NEWSLETTER
IFA ~ INDIA BRANCH

Mukesh Butani
Chairman, India branch

Dear IFA Colleagues & friends of IFA,
Welcome to our Autumn newsletter.

In this edition, we shall be covering the subject of Crypto taxation, which has caught the attention of Tax administrators across the globe; not to forget domestic legislative amendments to the Finance Bill of 2022. I guess we shall evolve as nations deal with cross-border aspects of taxation. The case study designed by CAs Namit Gad & Arjun Iyer couldn't have come at a more appropriate time, given that OECD released comprehensive guidance on reporting Crypto transactions, placing the

WHAT'S IN

onus on intermediaries and exchanges to comply with reporting requirements. We have an absolute multi-disciplinary panel comprising Robert Muller (Germany), Meyyappan Nagappa (India), Sathvik Vishwanath (India) and Jino Joseph (US) to discuss the nuances of taxation on this crucial topic.

On other significant policy developments, OECD stays committed to the Two-Pillar digital taxation agenda released in October 2020, which has been followed with various stakeholder consultations. At Davos, the Secretary-General of the OECD, Mathias Cormann, had indicated that the implementation of Pillar One would be delayed until 2024. In its July 2022, progress report, the OECD had indicated the new multilateral convention to implement Pillar One will be finalised by mid-2023 for entry into force in 2024 under a revised timeline. This still seems ambitious given the uncertainty of passing it through the US Congress, as well as the latest debate on withholding taxes under Pillar 1. Pillar two seems to also be shrouded in uncertainty with no consensus even within the EU on its implementation, and India not even having the domestic enabling CFC legislation in place yet.

Fresh from IFA Berlin Congress, meeting with colleagues after a Covid- hiatus of three years was a refreshing experience. CBDT member Pragya Saxena was (virtually) present in the panel debating the Digitization of Tax administration, highlighting India's faceless assessment & appeals scheme. The event's highlight was the IFA & OECD panel chaired by Porus Kaka, which witnessed a standing ovation for Pascal Saint-Amans, on the eve of his departure from the OECD. Pascal is popularly known as the chief architect of OECD's BEPS Inclusive Framework. Closer home, IFA Hyderabad chapter hosted a conference wherein the Hon'ble President ITAT Mr. GS Pannu and members Mr. Lalit Kumar graced the lamp-lighting ceremony. IFA Western Chapter hosted a two-day Asia-Pacific regional conference with Mr. Pramod Kumar, Vice-President, opening the event. The Conference provided an excellent opportunity for the exchange of views and knowledge sharing in the area of tax policy and dissemination of information on tax jurisprudence. Mr Rasmi Ranjan Das also graced the panel and generously shared views.

With Covid concerns receding, activities at the Mumbai and Noida IFA academies shall pick up momentum with periodical events. I hope we shall witness regular physical events as we enter 2023.

In the meantime, I wish you belated festive times of Deepawali and the remainder of the year, as we prepare to welcome a new year – with hope, optimism and wisdom from the years of the past.

Stay joyful and healthy.

Sincerely, Mukesh

CASE STUDY

CASE STUDY ON TAX IMPLICATIONS ON VIRTUAL DIGITAL ASSETS

Contributed by: **CA. Namita Gad and CA. Arjun Iyer**

Facts:

P PTE ("P"), a company domiciled in Singapore, is a budding startup which has developed and owns the technology IP for an exchange platform. Considering the demand for cryptocurrencies, P has been looking for avenues to enter the Crypto space. As a result, they decided first to enter the Indian market and thus formed a subsidiary, B Private Limited ("B").

B, a company incorporated in India, owns and runs an online crypto-exchange called 'getyourcoin.com'. The key USP of 'getyourcoin.com' is that it allows its users to trade a Crypto to Crypto (C2C) or Crypto to Fiat (C2F), or Fiat to Crypto (F2C). Its primary source of revenue is a transaction fee, which is 0.1% of the transaction volume.

P has built the entire tech infrastructure for B's platform. Also, P is planning to penetrate other countries soon by replicating similar technology infrastructure that has already been created for B.

S Inc. ("S") is a subsidiary of P Pte Ltd, which was incorporated to operate as an NFT (Non-Fungible Token) marketplace in the United States of America (USA). This platform facilitates trades like NFT to NFT or NFT to Crypto or Crypto to NFT, for which it charges transaction fees in addition to the gas fee paid to the blockchain network. S Inc pays a royalty to P Pte Ltd for license of the technology IP for the exchange platform. S Inc further customises it for its users.

(NFT gas is the fee you pay to execute any transactions on the blockchain. These fees are used to pay the people who operate the computers that execute the transactions. Gas fees are determined by the current demand on a blockchain, at the time of a transaction.)

S has also developed its native utility token called 'ShredCoins'. To promote and attract users to its platform, S has decided to offer 'Shredcoins' as an airdrop to users. Airdrops will be given to users who complete 10 successful NFT trades through the platform or share a promotional link for the platform on their social media platform. Users can claim these airdropped coins on a link by entering their wallet address. These 'ShredCoins' can be used on many e-commerce websites around the globe to purchase goods/services. Users worldwide have received the airdrops mentioned above and have used 'ShredCoins' on various e-commerce websites.

Summary of Facts

Entity Name	P PTE	B Private Limited	S Inc.
Domicile Country	Singapore	India	US
Key Functions	Parent entity for Fund-raise and Tech Infrastructure IP	Crypto Exchange	NFT Marketplace and has its own native coin
Main Revenue Source	Technical Services to its Subsidiary in India	Transaction Fees @ 0.1% on crypto trades	Transaction Fees on NFT trades

Questions

1. What will be the tax implication of Airdrops received by the users in India, Australia, the US and Singapore? Will the tax implications be different if Company airdrops it only to their employees as a bonus?
2. In a separate scenario, the Airdrops have been given to the users who hold a specific NFT called Metaverse. In that case, can it be said that since the Airdrops have been given to the users who hold the Metaverse NFT, the ShredCoins are part of the cost of the NFT and hence should not be taxed separately on receipt but on sale? Further, can the cost of NFT be bifurcated between the NFT and the Shredcoins ?
3. Crypto offers ease of transferability. How relevant is the jurisdiction of a wallet in taxation? If so, how to determine the jurisdiction of a wallet, knowing the difficulty in tracking the jurisdiction of the hardware wallet?
4. What is the tax implication for NFT traders, and how will gas fees impact the taxable income? Will the treatment be different if NFTs are traded for NFTs?
5. What factors should be considered while determining the nature of cryptocurrency holdings (e.g. inventory, intangible asset, investment)? Will the treatment be different if it's the native coin of that entity?
6. Many PIO/OCI but non-resident Indians trade on 'getyourcoin.com'. What will be the tax implication for C2C (crypto to crypto) and C2F (crypto to fiat) trades? Will there be any Double Taxation impact when the users and the exchange are in different countries?
7. What factors are to be considered for benchmarking analysis if P and B; and P and S have a revenue share agreement for using the technology infrastructure, given the lack of comparables in the market?

QUESTIONS & EXPERTSPEAK

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Questions:

1. What will be the tax implication of Airdrops received by the users in India, Australia, the US and Singapore? Will the tax implications be different if Company airdrops it only to their employees as a bonus?

