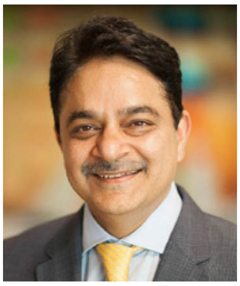
NEWSLETTER
IFA ~ INDIA BRANCH



Mukesh Butani
Chairman, India branch

Dear IFA Colleagues & Friends,

2020 – What a year it has been - as we make headway into 2021, lets first start thanking for having made it through 2020, pray for those we lost and express gratitude to our Covid warriors, without whom the pandemic could have been worse.

We also start the new year with optimism on growth bouncing back in the third quarter of the year supplemented by bold Budget 2021 announcements, also labelled as repeat of the 1991 announcement.

For this quarter's newsletter, we have an interesting case study analyzing the implications of profit split method in the context of Transfer Pricing in Covid times. The case study curated by Praveen Ranka has multidisciplinary participation. ▶

WHAT'S IN

We have opened nominations for branch reporters for IFA Scientific Program for the 75th Congress. The topics are "Sharing and Shifting losses – the 'new' profit shifting?" and "Good faith in domestic and international tax law". I would encourage members to consider participating and send their expression of interest with a brief profile and an outline of what you intend covering in the India report.

Our Bandra-Kurla academy was launched on the occasion of Deepawali festival times and is operational with state-of-the-art research & conference facilities. I am delighted to welcome Isha in her new role as editor of the magazine – Isha has been ably supporting our efforts for a while and I am confident she will make us proud with Paresh having consented to mentor her. Finally, I am pleased to share that in line with the Asia-Pacific regions objectives, IFA Mumbai shall be hosting a webinar in June, which will also be the annual IFA Conference for 2021.

IFA India is committed to hosting insightful sessions for benefit of members and the wider fraternity to keep you abreast with the latest international tax developments. I look forward to your support & participation. Before I conclude, a polite reminder for members to pay the membership dues in line with the new policy such that you continue to receive your Cahiers in an uninterrupted manner.

Sincerely, Mukesh

CASE STUDY, QUESTIONS & EXPERTSPEAK

COVID IMPACT ON TP ANALYSIS W.R.T. APPLICATION OF PROFIT SPLIT METHOD

By: **Praveen Ranka, Chartered Accountant;
assisted by Sugandha Giri, Chartered Accountant**

FACTS OF THE CASE

I Co. is a wholly owned subsidiary of F Co. F Co. is engaged in manufacturing of premium consumer electronic goods and I Co. is responsible for distribution of the products manufactured by F Co. in the SAARC region. F Co. owns the technology/ know-how in respect of the goods and processes involved in the manufacturing operations, whereas I Co. develops and is the economic owner of the marketing intangibles and distribution network. I Co. plays an important role for generating the demand for F Co.'s products by creating awareness and expanding the market reach which are crucial to the sale of the goods.

F Co. is responsible and bears entrepreneurial risks related to success and failure of the R&D activities, and bears R&D risk, manufacturing risk, product liability risk, foreign exchange risks, etc. On the other hand, I Co. bears the risks related to the distribution function such as market/ price risk, inventory risk, bad debt risk, etc.

Historically, considering both I Co. and F Co. own unique and valuable intangibles and generate non-routine profits, for the distribution segment, the parties have agreed to Residual Profit Split Method ("RPSM") for arriving at transfer prices of goods products sold by F Co. to I Co.
For the purpose of applying RPSM, I Co. and F Co. are remunerated with a minimum assured return for the routine distribution and manufacturing functions performed. The residual non-routine profit i.e. total net profit minus the routine profit is allocated between the F Co. and I Co. in the ratio of their non-routine costs, predominantly constituting top management costs, R&D costs, and costs relating to marketing and distribution network.

The pandemic has adversely impacted the Group both in regional and global markets, disrupting the supply chain as well as demand for its premium products. The global revenues are estimated to be reduced by 40 percent, resulting in significant losses at net level. While F Co.'s factories are incurring significant un-utilized capacity costs and supply chain restructuring costs, I Co. has suffered on account of inventory write-offs, bad debts, logistics costs and the need to give steep discounts to push sales. The Group (including I. Co.) has significantly cut down its discretionary marketing spends across locations, but it centrally invested in creating a global e-commerce platform. F Co. continues to incur R&D costs which were largely fixed in nature.

In the future, the Group expects higher proportion of sales through its e-commerce platform in all geographies. To this extent, the responsibilities of marketing function for the e-commerce sales may be split between F. Co. and I Co.

