

NEWSLETTER

IFA ~ INDIA BRANCH



PVSS Prasad
Chairman, India branch

Dear IFA members and colleagues,

I am delighted to present our newsletter March 2024. Isha Sekhri, Yash Rajpurohit, Sudarshan Rangan and supported by Paresh Parekh did an excellent job in compiling and bringing out this edition.

The Two-Pillar solution is steadily making progress both in respect of Pillar One and Pillar Two. Of course, Pillar Two relating to Global Minimum Tax made headway in respect of implementation in some of the jurisdictions. India is yet to implement Pillar Two rules in its domestic law. Approval of the USA of the Pillar One proposals with respect to Amount A is very critical for its success. Emerging ►

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economies like India are carefully watching the progress on this front. The developing countries are concerned whether Amount A computation would provide significant tax revenues in their respective market jurisdictions. Computation of Amount A as prescribed under the Multilateral Convention (MLC) document and supporting material released in October 2023 is a complex mechanism. Achieving convergence between capital exporting and importing countries with respect to Amount A computation for digital taxation under Pillar One seems to be very critical. In this backdrop United Nations is asserting itself as a tax policy body to protect the interests of the developing countries. In this regard, on 22nd November 2023 UN General assembly approved a landmark resolution proposed by Nigeria on behalf of group of African states. On 19th February 2024, OECD released report on Amount B of Pillar One in respect of ALP approach to baseline marketing and distribution activities.

At this metamorphic phase in the international tax landscape, IFA India did a conference on 16th and 17th February 2024 at Hyderabad as a flagship event with the most current topics that

are dealt with by eminent speakers from India and abroad which was co-hosted by Southern, Western and Northern regional chapters of IFA India. The said event was a grand success with around 170 participants.

This edition contains an interesting article on Subject to Tax Rule (STTR) under Pillar Two on the basis of updates announced by OECD in October 2023 and also experts' insights on the present status of Two pillar solution. I urge all the IFA members to keep track with the upcoming events of India branch like Annual event 2024 in Delhi etc. This year being an election year for the country we had only an Interim Budget on 1st February and look forward for the full-fledged Budget under the new government in and around June/July 2024.

I would like to thank the entire editorial team of the newsletter in bringing out this insightful edition. As chair of IFA India this is my first communication and wish the entire IFA family an eventful and prosperous year 2024.

Yours

PVSS Prasad

SUBJECT TO TAX RULE

BEPS 2.0 - Pillar 2 - Heading towards tax neutrality¹

Contributed by: - Mansi Agrawal, Parth Shah²



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1. Background³

The 21st century is characterized by digitalisation and globalisation of businesses. In light of the above, there was a need to relook at the prevailing international taxation rules that had created opportunity for Base Erosion and Profit Shifting ('BEPS').

Accordingly, in September 2013, Organisation for Economic Co-operation and Development ('OECD') and G20 countries developed 15 Action Plans to address the BEPS issue. Further In 2016, the OECD and G20 established an Inclusive

Framework on BEPS to allow interested countries and jurisdictions to work with OECD and G20 members in developing, reviewing and monitoring the implementation of the whole BEPS Package.

In October 2021, to address tax challenges arising from digitalisation of economy, over 135 Inclusive Framework members (representing 95% of global Gross Domestic Product ('GDP')), joined a 'two-pillar' solution ('BEPS 2.0'). The Pillar one aims at reallocation of taxing rights to the market jurisdiction and Pillar two aims at Global anti-Base Erosion (GloBE) through global minimum tax and widened source rule.

¹ The views in the article are authors personal views and should not be interpreted as views of authors employer or any professional organisation with which authors are associated

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³ <https://www.oecd.org/tax/tax-challenges-arising-from-the-digitalisation-of-the-economy-subject-to-tax-rule-pillar-two-9afd6856-en.htm>

Pillar two consist of two sets of rules i.e. Globe rules and STTR. GloBE rules to ensure / achieve global minimum tax on income of the multinational enterprise ('MNEs') in each jurisdiction. In our last article, we covered understanding of Globe Rules. In this article, we have covered Subject to Tax Rules ('STTR') a vital component of Pillar 2, designed to safeguard the taxation rights of developing countries on certain source-based income. STTR is a treaty-based rule for a wider source taxation.

In July 2023, under BEPS 2.0 project, OECD / G20 Inclusive Framework released various documents including STTR model treaty provisions and commentary. Further, on 3 October 2023, the OECD announced that the Inclusive Framework on BEPS had concluded negotiations on a Multilateral Convention to facilitate the Implementation of the Pillar Two Subject to Tax Rule.

2. What is STTR

STTR is similar to withholding tax which provides taxing rights to source country on 'covered income' to 'connected person' if such covered income is not subjected to nominal tax rate of 9%.

