

# NEWSLETTER

## IFA ~ INDIA BRANCH



**Mukesh Butani**  
Chairman, India branch

### *Dear Friends & IFA Colleagues,*

On behalf of the Executive Committee, I am pleased to present to you our 2020 Summer quarterly newsletter; a summer that we all wish to be forgotten.

I guess, by now, we all have not just embraced, but perfected the art of WFH, a popular Covid-19 acronym! Not that we should be complaining about it, given the choices we have for (tax) intellectual stimulation in these times.

Keeping that in mind and to deliver a credible alternative to our annual branch event, we commissioned a 4 part webinar series in June

supported by several global colleagues, including in particular Hon. President Porus Kaka, present & past PSC Chairs, Prof Dr Robert Danon & Prof Dr Stef van Weeghel, respectively. The series added further to our branch franchise with presence of Harish Salve, QC, Justice Vineet Kothari & Justice PP Bhatt. We ran to our full capacity on most of the 4 sessions with registrations reaching 190% of capacity, attendance reaching 92% with 28-30% overseas participation from 44-50 jurisdictions.

This quarter's newsletter showcases a carefully designed case on Taxpayer Rights & Transparency. Curated by Sudarshan Rangan, we could not have asked for a more illustrious panel which includes Akhilesh Ranjan, Justice Kothari & former U.S. Taxpayer Advocate Nina Olson. I compliment the ►

## WHAT'S IN

**3** SECTION I  
Case Study, Questions and Expertspeak  
Tax Payer Rights and Transparency

Views from Akhilesh Ranjan, Nina Olson and Js Kothari

**18** SECTION II  
International Tax Updates  
OECD and Around the World

**21** SECTION III  
IFA Webinars (Virtual Events)  
IFA India  
IFA Worldwide

editorial team for the timely choice of the topic, given the Finance Act 2020 amendment mandating the CBDT to adopt & declare a Taxpayer's Charter. Whereas, we all await the CBDT orders to give effect to the law, the topic is not new to our members given that it was debated in the 2015 Congress in Basel. The topic viewed in general is not new in the western globe, particularly in Europe & reading the Constitution of the United States, Fourth Amendment, 1791 which provided for "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches & seizures, shall not be violated..."

The case study makes an interesting read, given the changes in modern tax system which necessitate tax administrations to seek information, ordinarily not sought and tests the limits of the tax payer rights (and obligations). I am sure you all will enjoy reading as much as the newsletters team felt putting it together.

Before closing, I wish to inform you that we have initiated major civil works to upgrade the IFA Academy at Noida and the fitout's at the Bandra-Kurla complex Academy is getting completed. Branches have kept up the momentum for virtual IFA technical sessions and an event we all should look forward to is the Global IFA event in November 16-25, 2020. Though, not a replacement for the cancelled Cancun Congress, the idea was that all scientific work for Cahiers & main subjects for which considerable efforts have been put by volunteers, should not be lost and that members should benefit from it. The virtual seminar besides other topics shall cover the two congress scientific topics, Reconstructing the treaty network & Exchange of information. I trust you all will be able to join us.

***Wishing you and your loved ones safe and healthy times.***

**Mukesh Butani**



**Paresh Parekh**  
Editor-in-chief

***Friends,***

Warm welcome to this riveting edition of IFA India Newsletter! Hopefully many of you are still working from home, and this period has been tributary to upgrade your skills/knowledge.

This issue unfurls with a case study on a topical issue which is extremely important from standpoint of global tax policy framework and also subject matter of academic debate - 'Taxpayer rights & transparency'. We have been fortunate to have views and perspective on this topic from leading tax policy experts viz., Mr. Akhilesh Ranjan, former member of Central Board or Direct Taxes, Nina Olson, Former United States Taxpayer Advocate, and former head of the Office of the Taxpayer Advocate, and Mr. Js Vineet Kothari, Hon'ble Judge of Madras High Court.

The newsletter also conveys the key international updates and developments compiled by Sagar Wagh and Ameya G Khare. As we all are working virtually, we have also provided a snapshot of the IFA webinars held in India and other parts of the world to disseminate knowledge to tax professionals while working remotely. Many of the sessions were addressed by international experts including likes of Mr. Harish Salve QC and were delivered free of cost by IFA. You may also access Youtube recorded links of these webinars which are now made available.

We at IFA encourage each one of you to share with me or Isha or any of Editorial team members or write to us at 'info@ifaacademy.in' your feedback and ideas on what should or can be done differently in the future issues of the Newsletter so as to deliver excellence to fellow professionals.

***In meantime, Happy Reading!***

***Best wishes,***

**Paresh Parekh**

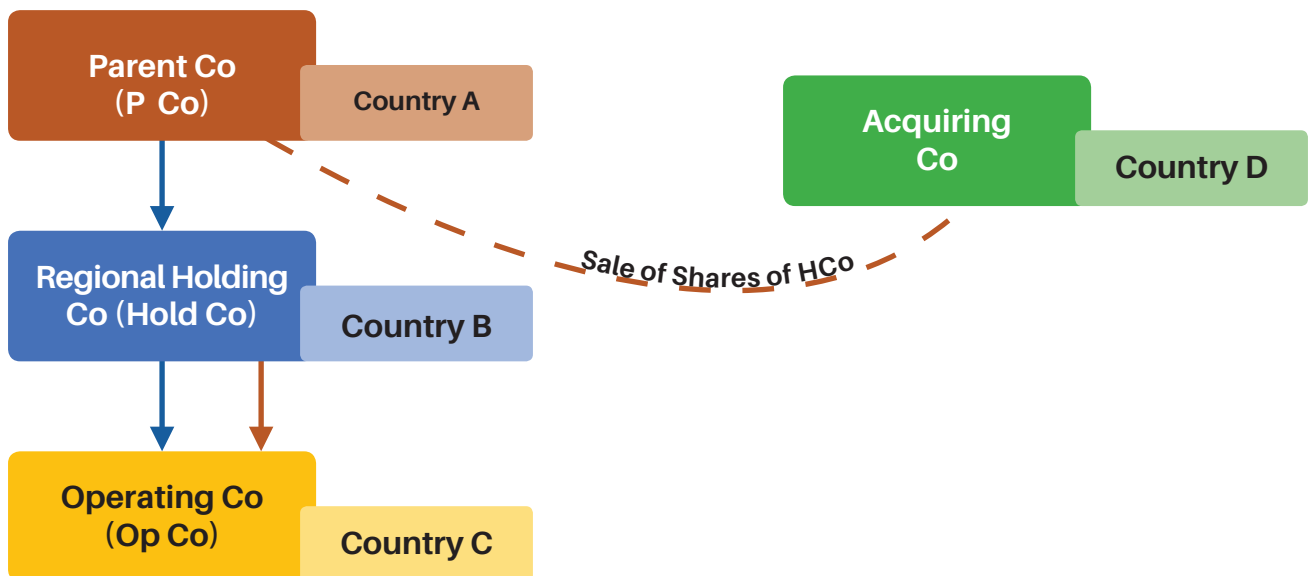
# CASE STUDY, QUESTIONS & EXPERTSPEAK

## TAX-PAYER RIGHTS & TRANSPARENCY

Compiled by:

Sudarshan Rangan

### PICTORIAL REPRESENTATION OF THE FACTS



**FACTS**

- Parent Company (P Co) is a resident of Country A. P Co holds a Regional Holding Company (Hold Co) which is a resident of Country B. The Hold Co, holds shares in an Operating Company (Op Co), a resident of Country C. The Hold Co does not undertake any other activity apart from holding its shares in the Op Co.
- P Co has sold its shares in Hold Co to an entity (Acquiring Co) which is a resident of Country D. Consequently, the Op Co is now held by the Acquiring Co.
- The tax authorities of the Op Co in Country C have issued a tax notice to the P Co in Country A demanding payment of the capital gains tax derived by P Co on sale of the Hold Co shares. The tax authorities in Country C contend that the underlying value of shares of the Hold Co is on account of its investment in the Op Co in Country C and therefore the taxation of the Capital Gains arises at Country C.
- P Co surprised by the notice from Country C tax authorities responds by affirming that it is not obligated to pay any taxes in Country C as the taxing rights of the same is with Country A where the P Co is situated. It contended that as per Country A- Country B tax treaty, the Capital Gains shall be taxable at Country A where the alienator of share is a tax resident. Since P Co is a resident of Country A, the Capital Gains taxation will trigger at Country A. Further, it was contended that under the domestic laws of Country C as well as all the tax treaties it has entered into, there is no chargeable mechanism on taxation on indirect transfer of shares. Therefore, Country C does not have any taxing rights.
- The Tax authorities of Country C staying firm in its stance responded to P Co that the domestic tax legislation has been amended retroactively and therefore the impugned transaction is now squarely covered under its domestic legislation. Further Country C denied any access to tax treaty on the ground that the transaction is tax abusive nature and its domestic legislation will override its tax treaties. Therefore, the tax demand notice to P Co is a valid claim.
- Further, it was also brought to notice of the P Co that the transaction value was determined by seeking information from the competent authorities of Country D where the Acquiring Co is a tax resident. It is imperative to note here that there is no tax exchange information agreement entered between Country C and Country A. Further, the tax authorities of Country C also indicated that it will put out a list of tax defaulters in the public domain and thereby P Co name will be included in the list on failure to pay the capital gains taxes, thereby denting the goodwill of P Co.
- P Co understands that Country C is on the verge of proposing a tax-payer rights charter in its domestic legislation. Therefore, P Co is contemplating to invoke remedy that may be available under the tax-payer rights charter as it is of the view that the action proposed by Country C is depriving fundamental tax-payer rights.

## QUESTIONS & EXPERTSPEAK



**AKHILESH RANJAN**  
FORMER MEMBER,  
CENTRAL BOARD  
OF DIRECT TAXES



**NINA OLSON**  
EXECUTIVE DIRECTOR OF THE CENTER  
FOR TAXPAYER RIGHTS AND FORMER US  
NATIONAL TAXPAYER ADVOCATE



**JS VINEET KOTHARI**  
HON'BLE JUDGE OF  
MADRAS HIGH COURT

**1. What is a tax-payer right? Taxes are a century-old concept, hence why is tax-payer right getting more prominence only now? Is it because of tax-exceptionalism?**

**AR:** The behaviour of taxpayers over the years has largely been viewed in the context of the duty they must perform towards the state by paying their due share of taxes. Till recently, there has not been much of an acknowledgement of any rights specific to the taxpayer (as distinct from the normal constitutional rights enjoyed by every citizen) except for the safeguards built into the taxing statutes. Even the courts in India have refrained from laying down any principles related to taxpayer rights, except for endorsing the Westminster principle that allows every taxpayer to arrange his affairs so as to minimize his tax outgo. In fact, tax law has always suffered from tax exceptionalism – the notion that tax regulations are not

governed by the same long standing rules of administrative law that generally apply to any regulatory or rule making agency.

Lately, however, there is a growing realization that every taxpayer not only expects but, indeed, has a right to be taxed in a just, fair and equitable manner. This actually encompasses a broad spectrum of entitlements, spanning various rights such as the right to legal certainty that helps the taxpayer predict its tax liabilities and obligations; the right to due process and adequate opportunity; the right to fair and speedy dispute resolution; and the right to protection of its personal data. Consequently, taxpayer rights are now an important issue, the moot question being whether administrative safeguards are in place to protect these rights.

The new-found need for a clear, enforceable and robust mechanism for the protection of taxpayer-rights has been

necessitated by the following inter-related developments in taxation:

- (a) The Base Erosion and Profit Shifting (BEPS) project and its recommendations aimed at countering tax avoidance and abuse, which countries have agreed upon, has called into question several beliefs held by taxpayers regarding the manner in which they need to comply with tax laws. The principal purpose test, which is a general anti-avoidance rule to be included in tax treaties, allows tax authorities to deny treaty benefits if one of the main purposes of the transaction is tax avoidance. This carries an element of subjective interpretation, and gives a lot of discretion to tax authorities. At the same time, countries have enacted general anti-avoidance rules in their domestic tax laws and the abuse referred to in these rules renders the domestic law, on which the taxpayer traditionally relied, inapplicable;
- (b) Second is the increased emphasis on having effective dispute resolution mechanisms in place at the very outset before implementing new anti-avoidance measures. These must have features that ensure adequate rights to seek redressal, full hearing and fair trial and even the right to property (through prevention of expropriation of assets);
- (c) The collection, storage and exchange of taxpayer data, particularly under the automatic exchange route, needs to be accompanied by adequate data-protection and data-privacy rights;
- (d) Growing tax uncertainty due to recent developments has thrown up the need to evolve new mechanisms like the co-operative compliance framework that requires the taxpayer and the tax administration to work together towards easing compliance. These mechanisms are built on trust and mutual understanding, which cannot be assured without respect for the rights of taxpayers.

**NO:** As noted, taxes are a centuries-old concept, generated by the need of a sovereign state for revenue even as individual property rights are recognized. Because taxation is an exercise of power by the sovereign state, taking the property of one for use of the greater good of others, or all, protections are necessary to guard against abuses of that power. These protections differ from one sovereign entity to another, based on culture, history, political framework, and economic development. In the 21st century, with increased cross-border economic transactions and mobility of individuals, these differences in taxpayer rights become more prominent. Further, with the increased attention to taxpayer rights, the variances of these protections from those in other areas of law become more apparent and raise the question of whether taxation should continue to be treated differently (tax exceptionalism).

**2. How is tax-payer right different from a human right, which is a fundamental right? The European Court of Human Rights has delivered some important judgements about taxation and human rights, are there any such precedence globally and your experience on the same? From the given fact pattern, can artificial persons also invoke tax-payer rights or human rights remedies or is it available only to natural persons?**

**AR:** In my view, taxpayer rights are of fundamental importance to every tax system, but should not be confused with human fundamental rights. The latter are those that are guaranteed under the constitution or otherwise under a political dispensation and deal with basic human freedom and social entitlements that inform every aspect of life. Taxpayer rights, on the other hand, are specific rights that arise in the context of the relationship between the taxpayer and the tax administration. These are rights that

the taxpayer expects to be granted by the government in return for compliance with tax laws and consequent augmentation of state revenues – a kind of social contract. Further, these are rights that need to be assured to every taxpayer, regardless of whether it is a natural or a juridical person.

Taxpayer rights arise and can be codified in two ways – by incorporating specific provisions in the taxing statute, or through administrative guidelines, circulars and charters. Rights that are sourced from statutory provisions are generally enforceable under the appellate or revisionary mechanism provided by the statute itself, while those specified through administrative guidelines etc. would normally require the intervention of courts for their protection. Additionally, there are rights that may not be codified in any form and hence are not legally enforceable but still need to permeate government policy and action. For instance, the right to legal certainty and legitimate expectation enjoins upon the government to frame clear and unambiguous tax laws, implement the same in the manner intended by the legislature and desist from making retroactive amendments just to overcome adverse court rulings. Similarly, the right to have taxpayer data protected makes it obligatory for the government to set up sophisticated data security systems that can protect the confidentiality and integrity of taxpayer data. These rights may be fundamental in nature but the taxpayer normally cannot approach the courts to have them enforced, except possibly by way of public interest litigation, and are therefore distinct from human fundamental rights.

Different countries and jurisdictions have dealt with taxpayer rights in different ways. Countries in Europe and, in particular, the European Union have displayed increasing emphasis on this aspect of taxation. The International Bureau of Fiscal Documentation (IBFD) at Amsterdam has set up an Observatory

for the Protection of Taxpayers' Rights (OPTR) that monitors international developments and the progress made by various countries in this regard. There is extensive case law on the subject from the European Court of Human Rights at Strasbourg and the Court of Justice of the European Union at Luxembourg.