QUESTIONS & EXPERTSPEAK

AJAY LALVANI
Ajay Lalvani is Senior Tax Professional, CA, LLB

SEEMA KEJRIWAL
Partner at BMR Legal Advocates

SUCHINT MAJMUDAR
Partner with Deloitte Haskins & Sells and a qualified CA, CMA, CS, graduate in Commerce and an alumnus of IIM-B

KETAN PALAN
Director Tax India / AfME - Pfizer

1. Given the disruption and impact on the entire value chain, what factors should the Group consider in reviewing their transfer pricing policy for the functions performed by F Co. and I Co. eligible for routine returns?

Ajay Lalvani ('AL'), Seema Kejriwal ('SK'): As we all know the pandemic has caused serious disruption in the existing business models across entities operating in different sectors. It has led to a shift in consumer preferences and priorities. The change is across the board with impact on sale of products across categories. The impact on premium consumer electronics could be profound as these are usually not required for meeting basic needs and to that extent may not be on the priority list of most consumers unless of course it is a product which has now become even more relevant given the new ways of working from home.

In the case on hand, it is fair to assume that the product does not fall in the high priority list for its consumers as global revenues have actually fallen by 40% resulting in significant losses at net level. The Group has already cut down its discretionary marketing spends and decided to make changes in its marketing and distribution model by creating a global e-commerce platform in all geographies. Consequently, the responsibilities of marketing function for the e-commerce sales may also be split between F Co. and I Co.

These changes have a direct bearing on the functions performed and risks undertaken by F Co. and I Co., and will require a review of their transfer pricing policy. The business of manufacturing and marketing of premium consumer electronics requires significant investment in product innovation through R&D. Equally, it requires enormous marketing efforts to drive home to the consumers the technical superiority of the product, which can then result in premium pricing and non-routine profits earned by the Group, in the period prior to the pandemic.

The Group will be well advised to carry out a "profit contribution analysis" to determine the contribution made by each function. This can then be mapped to the function performed by F Co. and I Co. A benchmarking analysis can be carried out with comparable entities in different territories to determine the returns earned by entities engaged in similar business / activities and thereafter routine returns for F Co. and I Co. can be determined based on the functions performed and the outcome of the benchmarks.

The Guidance on the Transfer Pricing Implications of the COVID-19 Pandemic, released by the OECD on 18 December 2020 (OECD TP-COVID Guidance[1]) in this context, states that given the current economic environment, it is possible that independent parties may not strictly hold another party to their contractual obligations, particularly if it is in the interest of both parties to renegotiate the contract or to amend certain aspects of their behaviour[2]. The Guidance recognizes that in response to the COVID-19 pandemic even independent parties could renegotiate certain terms in their existing agreements[3].

Thus, at the outset, the OECD recognizes that independent parties may amend their contacts in light of the COVID-19 pandemic.

With respect to the factors to be considered, the OECD TP COVID Guidance states that determining whether a renegotiation of a commercial arrangement (including pricing under the arrangement going forward and any potential compensation for the renegotiation itself) represents the best interests of the parties to a transaction requires careful consideration of their options realistically available, and the long-run effects on the profit potential of the parties. For example, an entity may agree to restructure a transaction if the alternative option is losing a key customer or supplier, where it considers that the restructuring will maximise its profits in the long-run. The Guidance also states consideration should be given to whether the economic impact resulting from the renegotiation may require indemnification of the harmed party. The Guidance further states modifications should be treated with caution and well-supported by documentation outlining how the modification is in line with the arm's length principle[4].

Thus, in light of the OECD TP COVID Guidance, the most important factors to be considered would be options realistically available and the long run effects on the profit potential of the group. The business imperatives going into assessing these factors would need to be well documented by the Group.

Suchint Majmudar ('SM'): The Group has undergone widespread changes in the manner in which it undertakes its marketing and distribution functions and consequently in the risk allocation of the marketing and distribution functions. It appears that there are now two streams of sales – sales made offline based on distribution activity at the local level, and e-commerce sales made from the platform. The marketing function is similarly split owing to the e-commerce platform, such that the marketing strategy is orchestrated at a global level so far as it concerns direct user access through the e-commerce platform and marketing at a local level by the on-ground efforts of I Co.

Routine marketing and distribution functions now being undertaken in a bifurcated manner will call for review of the following Function – Asset – Risk ("FAR") analysis under categories of sales via a) the e-commerce platform and b) offline sales:

- Development of marketing strategy, and positioning and promotion of the product portfolio
- Implementation of marketing communication campaigns
- Inventory functions
- Logistics functions for point of sale delivery
- Collection functions

F Co may also assume additional functions such as the provision of automated digital services in connection with the e-commerce platform, which could necessitate enhanced technology functions owing to the transformation.

