

US-India Tax Forum

NEWSLETTER

Wednesday | January 25

www.usindiataxforum.org | www.USISPF.org

LATEST NEWS AND HIGHLIGHTS



TAX FORUM'S TOP RECOMMENDATIONS

DIRECT TAX

Measures to boost investor confidence, attract foreign investment and ensure ease of doing business



1 Rationalise corporate tax rate for foreign companies

- Rate for foreign companies including banks be reduced to bring parity
- Rationalise tax for new manufacturing companies

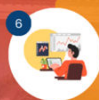


5 Extend the concessional tax regime to FPI from investment in securities



2 Simplify capital gain tax reforms

- Harmonising holding periods and rates of different instruments



6 Suggested reforms under taxation of Virtual Digital Assets (VDA)



3 Targeted reforms under the Indian Transfer Pricing regulations to reduce Tax litigation and to mitigate risk emerging from cross border trade

- Consider risk assessment for audits
- Fast track APA settlements
- Revive dispute resolution scheme



7 Provide Tax incentives to specific sectors like Renewable Energy & R&D investments in healthcare sector



4 Reiterate India's commitment to the global tax deal

- Temporary measures like SEP in the domestic law be removed



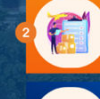
8 Reduce complexities and address challenges emerging due to increased TDS/TCS obligations

INDIRECT TAX

Recommendations on Customs tariff & duties and Customs processes



1 Strengthen the process on the ground with respect to trade facilitation schemes like CAROTAR and Faceless Assessment.



2 Provide exemption from customs duty on certain ImmunoAssay Kits



3 Address ambiguities in customs tariff act on telecom products



4 Extension of concessional customs duty to advanced bio-fuel projects



5 Reduction of Customs duty on parts required for manufacture of Locomotive from 10% to 5%



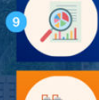
6 Provide customs Duty exemption on capital assets used in developing projects for renewable business



7 Clarify customs duty exemptions provided to Oil & Gas companies under Serial No. 404 of the Customs Notification No. 50/2017-Cus dated 30 June 2017



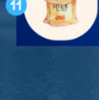
8 Reduction in Customs Duty rates for X-Ray machines from 10% to 7.5%



9 Provide customs duty exemption on all items imported by specified Research & Development (R&D) Units



10 Provide customs duty exemption on LNG for all sectors; according the same status as crude petroleum



11 Roll back the custom duty increase on nutritional products considering the importance and significance of the products and encourage availability of scientifically designed nutritional food in India i.e. restore the customs duty from 50% to 30%.

Register to attend USISPF's post-Budget briefings

USISPF Post-Budget Roundtable Series: Perspectives on Union Budget 2023



Thursday,
February 2nd, 2023



7:30 pm – 8:30 pm IST
9:00 am – 10:00 am EST



Virtual (Webex)

Speakers



**Dr. Arvind
Panagariya**

Professor of Economics and the Jagdish
Bhagwati Professor of Indian Political
Economy at Columbia University, and
Former Vice Chairman, NITI Aayog



**Dr. Krishnamurthy
Subramanian**

Executive Director, IMF and Former
Chief Economic Adviser,
Government of India



Mr. Tarun Bajaj

Former Secretary, Department
of Revenue, Ministry of Finance,
Government of India

Moderator



Mr. Atul Dhawan

Chairperson, Deloitte India

Speaker



Dr. Mukesh Aghi

President and CEO,
US- India Strategic Partnership Forum

USISPF Post-Budget Roundtable Series: Initial reactions and key implications for foreign investors



Friday,
February 3rd, 2023



7:30 pm – 8:30 pm IST
9:00 am – 10:00 am EST



Virtual (Webex)

Speakers



**Subhash
Chandra Garg**

Former Finance Secretary,
Government of India



Akhilesh Ranjan

Advisor, Price Waterhouse & Co LLP and
Former Member,
Central Board of Direct Taxes



**DP Nagendra
Kumar**

Former Member (GST), Central
Board of Indirect Taxes & Customs,
Ministry of Finance



Mukesh Butani

Managing Partner,
BMR Legal



Sanjay Tolia

Partner,
Price Waterhouse & Co LLP



Malachy Nugent

Vice President, Financial Services,
US- India Strategic Partnership Forum

For further details, please contact
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US-INDIA TAX
FORUM'S ADVOCACY EFFORTS



GST

- Advocacy on legislative and procedural issues
- Advocacy with Goods and Services Tax Network (GSTN) around technical issues
- Engagement with Group of Ministers constituted on various issues
- Practical challenges faced during GST audits requiring state wise/ GSTIN wise financial statements
- Clarification on reimbursement of ESOP provided by parent company being classified as import of service



CUSTOMS AND EXCISE

- Advocacy efforts for release of outstanding SEIS refunds
- Advocacy to address ambiguities in classification of products exempted from duty
- Amendment in custom duty benefits for Oil & Gas sector
- Issues and challenges under CAROTAR rules and Faceless Assessments
- Determination of RoDTEP rates for exports from designated areas
- Duty rationalisation requests
- Challenges in implementation of Advanced Analytics in Indirect Taxation (ADVAIT) Module under Customs



CORPORATE TAX

- Recommendations for policy and procedural changes in Indian Transfer Pricing regime
- Challenges emerging from implementation of TDS under Section 194-O of the Income Tax Act

US-INDIA TAX FORUM SOLICITS INPUTS ON

- Correction of errors or anomalies in existing RoDTEP rates
- Review of Duty Drawback Rates in 2023



RECENT TAX RULINGS



In association with

On the international tax front, [The Supreme Court](#) held Singapore Airlines and others liable for withholding tax on the Supplementary Commission paid to travel agents. [Delhi High Court](#) held that centralised services provided by a US-based entity to Indian hotels including marketing & sales to be not taxable as FTS. [Delhi ITAT](#) held capital gains earned by

Mauritius-based investment company on sale of shares of an Indian company to PayU India as exempt since covered under the pre-amended provisions of Article 13 of India-Mauritius DTAA. [Mumbai ITAT](#) held that a Dutch Co.'s receipts from executive search services to be not taxable as FTS. [Delhi ITAT](#) directed the Dispute Resolution Panel to consider additional evidence furnished by Curtis, Mallet-Prevost, Colt & Mosle LLP to decide their tax liability on Independent Personal Services under India-US DTAA.

On Transfer Pricing front, [Bangalore ITAT](#) ruled on TP adjustments in respect of payment made by Cisco Systems Capital (India) Pvt.Ltd. to its AE and held that payment for administrative and marketing support services is part of the operating cost and hence, no separate TP-adjustment is warranted. *In the case of IBM India Pvt Ltd*, [Bangalore ITAT](#), in the case of IBM India, remits TP-adjustment w.r.t AMP (Advertising and Marketing Promotion) expenses and directs that in the event it is found that the expenditure is factored in net cost for computing margin, no separate adjustment needs to be made. [Bangalore ITAT](#) adjudicated on two simultaneous orders passed by TPO, invalidating the first order passed in violation of CBDT Circular No. 19 of 2019 and quashing the second being barred by limitation. [Mumbai ITAT](#) set aside revisional jurisdiction invoked by Principal Commissioner of Income-tax (PCIT) u/s 263, viewed that PCIT overstepped in exercising his revisional jurisdiction and the order passed by AO did not fulfil the mandatory requirements.

[Read More at Taxesutra.com](#)

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

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