

NEWSLETTER

IFA ~ INDIA BRANCH



Mukesh Butani
Chairman, India branch

Dear IFA Members & colleagues,

Greetings & I trust you all are doing well.

I am pleased to present our branch quarterly newsletter, which has been carefully curated by Isha Sekhri and Yash Rajpurohit. Contains a case study on dynamic changes in the international tax architecture.

While there are many divergent views emerging on the success and timing of implementation of the 2-pillar framework, the OECD/G20 lead inclusive

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framework stays confident on the rollout. Media reports suggest that the US stands to lose billions of dollars in tax revenue if it joins the world in enacting a 15% global minimum tax and could lose even more if it doesn't enact the tax itself, according to a Congress scorekeeper. Supporting its stand further, it holds that the US tax revenue could decline by \$122 billion over the next decade if the rest of the world enacts the minimum tax in 2025, according to an analysis from the Joint Committee on Taxation. If the US enacts Pillar Two in 2025 along with the other countries, US tax revenue could decline by \$56.5 billion. Holding a contrarian view, the global minimum tax approach with Pillar Two is an opportunity to "declutter" national tax rules that may no longer be fit for a purpose, quoted an OECD official said at the International Tax Conference in Munich last fortnight. This is supported by the G7 heads of state, who endorsed the view in their last summit.

In the meantime, the US is proposing to allies that they extend a coordinated freeze on new digital services taxes beyond its planned expiration at the end of this year, in a bid to avert a trade war and keep alive hopes of a global tax deal. The freeze was part of the October 2021 global tax agreement, brokered by the OECD and supported by more

than 130 countries. The U.S. administration is seeking the extension because it sees ratification and implementation of the global deal going beyond the year-end deadline. Watching how the deal progresses over the rest of the year would be interesting.

This quarter's newsletter contains the usual international tax developments along with a bust IFA India branch and regional calendar, which I would encourage you to attend. IFA India shall shortly be announcing its 2023 annual event in Delhi, which will likely be in the first part of September, before the Cancun Congress. Before the India branch event, the first post-Covid Asia-Pacific event in Singapore will be on August 15-17.

This will be my last newsletter as Chair of the India branch as I shall be completing my (extended) term and hand over the reins to the new leader at the conclusion of the AGM scheduled on July 22. It's been a privilege and honour to serve the branch, and I stay deeply committed to serving the cause of IFA at the national and global level. I wanted to add a word of gratitude to the newsletter team so ably led by Isha and her colleagues, who have been terrific to work with.

Thank you all, and stay tuned to IFA.

Sincerely, Mukesh

ARTICLE

BEPS 2.0 - PILLAR 2 - HEADING TOWARDS TAX NEUTRALITY

Contributed by: - Mansi Agrawal, Akshay Nayak¹

1. Need for an overhaul of international tax systems:

The advent of globalisation and digitalisation brought with them challenges for tax administrations in relation to corporate tax avoidance. Such tax avoidance practices costed countries USD 100-240 billion in lost revenue annually². The century old systems and rules, taxing profits based on physical presence, needed a revamp in order to tax the profits where the fundamental economic activities took place or the where the value within the businesses were created. To limit the risk of tax avoidance by multinational companies, 15 Action plans were launched in 2013 under Organisation for Economic Co-operation and Development ('OECD's') Base Erosion and Profit Shifting ('BEPS') 1.0 project introducing coherence in the domestic tax rules, reinforcing substance requirements

and improving transparency & certainty. The goal was to eliminate double taxation as well as to stop facilitating double non-taxation and reintroducing more fairness to the international tax systems.

While the above developments were implemented, there still risk of profits to be shifted to low tax jurisdictions ('LTJ') considering the mobile business models and heavy reliance on intellectual properties. Further, Covid-19 crisis accelerated the pace of digitalisation across economies. To facilitate and monitor the implementation of BEPS 1.0 and to put an end to such strategies and 'race to bottom', a forum was created 'Inclusive Framework' ('IF'), consisting of 142³ countries (including OECD, G20, developing & low tax countries), to create a secure level playing field for all countries i.e., all the countries would play with the same rules and achieve the same objective.

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

2 <https://www.oecd.org/tax/beps/about/>

3 <https://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf>

IF members agreed on a two-pillar solution to address the tax challenges arising from the digitalisation of the economy.

Pillar 1: Revised profit allocation and nexus based approach

- Amount A - 25% of the residual profit of the largest and most profitable Multinational Enterprises ('MNEs') (currently the threshold is Revenue USD 20 bn and PBT to be 10%) would be re-allocated to the market jurisdictions (i.e., where customers and users of the MNEs are located)
- **Amount B** - Tax certainty through safe harbors for routine baseline marketing and distribution entities by remunerating them with a fixed agreed return

Currently, OECD is in the process of developing a multi-lateral convention ('MLC') and model rules for implementation of Pillar 1. OECD plans to have the MLC in place by mid-2023 with Pillar 1 entering into force in 2024.

Pillar 2: Global minimum tax mechanism

- Global anti-Base Erosion ('GloBE') rules whereby a minimum tax of 15% is collected in each jurisdiction in which an MNE Group, with annual consolidated revenue over EUR 750mn, functions.
- Implementing 'Subject to Tax Rules ('STTR') into the bilateral treaties, to avoid treaty abuse. Under STTR, typically a right is given to the source countries (in the interest of developing nations) to tax certain covered payments (royalty, interest, etc.) to connected recipients in case where such payments are not taxed in the recipient jurisdiction up to a minimum rate of 9%.

Under Pillar 1 taxing rights on more than USD 200 billion of profit are expected to be reallocated to market jurisdictions resulting in tax revenue gains of USD 21-36 billion, whereas under Pillar 2, global minimum tax of 15% is expected to generate USD 220 billion in additional global tax revenue annually.⁴

These solutions will eventually let developing economies to have their fair share of taxes, thereby reducing their burden to provide wasteful tax incentives/ holidays to attract more investments and also ensuring that the investment decisions are based on non-tax factors such as infrastructure, education levels or labour costs.⁵

2. Understanding GloBE rules:

The GloBE rules are applicable to an MNE Group wherein the annual consolidated revenue as per the consolidated financial statements ('CFS') is EUR 750 million or more in two out of four preceding fiscal years. Certain entities, like governmental entities, international organisations, non-profit organisations, pension funds, investment fund that is an Ultimate Parent Entity ('UPE'), real estate investment vehicle that is an UPE are excluded from applicability of GloBE.