In summary, the transfer pricing policy that was conditioned around product portfolio "awareness and accessibility" being entirely driven, managed and operated by I Co will have to be re-oriented to recognize the transition to a dual role played by F Co and I Co. This will in turn change the manner of comparability analysis, to delineate the transactions whereby F Co is instrumental in the marketing and sales activity, and where consequently I Co plays a support role; and other transactions where I Co continues to be the marketing and/or distribution entity. To this extent, both F Co and I Co would be entitled to routine returns for the marketing and distribution function, and F Co maybe entitled to a routine return for the technology support function.

<<This may be measured as a return on sales for the sales-making entity, and a return on operating expenses for the support functions, including logistics and technology.>>.

2) The pandemic has caused change in proportion of non-routine costs, especially with the reduction in marketing spends of the Group. What factors should be considered in splitting the non-routine returns between the entities.

AL, SK: The approach which was hitherto followed by the Group was to apportion the non-routine returns in the ratio of non-routine costs which predominantly consisted of top management costs, R&D costs, and costs related to marketing and distribution networks. With the introduction of the global e-commerce platform for which the investment has been made centrally, the marketing spends have been cut across locations. This change has resulted in a significant shift in the roles and responsibility of F Co. And I Co. and necessitates a relook at the manner in which the non-routine returns are apportioned between F Co. and I Co.

The factors which should be considered in apportionment of the non-routine profits must take cognizance of the fact that in recent times the premium consumer electronics products industry has seen many technological changes which require huge R&D efforts and spends. Therefore, the role of F Co. which performs the critical R&D functions cannot be underscored and is perhaps critical in the survival and future growth of the Group. Likewise making goods available through an e-commerce platform is equally critical in times like the current pandemic. Both of these functions are driven by F Co. and hence F Co. will be justified in getting a relatively higher share of non-routine returns post pandemic. This change should be documented and data around sales made through the e-commerce platform and sale of products manufactured based on new technology should be tracked to justify the change in the apportionment / split of non-routine returns.

While applying an RPSM, in the current scenario, the Group will also need to consider how much less risky, the routine contributions are to be considered compared to the non-routine contributions that attract the residual loss. The Group will need to give serious consideration to the reliability of the selection of the RPSM as the most appropriate method in the COVID-19 economic crisis. The issues associated with applying the RPSM in a loss situation are such that some taxpayers may choose to temporarily (or permanently) select an alternative method to govern these intercompany transactions that would provide a more reasonable and reliable outcome. In this light the earlier stated OECD Guidance on the behaviour of independent parties in the current scenario would be relevant.

With respect to allocation of the non routine returns, i.e., the losses, the OECD TP COVID Guidance states it is important to emphasise that the allocation of risks between the parties to an arrangement affects how profits or losses resulting from the transaction are allocated at arm's length through the pricing of the transaction. Hence, the existing guidance on the analysis of risks in commercial or financial relations will be particularly relevant for determining how losses are allocated between associated parties. Second, it will be necessary to consider how exceptional, non-recurring operating costs arising as a result of COVID-19 should be allocated between associated parties. These costs should be allocated based on an assessment of how independent enterprises under comparable circumstances operate. The OECD Guidance states it is important to keep in mind that the treatment in a transfer pricing analysis of "exceptional," "non-recurring," or "extraordinary" costs incurred as a result of the pandemic will not be dictated by the label applied to such costs, but by an accurate delineation of the transaction, an analysis of the risks assumed by the parties to the intercompany transaction, an understanding of how independent enterprises may reflect such costs in arm's length prices, and ultimately how such costs may impact prices charged in transactions between the associated enterprise[5].

The OECD COVID Guidance further states, it should also be noted that for certain businesses the COVID-19 pandemic has led to reduction in or elimination of certain costs that were typically incurred prior to the COVID-19 pandemic. These will differ depending on the underlying facts and circumstances, but might include expenses on rent, the day-to-day running expenses of a physical office, and travel related expenses, among others. Expenses that relate to substitutes to the means of conducting business activities would likely be treated as operating costs, depending on the underlying facts and circumstances. If teleworking costs, or any other costs pertaining to remote working facilities, are centrally borne by one entity of the MNE group, it may be appropriate to charge out such expenses to parties that benefit from the underlying product or service to which the expense relates[6]. The Guidance further states that certain operating costs may not be viewed as exceptional or non-recurring in circumstances where the costs relate to long-term or permanent changes in the manner in which businesses operate. For example, certain costs relating to teleworking arrangements may become permanent if working from home became more common as a result of the pandemic. Consequently, if the expense is viewed as neither being exceptional nor non-recurring and reflects more common means of doing business, then it should be treated as such when delineating the transaction to which the costs pertain and in undertaking the comparability analysis.