Such heightened attention given to taxpayer rights in the European Union has, however, not been seen as yet in other parts of the world. The European case law also may not be an effective guide for other countries, because of its inter-play with the Charter of Fundamental Rights and the context of the European common market in which the rulings have been delivered. Thus, it will take some time for concrete and cogent principles of law governing taxpayer rights to emerge and get established internationally and in India.

**NO:** I personally believe that taxpayer rights derive from human rights, based on the dignity of the human being. But how that proposition is expressed in any given country depends on that country's foundational structure and governance. In Europe, as noted above, the European Court of Human Rights has based its judgments on human rights conventions. In the United States, its foundational document, the Declaration of Independence, is grounded in the concept of human dignity, and declares "that all men are created equal, that they are endowed by the Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." But it is the Constitution of the United States that defines the relations between the government and its people (although whole populations were considered "people" at the time of its writing). The U.S. Constitution enumerates the rights of the people in relation to the federal government, as well as the relationship between the branches of government and between the

federal government and the states. The U.S. Constitution requires due process of law, including procedural due process, when the federal or state government actions impact an individual's life, liberty, or property interest in a way such that harm is inflicted. Procedural due process, under the 5th Amendment and applied to the states under the 14th Amendment, requires at a minimum that the government provide impacted persons with notice of its action and an opportunity to be heard. (*Grannis v. Ordean*, 234 U.S. 385, 394 (1914).)

Under the U.S. system, the Constitution provides the "floor" for rights; below this you cannot go. Early on, the United States Supreme Court carved out taxes as exceptional. In 1881, in *Springer v. United States*, the U.S. Supreme Court declined to intervene in the federal government's seizure and sale of a taxpayer's real property in satisfaction of a tax debt on due process grounds:

The proceedings of the collector were not in conflict with the amendment to the Constitution which declares that "no person shall be deprived of life, liberty, or property without due process of law. . . ." The prompt payment of taxes is always important to the public welfare. It may be vital to the existence of a government. The idea that every tax-payer is entitled to delays of litigation is unreason. If the laws here in question involved any wrong or unnecessary harshness, it was for Congress, or the people who make congresses, to see that the evil was corrected. The remedy does not lie with the judicial branch of government. 102 U.S. 586, 593-594 (1881).

Thus, Congress and the individual states can provide more protections than what the Constitution provides, and that is what has happened in the context of taxpayer rights. The U.S. Internal Revenue Code contains many protections for taxpayers, including Collection Due Process Hearings that afford

the taxpayer the very opportunity to challenge in court Internal Revenue Service levy and seizure actions that was denied to Mr. Springer in 1881 under a constitutional analysis. See 26 U.S.C. §§ 6320 and 6630.

People's understanding of human rights in the context of taxation changes as taxes become a more active vehicle for redistribution, regulation, and relations between citizens and other countries. Denying a pre-seizure hearing to a wealthy individual who has the means to pay the tax up-front and litigate for a refund later may meet the Springer court's due process test (I challenge that proposition ...), but denying up-front a low income person's federal benefit that is administered through the tax code may deprive that person of the very means to challenge the deprivation post hoc. The basis for treating taxation differently from other areas of law where protections derive from human rights appears increasingly shaky in the 21st century.

With respect to artificial persons claiming protections of taxpayer rights or human rights, in the US, because taxpayer rights until recently have been legislated, they apply to natural and artificial persons alike, unless Congress has expressly delineated a different treatment for artificial persons. But in other areas of Constitutional protections, such as free speech, the Supreme Court has held the 1st Amendment protection of freedom of expression on issues of public importance applies to corporations. Political speech, including corporate speech, is essential to a democracy. *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765, 777 (1978); see also *Citizens United v. Federal Election Commissioner*, 558 U.S. \_\_\_\_ (2010).

***3. It appears that Country C is contemplating to introduce tax-payer rights charter. However, it is not clear whether Country***

*C will legislate the same. The tax-payer charter rights are not legalised in many countries and accordingly have no legally binding effect. From a developing country perspective, such legal binding may go counter-productive due to increased litigation and also tax inspectors may deter from tax collection fearing a legal initiation leading to a shortfall in revenue collections. Therefore, should tax-payer rights charter have a legally binding effect? If so, can punitive actions be taken against the tax administration or the tax inspector for denying a tax-payer their right?*

**AR:** An increasing number of countries are now framing charters of taxpayers' rights, which are then conspicuously displayed in the media, in taxpayer circles and in tax office buildings in order to effectively convey the government's intention to provide optimum service to the taxpayers. Such a charter has been in existence in India for several years and specifies self-imposed and reasonable time limits for various actions as well as other standards of service delivery that are of critical importance for the taxpayer. These charters can have a potentially powerful impact on taxpayer sentiment and compliance behaviour. They also serve to set benchmarks against which the performance of tax officers can be appraised. However, the stipulations specified in these charters are often not adhered to, giving rise to general skepticism about the objectives of the government and making such initiatives counter-productive.

Less developed economies, in general, are loath to give out commitments of timely service delivery, for the simple reason that many of them do not have the human, financial, technological or infrastructural resources required to fulfill those commitments. Further, these economies are far more concerned with augmenting their revenue resource than to think of promoting taxpayer rights. Indeed, the two objectives may sometimes be in conflict,

which would normally be resolved in favour of revenue generation. It would be difficult to expect these jurisdictions to establish a charter of taxpayer rights and make it legally enforceable.

Even for more advanced economies, the issue as to whether taxpayer rights should be codified into law so as to make them legally binding would be a complex issue. A major argument against such codification is the difficulty in specifying in law the consequences of violation of any of the rights. The tax administration and tax authorities act on behalf of and in the name of the government in performance of their duties and it is not feasible to make them personally liable for any contravention, unless gross negligence or willful failure is established. The other way would be to provide in law that a violation of any particular right will result in allowance, by default, of the relevant approval or relief etc. Such provisions may carry their own risks of delinquent taxpayer behaviour merely to obtain the approval or relief by, for example, not cooperating with the tax authority. Of course, the taxpayer can approach the courts with a writ petition seeking directions to the government to allow the necessary relief, but if one has to file a constitutional writ petition for every infringement of rights incorporated in the charter, the charter itself may become a burdensome document.

Another important reason for countries not wanting to codify taxpayer rights is that while the law can be made to provide for various procedures including time limits that are designed to safeguard the taxpayer's rights, it would be very difficult to draft provisions, even in the form of a charter of taxpayers' rights, that relate to the more abstract rights such as the right to legal certainty.

**NO:** Most taxpayer rights charters are broad statements of principles and many focus primarily on commitments to providing

taxpayer service without specific rights-based language. They do not provide or identify remedies for violations of these principles or commitments. Codifying the charter alone may not create those remedies, but it does create an obligation on the government to take actions that conform to the principles and commitments of the charter. How those obligations are enforced is a developing area of law. In some instances, where there is a statutory protection already in place, the violation of a codified charter obligation can be raised as a component of the claim under the statutory remedy. Over time, as case law develops as to the meaning and application of the charter, a violation of a charter right may be so egregious as to lead a court to find a human rights or constitutional violation, thus leading to an enforced remedy.

For many developed countries, their economies are no longer at the stage where the mere prospect of litigation before collection of tax would threaten the very existence of the government. But developing countries may find themselves at the same stage as the U.S., when the Supreme Court held "taxes are the lifeblood of government, and their prompt and certain availability an imperious need." *Bull v United States*, 295 U.S. 247, 259 (1935). However, I believe that establishing a tax administration that is based on a charter that enunciates the rights of taxpayers vis a vis the tax collector, and that is framed in the language of rights that are recognized and enforced in other areas of law, provides certainty to the government and protection to the taxpayer. Both the government and taxpayer know what remedies are available under that language as applied in other contexts. Additional certainty can be provided by creating statutory protections derived from the charter's rights-based language.