In order to achieve a minimum tax level, a top-up tax ('TUT') is imposed where the effective tax rate ('ETR') at a jurisdictional level is below the minimum tax rate of 15%. It is important to note that such imposition will be computed at a jurisdictional level (i.e., neither the entity level ETR nor the global level ETR is relevant for GloBE calculations). To put it in an example, say an MNE has a group ETR of 17%, with Jurisdiction A (having a UPE) and B

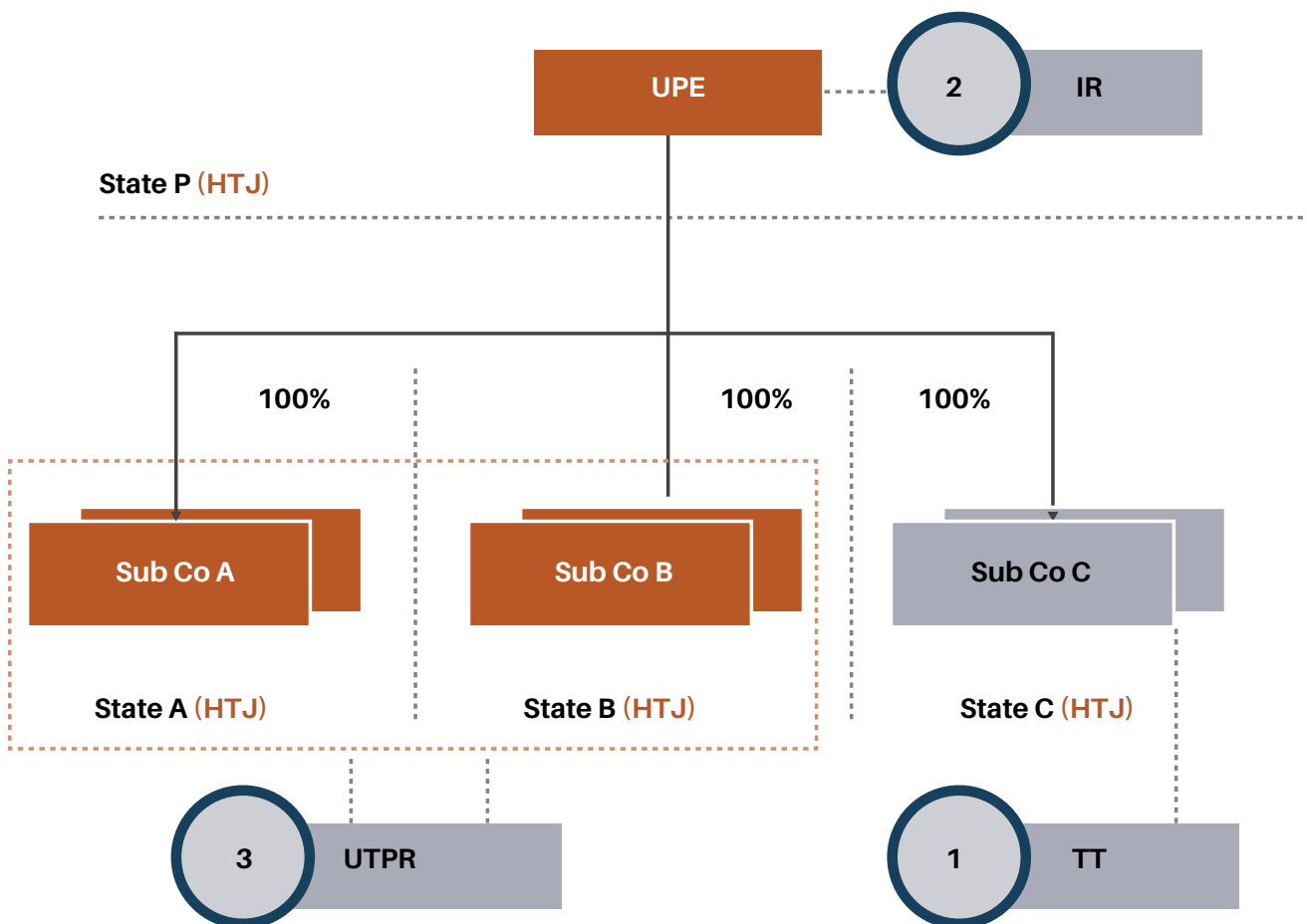
4 Based on the latest webinar dated 18 January 2023 - <https://www.oecd.org/tax/beps/webinar-economic-impact-assessment-two-pillar-solution.htm>

5 OECD (2020), Tax Challenges Arising from Digitalisation – Economic Impact Assessment: Inclusive Framework on BEPS - <https://doi.org/10.1787/0e3cc2d4-en>

having respective ETRs of 22% and 12%. A TUT would be imposed for jurisdiction B at 3% (i.e., 15% minus 12%) on the excess profits in that jurisdiction after providing for substance-based exclusions or giving effect to safe harbors, even if group ETR is more than 15%.

2.1 Mechanism to recover Top-up tax

Now, a question arises as to which country will have a right to collect such TUT. This is explained based on example



In the above illustration, let's assume, Sub Co C in State C will have a GloBE liability i.e., TUT pursuant to its ETR being lower than 15%.

There are three ways to recover the Top-up tax under GloBE rules (in order of priority):

Mechanism 1 - Domestic minimum top-up tax ('DMTT')

Mechanism 2 - Income Inclusion Rule ('IIR')

Mechanism 3 - Under-Taxed Payments Rule ('UTPR')

Detailed understanding of these mechanisms is as below:

- **Domestic minimum top-up tax ('DMTT')**:

DMTT as the name suggests, provides a right to the LTJ itself to collect TUT by implementing it in the domestic law in accordance with the GloBE rules. The implementation of DMTT is optional, however, where implemented its outcome need to be consistent with the GloBE rules.⁶

⁶ Though DMTT is not specifically a rule included in Model Rules, it is an option given to LTJs to protect their sovereign taxing rights

In the above example, if entire TUT qua Sub Co C is collected by State C through DMTT, there will be no further responsibility on the Group to collect TUT through any other mechanism.