Robert Muller (RM):

The decisive factor for the assessment, if a taxable transaction occurs as a result of an airdrop, is whether the exchange is actual "cost-free". If the recipient of a gifted crypto gives "something" in return, then a taxable event might occur. For example, the recipient of an airdrop receives crypto free of charge, but at the same time the customer can constitute a taxable event through the transfer of data. According to the tax authorities, this is the case if the customer must provide personal data in order to receive cryptos. A taxable event also can occur if the taxpayer uploads his own pictures/photos or private films on a platform and receives units of a crypto or tokens in return, provided the ownership of the pictures/photos/films remains with the taxpayer. The decisive factor is whether the taxpayer provides more information to the data recipient than is required for the simple technical allocation/provision of tokens. In the specific case, it is likely that the event is taxable.

If there is a random aspect to the allocation of the airdrop, e.g. a raffle, then the airdrop is tax-free[1]. If no taxable event is applicable, then a gift as a taxable event according to the inheritance and gift tax act[2] comes into consideration.

1 https://www.bundesfinanzministerium.de/Content/DE/Downloads/BMF_Schreiben/Steuerarten/Einkommensteuer/2022-05-09-einzelfragen-zur-ertragsteuerrechtlichen-behandlung-von-virtuellen-waehrungen-und-von-sonstigen-token.pdf?__blob=publicationFile&v=1, *requested 6/23/2022, pp. 19, 20.*

2 https://www.gesetze-im-internet.de/erbstg_1974/index.html, *requested 5/6/2022.*

It is allowed to receive tokens as a bonus or as part of the salary, regarding provisions in labor law.

If tokens are provided to the employee at a discount or free of charge, it must be examined on a case-by-case basis whether this is a cash benefit within the meaning of article 8 (1) EStG or a benefit in kind within the meaning of article 8 (2) sentence 1 EStG[3]. Non-cash benefits are not recognized if they do not exceed a total of €50 (until December 31, 2021 €44) in the calendar month (article 8 (2) sentence 11 EStG).

Tokens that are to be classified as non-cash benefits regularly accrue to the employee at the time they are booked into the wallet. The receipt of the tokens occurs at the earliest at the time at which the tokens can be traded, as the employee only has the possibility to dispose the tokens economically at this time. Therefore, a receipt does not occur if the employer has only promised the transfer of tokens under civil law.

Meyyappan Nagappan (MN):

Tax implications of Airdrops received by users:

India

As per section 56(2)(x) of the Income Tax Act, 1961 ("ITA") if a person receives sum of money (exceeding INR 50,000), immovable property, or any property (other than immovable property):

(i) without consideration and the fair market value ("FMV") of the property exceeds INR 50,000; or

(ii) for a consideration which is less than aggregate FMV of the property by an amount exceeding INR 50,000;

then the aggregate FMV of the property exceeding INR 50,000 (if the property is received without consideration) or aggregate FMV of the property exceeding the consideration (if the property is received for some consideration) is subject to tax in the hands of the recipient.

For the purpose of section 56(2)(x), 'property' has been defined as ""property" means the following capital asset of the assessee, namely:- (i) immovable property being land or building or both; (ii) shares and securities; (iii) jewellery....". [4]

The Finance Act, 2022 has amended the definition of 'property' to include virtual digital assets ("VDAs") as defined under section 2(47A) of the ITA.[5]

Assuming the ShredCoins qualify as a VDA, receipt of ShredCoins by users through airdrop could be subject to tax in the hands of the recipients. However, it can be argued that the ShredCoins were not received "without any consideration". The recipient was required to perform 10 trades on the NFT platform or share a promotional link on the social media platform, hence there was some consideration involved.[6] However, in absence of any valuation mechanism, it may be difficult to ascertain the FMV of the ShredCoins received unless such valuation can be established based on the goods or services against which such Shredcoins are exchangeable against. Further, it may be possible to argue that the ShredCoins are nothing but vouchers or loyalty

3 https://www.gesetze-im-internet.de/estg/ *requested 6/23/2022.*

4 *Explanation to section 56(2)(x) of the ITA read with sub-clause (d) to the explanation to section 56(2)(vii)*

5 *Clause (b) to explanation to section 56(2)(x) of the ITA*

6 *For example, in Jai Pal Gaba vs. ITO, the Chandigarh bench of the ITAT has held that receipt of money to an assessee on waive of loan under one time settlement scheme was not 'without consideration' as the assessee was required to pay a portion of principal sum outstanding.*

points which are only redeemable against certain services or goods and therefore should not be considered VDA based on Notification No. 74/2022 issued by the CBDT excluding such items from the ambit of VDA.

Australia

Australia treats the money value of crypto-airdrops received as ordinary income taxable in hands of the recipient resident. [7]

US

The USA treats the fair market value at the time of receiving an airdrop as income taxable in hands of the recipient resident.[8]

Singapore

If airdropped tokens are not received in return for any goods or services performed, it is not regarded as income of the recipient, and hence not taxable in Singapore.[9] Assuming that performing 10 successful trades or posting a link on social media is not regarded as services under Singapore, receipt of Shredcoins should not be taxable.[10]

Tax implications of Airdrops received by employees:

India

Assuming that ShredCoins are airdropped to the employees by virtue of their employment, the value of the airdropped coins should be taxable in the hands of the employees under the hands of "Salaries". However, if the aggregate value of ShredCoins airdropped to an employee is less than INR 5000 in a financial year, then it should not be taxable.

Australia

Bonus payment is treated as part of salary income of the employees and taxed as employment income.[11]

USA

Any payment made to an employee for services through virtual currency as ordinary income.[12]

Singapore: Receipt of payment tokens (or cryptocurrency) for employment services performed by an individual is treated as income in hands of the resident employee.[13]

Sathvik Vishwanath (SV):

If the ShredCoins qualify as a VDA, receipt of ShredCoins by users through airdrop would be subject to tax in the hands of the recipients and will be taxable at the rate of 30% in the hands of the recipients.

Jino Joseph (JJ):

Airdrop is like dividend. The fair market value as on the date of receipt becomes taxable income. If the crypto that was airdropped has diminished in value, the loss can only be taken at the time of exit (exchange or sale) and this loss will be considered a capital loss. If the holding period is more than 1 year, it is a long

7 ATO <https://www.ato.gov.au/individuals/investments-and-assets/crypto-asset-investments/transactions---acquiring-and-disposing-of-crypto-assets/staking-rewards-and-airdrops/#Airdropsandincometaxtreatment>

8 See: Q.23 <https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-virtual-currency-transactions>

9 Refer part E in Annexure A, IRAS <https://www.iras.gov.sg/media/docs/default-source/e-tax/etaxguide_cit_income-tax-treatment-of-digital-tokens_091020.pdf?sfvrsn=91dbe1f7_0>

10 Rule 3(7)(iv) of the Income Tax Rules, 1962.

11 https://www.ato.gov.au/individuals/income-and-deductions/income-you-must-declare/employment-income/

12 Q.9, Q.12 <https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-virtual-currency-transactions>

13 Pg 10, <https://www.iras.gov.sg/media/docs/default-source/e-tax/etaxguide_cit_income-tax-treatment-of-digital-tokens_091020.pdf?sfvrsn=91dbe1f7_0>

term capital loss, otherwise it short term capital lossL. Capital Losses can only be offset against capital gains. There is a benefit that upto $3K, the Taxpayer can offset the loss against ordinary income. The balance amount would be carried forward to offset against capital gains.

2. In a separate scenario, the Airdrops have been given to the users who hold a specific NFT called Metaverse. In that case, can it be said that since the Airdrops have been given to the users who hold the Metaverse NFT, the ShredCoins are part of the cost of the NFT and hence should not be taxed separately on receipt but on sale? Further, can the cost of NFT be bifurcated between the NFT and the Shredcoins ?

