven capacity expansion.⁹

Rationale

Large-scale data centre infrastructure and AI-based digital ecosystems are capital intensive, have long asset life cycles, and operate on long-term revenue models. Such investments require predictable tax treatment over extended periods.

The amendment is intended to:

- Enhance India's attractiveness as a regional cloud and digital infrastructure jurisdiction,
- Provide long-term fiscal certainty to foreign cloud and hyperscale operators, and
- Facilitate expansion of high-



capacity data centre and AI-linked infrastructure within India.

The proposed convergence seeks to harmonise financial reporting and tax computation standards.

Impact Assessment

The extended exemption window strengthens India's positioning as a regional cloud and hyperscale infrastructure hub. It enhances investor confidence while preserving domestic tax jurisdiction over Indian customer revenues. At the same time, the reseller-based servicing model preserves domestic tax jurisdiction in respect of Indian customers.

Safe Harbour for Related-Party Data Centre Services

Legislative Amendment

A Safe Harbour has been introduced for data centre services provided from India to a related foreign entity, prescribing a 15% mark-up on operating cost as the arm's length price for such international transactions.

The measure was announced in the Union Budget Speech, wherein the Hon'ble Finance Minister indicated the introduction of a Safe Harbour margin of 15 percent on cost for such services.¹⁰

Further, the 15% operating profit margin is proposed to be incorporated within the Safe Harbour provisions of the Draft Income-tax Rules, 2026, thereby extending notified Safe Harbour treatment to intra-group data centre service transactions under the transfer pricing regime.¹¹

Rationale

Intra-group data centre service arrangements typically involve

infrastructure-intensive operations with limited external comparables, leading to frequent benchmarking disputes. The introduction of a fixed Safe Harbour margin seeks to provide certainty in pricing, reduce interpretational disputes, and simplify transfer pricing compliance for digital infrastructure service models.

Impact Assessment

The Safe Harbour delivers upfront pricing certainty, reduces documentation complexity, and enables scalable operating models for multinational digital groups. It complements the long-term exemption regime and creates a vertically integrated digital tax framework.

Integrated Certainty Framework for the IT Services Sector

Scale Expansion of Safe Harbour Eligibility

Legislative Amendment

The turnover threshold for availing Safe Harbour in respect of IT services has been enhanced from ₹300 crores to ₹2,000 crores.¹² The revised eligibility parameters have been incorporated in the Draft Income-tax Rules, 2026.¹³

Further, India is a global leader in software development services, IT enabled services, knowledge process outsourcing services, and contract R&D services relating to software development. These business segments are quite inter-connected with each other. All these services are proposed to be clubbed under a single category of Information Technology Services.¹⁴ Thus, corresponding changes have been made in rule 88 (Eligible international transaction) of the Draft Income-tax Rules, 2026.

⁸ Finance Bill, 2026, clause 109 (Amendment of Schedule IV of the Income-tax Act, 2025)

⁹ Memorandum Explaining the Provisions in the Finance Bill, 2026, p. 43

¹⁰ Union Budget 2026–27, Budget Speech of the Hon'ble Finance Minister, para 131

¹¹ Draft Income-tax Rules, 2026, Draft Rule 89, Table Sl. No. 9.

¹² Union Budget 2026–27 Speech, para 126.

¹³ Draft Income-tax Rules, 2026, Rule 89, Table Sl. No. 1.

¹⁴ Union Budget 2026–27 Speech, para 124-125

This substantially widens the class of IT service providers eligible to opt for the Safe Harbour regime.

Rationale

The earlier framework limited Safe Harbour access largely to smaller service providers. As the IT services sector expanded in scale and global integration, a significant segment of mid-sized and large enterprises remained outside the certainty mechanism.

Further, the earlier Safe Harbour Rules had margins ranging from 17-24% for IT services which were quite inter-connected. Thus, there was a need to simplify and remove the overlap and cover all the IT services under a single Safe Harbour rate.

The enhanced threshold aligns the Safe Harbour framework with the current scale of operations in the IT industry.

Impact Assessment

The substantial enhancement of the turnover threshold to ₹2,000 crores democratizes access to tax certainty, enabling a significant segment of mid-sized and large IT enterprises to bypass protracted transfer pricing audits. The reforms consolidate interconnected segments such as



software development, ITES, KPO, and contract software R&D into a single Information Technology Services category. A uniform, competitive, fixed 15.5% margin is prescribed for this integrated segment. The reform reduces classification disputes and simplifies compliance.