Income Inclusion Rule ('IIR'):

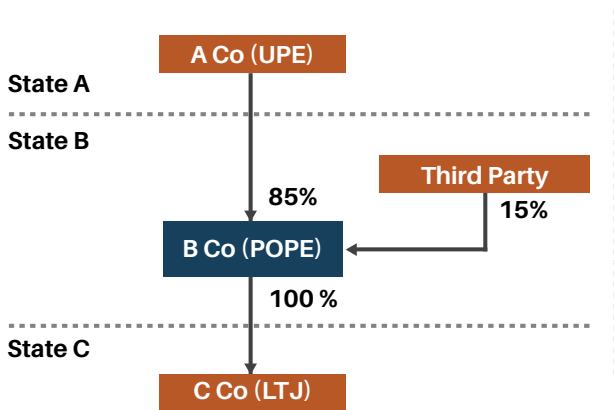
IIR requires an UPE of the MNE Group to pay TUT, to the extent of its ownership interest, with respect to overseas Group entities (i.e., subsidiaries and permanent establishments) in low tax jurisdictions.

In the example, if State C does not implement DMTT, the subsequent onus would be on State P to collect the TUT through IIR (if it implements GloBE rules). In this situation, once State P collects the entire TUT through IIR

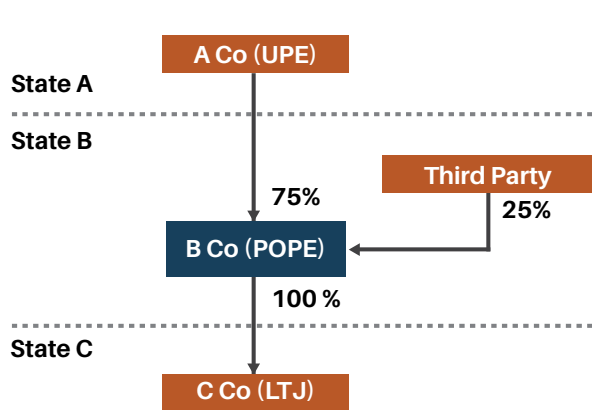
mechanism, there will be no further liability due towards Sub Co C's TUT and UTPR becomes academic.

If the UPE jurisdiction of the MNE Group doesn't implement GloBE rules, the liability to pay TUT shifts to the jurisdiction of next parent entity in the ownership structure that implements GloBE rules ('top-down approach'). While IIR is primarily collected by UPE, there is an exception to this rule - where UPE holds less than 80% in intermediate entity ('split-ownership rule'), first right to collect TUT is with intermediate entity and not UPE. An illustration explaining both the approaches is provided below⁷:

Scenario 1: Top-down approach applies if third party ownership in intermediate parent is ≤ 20%



Scenario 2: Split ownership approach applies if third party ownership in intermediate parent is > 20%



⁷ IPE stands for Intermediate Parent Entity and POPE stands for Partially Owned Parent Entity

• Under-Taxed Payments Rule ('UTPR'):

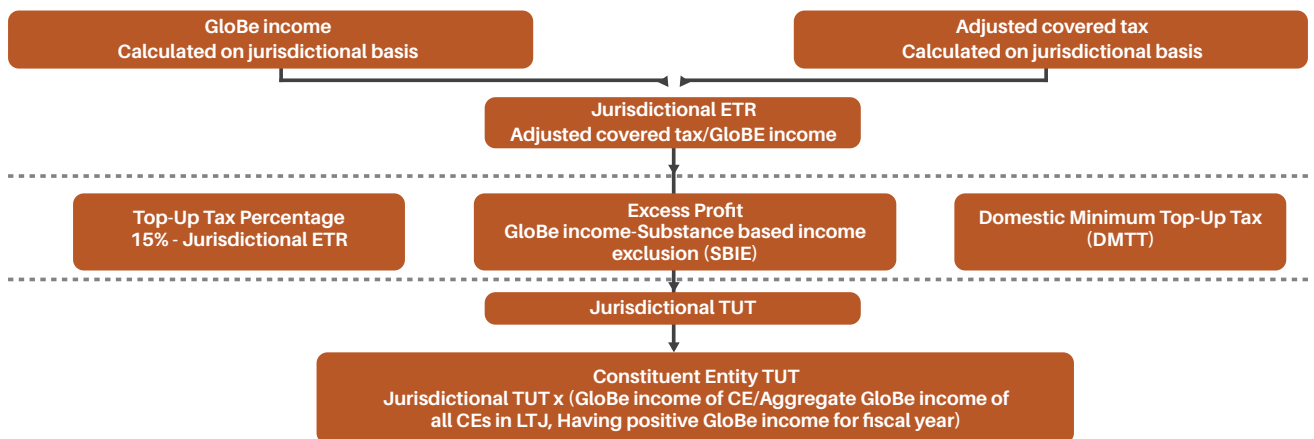
UTPR is a backstop to the IIR i.e., in a situation where none of the jurisdictions of parent entities (ultimate or intermediate) adopt and implement GloBE rules, the TUT cannot be recovered through IIR. Further, because IIR applies only w.r.t. overseas subsidiaries/ PEs, TUT in respect of UPE jurisdiction cannot be collected therein through IIR. Therefore, such TUT is recovered through UTPR (including for UPE jurisdiction being an LTJ). Under UTPR, TUT is recovered by allocating it to the jurisdictions where the Group entities are located which have implemented GloBE rules. Such allocation is based on the relative level of substance in the form of tangible assets and employees in each such jurisdiction. UTPR denies deductions or requires an equivalent adjustment to the extent the low taxed income skipped to be taxed under IIR mechanism. While IIR is the primary method over UTPR, the applicability of UTPR will become academic if all the jurisdictions adopt IIR.

In the example, if State P does not implement GloBE Rules and State C does not implement DMTT, the responsibility will be on Sub Co A and Sub Co B to collect TUT through UTPR.

The GloBE rules are not considered as minimum standard, however its implementation would be under a 'common approach'. It also provides how the implementation needs to be coordinated and consistent. A 'common approach' means a jurisdiction must follow Model Rules if implemented, however, if not implemented, it has to accept the implementation by other jurisdictions.

2.2 Computation of ETR and resultant TUT

ETR is computed at jurisdictional level using 'fit for consolidation' financial statements of each constituent entity (prepared as per accounting standards applicable to Consolidated Financial Statement ('CFS') of UPE, which may be different from accounting standards applicable to local accounts of constituent entity). It starts with profit before tax and tax expenses as per such 'fit for consolidation SFS' of each CE. To address certain policy issues and specific considerations, GloBE rules have introduced various adjustments to the above calculations. Certain adjustments are mandatory (e.g., exclusion of dividend, capital gain, bribes, illegal expenses etc and certain adjustments are elective (like impairment on assets, etc).