RM:

The answer to this question, is highly dependent on the classification of the airdrop (as a taxable or tax-exempt transaction). In this context, please refer to the explanations in question 1. Assuming it is a tax-exempt transaction. It is also necessary to ask which recipient is involved. If it is a natural person, then the receipt does not constitute a taxable transaction. If the ShredCoins are afterwards sold by the natural person, the profit is taxable. Legal entities must capitalize the fictitious value of the airdrops in their balance sheet. From a German perspective, the S can deduct its costs for the airdrops as advertising expenses.

Generally, only expenses directly incurred by the seller in connection with the transaction may be deducted as income-related expenses. If the airdrops are received as a tax relevant transaction by a natural person and sold after one year, acquisition or acquistion related costs can no longer be taken into account, as the profit is not taxable. If the received tokens through the airdrop are sold by the natural person within one year, a taxable event according to article 22 nr. 2 in connection with article 23 para. 1 sentence 1 nr. 2 EStG occur. Losses arising within one year can only be taken into account limited to income of article 22 nr. 2. According to sec. 23 para. 3 sentence 7 EStG, they can not be deducted with other profits, according to article 10d EStG. No such rules apply for transactions who fall under article 15 EStG.

For each token received, the costs and income have to be tracked separately. With regard to the specific case, this also applies to the NFTs and the ShredCoins subsequently received as airdrops.

MN:

In case at the time of acquiring the Metaverse NFT there was no stipulation regarding the ShredCoins, then it may not be possible to take a view that the ShredCoins are part of cost of the NFT. Hence, airdrop of the ShredCoins should be taxable at receipt only. Further, even otherwise, if on acquisition of the NFT there is no separate consideration paid for Shredcoins (and there may be merely an expectation to receive Shredcoins) it may not be possible to take a view that Shredcoins are part of cost of acquisition of NFT, as receipt of Shredcoins may only be considered incidental to receipt of the NFT. However, if on purchase of Shredcoins, the user was also granted a right to receive the Shredcoins, then it could be argued that cost of NFT also included right to receive Shredcoins. The manner in which the consideration should be split between Metaverse NFT and Shredcoins as costs may depend on the terms and conditions of the Metaverse NFT issuance. Further, if the Metaverse NFT entitles the holder to certain streams of income or returns and if such income is paid out in the form of Shredcoin, then Shredcoins may need to be treated as income at the time of receipt.

SV:

It would become taxable the moment the user gets the new airdropped tokens. An issue here is, what if the user sells his ShredCoins? Cost cannot be bifurcated between the NFT and the ShredCoins.

JJ:

The Airdrops would be taxable on receipt. It would not be possible to bifurcate the cost. The NFT and the Airdrops would be taxed separately as crypto assets.

3. Crypto offers ease of transferability. How relevant is the jurisdiction of a wallet in taxation? If so, how to determine the jurisdiction of a wallet, knowing the difficulty in tracking the jurisdiction of the hardware wallet?

RM:

The tax authorities and taxpayers have recognized that it is difficult to allocate wallets and determine the residence of the wallet holder. The wallet address can be used to assess previous transactions that may be tax relevant. A transfer between different wallets of the same taxable person, does not generate taxable income.

For the finance ministry a wallet is generally required to receive, hold and transfer units of a virtual currency. Depending on their specific design, this also applies to other tokens.

Literally translated, wallet means purse or wallet. However, a more accurate translation would be bunch of keys. No units of virtual currencies or other tokens are held in the wallet itself; these always remain in the blockchain. Rather, it is an application for generating, managing, and storing private and public keys.

There is no limit to the number of wallets a person can hold. As a rule, a separate wallet is required for each virtual currency because the public keys are dependent on the underlying blockchain. The wallet is installed on the computer as a software application (software wallet) or is available as a so-called hardware wallet such as an external hard drive or a USB stick. In addition, a wallet can be created by printing it out on paper (paper wallet). Online offers can also be used, in which the wallet is accessed via the browser. In some of these cases, the providers store the public and private keys, and in some cases a common wallet is used for a large number of people, in contrast to the above description.

However, the recorded inflow and outflow of the units of a virtual currency and other tokens does not have to coincide with the relevant acquisition or disposal date for income tax purposes. The background to this is that the units of a virtual currency and other tokens are now regularly traded via platforms such as Coinbase.[14] Here, units of a virtual currency or other tokens are transferred to the personalized account of a trading platform and only booked back to the own wallet at a point in time subsequent to the sale or acquisition via the platform. For the time of acquisition or disposal, the trade via the platform is then decisive. The same applies if taxpayers do not have their own wallet, but the units of a virtual currency or other tokens are held in custody by the trading platform.

In addition, there are several relevant tax consequences that attach to a wallet. Basically, a wallet-related approach applies.

Two methods in particular are used to determine the stock of units of a virtual currency in a wallet. For Bitcoin and some other virtual currencies (notably Cardano), the stock is recorded as the sum of the "Unspent

14 https://www.coinbase.com/, accessed 8/7/2022

Transaction Output" (UTXO). This compares revenues (inputs) and expenditures (outputs). Value units (coins) are created for each input and output. If only parts of a coin are sold, the remaining part flows back into the own wallet as "change output".

MN:

VDAs are stored / held in a wallet. There are different types of wallet such as hot custodial wallet (connected to internet and managed by a third party), hot non-custodial wallet (connected to the internet, but the user holds the keys themselves), paper wallet, cold physical wallet (hardware wallet) etc. There is a view that situs of the asset should be the location from where it can be effectively dealt with (this principle is applicable with respect to determining situs of shares), hence situs of VDA should be the place where the private keys are stored. However, determination of location of wallet is very difficult and currently, there is no formal guidance on role of wallet in taxation of VDA.

In practical terms, another factor for determining situs of crypto-assets is the location of the owner of the assets. In respect of intangible properties, there are few high court rulings that location of the property should be the location of its owners.[15] Further, the UK HMRC has also recognized the same view.[16] Hence, the pragmatic rule of thumb would be to establish nexus at the location of the owner.

SV:

Jurisdiction is super important. The place where the private key holder is location would form the jurisdiction for those crytpos.

JJ:

Taxes are based the residency of the holder of the asset.

4. What is the tax implication for NFT traders, and how will gas fees impact the taxable income? Will the treatment be different if NFTs are traded for NFTs?

RM:

Non-fungible tokens (NFTs) are not subject to a specific german taxation regime; thus a tax classification must be based on general categories. The Ministry of Finance already issued statements on virtual currencies and other tokens, but not specifically on NFTs. The generation of NFTs with artistic, unique content is referred to as "minting." Through this process, data that could previously be copied at will becomes unique by being given a blockchain stamp, so to speak. If these activities are carried out privately, there may be income from self-employment. In particular, artistic activities according to article 18 (1) No. 1 EStG should be considered. In this specific case, the minting is not carried out by a private person, resulting in commercial income pursuant to article 15 EStG. The sale of NFTs represents income and the associated costs of minting (e.g. gas) represent expenses.

Depending on the structure of the NFT, the realization of a VAT-relevant transcations is conceivable. If the entrepreneur provides a cross-border service to a consumer, for example in the context of an "NFT Collectible" via an NFT-Marketplace, this could be classified as a cross-border electronic service under article 7 of the VAT Regulation (EU No. 282/2011). Services subject to VAT can be both

15 *Lal Products v. Intelligence Officer, [2019] 101 Taxmann.com 229 (High Court of Kerala); CUB Pty. Ltd. v. Union of India [2016] 71 Taxmann.com 315 (High Court of Delhi); but see Ambalal Sarabhai Enterprises Ltd. v. STO [2006] 145 STC 523 (High Court of Gujarat) (taking a slightly different view.*

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EU entrepreneurs and non-EU entrepreneurs. The consequence would be extensive VAT reporting obligations according to article 24 et seq. of the VAT Regulation and a possible application of the "one-stop-shop-regime".