Nominal tax rate is the statutory tax rate applicable to the type of covered income. Further, if statutory tax rate is subject to a 'preferential adjustment' (i.e. a permanent reduction in the amount of the covered income or the tax payable on that income) then such preferential tax rate would be considered as nominal tax rate. STTR is slightly different from withholding since the tax chargeable under STTR shall be determined following the end of that fiscal year and resident country is not obligated to provide credit for such taxes paid.

- **Covered income** that falls within the ambit of STTR are as follows:

- (i) Interest
- (ii) Royalties

- (iii) payments made in consideration for the use of, or the right to use, distribution rights in respect of a product or service.
- (iv) insurance and reinsurance premiums
- (v) fees to provide a financial guarantee or other financing fees
- (vi) rent or payments for use of or right to use industrial, commercial or scientific equipment
- (vii) income received as consideration for provision of services

- **Connected person** are person that are connected to another person if one has control over the other or both are under the control of same person or persons (direct or indirect ownership / voting power of more than 50%).
- **STTR Exclusions**
- **Exclusions to certain recipients:** STTR do not apply to individual, non-profit organisations; states and government entities; international organisations; investment funds (subject to certain conditions), pension funds; holding vehicles wholly, or almost wholly owned by an excluded recipient.
- **Low value added exclusion:** STTR only applies to covered Income (other than interest and royalties) where the amount of covered income exceeds the costs incurred in earning that income plus a mark-up of 8.5%. Interest and royalties are considered for Low value added exclusions as they are considered to be soft target for BEPS.
- **Materiality based exclusion:** STTR only applies if the aggregate sum of covered income paid in a fiscal year exceeds EUR 1 million (or EUR 250,000 for jurisdictions with GDP below EUR 40 billion). Based on above, Euro 1 million will be the threshold for India.

The STTR also contains a targeted anti-avoidance rule (TAAR). TAAR applies in case where payment is made to intermediary (an unconnected person) and such intermediary has subsequently made payment to payee who is connected to the first payor. Accordingly, subject to certain conditions, if it is reasonable to conclude that in the absence of original payment, the intermediary would not have made the related payments, the intermediary would be disregarded for calculating the tax rate for the STTR.

3. Implementation of STTR

STTR is treaty change and will be implemented through a multilateral instrument. Alternatively, the STTR can be implemented into relevant tax

treaties individually via bilateral negotiations. STTR is to be applied in priority to the GloBE Rules and is a covered tax. Accordingly, the tax paid under STTR (like withholding) would be considered while calculating effective tax rate for the purpose of Top-up Tax.

4. Impact on Indian outbound payments - Illustrations

India has extensive treaty network where most outbound payments are covered under specific clause which is likely to be taxed at more than 9% in most treaty. However, there could be payments which may still be impacted due to STTR. Few of the examples are tabulated below:

Sr. No	Illustrations	Impact pre STTR	Impact post STTR*
1.	I Co. (Indian Company) pays commission to F Co. (Based in UAE - Free Trade Zone ('FTZ')).	Under current India- UAE Double Taxation Avoidance Agreement ('DTAA'), there will be no tax in India due to absence of a Permanent Establishment ('PE'). Further, there is no corporate tax in UAE(FTZ) and hence, such income is not subject to tax either in India or UAE.	Post STTR inclusion, since such income is not subject to tax at 9% in UAE, India may tax such commission at 9% in India under STTR. The total tax cost on such commission would be 9% at gross level.
2	I Co. (Indian Company) making management service fee payment to Singapore Co. which is not considered as Fees for included ('FIS') since such services does not make available technical knowledge etc.	Under current DTAA between India and Singapore, fees for included services" inter-alia means any technical or consultancy services if such services make available technical knowledge, experience, skill, know-how, or processes, or consist of the development and transfer of a technical plan or technical design. Assuming such services does not qualify for FIS, there will no tax in India. Further, Singapore may exempt such income if it is not received in Singapore. There will be no tax in the entire arrangement either in India or Singapore.	Post STTR inclusion, since such income is not subject to tax at 9% in Singapore, India may tax such FIS (irrespective of specific Article in DTAA) at 9% in India under STTR. The total tax cost on such FIS would be 9% at gross level.

3.	I Co. paying rental to shipping company in Netherland	Covered by Article 8 and no source taxation	Rental income from Shipping is outside purview of STTR. So no impact post STTR.
4.	I Co. pays interest to Mauritius Co. who is exempted in Mauritius due to preferential regime.	Under India – Mauritius DTAA, such interest will be taxed in India at 7.5%. therefore, total tax costs would be 7.5%.	Post STTR inclusion, since such income is subject to tax at less than 9%, India may recover additional 1.5% under STTR. The total tax cost on such interest would be 9% at gross level.