But creating such a charter cannot occur in a vacuum - there must be a strong, independent administrative and judicial

structure that is free from private influence and corruption and that operates in a timely manner so that taxpayer protections are not viewed as bringing tax collection to a halt. Thus, where due process demands that taxpayers be granted the right to an administrative appeal before paying the tax, there must be an administrative appellate division that can promptly handle the cases before it. And where taxpayers are granted the right to a pre-assessment judicial review, an independent judiciary, knowledgeable about tax and with efficient procedures, must be in place. Infrastructure is vital to protecting taxpayer rights, preventing taxpayer abuse of those rights, and government ignoring those rights and overreaching.

***4. Country C has amended its tax laws retroactively, this action appears to be draconian as it puts the tax-payer in the backfoot. Is this act a violation of taxpayer right? Also, what should be the ideal framework for designing the tax-payer charter for the 21st Century? Any specific principles that you would recommend especially to balance tax-administration rights and tax-payer rights?***

**AR:** Retrospective amendments are recognized across the world as acceptable instruments of legislative action aimed at alleviating unintended hardship caused by the existing law. Such amendments have also been noticed in taxing statutes and are normally carried out to eliminate unintended or excessive taxation and compliance burdens for the taxpayer. Indeed, such retrospective amendments that are beneficial to the taxpayer can be said to be in furtherance of and for the protection of the rights of taxpayers. However, making such amendments for the purpose of introducing new and additional taxation can certainly be said to be in violation of taxpayer rights.

At the same time, many hold the view that retrospective amendments can also

be made to clarify the legislative intent of a particular provision. It is well accepted that the drafting of legal provisions, particularly tax provisions, cannot be perfect and it is often incumbent upon the legislature to clarify its intent, even if the clarification is not beneficial for the taxpayer. The issue then boils down to whether the intent underlying the existing law is reasonably clear. In the given set of facts of the case study it appears that country C was indeed of the view, even prior to the retrospective amendment, that indirect transfers could be charged to tax by it if the underlying assets are located in its territory. As pointed out in the toolkit published very recently by the Platform for Collaboration on Tax, there has been widespread concern among developing countries that offshore indirect transfers might be inappropriately used to avoid capital gains taxation in the country where underlying assets are located. The retrospective amendment made by country C appears to have been guided by the need to make this position clear in law. To this extent, therefore, it may not be considered to be in violation of taxpayers' rights.

It is thus evident that a charter of taxpayers' rights must be drafted with great care so as to bring out a clear delineation of rights that it seeks to protect. It must not stop at laying down indicative time limits for various routine administrative actions. It should incorporate all those rights that the government and the taxpayers consider as important for engendering a climate of trust between the taxpayer and the tax administration and for enabling mutual appreciation of each other's needs. Most importantly, it should address the issue of tax certainty, which has assumed critical proportions in these times of strong anti-avoidance legislation, increased demands for transparency and higher compliance burdens. Care must be taken to strike a balance between the duties that the government expects taxpayers to fulfill

so that all legitimate revenues are collected and the rights that the taxpayer expects the government to respect. There is also the issue of abuse of law that, if shown to exist, will potentially lead to suspension of taxpayer rights. It would be advisable to define and clarify the meaning and implication of abuse in the charter itself.

**NO:** Retroactivity in general violates the fundamental principle of procedural due process – that affected persons be provided sufficient notice of the government's action or position that impacts and harms a protected interest, and that those persons be provided an opportunity to challenge that position or action before the harm takes place. If a person takes an action and the government has not informed affected persons of its position until after the action takes place, the very legitimacy of the enforcement action is undermined. Further, if the government states its position but does not explain the basis on which it arrived at the position (what I call the "because I said so" approach to tax administration), it sets taxpayers up for failure and future violations, and again undermines trust. For all these reasons, retroactivity should be avoided.

However, in a time of creative planning that can morph into abusive techniques, tax administrations may be several steps behind, and by the time they have identified an abusive technique, it has been widely adopted. In response to this cycle, tax administrations seek retroactive amendments. A far better approach would be (1) to adopt anti-abuse provisions that are crafted on fundamental tax administration principles; (2) signal early on, as word about a scheme begins to surface, the agency's interest and concerns; (3) once a scheme is understood, issue prospective guidance, announce investigations under the anti-abuse provisions, and simultaneously offer settlement initiatives (recognizing

nuances in taxpayer involvement) to those who do not want to risk exposure to the anti-abuse audits. Well-crafted anti-abuse legislation (which is a challenge to achieve) provides taxpayers notice of the need to conform to certain basic principles; the agency's early signalling puts taxpayers on notice that there might be some risk of future agency action and provides taxpayers the opportunity to change their approach to avoid that action or prepare to defend it, and even proactively educate the tax agency about the legitimacy of their approach; and a coordinated response to the abusive scheme, combining prospective guidance, audit strategy, and settlement initiative, provides taxpayers the way forward to compliance while ensuring that the most egregious actions will be addressed. Retroactive amendments provide none of these protections.

(See my discussion of the charter in question 3, above.)

**5. In the given fact pattern and usually in the case of multinational enterprises, there are multiple countries involved, do you think there is a need for a multilateral tax-payer rights convention to arrive at a harmonised treatment of tax-payer rights and obligations? Will such a multilateral agreement act as an impediment for unilateral treaty overrides, invoking claims under investment treaty etc.**

**AR:** One of the important developments in the formulation of international tax policy is the increasing shift towards multilateralism. Over the last decade or so, several multilateral agreements have been established or existing frameworks have been strengthened, with varied objectives such as mutual administrative assistance, automatic exchange of information and implementation of treaty related measures recommended

by the BEPS project. There is also a growing awareness now across jurisdictions of the importance of ensuring taxpayer rights. However, the extent to which taxpayer rights can be guaranteed by a jurisdiction depends upon the human, financial and systemic resources that the jurisdiction possesses and the economic and developmental needs that it must give priority to in public interest. While several countries felt such constraints even at the time of entering into multilateral information exchange agreements, there was also an expected tangible benefit accruing from those agreements that is not very evident in the context of taxpayer rights. In my view, therefore, it would be premature at present to talk of a multilateral framework for dealing with taxpayer rights.

However, current trends and ongoing policy initiatives being discussed globally are pointing towards an international tax framework in the near future that discourages low-tax or no-tax regimes, promotes strong anti-avoidance laws, encourages enhanced transparency and nurtures a culture of cooperative compliance based on mutual trust between taxpayers and tax administrations. As and when sustainable mechanisms of cooperative compliance are established, the need to develop harmonized standards of protection of taxpayer rights will emerge and countries may decide then to implement a multilateral framework for this purpose.

For the present, countries need to be encouraged to establish their respective charters of taxpayer rights and implement them with due diligence and seriousness. Oversight bodies such as the Observatory set up by the IBCFD need to be strengthened and peer-review mechanisms need to be put in place. Mutual agreement procedures under tax treaties are already being reinforced and must factor in these rights while attempting to

resolve bilateral disputes.

**NO:** One of my greatest disappointments in the globalized economy of the 21st century has been countries' and global institutions' failure to develop taxpayer rights conventions at the same time as they are developing conventions to address cross-border transactions, information exchange agreements, and coordinated audits. Despite broad statements about the importance of protecting confidentiality of information, including trade secrets, attorney-client privilege, etc., and a commitment to conducting pre- and post-assessments, the public is left in the dark about what, exactly, all this means. See OECD Global Forum: EOIR Reviews and Terms of Reference B.2.1. and C.4.1. Taxpayers have no vehicle to proactively raise concerns about protections in jurisdictions with which their information will be exchanged, nor do they have a forum in which to protest how their information is being handled once an exchange has occurred. Because of a lack of transparency, taxpayers do not know what risks are being undertaken with their tax information or what avenues they have to challenge the sharing of this information. Once information has been shared with another jurisdiction, the taxpayer may be subject to audit and collection procedures that do not provide protections enjoyed in the taxpayer's country of residence. This is not just a multinational corporation problem; it is also a problem for individual taxpayers and small-to-midsize businesses attempting to operate in a global marketplace. Thus, we currently have EOI going on without the requisite taxpayer protections.