If the other services are provided via an intermediary, the provisions of article 9a VAT Regulation apply. Article 9a VAT Regulation provides for a rebuttable presumption that, when supplying electronically supplied services via a telecommunications network, interface or portal, the taxable person is acting in his own name but on behalf of the supplier of the service. According to article 9a VAT Regulation, the intermediary is responsible for paying VAT to the country of destination (destination principle). For example, if other services are provided through an NFT-marketplace in the form of NFT collectibles independently created by artists, the marketplace could fall under the intermediary regime of article 9a VAT Regulation and would have to pay VAT to the Member States where the place of supply is located (where the consumer is located).

For both VAT assessment and direct taxation, it is irrelevant in most cases whether NFTs are traded for FIAT or NFTs.

The determination of the place of supply by the VAT liable person according to article 24 et seq. VAT Regulation is complex. For example, an IP address, local address, bank information must be taken into account. However, determining the place of supply could become a challenge for the VAT liable person, but also for auditing by the tax authorities, since the potential consumers mask behind wallet addresses, which in principle does not allow a clear determination of the location or at least makes it very difficult.

MN:

NFTs, other than those representing underlying physical assets, are treated as VDA under the ITA.[17] Hence, trading of VDA with such an NFT or trading of NFT with an NFT will have the same implications. However, it would be necessary to track the nature of the NFTs traded (whether they represent underlying physical assets or not) since the tax implications would change including taxability and applicability of TDS.

Any income from sale of an NFT should be taxable in the hands of the NFT trader (if it is a VDA) at the rate of 30% (excluding cess and surcharge). The NFT trader can only deduct cost of acquisition of the respective NFT and no other deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the NFT trader. Further, the NFT trader should not be eligible for setting off of any loss incurred on a separate trade against profit earned in one trade.

Accordingly, the gas fee paid by the trader to acquire the NFT may be considered as part of the cost of acquisition. However, there could be challenges in claiming gas fee as a part of cost of acquisition since it may be argued to be a service fee of some sort as opposed to a payment to the seller as part of acquiring the NFT.

Valuation of NFTs, in the absence of clear rules, may be tricky and subject to dispute.

SV:

In India, there is no deduction of expenses allowed. The only deduction allowed is the acquisition cost of the asset itself and nothing else.

17 *Section 2(47A)(b) of the ITA.*

JJ:

Gas Fees is treated like wire fees and is an allowable expense. The Net Sale proceeds are calculated after deducting costs.

5. What factors should be considered while determining the nature of cryptocurrency holdings (e.g. inventory, intangible asset, investment)? Will the treatment be different if it's the native coin of that entity?

RM:

Fundamental for the determination is the term "token", as the broadest term for blockchain-based states. The Finance Ministry have defined the term "token". The term "token" is used as a generic term for digital units to which certain entitlements or rights are assigned, the functions of which vary. Tokens can be allocated as payment for services rendered in the network or centrally by a project initiator. The issue of tokens, for example as part of an "initial coin offering" (ICO), represents an alternative financing method for startups in particular.

In particular, the following categories of tokens can be distinguished:

- Currency or payment tokens are tokens that are used as a means of payment. In the following, the term "virtual currency" is used for these tokens.
- Utility tokens convey certain rights of use (e.g., access to a network, if any, yet to be created) or a right to exchange the tokens for a specific good or service, if any, yet to be created. Utility tokens may also convey voting rights to change the software and thus the functionality of the good or service.
- Security Tokens are tokens that are comparable to conventional securities as defined in article 4 (1) no. 44 of Directive 2014/65/EU, in particular conventional debt and equity instruments. To be distinguished are:
  - Equity tokens that convey participation and/or dividend rights (e.g.shares) and
  - Debt tokens that include a claim to repayment of the invested amount, plus interest if applicable, as is the case with loans or profit participation rights, for example.

Tokens may also include a combination of the previously described categories (hybrid tokens). For income tax classification purposes, each token must be appreciated regardless of its designation. For example, a utility token that additionally has the function of a means of payment would be treated as a virtual currency for income tax purposes when used as a means of payment.

MN:

The stock circular treatment is the closest analogy under law today. However, considering the wide variety of digital assets, it would depend on the specific terms and conditions under which the cryptocurrency/ token is issued. For instance, utility tokens may be treated as vouchers, loyalty points or gift cards as opposed to inventory, intangible asset or an investment.

SV:

It would depend upon the intention to hold the asset. Given the tax implications, it may not be recommended to release tokens from India.

JJ:

It would depend on your intention to hold the crypto assets. If you want to trade, you can consider them as business and make Mark to Market ('MTN') election. If you do the MTM election, then crypto /NFT can be considered as ordinary business income and you can elect MTM election with prior approval from IRS

and once this election is done, the losses are considered ordinary and gains are considered ordinary and this may be subject to higher taxes (FICA taxes and Ordinary Income Tax which is at a higher rate that LTCG). If you do not want to trade, you can consider them as capital assets and make the election. Generally once you make this election, you cannot revoke it unless you get the approval from IRS.

6. Many PIO/OCI but non-resident Indians trade on 'getyourcoin.com'. What will be the tax implication for C2C (crypto to crypto) and C2F (crypto to fiat) trades? Will there be any Double Taxation impact when the users and the exchange are in different countries?

RM:

Finance Act 2022 has introduced Section 115BBH, which deals with the taxation of Income from virtual digital assets. In section 115BBH, any income generated from the transfer of virtual digital assets (information or code or number or token not being Indian currency or any foreign currency), generated through cryptographic means or otherwise) would be taxed at 30%. Further 1% Tax would be deducted (TDS) at source on such transfers.

In the present case, C2C (crypto to crypto) and C2F (crypto to fiat) trades by non-resident Indians could be considered as "transfer" since it is an exchange and would attract 30% tax. The assessee would be eligible to claim a deduction of the acquisition cost of such assets from the sale price without any deduction for any other expenses. TDS would be deducted at 1% on remittance of such income by the payer.

The larger question in the present case is whether the crypto is a capital asset situated in India. One way of looking at it would be the situs of a crypto asset is where it is owned. In the landmark decision involving CUB Pty Ltd.vs. Union of India, the Delhi High Court held that "income accruing from the transfer of intangible assets licensed for use in India was not taxable in India because the situs of ownership was elsewhere".[18] Relying on the judgement in the present case, since there is no capital asset in India, no capital gains tax would be attracted even if the trade is being executed on the Indian exchange if the sellers are non-resident. Determination of the situs of a crypto asset is a little tricky because in a crypto exchange situation, it is rather challenging to determine who the seller is and the point of contact in the stock exchange.

MN:

Taxation of income in India is governed by the provisions of the ITA which contains separate rules for the taxation of residents and non-residents. Under section 4 read with section 5 of the ITA, residents are taxable on worldwide income, while non-residents are taxable only on India-source income i.e., only and to the extent that such income accrues or arises, or is deemed to accrue or arise in India or is received or deemed to be received in India.

As stated in response 3, the situs of the VDA should be the location of the owner. Hence, income from sale of VDA by a non-resident on getyourcoin.com should not be subject to tax in India, in absence of business connection, significant economic presence or permanent establishment of the non – resident in India.

However, in case of C2F trades, it could be argued that on sale of crypto on getyourcoin.com, the income (if any) is received in the bank account in India. In such case, the transaction should be taxable in India. However, if the non-resident is based in a treaty jurisdiction, then it

18 *Accessed on 04.07.2022 http://gtw3.grantthornton.in/assets/TP-Niche/Fosters-HC.pdf*

could be argued that in absence of permanent establishment of the non – resident in India, the income should not be taxable in India.