*Please note above is subject to the prescribed exclusion (that is mark-up based and monetary threshold)

Conclusion

STTR aims to protect the tax base of developing countries. STTR has an impact of increasing the overall tax cost for the businesses for transaction covered by STTR provisions. Businesses are required to monitor payments to related parties (including to third parties if anti avoidance rules are triggered) and evaluate the impact of STTR. Accordingly, STTR once operationalised, either through bilateral tax treaties or multilateral instrument, is expected to benefit developing

countries including India by restoring taxing rights to source countries. However, due to mark-up threshold and materiality threshold, whether STTR will achieve the desired objective in terms of real benefit to the developing countries needs to be seen.

With recent G20 re-affirmation for swift implementation of two pillar approach, Pillar 2 implementation is close to reality. MNEs need to keep pace with the continuous changes that are unfolding to be able to adapt quickly.

BEPS 2.0

-As a continuation of our BEPS 2.0 series, we bring to you an Experts speak section on specific questions on this subject.

QUESTIONS & EXPERTSPEAK



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1. What are your views on India's implementation of Globe Rules in light of recent G20 declaration? Given the aggressive timelines for implementation, what are your views on preparedness of Indian government and implementation challenges?

MB: The recent G20 declaration, highlighted in Para 62 signals a balance being struck between the G7 and rest of the G20 members. To me it is evident that the euphoria surrounding July 2019 statement of G7, for global minimum tax and putting in motion – implementation of Pillar Two (over Pillar One) – seems to be finding a balance. The recent G20 statement emphasising on simplification and streamlined

application of ALP to marketing and distribution activities (also popularly called Amount B) is suggestive of equal emphasis to close the loose ends on Pillar One implementation. In general, baseline profitability of marketing and distribution subsidiaries of foreign MNEs, has been a vexed issue.

India's tax policy stance, as reflected in transfer pricing audit procedure reflects its desire to allocate more income to India, on the ground that the Arm's Length Principle (ALP) is not just about Functions, Assets and Risks (FAR) but an added element pertaining to market. Hence, in India's view, which is getting reflected in its position before multilateral forum (including in

OECD led BEPS project), the debate has shifted from FAR to FARM. This is further exacerbated by reliance on commentary under Article 7(2) of the UN Model Convention, which recognises that, besides departing from Authorised OECD approach (AOA) on allocation of profits to permanent establishment. For instance, amendments to domestic law, administrative/audit practices in TP audits, such as invocation of adjustments due to marketing intangibles, uncodified intensity-based test in unilateral and bilateral APA negotiations are mere pointers. It is therefore incumbent upon emerging markets such as India to work towards a definitive determination of principles that would apply to Amount B, to ensure success of Pillar One, which is a vilification of India's position for grant of market jurisdiction rights to tax income arising out of digitalisation.

The debate on Pillar Two and development of STTR Rules, though independent has attracted limited attention of Indian policymakers, at least in so far as official statements of the Department of Revenue are concerned. Though anecdotal actions suggest that India supports the development of a framework in relation to STTR at alternative forums as well, the overarching goal is to formulate a comprehensive framework to address concerns of base erosion and profit shifting in transactions involving related parties but also ensure minimum taxation of MNEs in developing countries. With the recent release of MLI on STTR by OECD and the drafting of STTR at the UN, the common objective remains the same. The implementation of the framework will depend on the level of comfort of developing countries based on the inclusivity offered by these forums. The UN STTR is much wider than the OECD STTR, which would probably make the UN STTR attractive from a developing country standpoint. However, the willingness of treaty partners to sign and ratify the UN STTR would need to be tested.

KV: We are witnessing a new era in International Taxation, wherein Pillar One suggests the shifting of taxing rights on profits to market jurisdictions in the digital world, which was earlier based on physical presence. Pillar Two introduces a minimum corporate income tax of 15% and Subject To Tax Rules (STTR).

Historically, Indian Government and Tax Officers have been aggressive and more so in the field of International Tax cases. India along with other Countries, has agreed to the Inclusive Framework. At the G20 New Delhi Leaders' Declaration, India remains committed to continue cooperation towards a globally fair, sustainable and modern international tax system, the swift implementation of Pillar Two package and welcomes the plan for additional support and technical assistance for developing countries.

Certain countries like Singapore and Hongkong have proposed the implementation of GloBE rules from 1st January 2025. At Home here, the implementation of GloBE Rules in Indian Domestic Legislation seems to be around the corner but due to the upcoming central elections, the next budget would be an interim budget. At the same time, India has committed to G20 for swift implementation of Pillar Two, however, the Government has not yet clarified whether the GloBE Rules will be introduced in the Interim Budget or not, neither have the draft rules been circulated.