SM: The non-routine functions could be said to be those that create enduring benefits for the group, and which are not ordinarily represented by functions of comparables. There is a need to consider the shift in functions arising from the implementation of the e-commerce platform away from I Co and towards F Co, or possibly newer marketing and sales functions assumed by F Co that are entrepreneurial in nature. This will call for understanding what the original set of non-routine transactions (arising out of the FAR analysis) were regarded as being, and how such non-routine transactions – manifested by the use of splitting factors such as (a) management costs and R&D costs and (b) marketing and distribution costs – have changed in performance of economic activity arising from the transition to the e-commerce platform. It would be useful to adopt an activity framework grid (referred to as Process Control Framework) to map the FAR represented by the DEMPE ("Development Enhancement Maintenance Protection Exploitation") - functions (which could serve as a determinant of performance of non-routine functions) and determine how such functions have changed across, say, a 5-point scale, or the emergence of newer DEMPE functions, especially by F Co. For F Co, this could include the design, technology and hosting of the e-commerce platform, targeting of users based on their preferences and buyer behaviour, and adoption of a customer data platform. This would likely result in a change in the profit splitting factors based on the cost drivers for non-routine functions.

3) Considering F Co. is developing a worldwide e-commerce platform and envisages higher proportion of sales to happen through the online model, what points should be considered to evaluate the impact of this change on the characterization of entities or applying the profit split method from a transfer pricing perspective. Should the transfer pricing methodology be revisited, and what are the possible alternatives?

AL, SK: Based on the facts of the case, the Group is engaged in the manufacture and sale of premium consumer electronic goods and has in the past earned relatively higher profits (non-routine profits). It is also relevant to note that the entire R&D costs are borne by F Co. while hitherto the marketing and distribution costs were being borne by I Co. Both these aspects viz. R&D and marketing are important functions in the premium consumer electronic goods industry. The RSPM methodology followed by the Group for transfer pricing purposes was therefore the most appropriate methodology ensuring adequate rewards for the parties based on functions performed and risks assumed.

Following the business disruption caused by the pandemic the Group has made two significant changes i.e. it has significantly cut down on discretionary marketing spends and has centrally invested in creating a global e-commerce platform. As can be seen, the changes made have resulted in a reduction in the functions performed by I Co., in as much as I Co. will no longer be incurring the marketing costs to the same extent as was being incurred in the pre-pandemic period and effectively the responsibilities of the marketing function will be split between F Co. and I Co. However, some marketing costs will still be incurred by I Co. on marketing and distribution of its goods through the existing channels as the Group has introduced e-commerce platform to supplement the existing channels of sale.

From the above changes in the ways of doing business it is clear that F Co. has, for valid business reasons, taken on additional responsibility of making available its products through the newly introduced e-commerce platform and has to that extent also taken over a part of the marketing function. The investment required for developing the e-commerce platform has been borne centrally by F Co. The role of I Co. is significantly reduced with responsibility for distribution of products purchased by customers through the e-commerce platform. Accordingly, the Group can consider following options for determining arm's length price of the products sold in each territory:

Option 1: This could be adoption of a dual mechanism whereby:

i) For the sales made through the e-commerce platform the Group can consider a change in the characterization of entities whereby F Co. is characterized as the principal which owns important intellectual properties like trademark, know-how and marketing and is responsible for significant functions like R&D, manufacturing and marketing for e-commerce platform. Whereas, on the other hand, I Co. can be characterized as a limited risk distributor performing largely the local distribution of goods ordered on the e-commerce platform. A new distributorship agreement should be put in place for this purpose. For these functions performed by the I Co. it should be entitled to a return determined as a percentage of turnover for the distribution function performed by it in the designated territory. The return for I Co. needs to be determined based on a proper bench-marking analysis.

ii) For sales made through the traditional channel the Group can continue with the existing methodology of RPSM.

Option 2: The Group can consider a methodology whereby a separate fee is charged by F Co. for sales made through the e-commerce platform. This would provide a return for having invested in developing the platform and for undertaking a part of the marketing initiative.

The above change needs to be carefully documented and must reflect the ground reality in each of the territories.