SV:

If they are not tax residents in India, but are using the Indian exchange, then it is could be considered as taxable in India. In that scenario, they can claim exemption under the Tax Treaty as available. This would depend from country to country.

JJ:

The Taxpayer shall be taxes in the resident country and claim credit for any taxes paid in the other country.

7. What factors are to be considered for benchmarking analysis if P and B; and P and S have a revenue share agreement for using the technology infrastructure, given the lack of comparables in the market?

RM:

It is essential to know who owns the IP for getyourcoin.com. Though the German entity "P" has set it up in the present case, an assessment needs to be carried out on whether all the DEMPE functions are carried out by P or B. Also, it needs to be evaluated whether a 0.1% transaction fee is the only remuneration received by B or something else is provided by P. Also, if the IP is being owned by P, is B paying any royalty to P. Shredcoin seems to have gained traction in the market and seems to have been created by S. There could be a question if S could be considered as the sole owner of the coin and liable to residual profits if any. Further, since S customizes the NFT platform for its user, it seems like it also performs some DEMPE functions, and the royalty paid by S should not be a lot, and S should also be compensated for its DEMPE functions.

In the course of current (BEPS) reforms, the conceptofvaluecreation,i.e.theanalysisofvalue contributions related to individual functions and actors, has become more widespread. In an outlook on these developments, however, it is questionable whether the concept of value creation can still be maintained. After all, blockchain concepts are characterized by the fact that they are decentralized and, at least in theory, enable every person in the world to collaborate on joint projects. Specifically, it is difficult to identify suitable "comparables" for a benchmarking study, since current NFTs are also difficult to compare. The NFT market has only reached a significant size in the last 2 years and is continuously developing in terms of business models.

SV:

It would depend on the functions carried out by P and B and the IP agreement. General transfer pricing rules would be applicable. The regulatory aspects should also be considered.

MN:

General transfer pricing rules shall be applicable and this is better addressed by a Transfer Pricing expert.

JJ:

General transfer pricing rules shall be applicable.

Response to these questions are personal views of the Authors. Examples / options discussed in the responses are illustrative and the same should not be considered as an exhaustive list

KEY TAX UPDATES[19]

Contributed by:
Bhavya Bansal, Yash Rajpurohit and Dipika Agarwal

Domestic News Updates

1. Central Board of Direct Taxes ("CBDT") extends applicability of Safe Harbour rules to AY 2022-23 [Notification No. 66/2022 dated 17 June 2022]

The CBDT has extended the applicability of rates under safe harbour rules, for transfer pricing issues, for assessment year 2022-23 and the same will be effective from 1 April 2022. During the previous two assessment years the rates have been kept the same as previous years due to Covid 19 pandemic.

2. CCCEST v. Northern Operating Systems (P.) Ltd. [CIVIL APPEAL NO. 2289-2293 OF 2021 Order dated 19 May 2022]

This decision is in the context of service tax however it will have implications under various laws such as income tax, transfer pricing, immigration, social security etc.

In this ruling, the Hon'ble Supreme Court held that service tax would be applicable on secondment arrangements. The assessee entered into an agreement with its overseas group company to avail services of employees by way of secondment / deputation. The overseas group company (employer) disbursed the salary payment of the seconded employee, which was reimbursed to the overseas company, by the assessee. The assessee did not collect service tax on the belief that the payment is reimbursement of expenses and not provision of manpower.

In a secondment situation, applicability of service tax is dependent on whether the Indian company qualifies as the employer of the seconded employee. Where an employer employee relationship is established between the India company and the seconded employee, service tax would not be applicable.

The Hon'ble Supreme Court considering

19 *Please note that key international tax updates pertaining for the period from 1st April 2022 to 31st July 2022 have been considered in this issue.*

substance over form made the following observations:

(a) That the overseas employee is temporarily loaned to the assessee

(b) That an arrangement is contract of services or contract for services has to be determined on the basis of facts, requiring a close look at the terms of the contract, or the agreements

(c) Which company has the lien on employment, i.e., it may appear that the secondees are under the control of the assessee but they are on the payrolls of the overseas employer and return to them or are deployed elsewhere after completion of the secondment tenure.

The Supreme Court held that during the period of secondment the overseas entity remained the employer and the assessee was the recipient of 'manpower recruitment and supply services' by the overseas Group Company, thereby taxable under erstwhile service tax law.

In a recent judgement of Flipkart Internet (P.) Ltd. v.DCIT (International Taxation) [Writ Petition No. 3619 of 2021, dated 24-6-2022], the tax authorities placed reliance on the Hon'ble Supreme Court's judgement in the case of Northern Operating Systems Pvt. Ltd (supra) and held that the payment by Flipkart to the Foreign company for salaries of seconded employees paid by the foreign company in the home country for administrative convenience, was taxable as FTS both under the Act and the relevant tax treaty. The High Court in Flipkart's case was required to consider whether the payment can be considered as fees for included services which require 'make available' criterion being satisfied. However the Hon'ble High Court distinguished the same by holding that the ruling in Northern Operating Systems, is in the context of service tax.

3. UPDATED MUTUAL AGREEMENT PROCEDURE (MAP) GUIDANCE [CIRCULAR F. NO. 500/09/2016-APA-I, DATED 10-6-2022]

The CBDT updated the MAP guidance in respect of the following:

- Consequences of the Vivad se Vishwas (VsV) scheme on MAP

In this regard, where a resident tax payer opted for VsV Scheme for settlement of a case which involves resolution of transfer pricing adjustments on international transactions with its Associated Enterprises (AEs), and the same is accepted by the tax authorities of India, the Competent Authority (CAs) of the other countries or specified territories may accept MAP applications from their taxpayers (which are AEs of the Indian taxpayer), and notify the CAs of India. The CAs of India would allow access to MAP but shall not deviate from the result arrived under the VsV. Instead, they would request the CAs of the treaty partners to provide correlative relief.

Further, the CAs of India shall not provide access to MAP to a non-resident taxpayer which has itself opted for the VsV scheme on the same issue, because the applicant has given up its legal right to access MAP.

- Responsibility of MAP applicants to make true and complete disclosures and provide up-to-date information

The CBDT places responsibility for providing such information on the MAP applicant so as to provide all facts that have a material bearing on the MAP negotiation process. The applicants must not omit the crucial fact of adjustments or other information relating both to India and other jurisdictions.

The CBDT guidance also makes it clear that while appeal and MAP proceedings can be pursued simultaneously, it is incumbent on the

taxpayer to immediately notify the Indian CA of any order passed by the Income-tax Appellate Tribunal during the course of MAP proceedings so that the MAP proceedings may be closed if required and any unnecessary work avoided.

4. CBDT issues clarifications for applying new withholding provisions on peer-to-peer transfer of virtual digital assets ('VDA') not routed through exchange [Circular No.14/2022 dated 28 June 2022]

Finance Act, 2022 inserted a new section 194S in the Act with effect from 1st July 2022, whereby a person responsible for paying any sum as consideration to a resident in India for transfer of VDA is required to deduct TDS @ 1%, subject to certain conditions.

The CBDT has now issued the Circular No. 14/2022 for proper administration of TDS on VDA on transactions not taking place on or through Exchange.