Indian Corporates require that the Government should provide sufficient time, to be fully prepared for smooth implementation of the new regulations. Industry expects that the Indian GloBE Rules be consistent with OECD Pillar Two concepts and definitions. The rules should be supported with clarifications and requisite guidance to reduce any challenges in terms of future litigation.

2. Considering that major economies like the USA and China are not particularly enthusiastic about the BEPS 2.0, what is your view on overall success of this initiative?

MB: It may not be correct to suggest that major economies (US and China) are not enthusiastic about BEPS 2.0. According to Professor Takaygui Nagato, if one were to trace the history of BEPS 2.0, one would see that the US was a key contributor to the concept. The idea of global minimum taxation in pillar 2 originated from the declared positions of Germany and France on the minimum taxation of profits in the Common Corporate Tax Base Directive. The United States welcomed the proposal because it had already introduced the global intangible low-taxed income rules and the base erosion and antiabuse tax rules in the Tax Cuts and Jobs Act. The transition from the Trump administration to the Biden administration brought significant change in the prospects for consensus-making in the inclusive framework on the two-pillar solution. The United States shifted priority between pillar 1 and pillar 2 by presenting its plan on the two-pillar solution to the inclusive framework steering group on April 8, 2021. The U.S. plan put pillar 2 in the centre of the global tax deal to end the race to the bottom over multinational corporate taxation. Pillar 2 was useful in avoiding putting U.S. MNEs at a competitive disadvantage under the U.S. Made in America Tax Plan to increase corporate tax revenue by raising the statutory corporate tax rate to 28 percent and the GILTI effective tax rate to 21 percent. The United States proposed a simplification of pillar 1 because it was not expected that the complexities and wide scope of the pillar 1 blueprint would be approved by the Senate.

Although the Biden administration revived the hope of reaching a consensus on the global tax deal, it was not what inclusive framework

member countries, except large powerful developed countries, expected. Developing countries were disappointed with the U.S. pillar-2-centric proposal. The United States, proposed on May 20, 2021, to the steering group of the inclusive framework that the global minimum tax rate should be at least 15 percent, notwithstanding the announcement of Ireland. The proposal was welcomed by Germany and France, which had been going to accept even 12.5 percent, but Eastern European countries and China were not happy about the rate being higher than their expectations. Developing countries were not satisfied with the proposal because they thought the 15 percent minimum rate was too low and feared that the revenue would go to the rich home jurisdictions of the MNEs. However, it is certain that the U.S. proposal in May paved the way for the G-7 agreement in June and the inclusive framework and G-20 meeting agreements in July,

The reasons for low enthusiasm can also be attributed to host of factors including impeding the legislative process of effectuating amendments to bilateral conventions and the forthcoming 2024 presidential elections (Both in US and China). In so far as China is concerned, a host of geo-political considerations are playing out as a result of which a distance from all multilateral institutions sponsored and supported by the western worlds, is contributing in a major way.

KV: The intent of Inclusive Framework (IF) formed was to stop the "race to bottom" and to create a secure level playing field for all countries. IF aims at mitigating the risk of profits being shifted to low tax jurisdictions (LTJ) considering the mobile business models and digital economy. While USA and China are not enthusiastic of BEPS 2.0, both are members and have signed the IF along with 140 member countries. The way the rules are drafted, even if

one jurisdiction does not implement the rules, they cannot object implementation by other jurisdictions.

In December 2022, the Council of the European Union (EU) reached unanimous agreement to implement the EU Minimum Tax Directive (Pillar Two) and the Member States have time until December 2023 to transpose the Directive into National Legislation. Global minimum tax framework under Pillar Two is already a reality, with over 50 jurisdictions taking steps towards implementation.

With this global support, BEPS 2.0 is expected to achieve success. It's just a matter of time, a year or two.

3. How do you think will Globe Rules Impact India HQ businesses? What changes (e.g., to processes or systems) do you anticipate that businesses may be required to make in order to comply with Globe rules?

The impact of GloBE Rules to Indian-headquartered businesses is limited at this point in time, given the threshold of € 750 million. However, as Indian-headquartered businesses aspire to grow, from a medium to long term perspective, the impact could be significant.

I see actions at two levels. The first level is at the tax policy level as to how the government responds to changes in the domestic policy, which would impact Indian-headquartered businesses. In this, regard, my advice would be for the policymakers to engage with large Indian businesses to understand their overseas structures and spread of geographical operations, including incentives and effective tax rates of such businesses. India's response at multilateral forums will be fortified with an understanding of the spread of Indian-headquartered businesses across the globe and forecasting the future

in so far as outbound investments of Indian-headquartered businesses are concerned. This will help shape domestic policies on legislating CFC, anti-avoidance rules, dispute resolution mechanism, etc in a manner which signals that India is open-minded and believed that its investment environment is not just welcomed for foreign investors, but it is reciprocated towards Indian-headquartered businesses, who are operating in jurisdictions with which India has tax treaties. Equally, Indian-headquartered companies will need to review their structures to make it compliant with the new world order as advocated by GLoBE rules and related MLC, but also equally responsive to changes in domestic laws of source countries. This is an area where Indian-headquartered businesses will be tested from a tax governance standpoint in major jurisdictions such as EU, the UK, and the US. This will force Indian-headquartered businesses to stay alert on changes such as EU's Anti-tax Avoidance Directive (ATAD), UK's diverted profits tax and related regulations in the US such as GILTI, etc.