Exclusions and carve-outs:

The GloBE rules also provide certain exclusion and carve-outs to reduce unnecessary hardship on the MNEs in terms of genuine economic activities or for that matter immaterial operations in a particular jurisdiction:

- **Substance based income exclusions:**

GloBE rules provide a carve-out for low-taxed activities that have real substance. A substance carve-out based on assets and payroll costs allows a jurisdiction to continue to offer tax incentives that reduce taxes on routine returns from investment in substantive activities, without triggering additional GloBE TUT.⁸ While computing the GloBE income on which the TUT % will be applied, rules provide for a formulaic substance exclusion that will exclude a percentage of tangible assets and payroll cost, specifically 8% of tangible assets and 10% of payroll costs.

These percentages are for fiscal year beginning in 2023 and gradually decline over 10 years to reach 5% for fiscal year beginning 2033 and later.

- **De minimis exclusion:**

The GloBE rules also provide for a de minimis exclusion for those jurisdictions where the MNE has revenues of less than EUR 10 million and profits of less than EUR 1 million. To minimise volatility, the exclusion is linked to average, determined by adopting simple average for current and preceding two fiscal years. These jurisdictions will be excluded from computing the TUT.

Separately, income from international shipping activities are excluded from GloBE income as sector exclusions owing to their capital-intensive nature leading to special taxes (such as tonnage tax) which are outside the scope of corporate tax.

2.3 Compliance and the need for safe harbors

Every MNE Group is required to file a GloBE Information Return (GIR). While GIR needs to be filed only once internationally, such GIR requires myriad data points, some of which are not otherwise captured for local tax or financial reporting purposes.

Various stakeholders had raised concerns about the complexity of the calculations and adjustments required as a response to the public consultation on the implementation framework earlier in April 2022. This led to an introduction of safe harbors and simplifications to reduce compliance and administration costs and improve tax certainty for MNEs in December 2022. The safe harbors include:

- **Transitional CbCR safe harbor** - A temporary measure that allow MNE Groups to avoid detailed GloBE rule calculations with respect to certain jurisdictions if it can demonstrate based on CbCR report that the jurisdictions are either below de minimis threshold or they have an ETR equal to or lower than an agreed rate (ranging from 15% to 17% for the transition period till December 2026) or they do not have excess profits after exclusion of substance based carve outs.
- **Permanent safe harbor** - A permanent safe harbor permits the MNE Group to rely on simplified income, revenue, and tax calculations in determining whether it meets the de minimis, routine profits or ETR test under the GloBE rules.
- **Transitional penalty relief** - No penalties or sanctions should apply, in the transitional period, where a tax administration considers that an MNE has

⁸ <https://www.oecd.org/tax/beps/pillar-two-model-GloBE-rules-faqs.pdf>

taken “reasonable measures” to ensure the correct application of the GloBE rules.⁹

3. Conclusion

This article provides an overview of Globe rules, however, in the next article, we will dwell more on specific nuances of Globe Rules and its impact. It would be crucial for businesses to evaluate the potential impact of the global minimum tax rules on their tax positions and on their data and compliance processes and systems. Tax heads also needs to consider the impact of Globe rules along with local tax laws on all their business transactions.

From timeline perspective, European Union and other countries like Hong Kong, Malaysia, United Kingdom, Switzerland, etc have

officially communicated on implementation by end of 2023 or early 2024.¹⁰ South Korea on the other hand have already legislated IIR as well as UTPR rules effective from 2024. US position is different, they have GILTI rules which may be amended to align Pillar 2 measures. It would be interesting to see the developments in various countries including US and China. Nonetheless, Indian MNEs have close to one year to evaluate the impact and to ensure readiness to comply the rules.

To get a perspective from the industry, we took inputs from Rahul Verma - Global Tax Head of Cipla Limited and Nikhil Airan - International Tax Head of United Phosphorous Limited on these developments and impact on Indian HQs. Let’s hear their views.¹¹

9 <https://www.oecd.org/tax/beps/safe-harbours-and-penalty-relief-global-anti-base-erosion-rules-pillar-two.pdf>

10 High-level listing of administrative and legislative developments issued by EY in December 2022

11 These views are their personal views and should not be interpreted as views of their employer or any professional organisation with which they are associated

QUESTIONS & EXPERTSPEAK



RAHUL VERMA
*Global Tax Head
of Cipla Limited*



NIKHIL AIRAN
*International Tax Head of
United Phosphorous Limited*

Q - From a policy perspective, considering the slow movement of Pillar 1 and STTR agenda, is GloBE Rules implementation in India reasonable?

Rahul - Over 140 countries have agreed with the minimum of corporate tax rate of 15% effective 2023. Countries have also started to amend their domestic legislations so that they do not miss out on the taxes which would fall in their bucket through application of these rules.

Implementation of GloBE rules in India seems reasonable and we were expecting the Union Budget 2023-24 to announce a roadmap for the implementation of the Pillar 2 solution of the GloBE of the OECD, which seeks to ensure that multinational corporations are subjected to a minimum effective tax of 15% in every country they operate.

While a change in the tax rates is unlikely (since

India's corporate tax rate is anyway higher than the Pillar 2 threshold), finance minister is expected to initiate work on Pillar 2 compliance and give some guidance on how the relevant proposals will be taken forward in the domestic context. Further, clarity is also expected on applicability and taxability of Equalisation Levy and SEP provisions keeping in mind the overlap with GloBE rules.

The implementation of the Pillar 2 GloBE proposal would open a window of thought on policy choices for e.g., India does not follow consolidation of incomes for group companies for tax purposes, a concept central to adoption of the GLoBE model rules.

Nikhil - Considering the global Inclusive framework agreed by more than 140 countries, many have started implementing GloBE rules. However, all countries should implement the

GLOBE rules in consistent manner and the effective date should be same. I think most countries including India will implement Pillar 2 related measures. India's tax rate is more than 15% so India would be less worried about tax outflow but it would also want to tap potential inflow of taxes under IRR rule. Considering EU and other countries have already announced implementation by 2024, introduction of Globe rules in India are not far from reality. The real watch is the implementation of such rules including collection of taxes mechanism. These rules should not lead to additional burden of controversy/ litigation on taxpayer.

Q - How do you think GloBE rules will impact Indian HQs? What elements on GloBE rules would impact most to Indian HQs companies?