It is not too late to start these discussions; in fact, it is absolutely necessary. The absence of such a convention encourages state unilateral action, and increases disputes and inefficiency. Given the different states of economic development among nations,

a two-track approach may be appropriate. The first track is a negotiated platform of fundamental protections that all participants can agree to. The second track is more specific protections that participants are encouraged to adopt, including basic protections in audit and collection activity, and transparency to the public. In many ways, the dialogue and discussion necessary to arrive at these two tracks is more important than the end product. This dialogue should include non-profit and non-governmental organizations as well as tax authorities. Tax administrations in both developed and developing countries often view taxpayer protections as delaying or impeding tax collections; to the contrary, the discussions may show that taxpayer protections are essential to economic development. As part of this discussion, the effect of any resulting multi-lateral agreement on unilateral treaty provisions should be addressed.

**6. Tax Transparency measures in cross border transactions have been strengthened through automatic exchange of information such as FATCA, CRS etc. In this regard, in the given fact pattern, do you think Country C tax authorities seeking information about the transaction with Country D is a valid Act? What measures or minimum standards to be devised under Automatic Exchange of Information?**

**AR:** The fact pattern set out in the case study indicates that country C did not have any information sharing agreement with country A (the country of residence of the taxpayer). Such an unusual situation would normally have arisen due to the unwillingness of country A to subscribe to the international standards of transparency, or its domestic laws not requiring or allowing disclosure of tax-related information. In such circumstances it would be difficult to expect country A to join any multilateral agreement for the automatic

exchange of information (AEOI). In any case, even if country A had agreed to exchange information automatically with other countries, it would not be able to provide any information to country C due to the absence of a separate bilateral or multilateral agreement between the two countries providing for such exchange.

Be that as it may and even if country A was exchanging information automatically, country C was fully justified in seeking relevant and specific tax-related information from a jurisdiction with which it had an exchange of information agreement. The two systems of exchange, 'automatic' and 'on request', coexist and while AEOI allows only certain specified financial account information to be exchanged, the 'on request' system can be used to obtain any specific tax-related information that is relevant for tax purposes. If the taxpayer was not willing to share the relevant information with the tax authorities of country C (which was presumably the case here), country C was within its rights to ask country D for the same as the information was not otherwise available with country C; it would not become available under AEOI even if country A was exchanging information automatically; it was expected to be available with country D; and was relevant for tax purposes for country C. International standards of transparency make it clear that once these circumstances were shown to exist and the standard of foreseeable relevance was met, country C was under no obligation to obtain the taxpayer's permission or even to inform him before sending the request to country D.

Thus, in my view, there was no violation of any right of the taxpayer when the information was obtained from a third country. Countries have agreed to share, bilaterally and multilaterally, tax-related information in the interests of optimizing domestic resource mobilization, even though the information

being exchanged is personal information of the taxpayers and such exchange could technically be said to violate their right to privacy.

AEOI takes place in accordance with a Common Reporting Standard that has been agreed to and adopted by countries agreeing to exchange information automatically. This is a comprehensive standard that specifies the nature and extent of financial account information that is required to be exchanged, the manner and format in which it is to be transmitted, the standards of data security and confidentiality that must be met, the use to which the information can be put, etc. There is a clear recognition of the fact that the information being provided by banks and financial institutions is personal data of taxpayers and is being transmitted to the concerned tax authorities without the express permission of the taxpayers. The emphasis, therefore, is on preserving the integrity and confidentiality of the data and an elaborate peer-review process has been put in place for assessing the adequacy of data-security measures taken by countries. AEOI has been taking place since 2017 and the need to devise additional standards has not yet been felt.

**NO:** I do not believe the protections of taxpayer information have kept pace with the tax transparency measures through EOIR and AEOI. This lack of specificity and global agreement has led me to propose that when the United States has conducted its risk assessment in advance of an AEOI, and finds there are significant risks but those risks can be "mitigated", the AEOI should be published for public notice and comment. This provides taxpayers with public notice that their tax information may be shared with a jurisdiction that does not adhere to U.S. standards of confidentiality or taxpayer protections. The IRS's assessment should include not only cybersecurity and privacy protections but

also the availability of a dispute resolution mechanism. If the IRS determines to proceed with the agreement with that jurisdiction, and the jurisdiction does not introduce protections that address the identified risks, then the U.S. should notify individually affected taxpayers that such information has been shared, unless the notice would interfere with an investigation of highly abusive or criminal actions. Public notice would allow individual taxpayers to raise concerns about the exposure of their data to tax authorities, and in the absence of agency action, could challenge the exchange-of-information agreement in court, leading to clearer definition of how the government should handle the taxpayers' protected property interest in the confidentiality of their tax information.

The given fact pattern demonstrates the risk taxpayers face, when their own country does not enter into an AEOI with one country, and yet that latter country can obtain the information through an agreement with another country. Under this fact pattern, to what venue can the taxpayer protest? Country A does not exchange information with Country C, presumably for a good reason, but it cannot stop the exchange between Countries C and D. Conceivably Country A could protest to Country D, but the information has already been exchanged. If Country A has an agreement with Country D, as a condition to entering into that agreement it could require advance notification of any information exchange regarding its known residents with countries with which it does not have such an agreement in place, and even pause information exchange with Country D if it continues to exchange Country A resident information with Country C, since it places Country A's residents at risk. Absent global standards for taxpayer information protection, the existence of such clauses may be unworkable and insufficient to encourage countries to step up their

protections and be more vigilant. Without such safeguards, Country A residents may decide not to undertake transactions with Country D residents, because it exposes them to retroactive taxation in Country C.

**7. The tax authorities of Country C have stated that failure to pay the impugned tax will amount to public shaming. Is this a violation of tax-payer right i.e. privacy rights which in many countries are a fundamental right? Will privacy rights under tax matters be precluded in the guise of public interest?**

**AR:** Country C has threatened to include the taxpayer's name in a list of tax defaulters and make it public if the tax dues as demanded are not paid. Such action amounts to public shaming, which is clearly a very serious matter that can not only impact the social standing and goodwill of the taxpayer but can also cause immense psychological harm. Irrespective of whether it amounts to a violation of the fundamental right of privacy, the act of public shaming is certainly a violation of taxpayer rights, unless the taxpayer can be accused of delinquent behaviour or a criminal intent to defraud the revenue.

Tax authorities normally have adequate powers to effect recovery of tax demands. On the facts of this case, however, it would appear that the taxpayer has no property or assets in country C and the tax authorities have no means of enforcing the demand by, say, attachment or sale of such assets. Since there is no information exchange relationship between countries C and A, it would also appear that there is no agreement between them for rendering assistance in the collection of taxes (such agreements normally go together under an umbrella agreement for mutual administrative assistance). Thus there is no way at all for the tax authorities of country C to recover the tax demand and the question would then arise as to whether in such circumstances, the threat or act of publicly

labeling the taxpayer as a tax defaulter, is an acceptable transgression of taxpayer rights. The question is difficult to answer, but if it is a fact that the tax demand is no longer disputed and has not been kept in abeyance by order of any authority or court in India, the taxpayer can be said to be delinquent in as much as it has not displayed the required respect for the law of country C and should consequently not expect the tax authorities of country C to have any respect for its rights as a taxpayer.