KV: Once India introduces the Globe Rules (IIR and UTPR) in its Domestic Legislation, Indian HQ businesses, being the Ultimate Parent Entity (UPE), would be responsible to carry out preliminary analysis and address the structural changes (if any required), discharge the Top Up Taxes (TUT) and file GloBE Information Return (GIR).

Implementation of GloBE Rules will necessitate changes in compliance processes, that could be achieved by a combination of manual and automated processes. Development of robust IT systems will primarily be required for collation of Data, its review analysis and refinement of data sources. End to End processes and Technology Tools should provide for calculation of GloBE Tax and Reporting to various stakeholders. Data, being

the king, its correctness and accuracy will play a larger role to determine the cash tax outflows (in terms of TUT) to the MNE Group. Integration of Accounting Systems with Technology Tools would provide a seamless flow of data and convert it to the required output information. MNE's should also analyse whether the Country-by-Country Reports (CbCR) are Qualified CbCR's from a Pillar Two perspective. Talking in terms of the Level of Automation,

the Indian Government is much ahead (of the Corporates) in terms of data integration between Direct Taxes, Customs, Goods and Services Tax (GST) etc. Its time that the CFO's are presented with information and global integrated data on one dashboard. Thus, introduction of Globe Rules will have a major impact on Indian HQ business both in their processes as well as their Information Technology Systems.

KEY TAX UPDATES⁴

Contributed by:
Yash Rajpurohit and Sudarshan Ranganl

Used following Sources to identify international tax updates:

1. OECD website
2. <https://transferpricingnews.com/tag/featured-news/>
3. EY tax Alert
4. Taxsutra - International updates

A. Global Tax Leaders Collaborate to Shape Future Tax Administration

The OECD's Forum on Tax Administration (FTA) met in October 2023 with tax leaders from around the world. They agreed on three important things:

- Adopt new technology to make paying taxes easier for everyone and reduce mistakes.

- Global coordinator for seamless implementation of the Global Minimum Tax Rules.
- Collaboration and peer learning with other tax administrations for building capacity.

<https://www.oecd.org/tax/administration/heads-of-tax-administrations-agree-on-new-collaborative-initiatives-to-shape-the-future-of-tax-administration.htm>

B. OECD/G20 Inclusive Framework release Multilateral Convention to address tax challenges of globalisation and digitalisation

The OECD/G20 Inclusive Framework has released a new multilateral convention aimed at tackling the tax challenges posed by globalization and digitalization. This convention, known as the Multilateral Convention to Implement Amount A of Pillar

⁴ Please note that key international tax updates pertaining for the period from 9 August 2021 to 31 March 2021 have been considered in this issue.

One (the MLC), represents significant progress in implementing the Two-Pillar Solution to update the international tax framework. Under Pillar One, the MLC seeks to reallocate taxing rights to market jurisdictions for a portion of the profits of large multinational enterprises (MNEs), irrespective of their physical presence. It also aims to eliminate digital service taxes, prevent double taxation, and provide stability in the international tax system. The release of this convention is a crucial step toward making the global tax system fairer and more adaptable to the digitalized world.

<https://www.oecd.org/tax/inclusive-framework-releases-new-multilateral-convention-to-address-tax-challenges-of-globalisation-and-digitalisation.htm>

C. Pillar Two Implementation: OECD Introduces Multilateral Convention for Global Minimum Tax

The OECD/G20 Inclusive Framework concluded negotiations on a Multilateral Convention aimed at facilitating the implementation of the Pillar Two Subject to Tax Rule. This convention, part of the global Two-Pillar Solution for digital economy taxation, empowers developing countries to tax cross-border intra-group payments when the corporate income tax rate falls below 9%. The Subject to Tax Rule (STTR) allows source jurisdictions to impose a tax where they previously could not under existing tax treaties. More than 70 developing Inclusive Framework members can now include the STTR in their treaties. The OECD is supporting the signing, ratification, and coordinated implementation of Pillar Two.