Rahul - For Indian HQs, implementation of GloBE rules will certainly impact structures involving location of IPs and call into question the group structures, supply chains and characterisation of entities from transfer pricing perspective as well. Further, low-taxed foreign subsidiaries may be impacted wherein tax may be collected on such income in India under income inclusion rule. However, the significance of this rule will be limited if the effective management of the foreign company is in India, as income of such subsidiaries having place of effective management in India are taxable on global basis by treating them to be tax residents in India and such subsidiaries shall not be subject to IIR levy by Indian parent. Protection against overlap of provisions should be provided in the law.

Further, IIR also assumes significance in the context of tax treaties too. IIR tax is also likely to negate any treaty benefit to achieve minimum taxation. This requires particular evaluation if the proposed rules are in line with treaty obligations and international law.

Accordingly, given the current treaty structure, whether the afore-said taxability will hold true, needs to be evaluated with the possibility of Multilateral Instruments ('MLIs') which will be required to be amended, for correct application of GloBE rules.

Nikhil - I think Pillar 1 may not have so much impact as of now to most Indian HQs but Pillar 2 would have an impact. Indian HQ companies which have overseas subsidiaries need to compute country-wise ETR and needs to pay taxes at holding company level in respect of countries wherein ETR is less 15% unless domestic minimum taxes are implemented at those countries. One needs to be mindful of the interplay of domestic laws and GloBE rules, the expectation from industry would be that there should not be any imbalance or non-coordination with the existing domestic tax rules (particularly those relating to residency, POEM, withholding and credit of taxes) and it should not lead to double taxation which is not the intended objective of the GloBE rules.

MNEs also need to re-look at their structure/ supply chain from transfer pricing perspective as well and also, consider globe rules while evaluating any new structuring due to nuances of such rules. Further, there are many data points in calculation of ETR which means MNEs needs to maintain separate books for calculation of such ETR for compliance. Definitely MNE requires system to collate such data points and ensure appropriate compliance.

Q - 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? For India entities, do you feel any tweaks to transitional safe harbours are necessary?

Rahul - Pillar Two will impose new calculation and reporting obligations that require

businesses to have appropriate systems and processes to identify, gather and process the required data. These calculations will likely differ from existing reporting requirements and we expect that tax and accounting teams will need to work together closely to scale up reporting and data analytics capabilities. Additionally, these new calculations will need to be digitally and securely stored and carried forward on a traceable, trackable basis to be used for future year calculations and for potential tax authority audits.

Hence, Indian companies will be required to undertake impact analysis of existing and alternate supply chains and business/ownership structures, along with realignment of technology to match documentation and compliance requirements, to comply with the GloBE rules. Also, systems will be required to be set in place to collate the data accurately for implementation of these rules.

Compliance with a new set of complex rules that spans across multiple jurisdictions, undertaking significantly greater calculations and managing the associated filing requirements will place an enormous burden on already stretched tax teams. Accordingly, the above changes and complexities will increase role of accountant, consultants and Information Technology professionals to do this computation in a templatised manner.

Nikhil - Every India HQ which has global subsidiaries is required to compute country wise ETR and record the additional tax if any. This would require additional time and effort for Indian HQ Companies require central focus on all tax positions vis-à-vis domestic law and Globe rules. Companies needs to keep in mind Globe rules before structuring/business decision along with domestic taxation rules. Also, understand there are some 100+ data points required for the compliances and hence, MNEs needs to ensure appropriate and robust

system to calculate ETR. While safe harbour is welcome measures, since it allows companies to use cbc for computation in a bit simplified manner however, large MNEs still needs to be ready since transitional safe harbour is for 3 years only. Further, there is a strong need for technology to ensure compliance with complete audit trail.

Q - What costs and benefits do you see in India adopting GloBE rules? Do you have any suggestions for the Indian Government on GloBE rules (e.g., the timeframe of implementation)?

Rahul - It is important to note that these in the short run, while the low tax jurisdictions are progressing on levying base minimum tax rate of 15%, there may be some window opportunities for countries like India to rake up collections from Globe rules. However, in the medium term, the other jurisdictions will also catch up to levy minimum tax rate - then the benefits will not be substantial. However, these rules will bring in equality by giving each country a taxing right, thereby making countries to be able to compete based on economic factors other than tax.

Largely, as the corporate income tax rate is higher than the global minimum tax rate of 15% as mentioned in the GloBE rules, Indian inbounds are largely not likely to have an impact.

There can be instances of overlap in tax, which will also need more clarity. For instance, in case where an Indian HQ company pays taxes on behalf of a subsidiary in India pursuant to the IIR rule, wherein the minimum tax rate of that country was less than 15%. Now, when that country repatriates the said profits to India by way of dividend, a question arises as to whether such income will be taxed again in accordance with domestic laws e.g., section 115BBD and GloBE rules.

India should be at an advantageous position at the G20 summit to negotiate its double taxation avoidance agreement and can take the opportunity in cases where India's double tax avoidance agreements have not been signed by many countries in the west with which India has been negotiating for years.

Nikhil - The Blueprint requires mandatory dispute prevention mechanisms to be implemented. Businesses should have access to an effective mechanism to get an advance determination of all nuances that will be required in applying new rules. Hence, the

expectation from Industry is that India would adopt an effective mechanism for preventing and resolving disputes, particularly those involving cross-border tax matters.

Currently, most countries have announced their intent to implement the rules, however, the implementation mechanism, tax collection, audit rules are not clear. While transitional penalty relief is a welcome step, however, Indian government to provide atleast one year time to the industries after providing clarity on all compliances, audit mechanism, etc.

KEY TAX UPDATES¹⁹

Contributed by:

Bhavya Bansal, Yash Rajpurohit and Dipika Agarwal

International Tax Updates

1. Major jurisdictions sign international tax agreements to exchange information with respect to income earned on digital platforms and offshore financial assets

22 jurisdictions signed the multilateral competent authority agreement (MCAA) for the automatic exchange of information under the OECD Model Rules for Reporting by Digital Platforms in November 2022

The agreement will allow jurisdiction to automatically exchange information on transactions and income earned by digital platform. This annual exchange of data aims to aid tax administrations and taxpayers in accurately and efficiently taxing such income.

<https://www.oecd.org/tax/exchange-of-tax-information/28-jurisdictions-sign-international-tax-agreements-to-exchange-information-with-respect-to-income-earned-on-digital-platforms-and-offshore-financial-assets.html>

2. Australia-India Economic Cooperation and Trade Agreement enters into force

The Australian Assistant Treasurer has made the necessary instrument required for the Australia-India Economic Cooperation and Trade Agreement (AI-ECTA) to come into force, starting from 29 December 2022. The AI-ECTA removes Australian deemed source taxation on payments or credits paid to Indian residents by Australian customers for technical services provided remotely. This will have practical effect for Indian companies with a financial year starting from 1 April 2023.

