

US-India Tax Forum

NEWSLETTER

Friday | September 15

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RECENT ADVOCACY OUTCOMES



- Exemption for electronics and semi-conductor manufacturing sector from the application of Manufacturing & Other Operations in Warehouse (MOOWR) Scheme under Section 65A of Customs Act.



- Implementation of increased 30-day time limit for reporting of GST invoices with effect from Nov 01, 2023

INDIA'S G20 PRESIDENCY- INTERNATIONAL TAX UPDATES



Updates from G20 New Delhi Leaders' Declaration:

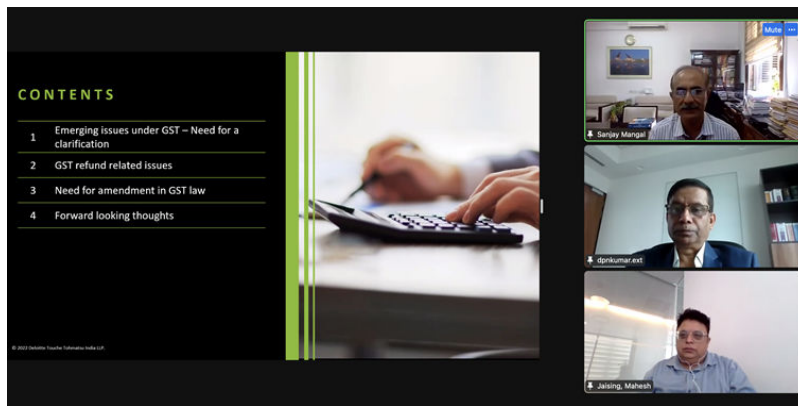
- G20 leaders reaffirm commitment toward swift implementation of the two-pillar international tax package and continued cooperation towards a globally fair, sustainable and modern international tax system
- Calls on Inclusive Framework (IF) members to prepare the Multilateral Convention (MLC) under Pillar One for signature by end of 2023
- Recognition of need for coordinated efforts towards capacity building to implement the two-pillar international tax package effectively and for additional support and technical assistance for developing countries

OECD Secretary-General releases Tax Report to G20 leaders outlining the current status and progress thus far on the Two-Pillar international tax reform package including:



- Outcome Statement on the Two-Pillar Solution issued in July 2023
- G20/OECD Roadmap on Developing Countries and International Taxation Update 2023
- Approaches to advance tax transparency and exchange of information between jurisdictions

LATEST NEWS AND HIGHLIGHTS



Consultation with Mr Sanjay Mangal, Commissioner, GST Policy Wing, CBIC to discuss GST policy & procedural issues. Summary of discussions can be accessed [here](#).



Joint consultation with Customs team at Central Board of Indirect Taxes & Customs (CBIC) and Department of Telecommunications (DoT) to discuss interpretational issues around the Circular on classification of telecom products and equipment. Forum also submitted FAQs based on industry feedback to address ambiguities in classification of products under the Circular.

Central Board of Direct Taxes releases the fifth [Advance Pricing Agreement Annual Report](#) for FY 2022-23

Ongoing advocacy with CBIC and Department of Chemicals and Petrochemicals (DCPC) for extension of implementation date of Circular requiring additional qualifiers for import/export of specified chemicals beyond Oct 01, 2023

Industry inputs invited on practical challenges emerging from requirement of mandatory e-filing of Form 10F for non-residents without Permanent Account Number (PAN) w.e.f. Oct 01, 2023

OTHER ONGOING ENGAGEMENTS



CUSTOMS

- Recommendations for supply chain optimisation through negotiation of key elements in Free Trade Agreements (FTAs)
- Rationalisation of customs duty on import of Rare Disease drugs
- Customs Duty exemption on capital assets used in developing projects for renewable business
- Continuation of customs duty exemptions provided to Oil & Gas companies



DIRECT TAXES

- Applicability of TCS provisions on employee contribution toward employee stock compensation schemes
- Implications of non-disclosure of foreign assets in Income Tax Return
- Implications of TDS on winnings from online gaming



GST

- Continued advocacy to seek clarity on taxability of online gaming
- Cross-sectoral policy and procedural issues under GST laws including:
 - Reimbursement of ESOP provided by parent company classified as import of service
 - Clarification regarding place of supply for transportation of goods (including mail and courier) when either supplier or recipient of service is located outside India
 - Demand on notional fee for loans from group companies
 - GST on use of common logo, trademark, or brand name
 - Clarification on Lost-in-hole equipment and GST
 - Reverse charge liability under GST on payment to Expatriate employees
 - Rationalisation of GST on capital goods/ spares used to setup advanced biofuel projects
 - Rationalization of GST rate on carbonated fruit-based drinks



OTHER INITIATIVES

- Advocacy to address issues in implementation of RoDTEP Scheme
- Advocacy with Directorate General of Foreign Trade (DGFT) in claiming of refunds under SEIS
- Advocacy with Ministry of Commerce and Ministry of Finance on specific amendments to Special Economic Zone (SEZ) Rules / DESH (Development of Enterprise and Service Hubs) Bill

THOUGHT LEADERSHIP



- USISPF Whitepaper on Multilateral Framework for International Tax Co-Operation.
- USISPF Whitepaper on trade facilitation measures in India.

RECENT TAX RULINGS

In association with

In the area of International Tax, [Delhi ITAT](#) allowed the tax-exemption to the Singaporean subsidiary of the British Virgin Islands company on short term capital gain arising from transfer of shares of the Indian companies. ITAT observed that the Revenue approached the entire issue with a pre-conceived mind in order to reach the pre-determined destination of somehow denying the treaty benefits to the Assessee. In another ruling, [Delhi ITAT](#) held that the income received by a British company from background screening and investigation services that involved verification of information concerning candidates to be hired by its Indian clients does not constitute royalty or fee for technical services under India-UK DTAA.

On the Transfer Pricing front, [Delhi HC](#) upheld exclusion of comparables on account of difference in services, held that as per Rule 10B(2)(a), while carrying out a comparability analysis of international transactions with an uncontrolled transaction, the reference point should be, inter alia, the services provided by the entities which were being compared. [Indore ITAT](#) remitted TP adjustment of contract receipts and payment for technical services, held that transactions with different AEs in different tax jurisdictions, economic, geographical and market conditions could not be aggregated for ALP determination.

[Read More at Taxsutra.com](#)

UPCOMING EVENTS

- Consultation with JS (Customs) on cross-sectoral issues impacting ease of doing business
- Briefing session on Compliance & Regulatory Framework for Indian Corporates

To contribute to our ongoing discussions on these matters, please write to [@Shweta Kathuria](#) and [@Anikha Ashraf](#)

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