Key clarifications provided in the Circular include procedural compliances on

- Liability to deduct tax at source where consideration is in monetary terms and in kind;
- Both buyer and seller need to pay tax with respect to transfer of VDA when the consideration is in exchange of VDA and show the evidence to other so that VDAs can then be exchanged;
- Overlap between TDS on sale of VDA and TDS on purchase of goods;
- TDS on net value of consideration i.e less GST.

https://incometaxindia.gov.in/communications/circular/circular-14-2022.pdf

5. Central Government notifies inclusion of NFTs and exclusion of certain items from the scope of VDA [Notification No. 74 & 75/2022 dated 30 June 2022]

The definition of VDA was very broad and included various non crypto digital assets. The notifications seek to exclude certain assets. Notification No. 74 excludes the following VDAs from the definition of VDA wef 30 June 2022:

- Gift card or vouchers being a record that may be used to obtain goods or services or a discount on goods or services.
- Mileage points, reward points or loyalty card, being a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services.
- Subscription to websites or platforms or applications.

The Notification No. 75 wef 30 June 2022, specifies that a "token" which qualifies to be a VDA shall not include NFT, whose transfer results in the transfer of ownership of underlying tangible asset and the transfer of ownership of such underlying tangible asset is legally enforceable.

https://incometaxindia.gov.in/communications/notification/notification-no-74-2022.pdf

https://incometaxindia.gov.in/communications/notification/notification-no-75-2022.pdf

International / OECD

1. India and Australia entered into an Economic Cooperation and Trade Agreement (ECTA), which included an agreement for amending Australian domestic tax laws to prevent double taxation of Indian offshore services

India and Australia signed an interim ECTA on 2 April 2022. Both the countries reaffirmed their

commitment to conclude a Comprehensive Economic Cooperation Agreement by the end of 2022.

The Agreement encompasses cooperation across the entire gamut of bilateral economic and commercial relations between the two friendly countries, and covers areas like Trade in Goods, Rules of Origin, Trade in Services, Technical Barriers to Trade, Sanitary and Phytosanitary measures, Dispute Settlement, Movement of Natural Persons, Telecom, Customs Procedures, Pharmaceutical products, and Cooperation in other Areas.

Eight subject specific side letters covering various aspects of bilateral economic cooperation were also concluded as part of the Agreement, including where Australia has agreed to amend Australian domestic taxation law to stop the taxation of offshore income of Indian firms providing technical services to Australia.

Once the domestic procedures have been completed, Australia and India will provide each other with confirmation of their completion through an exchange of diplomatic notes, and the agreement will enter into force 30 days later, or on any other date that is mutually agreed.

https://www.pib.gov.in/PressReleseDetail.aspx?PRID=1812730

2. McDonald's agrees to pay $1.3 billion to settle French tax dispute

McDonald's France and related company have agreed to pay $1.3 billion to settle a tax dispute to the France state, ending a long-running probe into whether the McDonald's had properly declared all of its income in the country.

The settlement agreement resulted from investigations carried out by the French tax authorities in regard to abnormally high royalties transferred from McDonald's France to McDonald's Luxembourg following an intra group restructuring in 2009. McDonald's France doubled its royalty payments from 5% to 10% of turnover. During the investigations it was discovered that McDonald's royalty fees could vary substantially from one McDonald's branch to the next without any justification other than tax savings for the group. 100% increase in the royalty rate was mainly explained by a higher profitability of McDonald's in France and a corresponding increase in taxes due.

The investigations led the French tax authorities to question the overall economic substance of the IP company in Luxembourg and the contractual arrangements setup by the McDonald's group.

McDonald's was offered a public interest settlement agreement under Article 41-1-2 of the French Code of Criminal Procedure. The final settlement agreement between McDonald's and the French authorities was announced in a press release from the Financial Public Prosecutor

3. OECD Forum on Tax Administration-Maturity Model Series

The OECD Tax Administration Maturity Model Series sets out descriptions of capabilities and performance in particular functions or sets of activities carried out by tax administrations across five discrete maturity levels. The intention of this series is to provide tax administrations globally with a tool to allow them to self-assess their current level of maturity and to facilitate consideration of future strategy, depending on a tax administration's unique circumstances and priorities.

A. Amended Digital Transformation Maturity Model on 5 April 2022

This updated report sets out the results of 47 tax administration self-assessments, adding 17 contributions to the 30 included in the 2021

version. This overview allows administrations to compare their own maturity in the different aspects of digital transformation to that of their peers.

https://www.oecd.org/tax/administration/digital-transformation-maturity-model.htm

B. Releases New Maturity Model for tax administration on analytics on 22 June 2022

Analytics is increasingly becoming a common and integrated part of tax administrations across the world, in developed and developing countries alike, being used in strategic as well as operative usage areas.

The model can aid tax administrations in assessing their analytics usage and capability, providing insight into current status and identifying areas of weaknesses as well as strengths.

https://www.oecd.org/tax/administration/analytics-maturity-model.htm

4. OECD released new tool provides insights into digitalisation practices and initiatives for 76 tax administrations

The OECD Forum on Tax Administration and eight key partner organisations launched the first phase of a new global Inventory of Tax Technology Initiatives which contains information on the use of leading technology tools and digitalisation solutions implemented by 76 tax administrations across the world.

The inventory was developed by the OECD Forum on Tax Administration with the assistance of the ISORA Partners (the Inter-American Center of Tax Administrations, the International Monetary Fund, the Intra-European Organisation of Tax Administrations and the OECD), the Asian Development Bank, the African Tax Administration Forum, the Cercle de Reflexion et d'Echange des Dirigeants des Administrations Fiscale, the Commonwealth Association of Tax Administrators and the Study Group on Asia-Pacific Tax Administration and Research.

https://www.oecd.org/ctp/administration/new-tool-provides-insights-into-digitalisation-practices-and-initiatives-for-76-tax-administrations.htm

5. OECD had public consultation meeting on the Crypto-Asset Reporting Framework

The OECD sought public input on the Crypto-Asset Reporting Framework and amendments to the Common Reporting Standard and had public consultation meeting on 23 May 2022 focused on the key questions identified in the consultation document and issues raised in the written submissions received as part of the consultation process. The event was recorded, and the replay is available on OECD web page.

https://www.oecd.org/tax/exchange-of-tax-information/public-consultation-meeting-crypto-asset-reporting-framework-and-amendments-to-the-common-reporting-standard-23-may-2022.htm

6. International tax reform: Multilateral Convention to implement Pillar One on track for delivery by mid-2023

OECD Secretary releases General Tax Report to G20 Finance Ministers and Central Bank Governors. According to report, the implementation of the international tax reform agreement to ensure multinational enterprises pay a fair share of tax wherever they operate is progressing.

The report includes a new Progress Report on Pillar One, presenting a comprehensive draft of the technical model rules to implement a new taxing right that will allow market jurisdictions to tax profits from some of the largest multinational enterprises ("Pillar One"). This report will now be subject to public consultation through to

mid-August. The Inclusive Framework will then aim to finalise a new Multilateral Convention by mid-2023, for entry into force in 2024.

Technical work under Pillar Two, which introduces a 15% global minimum corporate tax rate, is largely complete, with an Implementation Framework to be released later this year to facilitate implementation and co-ordination between tax administrations and taxpayers. All G7 countries, the European Union, a number of G20 countries and many other economies have now scheduled plans to introduce the global minimum tax rules.

In addition to the update on both Pillars, the Report updates progress in the implementation of the Transparency Agenda

https://www.oecd.org/tax/beps/international-tax-reform-multilateral-convention-to-implement-pillar-one-on-track-for-delivery-by-mid-2023.htm

7. The Netherlands releases New 2022 Decree on application of the Arm's Length Principle

On 1 July 2022, the tax authorities in the Netherlands published new Decree relating to local guidance on application of the arm's length principle.

This decree replaces the transfer pricing decree of April 22, 2018 and section V of the Questions and Answers (Financial Service Entities) Decree of 2014. The new decree includes a complete new section on financial service companies.