SM: The characterization of the entities goes to determine the TP method. Hitherto, the characterization of the entities was clear in that F Co was the entrepreneur for product development and I Co was the entrepreneur for the go-to-market. The emergence of the e-commerce platform has changed this rubric, in that there is an ability for F Co to participate in the economic activity in the market of I Co by way of remote activity via the e-commerce platform, and perform activities ranging from creating user awareness to consummating the transactions, leaving only logistics and fulfilment to be performed by I Co in such cases. While there is a case for the DEMPE functions to be re-ordered and hence I Co to be regarded as a routine service provider in cases where the sales are orchestrated via the e-commerce platform, one must not lose sight of the customer base developed by I Co over the years which represent its non-routine contributions on the marketing and sales side, that are now built upon by F Co in order to specifically enhance its customer engagement. Whereas a full-scale migration of the customer list, resulting in an exit charge may not currently contemplated given the e-commerce platform being used as an instrument of the digital transformation of the Group, it may be in order to persist with the profit split methodology by providing a non-routine return to I Co in the form of a variable royalty on a sliding scale, that in a sense, would represent a "buy-in payment", as it were, for F Co to assume ownership over the customer engagement, brand building and sales function. A profit split model is, by definition, more complex than a margin based arrangement, and hence care should be taken to implement simplification measures to arrive at the scientific outcome without undue administrative difficulty, and to this end, a royalty or franchise fee mechanism maybe useful to adopt for the sales effected via the e-commerce platform.

One other more pragmatic alternative is to have I Co to continue to be the in-country distributor, such that the e-commerce platform of F Co orchestrates the sale, however, the sale is booked by I Co. This would ensure continuity of the sales base of I Co, entitling it to a routine baseline distribution return. Non-routine returns for such sales as are made via the e-commerce platform can nevertheless be allocated to I Co by way of the variable royalty mechanism.

An important consideration related to the above is whether the implementation of the e-commerce platform as a vehicle of marketing and distribution amounts to a business restructuring. Chapter IX of the Guidelines refers to business restructurings as often involving the centralisation of intangibles, risks, or functions with the profit potential attached to them[7]. Such arrangements could comprise the concentration of functions in a regional or central entity, with a corresponding reduction in scope or scale of functions carried out locally; examples may include procurement, sales support, supply chain logistics. In this context, the institution of an e-commerce platform to serve the centralized marketing and distribution function appears to constitute a business restructuring as it moves the e-commerce marketing and sales functions towards F Co and away from I Co. To this end, the estimated porting of profitability from the hands of I Co to F Co would have to be determined. This could be based on a value chain analysis pre- and post- the restructuring having regard to the last 3 year data, so as to assess what intangibles have been transferred as a result of the restructuring. It is likely that what is transferred and is of value are marketing intangibles pertaining to customer (such as customer data, loyalty and usage patterns) and brand positioning and recall. Again, it must be recognized that the e-commerce platform of F Co currently complements rather than substitutes the marketing communication and distribution network of I Co. To this end, the effects of the business restructuring would be gradual. That said, for the reason that the marketing intangibles that would either be shared by I Co and F Co or migrated to F Co, a royalty payment to I Co as alluded to above seems to be in order towards compensation for the intangibles and value drivers (such as marketing strategy) created by I Co and harnessed by F Co.

4) While applying a profit split method or changing the methodology, what are the major non-TP considerations (in terms of accounting, withholding, customs, exchange regulations etc.) should the Group be generally mindful of?

AL, SK: The change will have impact on non-TP areas which should be borne in mind. These include:

- Reporting of changes in the business environment as part of the director's report to shareholders
- Impact of the changes in apportionment of profits
- Meeting with local regulations on reporting of related party transactions under listing agreements
- Compliance with withholding tax obligations on fee for e-commerce platform (in case option 2 is adopted)
- The fee for platform usage can also be questioned by custom authorities who want like to consider the fee as part of the purchase price of products supplied and would insist to a levy of custom duty on the same
- Some countries in the SAARC region may have regulatory requirements for use of e-commerce platform requiring specific approvals

The above areas should be examined and the most appropriate approach acceptable in a particular country / territory should be adopted.

SM: The emergence of an e-commerce platform gives rise to the question of entities that should be responsible for booking the sales and others that should play a fulfilment role. Should F Co book the sale to the customer, it would technically comprise a B2C transaction, necessitating an import by the customer, which is not an optimal situation from a customs and exchange control point of view, as it would necessitate retail level customs clearances and remittances. Therefore, it is preferable for the seller on record qua the customer to be I Co, which means that I Co functions as a distributor, however in a scaled down form, for sales orchestrated on the e-commerce platform.