**NO:** I am not supportive of ad hoc public shaming by the tax authorities. Publicity about tax obligations is a powerful tool in the hands of the tax authorities, and the potential for abuse and end runs around taxpayer protections is very great. In the United States, in most cases, taxpayers have the ability to administratively appeal before the assessment of tax, and such appeal is covered by the statutory confidentiality protections. If the taxpayer does not agree with the result of the appeal, in most instances it can petition the United States Tax Court (pre-payment) or file a refund claim in the federal district court (post-payment). In either case, at that point in the dispute, the matter becomes public. The taxpayer can weigh the damages to reputation of being public with the actual monetary cost of paying the tax. Taxpayers can make an informed choice, and no privacy rights are violated.

Similarly, where a tax is assessed and is unpaid, the Internal Revenue Service may file a federal notice of tax lien which establishes its priority as a debtor vis a vis third parties. These liens are public filings, and identify the taxpayer and the amount of tax debt at the time of filing; they become a matter of public record in the jurisdictions within which they are filed. There are procedures in place to determine under what circumstances it is appropriate to file the public notice of federal tax lien – they are not as taxpayer-protective and nuanced as I would like, but my point here is that the

procedures apply to all taxpayers, not one-off, ad hoc threats. Before a federal tax lien can be filed, in most cases, the tax must be proposed and taxpayers given the opportunity to go to administrative appeals (non-public) and to the Tax Court (public). In this way, the public's need to know is addressed while still protecting taxpayer privacy rights.

**RESPONSES BY HON'BLE JS DR. VINEET KOTHARI:**

The facts of Case Study in hand are obviously those of Vodafone case which has acquired unnecessary infamy for Country C India. My views are in favour of Revenue or Country C. The taxability of Capital Gains always should be integrally connected to transfer of capital assets. The elements of ownership and control though attached to capital assets, the location of the capital assets is equally important. In a corporate structure or a web of it, the indirect transfer of such control and ownership of shares outside country of location of capital assets in question cannot defeat the taxability of such capital gains irrespective of residence of transferor. In my understanding, the apex court missed to give due weightage to this overriding premise. All the debate against this doesn't answer how and why the transfer of capital assets located in country C should lose its revenue merely because transfer of shares of corporate entity are transferred at a place outside country C or shares are of a company which holds the shares of company which owns and controls such capital assets in country C. If this basic concept of capital gains was to be superseded by simply creating a corporate entity upstream in different location, which is not a rocket science and which can be fully bona fide not undertaken with a view to defeat capital gains taxation of country C in future, but that does not matter for such levy. All this super structure of corporate entity in different locations may be good for any other reason but it should not be allowed to defeat

the capital gains levy altogether.

In my understanding, the retrospective amendment of law is more of clarificatory nature rather than substantive new levy introduced with retrospective effect so as to attract such pour of criticism. It is the well accepted method of undoing a judgement of court viz. to remove the defect pointed out by court and put in place the correct understanding of law as it was always meant to be. Therefore I don't think the retrospective amendment is unconstitutional.

As far as angle of human right and tax levy are concerned it may be fair to introduce to this right in tax laws only to the extent of its administration and right of being heard properly and fairly. The name shaming should however depend upon the objection to levy adjudicated by court of competent jurisdiction. The default in payment of tax thereafter may invite name shaming but not before that merely because Tax Department holds the view of it being taxable and Tax Payer contending otherwise.

The right of country C to collect transaction information from country D where acquiring company is resident under their own Agreement even in the absence of any such Agreement between country A and country D.

In my understanding, the situs or location of contract to transfer shares which effects the transfer of control and ownership of capital assets is not at all determinative of capital gains tax liability. Moreso, because in digital world with E signatures that can't be even determined exactly too. But even if can be so determined, that is not of determinative value as far as capital gains tax liability is concerned. It's the situs of capital assets which should and does matter.

The aggressive propaganda of Tax Payers' rights and its mix with Human rights, which have hitherto been in the realm of

personal life and liberty , may also be to detract and derail the very levy from its traditional foundational precepts. It does not deserve to be encouraged much. Tax payers rights as such are already recognized in the relevant laws .

One can appreciate the newly emerging concept of consensual taxation or taxation by consensus between partnering countries in the realm of international taxation and with which I agree because that will be more fair and give impetus to economic development and encourage ease of business and it will also reduce disputes and consequential demand on dispute resolution system of any country specially for a country like India where it can be quite cumbersome and lengthy. But that development or increasing economic development also cannot be at the altar of sacrificing revenue interest of our sovereign altogether.

Here I also wish to make a point of giving overriding effect to Tax Treaties framed and agreed by Executive wing of State without passing the acid test of debate in Legislature in public domain. The balancing of rival interests by the later method can definitely yield much better acceptance of such Tax Treaties and it's overriding effect over domestic tax laws. We should seriously consider the modifying the method of finalizing various Tax Treaties or even MLI, even ex-post facto in some cases.

To sum up, I would lean in favour of State's revenue interests in the aforesaid case and therefore justify retrospective clarificatory amendment in law while advising the State to explore vigorously the possibility of consensual international taxation and not to let unnecessary broad and vague concepts like Human Rights for corporate entities in tax field overawe the fundamental principles of taxation.

# INTERNATIONAL TAX UPDATES

By Sagar Wagh and Amaya Khare

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## 1. Tax Court of Canada's New Fast Track Settlement procedure post COVID-19 Pandemic

On 4 June 2020, during a virtual meeting with the Tax Court of Canada Bench and Bar Liaison Committee, the Tax Court of Canada introduced its new, yet temporary, "fast track settlement conference system". This new "fast track settlement conference system" aims to reduce the backlog of appeals that have accumulated since 16 March 2020 due to the ongoing COVID-19 pandemic and resulting shutdown of the Tax Court of Canada.

<https://taxpage.com/articles-and-tips/tax-courts-fast-track-settlement-conference-system-rotfleisch-samulovitch-pc>

## 2. Ukraine drastically amends its Tax System with the New Anti-BEPS Law

On 23 May 2020 the supreme legislative body of Ukraine (Verkhovna Rada) adopted the so-called Anti-BEPS Law #466-IX . Known in Ukraine as the Tax Bill 1210, the Law introduces modern, anti-tax avoidance standards and encourages tax transparency.

The new rules address following topics :

- Controlled Foreign Company (CFC) rules
- Permanent Establishments (PE)
- Transfer Pricing
- Business Purpose Test
- Beneficial owner
- Constructive dividend

<https://eurofast.eu/2020/06/26/ukraine-dramatically-amends-its-tax-system-with-the-new-anti-beps-law>



### **3. OECD releases global tax reporting framework for digital platforms in the sharing and gig economy**

On 3 July 2020 the OECD released a new global tax reporting framework, the Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy ("MRDP"). Under MRDP, digital platforms are required to collect information on the income realised by those offering accommodation, transport and personal services through platforms and to report the information to tax authorities.

With the digitalisation of the economy transactions that take place on platforms may not always be reported to tax administrations, either by third parties or by the taxpayers themselves. The platform economy also means increased access to information for tax administrations, as it brings activities previously carried out in the informal cash economy onto digital platforms.

MRDP is designed to help taxpayers in being compliant with their tax obligations,

while ensuring level-playing field with traditional businesses, in key sectors of the sharing and gig economy. It further seeks to avoid a proliferation of different and unilateral reporting regimes, allow for the use of novel technology solutions and help create a sustainable environment supporting the growth of the digital economy.

To support the swift and coherent implementation of the MRDP, the OECD will now take forward work on the international legal and technical framework to facilitate the automatic exchange of the information collected under the MRDP.

<https://www.oecd.org/tax/exchange-of-tax-information/oecd-releases-global-tax-reporting-framework-for-digital-platforms-in-the-sharing-and-gig-economy.htm>

<https://www.oecd.org/tax/exchange-of-tax-information/model-rules-for-reporting-by-platform-operators-with-respect-to-sellers-in-the-sharing-and-gig-economy.htm>

#### **4. Israel Tax Authority's tax circular on Intercompany transactions - burden of proving arm's-length pricing**

The Israel Tax Authority (ITA) on 2 June 2020 published a tax circular to clarify cases in which a transfer pricing study filed by taxpayer will be considered to fulfil legal requirements and which will shift the burden of proof in the assessment process framework to an ITA inspector, in converse to the general rule that the burden of proof rests with the taxpayer.