The Decree is based on article 9 of the OECD Model Tax Convention and the OECD Transfer Pricing Guidelines and also contains references to local case laws.

In the Decree, particular focus is on areas that have been updated in the most recent releases of the OECD Transfer Pricing Guidelines – Legal ownership, DEMPE functions, Services, HTVI and Valuation Methods, Government policies (COVID-19), Remuneration of Procurement activities, Financial transactions, etc.

https://zoek.officielebekendmakingen.nl/stcrt-2022-16685.html

8. OECD and Brazil work together to align Brazil's transfer pricing rules to international standard

The OECD and Brazil's Receita Federal (RFB) held a joint high-level event on 12 April 2022 in Brasília to present the key features of Brazil's proposed new transfer pricing system. The outcome of the joint project between OECD and RFB since its launch in February 2018, will be a new transfer pricing framework for Brazil, aligned to the OECD standard.

As noted by the Brazilian Finance Minister this would tackle the issue of excessive taxation and double taxation that prevent investments; and the damage of tax avoidance through the transfer of profits to locations providing for a more favourable taxation.

https://www.oecd.org/ctp/tax-global/oecd-and-brazil-work-together-to-align-brazil-s-transfer-pricing-rules-to-international-standard.htm

IFA EVENTS AND ANNOUNCEMENTS

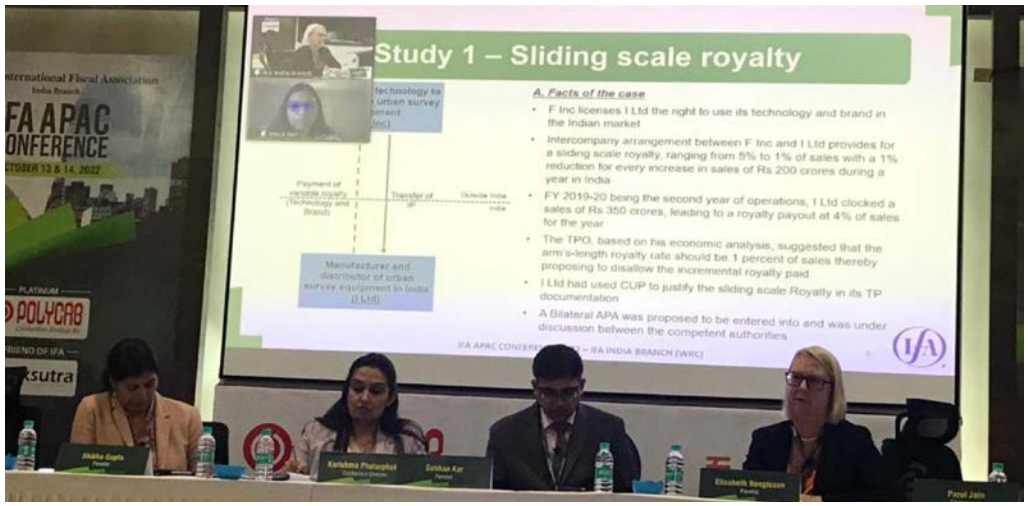
Contributed by: **Ameya Khare**

IFA India Branch
EARLIER HELD EVENTS:

DATE : 13-Oct-2022 - 14-Oct-2022
PLACE : Mumbai (Hybrid In-Person/Virtual)
Conference : **IFA Asia Pacific Tax Conference 2022**

DESCRIPTION : IFA APAC Conference 2022 was held on 13 and 14 October at IFA Academy, Mumbai IFA India held the IFA APAC Conference 2022 at IFA Academy, Mumbai in hybrid mode. The Conference was held keeping in mind the timezones of different countries and provided an excellent opportunity for exchange of views and knowledge sharing in the area of tax policy and dissemination of information on tax jurisprudence. The Conference started

with panel discussion on the new era of Remote/Hybrid Working - Impact on business models and individuals. There were power-packed panel discussions with renowned global Speakers on the topics including Tax Challenges and opportunities arising from OECD's Pillar 1 & 2, Board Room talks on Tax Governance and Recent developments in International Tax and Transfer Pricing. The Conference was well attended with 200 participants.



DATE	:	09-Jul-2022
PLACE	:	Mumbai (Hybrid In-Person/Virtual)
Event	:	**"Q & A on clarifications on Sections 194R and 194S"**
DESCRIPTION	:	Panel featuring tax experts, industry and revenue officials
WEBSITE	:	www.ifaindia.in
E-MAIL	:	info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in, ifaindiabranch@gmail.com

DATE	:	01-Jul-2022
PLACE	:	Hyderabad (Hybrid In-Person/Virtual)
Conference	:	**International Tax Trends Conference**
DESCRIPTION	:	The conference covered topics on Taxation of virtual Digital Assets, Global Anti – Base Erosion Model Rules (Pillar Two), Assessment u/s 148 - What Next, Transfer pricing case studies
WEBSITE	:	www.ifaindia.in
E-MAIL	:	admin@ifasrc.org

IFA Worldwide
PAST EVENTS:

IFA Congress 2022 in Berlin

DATE : 4-8 September 2022
PLACE : Berlin
Conference : **IFA Congress 2022**
DESCRIPTION : The 74th Congress of IFA, Berlin was held from 4-8 September 2022. The Congress provided an unique opportunity to discuss international tax topics of current significant interest and importance. It provided a platform for professional exchange, networking opportunities and exciting cultural events. The focus of the IFA Congress in Berlin was on digitalisation and big data as well as recent developments in international tax law. Around 2,000 participants from all over the world including leading tax experts from the corporate, administrative, and political arena attended the event and provided for an amazing professional opportunity to discuss international tax trends and delve into new topics. The highlight of the event was IFA & OECD panel chaired by Porus Kaka which witnessed a standing ovation for Pascal San Aman labelled as the chief architect of OECD's BEPS program. The Congress was held in hybrid mode and gave an opportunity to participants from around the World to participate in the event.
WEBSITE : www.ifatax2022.com
E-MAIL : ifatax2022@wearemci.com

DATE : 23-Aug-2022 - 25-Aug-2022
PLACE : Buenos Aires, Argentina (Hybrid In-Person/Virtual)
CONFERENCE : **IFA Argentina Conference on Argentina's impressions from IFA Lima 2022**
DESCRIPTION : The conference has presented some of the reporters and panelists impressions from the last Latin American Regional Conference held in Lima covering topics on the subject of Transfer Pricing in Latin America & OECD guidelines after BEPS, Transfer Pricing Disputes, Anti-abuse & Anti-BEPS measures, AI use in tax examinations & Taxpayers' rights in the digital era and Taxation of the Digital Economy from a Latin American point of view
WEBSITE : www.aaef.org.ar
E-MAIL : teresa@aaef.org.ar

DATE : 01-Aug-2022 - 29-Aug- 2022
PLACE : Buenos Aires, Argentina (Hybrid In-Person/Virtual)
EVENT : **WIN Argentina Seminar Series**
DESCRIPTION: Featuring women speakers lecturing on interesting tax topics like Tax Residency, Transfer Pricing Environmental Taxes, Income Tax: Stock sale & Redomiciliation, Double Tax Agreements / MLI
WEBSITE : www.aaef.org.ar
E-MAIL : teresa@aaef.org.ar