When it comes to implementing the revised PSM arrangement, so far as it is a change in quantum (representative of change in relative non-routine contribution), without changing the character of the non-routine payment, there should be no incremental or differential change from a customs or exchange control perspective. To note that the tax characterization of the non-routine returns is a separate matter that has to be considered having regard to the treaty (eg whether it would take the character of business profits or royalties). That said, should the non-routine returns to I Co (for sales orchestrated on the e-commerce platform) be given the character of royalty, as contemplated above, it may involve a withholding on the part of F Co. Whether the non-routine returns to F Co should be embedded in the cost of the goods imported by I Co for sales to customers is another question that can have custom duty implications. For the reason that I Co may have already obtained a degree of certainty on its imports (eg by way of an ex-ante valuation by the Customs authorities), it would be preferable not to keep very many moving parts at a time and keep the formula of import pricing relatively consistent.

Certain countries have implemented digital services tax or equalization levy, and the remittance towards non-routine profits or towards value of goods purchased on the e-commerce platform would have to be reckoned for determination of the charge of such DST or EQL. In the event that there are certain balancing payments to be made by I Co or F Co towards the share of non-routine profits, it could involve three considerations – withholding tax (based on the tax character of the payment), digital services tax or equalization levy (should it be associated with F Co as an e-commerce operator) and Goods and Services Tax. Normally, being a transaction on current account, exchange control restrictions should not apply and the receipt or payment could be effected via an authorized dealer.

5) The pandemic's impact has varied among countries and operations, within the countries. While the economic impact in countries like China, Korea etc. is contained, the impact is more severe in other countries. Also, some functions like services, e-commerce etc. are less impacted than manufacturing and distribution. In arriving at factors to apply the profit split, what weightage should be given to country-risk and the pandemic impact on specific activities within the value chain.

AL, SK: With respect to pandemic impact, the OECD TP COVID Guidance suggests the most reliable approach in identifying reliable comparables will be to refer, where possible, to data regarding comparable uncontrolled transactions in the same or comparable geographic market between independent enterprises performing similar functions, assuming similar risks, and using similar assets.

The functional analysis and an analysis of the context in which the transactions take place (e.g. the industry and environment) are essential to the process of determining the relevant factors to use in splitting profits, including determining the weighting of applicable profit splitting factors, in cases where more than one factor is used. The determination of appropriate profit splitting factor(s) should reflect the key contributions to value in relation to the transaction[8].

SM: Having regard to the OECD guidance[9] on the subject and knowing that the entities are operating by assuming risks associated with their functions (ie not being risk insulated entities), it follows that both the entities would have to bear the losses, qua their respective functional profiles. That is to say, the routine profits would entitle F Co and I Co to routine returns and then the residual (ie loss in this case) would be allocable via the profit-splitting factors, changed to any extent by the FAR profile of the two entities during the pandemic.

This is consistent with the following extract from para 41 of the OECD guidance on the subject.

"In particular, concerns may arise where before the outbreak of COVID-19 a taxpayer argues that a "limited-risk" distributor did not assume any marketplace risk and hence was only entitled to a low return, but after the outbreak argues that the same distributor assumes some marketplace risk (for example, due to changes in risk management functions) and hence should be allocated losses. In this scenario, consideration should be given to re-examining whether prior to the outbreak of COVID-19 the "limited-risk" distributor genuinely did not assume any marketplace risk, whether after the outbreak the "limited risk" distributor did not actually assume any marketplace risk, and/or whether the assumption of this risk following the outbreak of COVID-19 is a result of a business restructuring."

The estimated sales arising from the e-commerce platform should normally not be a determinant for the allocation of the losses that have arisen during the current pandemic period, so as to demonstrate that the characterization of the entities is relatively consistent with the past and is only altered to the extent the non-routine transactions that can be reliably delineated have changed in the course of the pandemic between the entities.

Ketan Palan ('KP'): General response

In future, it is expected that the sales would largely be generated through the e-commerce platform, developed by F.Co., so, obviously, the proportion of investment in unique intangibles would be skewed towards F.Co. in comparison to the hitherto situation.

Also, the e-commerce platform can be used to create awareness for F.Co.'s products and expand the reach through digital advertising and targeting the customer directly using the e-commerce technology. This could result in bringing down the marketing cost and efforts hitherto being invested by I.Co. Thus, the functional profile of F.Co. and I.Co. would also undergo a change.

Under the e-commerce platform, I.Co. may function more like a medium risk Distributor and therefore should be guaranteed a distributor's margin on the sales made by it as a contribution for routine returns.