Automated Processing and Five-Year Pricing Validity

Legislative Amendment

The Union Budget 2026 announced that the Safe Harbour regime for IT services would shift to an automated, rule-based processing model, removing the requirement for an officer-level examination.¹⁵

The Draft Income-tax Rules, 2026 propose the effect to this change. The framework intends the electronic filing of Form 49, system-based verification of eligibility conditions, and electronic communication of decision to accept or reject the application within a prescribed period.¹⁶

Additionally, where the Safe Harbour option is validly exercised, it shall be applicable for five consecutive tax years, which would make it possible to price or tax IT services for multiple years.¹⁷

Rationale

The need for manual verification and re-verification year-on-year is debatable, and the scope for administrative delay is high. Hence, the reform is intended to reduce subjectivity and compliance inefficiencies by making the process automated and by allowing multi-year pricing continuity.

Impact Assessment

Under this provision, the option of a five-year Safe Harbour is very critical for multinationals, as it will help them in long-term fiscal planning



for their Indian operations. This will mitigate the litigation uncertainties in the most critical service sector of India.

Strengthening Procedural Certainty in TP and DRP Proceedings

Clarifying TPO Order Timelines and Computation

Legislative Amendment

The Finance Bill, 2026 has now made explicit time limits within which the Transfer Pricing Officer (TPO) has to pass an order. The revised Section 166(7) of the Income-tax Act, 2025 has drafted a systematic link between the assessment limitation period and the outer date on which the TPO's order must be issued.¹⁸

Where the limitation period for completion of assessment expires:

- On 31 March of any year, the TPO order must be passed on or before 31 January of that year.
- On 31 December of any year, the TPO order must be passed on or before 31 October of that year.

The amendment provides statutory clarity on the manner of computing the sixty-day buffer preceding the assessment limitation date.

To reinforce this position, a clarificatory Sub-section (3AA) has been inserted in Section 92CA of the Income-tax Act, 1961. The provision expressly sets out the computation methodology

¹⁵ Union Budget 2026–27 Speech, para 127

¹⁶ Draft Income-tax Rules, 2026, Rule 91(2) and (3)

¹⁷ Draft Income-tax Rules, 2026, Rule 91(1)

¹⁸ Finance Bill, 2026, Clause 44 (Substitution of section 166(7) of the Income-tax Act, 2025).

for the sixty-day period referred to in Section 92CA(3A), including specific guidance for leap years.¹⁹

Rationale

The change addresses a long-standing interpretational dispute concerning how the sixty-day timeline under Section 92CA(3A) is to be computed. That provision governs the deadline for the TPO to pass an order before the assessment limitation expires.

While the legislative intent has consistently been to include the limitation date in computing the sixty-day period, certain judicial decisions excluded it. As a result, otherwise substantive transfer pricing determinations and corresponding assessments were quashed on a narrow procedural issue. The controversy has created unavoidable litigation, procedural uncertainty, and revenue leakage, with assessments being set aside despite there being a clear sixty-day buffer in practical terms for completing the final assessment process.

With the introduction of the Finance Bill, 2026 from 1 April 2026, the broader objective has been to minimise interpretational disputes through clearer drafting. Hard-coding the intended computational rule and aligning the position in the Income-tax Act, 1961 ensures uniformity across

both statutes. The notwithstanding clarification is therefore designed as a harmonising measure, thereby restoring consistency and limiting technical invalidations.

Impact Assessment

The clarification is likely to have immediate practical consequences for transfer pricing assessments. By prescribing a uniform method of computing the sixty-day period, the amendments reduce reliance on judicial interpretations that excluded the limitation date. This significantly reduces the risk of assessments being struck down on timing grounds rather than on merits of arm's length analysis.

For ongoing and future cases, the measure enhances procedural predictability. TPO timelines and downstream assessment timelines become clearer and less vulnerable to last minute limitation challenges. In effect, disputes are likely to shift back to substantive issues like comparability analysis, margins, and adjustments rather than procedural computation.

Where the clarification is issued with overriding effect, it may also affect pending cases where the taxpayers have been relying on more favourable precedents. This limits the scope for time baring based defence strategies and magnifies the importance of substantive grounds in appeals.

In general, the amendment enhances uniformity and enforceability in both the statutes.