DATE : 27-Jul-2022
PLACE : Virtual
EVENT : **IFA USA DC Regional Webinar- GILTI becomes a Qualifying IIR – Now What?**
DESCRIPTION : Discussion on the implications of Pillar 2 for U.S. companies if the reforms to GILTI in the House-passed version of the Build Back Better Act (BBBA) are enacted. The panel discussed what impact Pillar 2 may continue to have on US parent entities, foreign disregarded entities and branches, U.S. intermediate holding companies, partially-owned parent entities, as well as the Pillar 2 reporting and compliance requirements that may remain for U.S. based companies. The future implications of Pillar 2 on US companies in the absence of US tax reform, including discussing different methods for allocating GILTI taxes to foreign entities for Pillar 2 computation purposes.
WEBSITE : www.ifausa.org
E-MAIL : info@ifausa.org

DATE : 20-Jul-2022
PLACE : Virtual
CONFERENCE : **IFA Portugal: Conference on "Taxation of Artistic Activities"**
DESCRIPTION : Discussions centered around taxation of artistic activities
WEBSITE : www.afp.pt
E-MAIL : afp@afp.pt

DATE : 30-Jun-2022
PLACE : Virtual
EVENT : **Bilateral webinar organised by the WIN of Spain and the Netherlands**
DESCRIPTION : Featuring women speakers lecturing on the topic of "Working remotely - tax implications in the Netherlands and Spain"
WEBSITE : www.aedf-ifa.org
E-MAIL : ifasecretatriaatnl@loyensloeff.com

DATE : 23-Jun-2022
PLACE : Singapore
CONFERENCE : **IFA Singapore - International Tax Dialogue**
DESCRIPTION : Discussion on understanding the new sentencing framework for tax evasion
WEBSITE : www.ifasingapore.org
E-MAIL : contact@ifasingapore.org

DATE : 23-Jun-2022
PLACE : Lisbon, Portugal
EVENT : **IFA Portugal "The Portuguese state budget and the tax outlook for 2022"**
DESCRIPTION : The speaker Dr. Antonio Mendonca Mendes, Secretary of State for Fiscal Affairs discussed primarily on the Portuguese state budget and the tax outlook for 2022
WEBSITE : www.afp.pt
E-MAIL : afp@afp.pt

DATE : 16-Jun-2022 - 17-Jun-2022
PLACE : Queenstown, New Zealand
CONFERENCE : **IFA NZ Conference 2022**
DESCRIPTION : The conference covered topics on International Taxation and Transfer Pricing
WEBSITE : www.ifa.nl
E-MAIL : joanne.r.kreeger@pwc.com

DATE : 16-Jun-2022 - 17-Jun-2022
PLACE : Virtual
EVENT : **IFA-YIN Seminar**
DESCRIPTION: The seminar gathered speakers from Argentina, Brazil, Canada and India who discussed recent case laws on hot topics of international taxation covering subjects like application of anti-abuse rules, income attribution rules and the most-favored nation principle in the context of a double tax treaty application
WEBSITE : www.ifa.nl
E-MAIL : info@aaef.org.ar
DATE : 08-Jun-2022
PLACE : Schaan, Liechtenstein (Hybrid In-Person/Virtual)
EVENT : **IFA Liechtenstein: BEPS Pillar 2 - introduction of a global minimum tax**
DESCRIPTION : Exciting discussion on BEPS Pillar 2 Introduction of a global minimum taxation delivered by the actual "inventor" of minimum taxation and President of the OECD Tax Committee, Martin Kreienbaum
WEBSITE : www.ifa-fl.li
E-MAIL : sekretariat@ifa-fl.li

DATE : 02-Jun-2022 - 03-Jun-2022
PLACE : Washington, USA (Hybrid In-Person/Virtual)
CONFERENCE : **IFA USA Branch 50th Annual Conference**
DESCRIPTION : Substantive sessions on international tax topics, featuring prominent speakers from private practice, industry and government.
WEBSITE : www.ifausa.org
E-MAIL : michaeld@ifausa.org

DATE : 01-Jun-2022
PLACE : Virtual
CONFERENCE : **Joint meeting of the Italy and USA IFA Branches**
DESCRIPTION : Discussion on international tax and transfer pricing featuring prominent speakers from USA and Italy
WEBSITE : www.ifausa.org
E-MAIL : info@ifausa.org

ANNOUNCEMENT

We are pleased to inform you that IFA India WRC has received the following books as complementary from Taxmann which are placed in our library:

SR. NO.	NAME OF BOOK	AUTHOR/EDITOR	PUBLISHER	EDITION
1	Law and Practice Relating to Permanent Establishment,	FCA Ashish Karundia,	Taxmann	August 2015,
2	Digital Taxation A Holistic View,	CA Rashmin Sanghvi, CA Naresh Ajwani, CA Rutvik Sanghvi, Foreword by Shri Akhilesh Ranjan (CBDT),	Taxmann	November 2019,
3	Permanent Establishment - Emerging Trends,	The Chamber of Tax Consultants (CTC),	Taxmann	October 2020,
4	FEMA PRACTICE MANUAL (A Comprehensive Day to Day FEMA Guide for Professionals),	CA SudhaG. Bhushan,	Taxmann	2022,
5	The Principles of International Tax Planning,	Roy Saunders (IFS Consultants),	Taxmann	2014,
6	Principles of International Tax Planning,	Rohit Gupta (B. Com, FCA, LLB),	Taxmann	2015,
7	Law and Practice Relating to General Anti Avoidance Rules (GAAR),	D. P. Mittal,	Taxmann	02nd Edition - 2017,
8	FEMA & FDI Ready Reckoner,	Taxmann Publications Pvt Ltd,	Taxmann	16th Edition - 2022,
9	Law and Practice of TAX TREATIES,	R. P. Garg (B. Com, FCA, LL.M, Advocate), Beenu Yadav (B.A. Hons, Eco, LL. B, Advocate),	Taxmann	July 2014,
10	Law Relating To Transfer Pricing (With TP Audit & Multilateral Convention 2019 to Implement BEPS),	Amended by Finance (No.2) Act 2019 (Taxmann Publications Pvt Ltd),	Taxmann	09th Edition - September 2019,

IFA~INDIA BRANCH NEWS LETTER

EDITORIAL BOARD

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IFA~INDIA

International Fiscal Association - India (IFA-India) is a society registered in Delhi (India) under the Societies Registration Act, 1860. It operates in India through its Head Office in the National Capital Region (NCR) and four regional chapters in North, South, East and West. IFA-India is governed by an Executive Committee which presently has 26 members with 6 elected office bearers among them. IFA-India is engaged in promoting better understanding on the subject of international tax and the related fiscal laws. It organises conferences, seminars, workshops, training courses and encourages discussions and conversations through various other modes like webinars and social media. The membership includes tax administrators, tax policy experts, tax court judges, and tax professionals from corporates and from consultancy. It has set up an International Tax Academy at Noida where regular learning and knowledge sharing programs are held on the theme subject.

IFA

IFA-India is a part of International Fiscal Association headquartered in the Netherlands (IFA). Established in the year 1938 as a non-profit organisation, IFA provides a neutral and independent platform where representatives of all professions and interests can meet and discuss international tax issues at the highest level. IFA has played an essential role in both, the development of certain principles of international taxation and in providing possible solutions to problems arising in their practical implementation. Its objects are study and advancement of international and comparative law with regard to public finance, specifically, international and comparative fiscal law and the financial and economic aspects of taxation. IFA seeks to achieve these objects through its Annual Congresses and the scientific publications relating thereto as well as through scientific research. Although the operations of IFA are essentially scientific in character, the subjects selected take account of current fiscal developments and changes in local legislation.

The membership of IFA now stands at more than 12,000 from 106 countries. In 62 countries, including India, IFA members have established IFA branches and IFA-India is one of those 62 branches world over. IFA-India has also taken initiatives to encourage young IFA members and Women IFA members to participate in its initiatives through YIN (Young IFA Network) and WIN (Women IFA Network).

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