For sales continued to be generated by I.Co. through the conventional model, the existing transfer price methodologies (i.e. RPSM) could continue. This means the group would need to draw profitability statements for both the segments separately – the conventional segment and the e-commerce segment.

For the future state situation, the group may need to consider the change in the proportion of unique intangible owned by F.Co. and I.Co. under the new model and conduct a deep dive analysis of functions performed, assets owned, and risks assumed by both these entities in generating sales.

One way to reconsider the Transfer Pricing, could be to use Resale Price Method as a preferred method for compensating I.Co. Given the heavy investment by F.Co. in the global e-commerce platform resulting in reduced cost and activities performed by I.Co. in the marketing function, the overall group profit may be considered as being contributed by F.Co. This could mean that I.Co. need to be compensated for the routine distribution profits and the residual profits may be enjoyed by F.Co. thus justifying a RPM instead of RPSM, for the e-commerce segment, to determine I.Co.'s remuneration.

On the other hand, it may be a case where the e-commerce platform could only assist in collecting the orders from the customers and replace the on-ground field force, thus savings cost incurred by I.Co. on those activities. I.Co. may still continue to perform other marketing functions like price determination or negotiation with customers, conducting market survey & gathering market intelligence, maintaining customer relationships, addressing customer grievances, complying with the regulatory requirements in the market, etc. which are an critical elements of owning marketing intangibles that help in maintaining and generating sales. The e-commerce may also not replace the point of sales or the distribution network owned by I.Co. in the region. Rather the higher sales and expanded market reach expected through e-commerce platform may need additional investments by I.Co. in the distribution network to keep pace with the increased need to maintain higher inventory for the growing market and enhanced sales.

Accordingly, the decision to decide the TP model in the future state scenario should not merely depend on the savings in the marketing cost but rather on a deeper analysis of the tangible changes in the overall FAR profile of both F.Co. and I.Co. The analysis would also require to identify the significant value and profit drivers in the changed model and the relevant entity owning it or contributing to those drivers. The FAR analysis of I.Co. could suggest that its involvement in marketing activities would have reduced but not completely eliminated and thus may continue to justify the use of RPSM as a preferred methodology for e-commerce business as well, with a changed allocation of non-routine profits between F.Co. and I.Co. depending of the changed FAR profile.

The application of the right TP methodology and the manner to compensate each entity could involve other non-TP considerations as well. The flow of funds between the entities for remunerating each other in compliance with the TP requirements could also be influenced by the exchange regulations or restrictions applicable in the respective market. The compensation may also attract indirect taxes and may require withholding of taxes as per the laws of the relevant country. If application of TP methods involve retroactive price adjustments to the import prices of the goods imported by I.Co., it could have an impact on the Customs duty applicable on such import. Taxes or charges like the Equalisation Levy or "Google Tax" may also need to be considered by the group while implementing the e-commerce model in the relevant countries.

Response to these questions are personal views of the Authors

Examples / options discussed in the responses are illustrative and the same should not be considered as an exhaustive list

[1] *https://read.oecd-ilibrary.org/view/?ref=1059_1059931-t94e20hrqo&title=Guidance-on-the-transfer-pricing-implications-of-the-COVID-19-pandemic. The Guidance represents the consensus view of 137 countries on the treatment of COVID-related transfer pricing concerns.*

[2] *Para 43 of the OECD TP COVID Guidance*

[3]*Para 42 of the OECD TP COVID Guidance.*

[4]*Paras 45 and 46 of the OECD TP COVID Guidance.*

[5]*Paras 35 and 36 of the OECD TP COVID Guidance.*

[6]*Para 49 of the OECD TP COVID Guidance.*

[7]*9.2 of the OECD guidelines*

[8] *Para 2.169 of Revised Guidance on Application of the Transaction Profit Spit Method issued by the OECD in 2018,*

www.oecd.org/tax/beps/revised-guidance-on-the-application-of-the-transactional-profit- split-method-beps-action-10.pdf

[9]*OECD guidance on the transfer pricing implications of the COVID-19 pandemic, December 2020*

KEY INTERNATIONAL TAX UPDATES

Contributed by:
Seema Kejriwal, Aman Thakkar and Ameya Khare

I. International tax updates – India region

1. Cairn wins international arbitration ruling in an Indian tax dispute; India appeals against the Vodafone PCA ruling.

After losing Vodafone arbitration case in September 2020, India lost another arbitration case related to a tax dispute to Cairn Energy Plc in December 2020 related to retrospective taxation. The income-tax department had raised a demand of over INR 10,000 crores on Cairn UK for shares of Cairn India, transferred as a part of its internal reorganisation. The same was appealed by Cairn and the matter is currently before the High Court. The Permanent Court of Arbitration (PCA) has ordered the income tax department to pay INR 8,000 crore as damages to Cairn. The Permanent Court of Arbitration came to a conclusion that the investment protection provisions of Bilateral Investment Protection Agreement (that India had signed with the Netherlands) would override India's sovereign right to amend the Indian Income-tax Act and therefore, ruled that the Indian government was wrong in applying retrospective tax on Cairn.