<https://pib.gov.in/PressReleasePage.aspx?PRID=1889525#:~:text=Did%20you%20know%20that%20India,on%2029th%20December%202022.>

<https://www.dfat.gov.au/trade/agreements/in-force/australia-india-ect.>

3. Singapore to implement Pillar 2 Global Anti-Base Erosion (GloBE) tax rules from 2025

Singapore will implement the Global Anti-Base Erosion (GloBE) Rules, including the Income Inclusion Rule and Undertaxed Profits Rule, and a Domestic Top-up Tax from January 1, 2025. The announcement was made as part of the country's 2023 Budget presented by finance minister Lawrence Wong. The Domestic Top-up Tax will bring the effective tax rate of large MNE groups in Singapore to 15 percent. The government will monitor international developments and adjust the implementation timeline if necessary. The finance minister assured companies that they will be given sufficient notice of any changes to tax rules or schemes.

<https://transferpricingnews.com/singapore-to-implement-pillar-2-tax-rules-from-2025/>

4. OECD releases guidance on global minimum corporate tax rate

The OECD has released detailed technical guidance on the Pillar Two Model Rules for a 15% global minimum tax. This guidance aims to help countries implement the proposed global tax framework by providing rules and guidelines for the application of the minimum tax rate, as well as mechanisms for dispute resolution and coordination between countries. The Pillar Two initiative is part of the broader Base Erosion and Profit Shifting (BEPS) project aimed at addressing tax avoidance by multinational corporations.

<https://www.oecd.org/tax/beps/international-tax-reform-oecd-releases-technical-guidance-for-implementation-of-the-global-minimum-tax.htm>

5. Global Tax Reform Generates Higher Revenue Than Expected, Says OECD

The OECD reports that the international tax reform is generating more revenue than initially projected. The reform aims to ensure multinational corporations pay a fair share of taxes by introducing a global minimum tax rate of at least 15%. The OECD estimated the reform would generate \$150bn annually, but now believes it could be more. The reform will also create a more stable and predictable environment for international taxation, reducing incentives for tax avoidance.

<https://www.oecd.org/newsroom/revenue-impact-of-international-tax-reform-better-than-expected.htm>

6. UK consulting on draft transfer pricing records regulations

The UK government has proposed new regulations, the Transfer Pricing Records Regulations 2023, which require multinational enterprises (MNEs) with a turnover of €750m or more to maintain a master file and local file in line with the OECD Transfer Pricing Guidelines. The regulations also grant HM Revenue and Customs the authority to request an MNE to provide a Summary Audit Trail. The regulations aim to improve transparency and prevent tax avoidance by multinational companies. The government is seeking feedback from stakeholders through a consultation process before the regulations come into force. The regulations are effective for corporation tax purposes from April 1, 2023.

<https://www.gov.uk/government/consultations/draft-regulations-the-transfer-pricing-records-regulations-2023>

7. 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>

8. 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 Fiscales, 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>

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

The OECD reports that the international tax reform is generating more revenue than initially projected. The reform aims to ensure multinational corporations pay a fair share of taxes by introducing a global minimum tax rate of at least 15%. The OECD estimated the reform would generate \$150bn annually, but now believes it could be more. The reform will also create a more stable and predictable environment for international taxation, reducing incentives for tax avoidance.

<https://transferpricingnews.com/international-tax-reform-to-lead-significant-revenue-oecd/>

<https://www.oecd.org/newsroom/revenue-impact-of-international-tax-reform-better-than-expected.htm>

10. OECD releases key documents on two-pillar international tax reform

The OECD has made progress in its two-pillar solution to address international tax challenges posed by the digital economy. In a recent development, it has released a consultation document seeking feedback from stakeholders on the withdrawal of digital service taxes and similar measures under Pillar One. This move is aimed at creating a coordinated approach to eliminating such taxes, as many countries have implemented their own digital service taxes. The consultation document also outlines the implementation of Pillar One and seeks input on key design elements.

The OECD has also released an implementation package for Pillar Two, which aims to ensure global minimum taxation for multinational enterprises. The package includes model rules and a framework for implementing them. This approach is intended to address the issue of profit shifting to low-tax jurisdictions, ensuring that companies pay a minimum level

of tax regardless of where they operate. The implementation package is part of the ongoing efforts to create a more sustainable and fair international tax system.

<https://www.oecd.org/tax/beps/further-progress-on-two-pillar-solution-oecd-releases-consultation-document-on-the-withdrawal-of-digital-service-taxes-and-other-relevant-similar-measures-under-pillar-one-and-an-implementation-package-for-pillar-two.htm>

11. EU Council agrees to Implement Minimum Corporate Tax

On December 12th, 2022, EU member states agreed to implement a minimum tax rate of 15% for large businesses, including multinational and domestic groups with an annual turnover of at least €750 million. The aim is to prevent a race to the bottom in corporate tax rates and ensure that the largest multinational groups pay the global minimum rate of corporate tax. The directive is expected to be transposed into member states' national law by the end of 2023.

<https://www.consilium.europa.eu/en/press/press-releases/2022/12/12/international-taxation-council-reaches-agreement-on-a-minimum-level-of-taxation-for-largest-corporations/>

12. UAE Introduces Corporate Tax law

On December 9, 2022, the UAE issued a federal law introducing a corporate tax regime with a headline rate of 9% on taxable income exceeding AED 375,000. Taxable income below this threshold will be subject to a zero percent corporate tax rate. The new regime is effective for financial years starting June 1, 2023, and is intended to help the UAE achieve its strategic objectives and accelerate its development and transformation as a leading jurisdiction for business and investment. The UAE's corporate tax regime is designed

to adhere to international standards and incorporates internationally accepted principles.

<https://tax.gov.ae/en/taxes/corporate.tax/corporate.tax.topics/what.is.corporate.tax.aspx>

13. EU lawmakers adopt tax proposal on tackling shell companies

On December 9, 2022, the UAE issued a federal law introducing a corporate tax regime with a headline rate of 9% on taxable income exceeding AED 375,000. Taxable income below this threshold will be subject to a zero percent corporate tax rate. The new regime is effective for financial years starting June 1, 2023, and is intended to help the UAE achieve its strategic objectives and accelerate its development and transformation as a leading jurisdiction for business and investment. The UAE's corporate tax regime is designed to adhere to international standards and incorporates internationally accepted principles.