If a taxpayer provides to an ITA inspector, on the latter's request, a transfer pricing study and supporting documents, the burden of proof will rest with the ITA inspector if they prescribe anything that differs from what was agreed between the parties.

Tax circular lists a number of cases that would prevent the shifting of the burden of proof to the ITA inspector, including that the transfer pricing study does not include all relevant documents as required in accordance with the Income Tax Regulations (Determination of Market Conditions) 5767-2006; the conclusions set out in the transfer pricing study are not properly supported by the evidence presented in the study; the transfer pricing study is not adequately comprehensive and exhaustive; and the taxpayer did not deliver documents which were required by the ITA inspector during the tax audit.

In addition, the tax circular clarifies that mere filing of a transfer pricing study does not shift the burden of proof to the ITA inspector

regarding the facts on which the transfer pricing study is based (i.e., to the extent that the supporting facts of the transfer pricing study are disputed, the burden to prove them rests with the taxpayer).

[https://www.fbclawyers.com/wpcontent/uploads/2020/06/Intercompany\\_transactions\\_-\\_burden\\_of\\_proving\\_arms-length\\_pricing.pdf](https://www.fbclawyers.com/wpcontent/uploads/2020/06/Intercompany_transactions_-_burden_of_proving_arms-length_pricing.pdf)

<https://www.gov.il/he/departments/policies/income-tax-professional-inst-1-2020>

#### **5. Maldives promulgates its first Transfer Pricing Regulation June 29, 2020**

The Maldives Inland Revenue Authority (MIRA) on 10 June 2020 issued the country's first transfer pricing regulation. The Regulation is made pursuant to the new Income Tax Act, which came into effect from 1 January 2020 which sets out the rules to be followed by enterprises that are required to maintain transfer pricing documentation and stipulates the criteria which exempt enterprises from maintaining such documentation.

Similar to the OECD's Transfer Pricing Guidelines, the Maldives has also adopted the three tiers of transfer pricing documentation.

<https://transferpricingnews.com/the-maldives-promulgates-its-first-transfer-pricing-regulation>

<https://mira.gov.mv/TaxLegislation/transfer-pricing-regulation-dhivehi.pdf>

# IFA CONFERENCES EVENTS

By Sagar Wagh and Amaya Khare

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## IFA India Branch

### EARLIER HELD EVENTS:

DATE : 04-Jul-2020  
PLACE : Webinar  
EVENT : Inbound & Outbound Structuring: Key Tax considerations from Singapore perspective  
DESCRIPTION : Speaker for the session Mr Sanjay Iyer  
WEBSITE : [www.ifaindia.in](http://www.ifaindia.in)  
E-MAIL : [info@ifaindiaacademy.in](mailto:info@ifaindiaacademy.in), [shelly.wadhwa@ifaindiaacademy.in](mailto:shelly.wadhwa@ifaindiaacademy.in)

DATE : 11-June-2020  
PLACE : Webinar  
EVENT : Transfer Pricing in Post-COVID-19 Era: Issues & Challenges from Policy, MNE & Tax Administration Perspective (IFA India Virtual International Tax Masterclass Series)  
DESCRIPTION : Session was led by Prof. Dr. Raffaele Petruzzi (Italy) the rest of the speakers were Rahul Mitra (India), Sobhan Kar\* (India), Graeme Wood\* (USA) Valedictory Address by Harish Salve QC and the session moderator Mukesh Butani, Chair, IFA-India  
RECORDED LINK : <https://www.youtube.com/watch?v=U1VxkG6KbHU&feature=youtu.be>  
WEBSITE : [www.ifaindia.in](http://www.ifaindia.in)  
E-MAIL : [info@ifaindiaacademy.in](mailto:info@ifaindiaacademy.in), [shelly.wadhwa@ifaindiaacademy.in](mailto:shelly.wadhwa@ifaindiaacademy.in)

DATE : 10-June-2020  
PLACE : Webinar  
EVENT : Domestic Law Meanings (including Deeming Fictions) of Undefined Treaty Terms: When does the context require otherwise? (IFA India Virtual International Tax Masterclass Series)

DESCRIPTION : Session was led by Prof Dr Stef van Weeghel (Netherlands) and the rest of the speakers were Dr Dhruv Sangahvi (Netherlands), Vanessa Arruda Ferreira (Brazil/IBFD)

RECORDED LINK : <https://www.youtube.com/watch?v=jrT7dqqJaM8&feature=youtu.be>

WEBSITE : [www.ifaindia.in](http://www.ifaindia.in)

E-MAIL : [info@ifaindiaacademy.in](mailto:info@ifaindiaacademy.in), [shelly.wadhwa@ifaindiaacademy.in](mailto:shelly.wadhwa@ifaindiaacademy.in)

DATE : 04-June-2020

PLACE : Webinar

EVENT : Tax Challenges of the Digitalization of the Economy in the COVID-19 Era (IFA India Virtual International Tax Masterclass Series)

DESCRIPTION : Session was led by Prof Dr Vikram Chand (Switzerland) and the rest of the speakers were Johnathan S. Schwartz QC (UK), Prof Dr Guglielmo Maisto (Italy) Prof Dr Luis Eduardo Schoueri (Brazil), Dr Peter Bruelisauer (Switzerland)

RECORDED LINK : <https://www.youtube.com/watch?v=yGbZTHQXAvI&feature=youtu.be>

WEBSITE : [www.ifaindia.in](http://www.ifaindia.in)

E-MAIL : [info@ifaindiaacademy.in](mailto:info@ifaindiaacademy.in), [shelly.wadhwa@ifaindiaacademy.in](mailto:shelly.wadhwa@ifaindiaacademy.in)

DATE : 03-June-2020

PLACE : Webinar

EVENT : Abuse Prevention in International Tax Law: OECD/UN, EU, Indian and Mauritius Perspective (IFA India Virtual International Tax Masterclass Series)

DESCRIPTION : Inaugural Address by Prof. Dr. Robert Danon, Chair, IFA PSC and the speakers for the session were Prof Dr Luc De Broe (Belgium), Porus Kaka (India) Hony President IFA, Rajesh Sharma Ramlohl (Mauritius), Mohan Parasaran (India), Parul Jain (India)

RECORDED LINK : <https://www.youtube.com/watch?v=WmYs1uOLc2A&feature=youtu.be>

WEBSITE : [www.ifaindia.in](http://www.ifaindia.in)

E-MAIL : [info@ifaindiaacademy.in](mailto:info@ifaindiaacademy.in), [shelly.wadhwa@ifaindiaacademy.in](mailto:shelly.wadhwa@ifaindiaacademy.in)

DATE : 09-May-2020

PLACE : Webinar

EVENT : "Transfer Pricing Trends in Asia Pacific"

DESCRIPTION : Speaker for the session was Mr Vinay Sudhakar

WEBSITE : [www.ifaindia.in](http://www.ifaindia.in)

E-MAIL : [info@ifaindiaacademy.in](mailto:info@ifaindiaacademy.in), [shelly.wadhwa@ifaindiaacademy.in](mailto:shelly.wadhwa@ifaindiaacademy.in)

DATE : 25-Apr-2020

PLACE : Webinar

EVENT : " Tax Policy Measures and Impact of Covid-19 pandemic"

DESCRIPTION : Speaker for the session was Mr Jayesh Sanghvi, Mr Deepak Jain and the session moderator Mr PVSS Prasad, Vice Chair - IFA-India.