Clarification of Time Limits under Section 275 (DRP Mechanism)

Legislative Amendment

Through the Union Budget 2026, Section 275 of the Income-tax Act, 2025 has been amended to clarify the interaction between the DRP



framework and the general limitation provisions under Sections 286.²⁰

The amendment makes it explicit that while Sections 286 govern the outer time limit up to the draft order stage, the one-month period prescribed under Section 275(4) and Section 275(14) for completion of assessment after acceptance of variations or receipt of DRP directions shall apply notwithstanding the limitation framework under Sections 286.

Corresponding amendments have been made in Section 144C of the Income-tax Act, 1961 as well for maintaining coherency.

Rationale

The amendment is driven by the need to restore certainty and coherence in the time-limit framework governing assessments routed through the Dispute Resolution Panel (DRP) under Section 144C.

The structure of Section 144C is clear. Once a draft assessment order is issued to an eligible assessee, the subsequent stages operate within distinct and self-contained timelines. Section 144C(4) governs cases where the assessee accepts the variations or does not file objections before the DRP, while Section 144C(13) applies where DRP directions are issued. Both provisions function



¹⁹ Finance Bill, 2026, Clause 4 (Insertion of section 92CA(3AA) in the Income-tax Act, 1961 – retrospective from 1 June 2007).

²⁰ Finance Bill, 2026, Clause 61 (Substitution of sub-sections (4), (14) in section 275 of the Income-tax Act, 2025).

independently of the general limitation framework under Section 153 and 153B.

Despite this statutory design, judicial interpretation has not been uniform. Certain decisions have treated Section 153 and 153B as imposing an overriding outer limitation even at the post-draft order or post-DRP stage, notwithstanding the specific carve-outs within Section 144C.

The resulting divergence, further intensified by conflicting rulings including a split verdict at the apex level, has heightened litigation exposure on limitation grounds, particularly in high-value cases involving transfer pricing adjustments and non-resident assessments.

Impact Assessment

The clarification is likely to have immediate practical consequences for transfer pricing assessments. By prescribing a uniform method of computing the sixty-day period, the amendment curtails reliance on judicial interpretations that excluded the limitation date. This significantly reduces the risk of assessments being struck down on timing grounds rather than on the merits of the arm's length analysis.

For current and future cases, the measure provides predictability as to procedural timelines in terms of TPOs and downstream assessments that are no longer at risk of a last-minute limitation challenge. Consequently, we anticipate that the disputes will come back to the

substance of comparability analysis, margins, adjustments, etc.

Where the clarification operates with overriding effect, it may impact pending disputes based on favourable precedents. Limitation-based challenges will narrow, increasing reliance on substantive appellate grounds. In sum, the amendment enhances consistency across both statutes, increases administrative certainty, and reduces reliance on limitation-based technical objections.

Conclusion

The Union Budget 2026, along with the Draft Income-tax Rules, 2026 introduces a deliberate move towards certainty in India's transfer pricing and cross-border framework. The policy agenda is reflected in three key areas: increased automation, proportionate consequences for technical defaults, and expanded access to dispute prevention mechanism. Replacing a fixed penalty for TP reporting defaults with a graded fee structure reduces adverse clashes by procedural defaults, whilst upholding the reporting discipline. Likewise, the rationalised Safe Harbour certification framework reduces practical barriers in accessing certainty tools.

The APA related changes are equally significant. Extending the modified return facility to associated enterprises closes a structural gap in group level implementation and is likely to reduce residual disputes and instances of economic double taxation. Defined timelines and an outer limit for unilateral APAs in the IT services segment introduce clearer administrative discipline. While this enhances forward visibility, it also places greater importance on timely submissions and active case management by taxpayers.

They also align tax policy with India's digital infrastructure ambitions. The extension of foreign procurement exemption for data centre services,



coupled with the fixed Safe Harbour margin for related-party data centre transactions, results in a multi-level model which blends investment certainty at capital stage with administrable pricing outcomes during the operational stage.

They further add more certainty in TP and DRP workflows. It does this by structuring TPO timeline computation and making rules about data-specific calculations and leap-year treatment. It also stops litigation over the sixty-day buffer. It says that general limitation applies up to the draft order stage. DRP finalisation timelines work separately. Together, these things reduce limitation-based annulments and make disputes focus on substantive TP merits.

The IT services package quickly expanded Safe Harbour eligibility, made service categorisation the same, did automated processing, and allowed five-year continuity to reduce audit intensity and stop classification disputes. For multinationals, the message is that certainty mechanisms are being extended and made into a system. Taxpayers will make more money if they adopt these mechanisms early with documentation and governance.



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