<https://tax.gov.ae/en/taxes/corporate.tax/corporate.tax.topics/what.is.corporate.tax.aspx>

14. EU lawmakers adopt tax proposal on tackling shell companies

The European Parliament has adopted its opinion on the EU Commission's proposed legislation aimed at tackling the use of shell companies for tax purposes. The MEPs amended the proposal by lowering the thresholds for reporting requirements, imposing penalties on companies with low or no revenue, and requiring more detailed information. They also amended the information-sharing requirements between member states to improve the quality of data exchanged. The penalties would be a minimum of two percent of revenue for incorrect reporting and four percent for false declarations. The opinion will now be transmitted to the EU Council for consideration in adopting the directive.

<https://www.icij.org/investigations/pandora-papers/european-parliament-votes-to-expand-proposed-rules-targeting-shell-companies-after-pandora-papers-highlighted-their-role-in-tax-evasion/>

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733648/EPRS_BRI\(2022\)733648_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733648/EPRS_BRI(2022)733648_EN.pdf)

15. Netherlands to tackle “remarkable” tax avoidance arrangements

The Dutch finance ministry is launching a project to tackle “remarkable tax arrangements” used to pay the lowest tax possible through differences in tax rates, deductions, or exemptions. The government will release a list of such arrangements, with the project expected to generate €160m in 2024 and €550m from 2027 onwards. This is a positive move towards ensuring fair taxation and combatting tax avoidance.

<https://transferpricingnews.com/netherlands-to-tackle-remarkable-tax-avoidance-arrangements/>

16. Luxembourg transfer pricing ruling did not favour Fiat: EU top court

The EU top court has ruled against Fiat in a case concerning illegal tax benefits granted by Luxembourg through a transfer pricing arrangement. The court found that the arrangement did not reflect economic reality and was a selective advantage that breached EU state aid rules. The ruling reinforces the EU’s crackdown on aggressive tax planning by multinationals and highlights the importance of transfer pricing rules. Governments are increasingly scrutinising transfer pricing arrangements to ensure they do not result in illegal state aid. Luxembourg has been ordered to recover €20-30m in back taxes from Fiat.

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62019CJ0885>

17. M. Hong Kong introduced new bill on cross-border tax regime

Hong Kong has introduced a new Foreign-sourced Income Exemption regime to combat cross-border tax avoidance. Taxpayers can still be exempted from tax for specified foreign-sourced passive income received in Hong Kong if they have a substantial economic presence. The Bill aims to minimize the tax compliance burden for corporations, mitigate possible double taxation, and maintain Hong Kong’s tax competitiveness. The EU placed Hong Kong on a watchlist last year for inadequate substance requirements and anti-abuse rules, but the government hopes the new regime will allow them to be removed from the list.

<https://transferpricingnews.com/hong-kong-bolstering-cross-border-tax-regime/>

18. 28 countries strengthen cooperation in tax matters, sign agreements for automatic exchange of information: OECD

28 countries and jurisdictions have taken new steps to strengthen and expand their cooperation in tax matters. At a signing ceremony held in Seville, 22 jurisdictions signed the multilateral competent authority agreement (MCAA) for the automatic exchange of information under the OECD Model Rules for Reporting by Digital Platforms, while 15 jurisdictions signed a separate MCAA supporting the Model Mandatory Disclosure Rules on Common Reporting Standard Avoidance Arrangements and Opaque Offshore Structures (CRS Mandatory Disclosure Rules). The agreements will allow for the automatic exchange of information collected by digital platform operators and intermediaries to ensure the correct and efficient taxation of income. The CRS Mandatory Disclosure Rules are part of broader actions taken by the OECD to ensure the continued effectiveness of international automatic exchange of tax information.

<https://www.oecd.org/tax/exchange-of-tax-information/28-jurisdictions-sign-international-tax-agreements-to-exchange-information-with-respect-to-income-earned-on-digital-platforms-and-offshore-financial-assets.htm>

13. O. OECD Releases Manual on Multilateral Mutual Agreement Procedures and Advance Pricing Arrangements for Tax Certainty Agenda

The OECD has released a manual on the handling of Multilateral Mutual Agreement Procedures (MAPs) and Advance Pricing Arrangements (APAs) in accordance with the Tax Certainty Agenda. The manual provides

guidance for tax administrations on how to efficiently and effectively handle MAPs and APAs, which are tools used to resolve cross-border tax disputes and provide certainty to taxpayers regarding their transfer pricing arrangements. The manual covers topics such as the legal framework for MAPs and APAs, the procedures for initiating and conducting MAPs and APAs, and the key principles that should guide the handling of MAPs and APAs.

<https://www.oecd.org/tax/oecd-releases-manual-on-the-handling-of-multilateral-mutual-agreement-procedures-and-advance-pricing-arrangements-pursuant-to-tax-certainty-agenda.htm>

IFA EVENTS AND ANNOUNCEMENTS

Contributed by: Ameya Khare

IFA India Branch

EARLIER HELD EVENTS:

DATE : 21-Apr-2023
PLACE : Hybrid In-Person/Webinar, Mumbai
EVENT : International Tax/Transfer Pricing union budget amendments 2023
DESCRIPTION : The event discusses the recent union budget amendments covering International Taxation and Transfer Pricing
Conference : IFA Asia Pacific Tax Conference 2022.
WEBSITE : www.ifaindia.in
E-MAIL : ifaindiabbranch@gmail.com

DATE : 21-Apr-2023
PLACE : Hybrid In-Person/Webinar, Chennai
CONFERENCE : International Tax Conference 2023
DESCRIPTION : A galaxy of eminent speakers from India and abroad addressed several topics like Tax Disputes, Dispute Prevention and Resolution under Tax Treaty, Start-up Structuring recent Tax Regulatory Developments and Tax Treaty Interpretation and Application
WEBSITE : www.ifaindia.in
E-MAIL : admin@ifasrc.org

PLACE : Hybrid In-Person/Webinar
EVENT : Study Circle Meeting on Foreign Tax Credit and Related Practical Issues
DESCRIPTION : The speak Sushil Lakhani discussed recent practical issues about Foreign Tax Credit
WEBSITE : www.ifaindia.in
E-MAIL : ifaindiabbranch@gmail.com