<https://www.oecd.org/tax/international-community-adopts-multilateral-convention-to-facilitate-implementation-of-the-global-minimum-tax-subject-to-tax-rule.htm>

D. OECD Reports Strong Progress in Strengthening Tax Transparency through Country-by-Country Reporting

The OECD/G20 Inclusive Framework on BEPS has made significant progress in strengthening tax transparency through Country-by-Country reporting (CbC). Over 140 jurisdictions have committed to implementing minimum standards for multinational enterprises (MNEs) taxation. The latest outcomes show that over 110 jurisdictions have introduced legislation to require MNE groups with consolidated revenue of at least EUR 750 million to file CbC reports. The implementation of CbC reporting has generally met the Action 13 minimum standard where legislation is in place, and many recommendations from previous reviews have been addressed. Additionally, more than 3,000 bilateral relationships for the exchange of CbC reports have been established. The next peer review report is expected in the third quarter of 2024.

<https://www.oecd.org/tax/progress-continues-in-strengthening-tax-transparency-through-country-by-country-reporting.htm>

E. New Zealand Set to Introduce Digital Services Tax in 2025, if if global agreement fails

New Zealand plans to introduce a digital services tax in 2025 if a global agreement on the issue is not reached. Finance Minister Grant Robertson stated that they will introduce a Digital Services Tax Bill in the near future, as international negotiations on the matter are progressing slowly. This tax would target large multinational companies that earn income from New Zealand users of social media platforms, internet search engines, and online marketplaces. It would apply to businesses making over EUR 750 million globally and NZD 3.5 million from New Zealand users, with a tax rate of 3%, similar to rates in other countries

like France and the UK. The government aims to address the challenges posed by the increasing digitization of commerce and ensure fair taxation of digital businesses.

<https://transferpricingnews.com/new-zealand-will-bring-digital-services-tax-if-global-agreement-fails/>

F. Canada releases draft Global Minimum Tax Act

The Canadian Department of Finance released draft legislation implementing the income inclusion rule (IIR) and a domestic minimum top-up tax As defined in the GloBE Model Rules. These rules will apply to fiscal years of qualifying MNE groups beginning on or after December 31, 2023. The Department of Finance also released a table of concordance that cross-references provisions of the Global Minimum Tax Act with the source GloBE documents on which they are based.

G. Bermuda calls for Public Consultation on Introduction of a Corporate Tax

The Ministry of Finance, Government of Bermuda issued a Public Consultation on the Introduction of Corporate Income Tax in Bermuda for tax years beginning on or after January 1, 2025. The consultation paper has been formulated to get public feedback on current considerations for appropriate action by the Government of Bermuda in response to the OECD Pillar Two initiative, based on all of the advice received to date. At present, the Government of Bermuda's annual operating budget is funded by payroll taxes, duties, and various other taxes and fees. Introduction of a corporate tax is designed on the premise of the GloBE rules and seeks public consultation on the approach.

Source: [First-Public-Consultation.pdf \(www.gov.bm\)](https://www.gov.bm/First-Public-Consultation.pdf)

H. Legal Challenge to Multinational Tax Directive in EU Dismissed

The General Court of the European Union has rejected a legal challenge to EU Directive 2022/2523, which aims to establish a global minimum tax for multinational enterprise (MNE) groups. The challenge was brought by Koninklijke Boskalis NV and Boskalis Offshore Transport Services NV, but the court dismissed it as "manifestly inadmissible" due to a failure to meet the legal time limit for filing such challenges. The applicants did not demonstrate any unforeseeable circumstances that would justify an extension of the time limit.

<https://transferpricingnews.com/legal-challenge-to-eu-directive-on-global-minimum-tax-dismissed/>

I. The Platform for Collaboration on Tax releases new report on carbon pricing metrics

The Platform for Collaboration on Tax (PCT) – a joint initiative of the IMF, OECD, UN and World Bank Group – released a new report titled "Carbon Pricing Metrics: Analyzing Existing Tools and Databases of Platform for Collaboration on Tax (PCT) Partners". The report aims to help policymakers, businesses and other stakeholders strengthen their understanding of different carbon pricing metrics of the four largest international organizations. The study shows that the existing metrics of the PCT Partners complement each other and give a comprehensive picture of the carbon pricing landscape.

J. UN Report Highlights Strategies for Advancing International Tax Cooperation

The United Nations Secretary General has released an early report on the subject of

inclusive international tax cooperation, in response to a General Assembly resolution. The report examines existing international tax cooperation arrangements, suggests potential enhancements, and outlines potential next steps. It emphasizes the importance of the UN's role in shaping tax norms and rules, while considering existing international agreements. The report proposes three options for consideration: a multilateral convention on tax, a framework convention on international tax cooperation, or a non-binding framework for international tax cooperation, with associated next steps.