RECORDED LINK : <https://youtu.be/bdyPEDtptb8>

WEBSITE : [www.ifaindia.in](http://www.ifaindia.in)

E-MAIL : [info@ifaindiaacademy.in](mailto:info@ifaindiaacademy.in), [shelly.wadhwa@ifaindiaacademy.in](mailto:shelly.wadhwa@ifaindiaacademy.in)

DATE : 18-Apr-2020

PLACE : Webinar

EVENT : Multi-Lateral Instrument (MLI) - Practical Aspects

DESCRIPTION : Speaker for the session was CA Monika Wadhani and the session moderator CA Nilesh Kapadia, Chairman - IFA-India WRC

RECORDED LINK : <https://youtu.be/NlvVsUaky0A>

WEBSITE : [www.ifaindia.in](http://www.ifaindia.in)

E-MAIL : [info@ifaindiaacademy.in](mailto:info@ifaindiaacademy.in), [shelly.wadhwa@ifaindiaacademy.in](mailto:shelly.wadhwa@ifaindiaacademy.in)

DATE : 18-Apr-2020  
PLACE : Webinar  
EVENT : "COVID 19 - Legal Issues"  
DESCRIPTION : Speaker for the session was Adv. K Vaitheeswaran  
RECORDED LINK : <https://www.youtube.com/watch?v=2LYkB6EgVTs>  
WEBSITE : [www.ifaindia.in](http://www.ifaindia.in)  
E-MAIL : [admin@ifasrc.org](mailto:admin@ifasrc.org)

DATE : 14-Apr-2020  
PLACE : Webinar  
EVENT : International Tax Updates as per Finance Act, 2020  
DESCRIPTION : Speaker for the session was CA Radhakishan Rawal  
RECORDED LINK : <https://youtu.be/LYcytPwqAl8>  
WEBSITE : [www.ifaindia.in](http://www.ifaindia.in)  
E-MAIL : [info@ifaindiaacademy.in](mailto:info@ifaindiaacademy.in), [shelly.wadhwa@ifaindiaacademy.in](mailto:shelly.wadhwa@ifaindiaacademy.in)

DATE : 12-Apr-2020  
PLACE : Webinar  
EVENT : Section 6 of the Income Tax Act, 1961 as amended by the Finance Act, 2020 in respect of an individual  
DESCRIPTION : Speaker for the session was Mr Kamlesh Varshney, Joint Secretary, Ministry of Finance, Govt of India and the session moderator Ms Ishita Farsaiya  
RECORDED LINK : <https://youtu.be/Z4ysgGlgNMY>  
WEBSITE : [www.ifaindia.in](http://www.ifaindia.in)  
E-MAIL : [info@ifaindiaacademy.in](mailto:info@ifaindiaacademy.in), [shelly.wadhwa@ifaindiaacademy.in](mailto:shelly.wadhwa@ifaindiaacademy.in)

## IFA Worldwide

### EARLIER HELD EVENTS:

DATE : 02-Jul-2020  
PLACE : Webinar from Sydney, Australia  
EVENT : Perspectives on Peter Greensill Family Co Pty Ltd (trustee) v Commissioner of Taxation [2020] FCA 559 (28 April 2020)  
DESCRIPTION : Conversation with Andrew Mills, Director, Tax Policy and Technical, Tax Institute of Australia and Clint Harding, hosted by Ellen Thomas  
WEBSITE : <https://ifa-australia.com.au/events/perspectives-on-peter-greensill>  
E-MAIL : [admin@ifaustralia.com.au](mailto:admin@ifaustralia.com.au)

DATE : 24-Jun-2020  
PLACE : Webinar  
EVENT : "BEPS Interest and Other Financial Payments Deduction in developing countries" DESCRIPTION: Opening/introduction by Paola Gachet (Ecuador), Carlos Abeledo (Argentina) and speakers for the session were Karilin Arenas (Ecuador), Alejandro Almarza (Argentina) moderated by Valeria D'Alessandro & Gabriela Rigoni (Argentina), Paola Gachet (Ecuador)  
WEBSITE : <https://www.aief.org.ar/web/index.html>  
E-MAIL : [teresa@aief.org.ar](mailto:teresa@aief.org.ar)

DATE : 16-Jun-2020  
PLACE : Webinar  
EVENT : International Tax Dialogues  
DESCRIPTION : Speaker for the session: Shanker Iyer  
WEBSITE : <https://www.ifasingapore.org>  
E-MAIL : [enquiries@ifasingapore.org](mailto:enquiries@ifasingapore.org)

DATE : 15-Jun-2020  
PLACE : Webinar  
EVENT : 27th Viennese Symposium on International Tax Law "Taxes Covered" - The Scope of Double Taxation Conventions  
DESCRIPTION : Various speakers presented their research results on the concepts and the specific paragraphs of Art 2 OECD MC in general and in particular in the light of new taxes.  
WEBSITE : <https://www.wu.ac.at/taxlaw/events/symposium-international-tax-law-2020>  
E-MAIL : [karina.hertle@wu.ac.at](mailto:karina.hertle@wu.ac.at)

DATE : 19-May-2020  
PLACE : Webinar  
EVENT : Northern California Region Webinar on DAC6 & ATAD II  
DESCRIPTION : Panelist for various sessions were Francois Chadwick, Alice Wohn, Larissa Neumann, Maarten Maaskant, Rosanna Lee, Kees van Meel, Claudine Fox, DJ Sloof  
WEBSITE : <https://www.ifausa.org/events/EventDetails.aspx?id=1376766>  
E-MAIL : [info@ifausa.org](mailto:info@ifausa.org)

DATE : 18-May-2020  
PLACE : Webinar  
EVENT : Recent trends in transfer prices  
DESCRIPTION : Speakers for the session were Dr Simone Di Vaia, Dr Mauro Faggion, Dr Paolo Tognolo session moderated by Prof Avv Guglielmo Maisto  
WEBSITE : <http://www.ifaitaly.it/?p=2225>  
E-MAIL : [info@ifaitaly.it](mailto:info@ifaitaly.it)

DATE : 14-May-2020  
PLACE : Webinar from Sydney, Australia and Washington, DC, USA  
EVENT : David Rosenbloom in conversation with the Australian Branch  
DESCRIPTION: Speaker for the session David Rosenbloom and Interviewer: Chloe Burnett  
RECORDED LINK : <https://ifa-australia.com.au/breakfast-briefing-international-tax-post-pandemic-presentation>  
WEBSITE : <https://ifa-australia.com.au/events/perspectives-on-peter-greensill>  
E-MAIL : [admin@ifa-australia.com.au](mailto:admin@ifa-australia.com.au)

DATE : 21-Apr-2020  
PLACE : Webinar from UAE  
EVENT : Covid 19 Response from an In-House Tax Directors perspective, OECD BEPS 2.0 and DAC 6 mandatory tax disclosure rules  
DESCRIPTION : Speaker for the session were Howard Hull, Anuj Kapoor, Bilal Abba  
WEBSITE : <https://www.intertrustgroup.com>  
E-MAIL : [ifauae@intertrustgroup.com](mailto:ifauae@intertrustgroup.com)

## Forthcoming Programs

**SAVE THE DATE 16 - 25 November 2020**

### IFA Virtual Event

Apart from the opening and closing event, the sessions will include:

- **Subject 1: Reconstructing the treaty network:**  
General Reporters: David Duff (Canada) and Daniel Gutmann (France)  
Chair: Liselott Kana (Chile)
- **Subject 2: Exchange of information: issues, use and collaboration:**  
General Reporters: Armando Lara Yaffar (Mexico) and Tatiana Falcão (Brazil)  
Chair: Christoph Schelling (Switzerland)
- **IFA/OECD:** Chair: Stef Van Weeghel (Netherlands)
- **IFA/EU:** Chair: Luc De Broe (Belgium)
- **Recent developments in international taxation:** Chair: Chloe Burnett (Australia)
- **YIN Seminar:** Moderator: Stephanie Johnston (Canada)
- **WIN Seminar:** Moderators: Carol Tello (USA) and Ana Claudia Utumi (Brazil)



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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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