- PLACE : Hybrid In-Person/Webinar, Hyderabad
CONFERENCE : International Tax Conference "Challenges in Digital Era"
DESCRIPTION : Discussions revolving around topics of Free Trade Agreements, Recent International Tax Developments, MLI Case Studies and Start-up Funding - A VC's Lens
WEBSITE : www.ifaindia.in
E-MAIL : admin@ifasrc.org
- PLACE : Hybrid In-Person/Webinar, New Delhi
EVENT : Panel Discussion on the union budget 2023-24
DESCRIPTION : Event featured guest speaker Kamlesh Varshney, panelist Mukesh Butani, Ajay Vohra and moderated by Arun Giri
WEBSITE : www.ifaindia.in
E-MAIL : info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in
- PLACE : Hybrid In-Person/Webinar, Mumbai
EVENT : Seminar on case studies on International Tax
DESCRIPTION : Featuring Anish Thacker discussed case studies on key topics of International Tax
WEBSITE : www.ifaindia.in
E-MAIL : ifaindiabranh@gmail.com

IFA Worldwide **FORTHCOMING EVENTS**

DATE	: 22-October-2023 to 26-October-2023
PLACE	: Cancun, Mexico
CONFERENCE	: 75th Congress of the International Fiscal Association
DESCRIPTIO	: The congress will take place from October 22 to 26, 2023, in the heart of the Mayan Riviera, where the latest scientific topics will be put together, as well as a variety of social and cultural activities providing a unique opportunity to enrich us personally and professionally. The venue will be the Moon Palace Arena Convention Center, an extraordinary and safe complex that provides a great opportunity for excellent business interaction. International tax practitioners, judges, adjudicators, academics, and representatives of numerous governmental and non-governmental organizations will have a unique forum to exchange, debate, meet and interact with friends, colleagues, sponsors, and exhibitors.
WEBSITE	: https://www.ifacancun2023.com/
E-MAIL	: administracion@ifamexico.commx

IFA Worldwide **PAST EVENTS:**

DATE	: 05-July-2023 -07 July-2023
PLACE	: Amsterdam, The Netherlands
CONFERENCE	: IFA European Region Conference
DESCRIPTION	: The conference is a unique opportunity to engage on topical and important international tax issues and connect with old and new tax friends
WEBSITE	: www.ifa-nl.org
E-MAIL	: s.pauwels@pauwelspc.nl
DATE	: 17-May-2023 - 19-May-2023
PLACE	: Quito, Ecuador
CONFERENCE	: IFA LATAM Conference
DESCRIPTION	: The focus of the conference will be on international tax and transfer pricing along with WIN and YIN sessions
WEBSITE	: www.ifaquito2023.com
E-MAIL	: ifa@ifaquito2023.com

DATE : 16-May-2023 - 17-May-2023
 PLACE : Calgary, Canada
 CONFERENCE : IFA Canada International Tax Conference 2023
 DESCRIPTION : The focus of the conference will be on international tax issues that are impacted by international cross-border transactions
 WEBSITE : www.ifacanada.org
 E-MAIL : ifacanada@ifacanada.org

DATE : 27-Apr-2023 - 28-Apr-2023
 PLACE : Hybrid In-Person/Webinar, Chicago, USA
 CONFERENCE : 51st Annual Conference of USA Branch of IFA
 DESCRIPTION : The conference includes practical sessions on international tax topics, with eminent speakers joining from private practice, industry, and government.
 WEBSITE : www.ifausa.org
 E-MAIL : info@ifausa.org

DATE : 26-Apr-2023
 PLACE : Hybrid In-Person/Webinar, Chicago, USA
 CONFERENCE : 3rd North America Region Conference
 DESCRIPTION : The conference will be held between USA, Canada and Mexico Branches of IFA
 WEBSITE : www.ifausa.org
 E-MAIL : info@ifausa.org

DATE : 13-Apr-2023
 PLACE : Porto, Portugal
 CONFERENCE : IFA Portugal Conference "The Challenges of Taxation"
 DESCRIPTION : The speaker is Dr Nuno Flix secretary of state for fiscal affairs
 WEBSITE : www.afp.pt
 E-MAIL : afp@afp.pt

DATE : 29-Mar-2023
 PLACE : Webinar
 EVENT : 26th Session UN Tax Committee Global IFA-ICC IFA
 DESCRIPTION : The sessions focused on the dispute prevention and resolution in emerging and developing countries
 WEBSITE : www.ifa.nl
 E-MAIL : congress@ifa.nl

DATE : 23-Mar-2023
 PLACE : Webinar
 EVENT : YIN restructurings involving IP-USA and Ireland Considerations
 DESCRIPTION: The YIN virtual panel will introduced some of key concepts and issues from USA and Ireland perspective when restructurings involving transfer of IP between two jurisdictions are being considered and implemented
 WEBSITE : www.ifausa.org
 E-MAIL : info@ifausa.org

DATE : 15-Mar-2023
PLACE : Webinar
EVENT : YIN restructurings involving IP-USA and Ireland Considerations
DESCRIPTION: IFA European Region/EATLP the EU Pillar 2 Directive and its International Ramifications

WEBSITE : www.ifa.nl
E-MAIL : congress@ifa.nl

DATE : 09-Mar-2023
PLACE : Webinar
EVENT : YIN USA and Canada Panel - Hybridity and Hybrids - Canada's New Anti-hybrid Rules

DESCRIPTION : This panel covered general concepts of hybrid arrangements, historic USA Canada hybrid structures, overview of changes to Canadian anti-hybrid rules, and how existing structures may be impacted under the new rules

WEBSITE : www.ifausa.org
E-MAIL : info@ifausa.org



IFA~INDIA BRANCH NEWS LETTER

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The Newsletter has been compiled by:

Yash Rajpurohit.

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To know more about YIN, please visit:

www.ifa.nl/about-ifa/yin

www.ifaindia.in/YIN.htm

To know more about WIN, please visit:

www.ifa.nl/about-ifa/winn

Newsletter archives:

http://www.ifaindia.in/ifa-india_newsletter.htm

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).

CONTACT US

HEAD OFFICE:

C -56/9A, Sector-62, NOIDA - 201 309,
Uttar Pradesh, India.

T: + 91-120-4281045

MUMBAI OFFICE:

IFA India Branch - WRC

Office No. 601, Naman Centre,

C-31, G-Block, Bandra-Kurla Complex,

Bandra East, Mumbai – 400051

Landmark: Opposite Dena Bank/

Lane opposite to Jio Garden