<https://transferpricingnews.com/new-un-report-on-inclusive-international-tax-cooperation/>

Domestic Tax Updates

K. India's Central Board of Direct Tax Launches Advance Tax Rulings Boards for Enhanced Tax Clarity

India's tax authority, the Central Board of Direct Tax, has established Advance Tax Rulings Boards in Delhi and Mumbai. These boards provide guidance on issuing advance tax rulings under the Indian Income Tax Act. They were created to make the advance tax rulings process more efficient and transparent, allowing non-resident investors to determine their income tax liability before investing in India and enabling resident companies to receive rulings on the taxability of transactions to avoid lengthy legal disputes. This move is aimed at providing greater certainty and clarity in India's tax system.

<https://transferpricingnews.com/india-sets-up-advance-tax-rulings-boards/>

L. Supreme Court Mandates Notifications for MFN Clause in Indian DTAA Rulings

The recent Supreme Court decision in India clarified the interpretation of Most Favored Nations (MFN) clauses in Double Tax Avoidance Agreements (DTAAs). The court ruled that a specific notification under Indian Tax Laws is mandatory to give effect to a DTAA or any Protocol altering existing provisions, emphasizing that mere treaty signing does not make it enforceable. The decision also clarified that a third country must be an OECD member at the time of entering into a DTAA with India to claim MFN benefits. This ruling impacts the application of MFN clauses, requiring notifications for their enforcement and adherence to the OECD membership timing.

https://main.sci.gov.in/supremecourt/2022/6394/6394_2022_8_1502_47832_Judgement_19-Oct-2023.pdf

M. India's CBDT Amends Valuation Rules for Angel Tax Provisions

The Central Board of Direct Taxes (CBDT) in India has issued a notification amending valuation rules related to "angel tax" provisions. The amendments, effective from September 25, 2023, address concerns arising from changes to the Income Tax Act. Notably, they introduce separate valuation methods for compulsorily convertible preference shares (CCPS) and offer an option to use the fair market value (FMV) of unquoted equity shares for CCPS valuation. The amended Rule 11UA also includes five additional valuation methods for unquoted equity shares issued to non-resident investors. It extends the price matching facility to CCPS, allowing FMV benchmarking for both resident and non-resident investors.

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1154/Press-Release-CBDT-notifies-changes-to-Rule-11UA-in-respect-of-ANGEL-TAX.pdf>

IFA EVENTS AND ANNOUNCEMENTS

Contributed by: Ameya Khare

IFA India Branch

EARLIER HELD EVENTS:

DATE : 16th and 17th February 2024
PLACE : Hotel ITC Kohenur, Hyderabad
EVENT : IFA Conference
DESCRIPTION : The conference was well attended with 170 participants and dealt with the current topics in the International Tax landscape with eminent speakers from Indian and abroad and the conference was co-hosted by all chapters of IFA India.

E-MAIL : info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in

DATE : 17-Nov-2023
PLACE : Hybrid In-Person/Webinar, Bangalore
EVENT : Study Circle Meeting on Transaction Structuring - basics and beyond
DESCRIPTION : Transaction Structuring from Tax, Regulatory and Legal perspective by eminent speaker

WEBSITE : www.ifaindia.in

E-MAIL : info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in



DATE : 08-Nov-2023
PLACE : Webinar, New Delhi
EVENT : "Supreme Court Ruling on MFN Clause - Interpretation of Tax Treaties"
DESCRIPTION : Panel discussion and deliberations by globally renowned tax experts
WEBSITE : www.ifaindia.in
E-MAIL : info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in

DATE : 01-Nov-2023
PLACE : Webinar, Mumbai
EVENT : "Supreme Court Ruling on Most Favoured Nation Clause and its aftermath"
DESCRIPTION : Panel discussion and deliberations by leading tax professionals
WEBSITE : www.ifaindia.in
E-MAIL : ifaindiabrand@gmail.com

DATE : 14-Oct-2023
PLACE : Webinar, New Delhi
EVENT : Webinar on Transfer pricing controversies and issues
DESCRIPTION : Panel discussion on recent controversies and issues surrounding Transfer Pricing by eminent speakers

WEBSITE : www.ifaindia.in
E-MAIL: info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in

DATE : 14-Oct-2023
PLACE : Webinar, New Delhi
EVENT : Webinar on Transfer pricing controversies and issues
DESCRIPTION : Recent controversies and issues surrounding Transfer Pricing by eminent speakers

WEBSITE : www.ifaindia.in
E-MAIL : info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in

DATE : 08-Sep-2023
PLACE : Hybrid In-Person/Webinar, Bangalore
EVENT : Seminar "Overlaps in TDS and TCS Provisions"
DESCRIPTION : Seminar covering regulatory changes in FEMA by eminent speaker
WEBSITE : www.ifaindia.in
E-MAIL : admin@ifasrc.org

DATE : 02-Sep-2023
PLACE : Hybrid In-Person/Webinar, Mumbai
EVENT : Panel discussion meeting on insight into Pillar 2 - GloBE Rules
DESCRIPTION : Intricacies, case studies and panel discussion along with recent OECD announcements and Subject to tax rules

WEBSITE : www.ifaindia.in
E-MAIL : ifaindiabrand@gmail.com

DATE : 19-Aug-2023
PLACE : In-Person, Chennai
EVENT : Seminar on Transfer Pricing Tensions: Delving into Recent Disputes and Dilemmas

DESCRIPTION : Seminar covering recent developments in Transfer Pricing by eminent speaker

WEBSITE : www.ifaindia.in
E-MAIL : admin@ifasrc.org

DATE : 8-Aug-2023
PLACE : In-Person, Bangalore
EVENT : Recent Developments in FEMA
DESCRIPTION : Seminar covering regulatory changes in FEMA by eminent speaker
WEBSITE : www.ifaindia.in
E-MAIL: admin@ifasrc.org

IFA Worldwide **EARLIER HELD EVENTS**

DATE : 22 October 2023 to 26 October 2023
PLACE : Cancun, Mexico
CONFERENCE : The 75th IFA 2023 Annual Congress
DESCRIPTION : The IFA Congress was well attended by more than 1000 participants. The Congress covered the latest scientific topics to provide participants an excellent forum to exchange and debate, meet and interact with friends, colleagues, sponsors and exhibitors.
WEBSITE : <https://www.ifacancun2023.com>
E-MAIL : administracion@ifamexico.com.mx

DATE : 30-Nov-2023
PLACE : Webinar, Brazil
EVENT : IFA Brazil "Financial transaction tax topics and changes"
DESCRIPTION : The speaker is Dr Nuno Flix secretary of state for fiscal affairs
RECORDING : www.youtube.com/watch?v=8U-pfpXpuLE
WEBSITE : www.ifabrasil-abdf.org
E-MAIL : abdf@abdf.com.br

DATE : 27-Nov-2023
PLACE : Funchal, Madeira, Portugal
CONFERENCE : IFA Portugal Conference "Autonomous Region of Madeira and Tax Competitiveness"
DESCRIPTION : "Autonomous Region of Madeira and Tax Competitiveness"
WEBSITE : www.afp.pt
E-MAIL : afp@afp.pt

DATE : 24-Nov-2023
PLACE : Funchal, Madeira, Portugal
CONFERENCE : IFA Malaysia "Global Minimum Tax and Digitalization: Navigating the Future Fiscal Landscape"
DESCRIPTION : Discussion revolving around rapidly evolving global and digital economy, understanding intricacies of international taxation
WEBSITE : www.ifa.nl
E-MAIL : ifamalaysia@ifa.my

DATE : 23-Nov-2023
PLACE : Library of the Regional Council, Palace of Justice, Porto
CONFERENCE : IFA Portugal Conference "Tax Jurisprudence by Higher Courts"
DESCRIPTION : Discussion revolving around rapidly evolving global and digital economy, understanding intricacies of international taxation
WEBSITE : www.afp.pt
E-MAIL : afp@afp.pt

DATE : 23-Nov-2023
PLACE : Webinar
CONFERENCE : IFA Brazil "The future of digital taxation: unilateral measures in focus"
DESCRIPTION: Discussion and deliberations on the future of digital taxation
RECORDING : www.youtube.com/watch?v=LYTByLlb4PM
WEBSITE : www.ifabrasil-abdf.org
E-MAIL : abdf@abdf.com.br

DATE : 15-Nov-2023
PLACE : Hybrid In-Person/Webinar, Washington, USA
EVENT : Carol Tello International Tax Lecture Series
DESCRIPTION : Lecture delivered by Mr Manal Corwin, Director, Centre for Tax Policy and Administration, OECD
WEBSITE : www.ifausa.org
E-MAIL : info@ifausa.org

DATE : 09-Nov-2023
PLACE : Webinar
EVENT : "Taxation of capital gains from the disposal of shares in the framework of the DTC Portugal-Mozambique"
DESCRIPTION : Discussion and deliberations on International Taxation and Transfer Pricing
WEBSITE : www.afp.pt
E-MAIL : afp@afp.pt

DATE : 31-Oct-2023
PLACE : Webinar
EVENT : IFA Brazil: Transfer Pricing Round Table - ABDF: Cost-Sharing, Intragroup Services and CCA"
DESCRIPTION : Panel discussion and deliberations on Transfer Pricing
RECORDING : www.youtube.com/watch?v=2xyz_EG1d2I
WEBSITE : www.ifabrasil-abdf.org
E-MAIL : abdf@abdf.com.br



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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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Landmark: Opposite Dena Bank/

Lane opposite to Jio Garden