The tribunals in both the cases (Vodafone and Cairn Energy PLC) upheld the clauses of the Bilateral Investment Treaties.

https://www.cairnenergy.com/media/2826/cairn-india-arbitration-award-23dec2020.pdf Further, as an update to our previous newsletter, in the case of Vodafone

Please note that key international tax updates pertaining for the period October 2020 to December 2020 have been considered in this issue.

PCA ruling, India has challenged the verdict of the international arbitration tribunal by filing an appeal with the Singapore High court.

II. OECD UPDATES

1. OECD releases guidance on transfer pricing implications of COVID-19 pandemic

The Organisation for Economic Co-operation and Development (OECD) released a report on 18 December 2020, providing guidance on the transfer pricing implications of the COVID-19 pandemic. The guidance emphasizes continued reliance upon the arm's-length principle and the OECD Transfer Pricing Guidelines for Multinational Enterprises (MNEs) and Tax Administrations 2017 (OECD TP Guidelines) while performing a transfer pricing analysis. The guidance concentrates on how the arm's-length principle and the OECD TP Guidelines apply to issues that may arise in the context of the COVID-19 pandemic, rather than on developing specialized guidance beyond what is currently addressed in the OECD TP Guidelines. The guidance focuses on four priority issues: (i) Comparability analysis; (ii) Losses and the allocation of COVID-19 specific costs; (iii) Government assistance programs; (iv) Advance pricing agreements (APAs).

https://www.oecd.org/tax/transfer-pricing/guidance-on-the-transfer-pricing-implications-of-the-covid-19-pandemic.htm

2. OECD invites public comments on the 2020 Review of BEPS Action 14

Background: The final report on BEPS Action Plan 14: Making dispute resolution mechanisms more effective was published by OECD in October 2015. The focus was on improving the resolution of tax-related disputes between jurisdictions through the mutual agreement procedure (MAP). Further, all member couies agreed for a peer review process whereby each member countries have their compliance to this report reviewed and monitored by their peers.

Update: Action Plan 14 is a minimum standard under the OECD/G20 BEPS Inclusive Framework. A consultation document prepared by the Secretariat was released which soughtstakeholder inputs largely related to their experiences and views on dispute resolution under MAP, suggestions for improvements and additional elements to strengthen overall BEPS Action Plan 14.

The comments on the public consultation document had been sought by 18th December, 2020. This timeline was subsequently extended to 11 January 2021 with a virtual public consultation meeting scheduled on 1 February 2021.

https://www.oecd.org/tax/beps/oecd-secretariat-invites-public-input-on-the-2020-review-of-beps-action-14.htm

3. OECD publishes information on the state of implementation of the hard-to-value intangibles (HTVI) approach by members of the Inclusive Framework on BEPS

The HTVI approach was the outcome of the work done under Action Plan 8 on Base Erosion and Profit Shifting, which is found in the 2015 Final Report for Actions 8-10, Aligning Transfer Pricing Outcomes with Value Creation and it was formally incorporated into the OECD Transfer Pricing Guidelines (Guidelines), as Section D.4 of Chapter VI. The HTVI approach suggests tax administrations can consider ex post outcomes as presumptive evidence about the appropriateness of ex-ante pricing arrangements. At the same time, the approach permits taxpayers to rebut such presumptive evidence by demonstrating the reliability of the information supporting the pricing methodology adopted at the time the controlled transaction took place. In 2018, the HTVI approach was supplemented with a new annex to Chapter VI of the

Guidelines that contains guidance that would ensure a common understanding and practice among tax administrations on how to apply adjustments resulting from the application of the HTVI approach.

The OECD has now published jurisdiction-specific information on implementation of the hard-to-value intangibles ("HTVI") approach. Over 40 jurisdictions have provided information on whether their domestic legal system provides for transfer pricing rules aimed at transactions involving HTVI. This is a part of the monitoring process of the implementation of the HTVI approach agreed by the OECD/G20 Inclusive Framework on BEPS, whereby participating jurisdictions report on their legislation and administrative practices relevant to the application of the HTVI approach.

It provides tax administrations, taxpayers and other stakeholders with a better understanding of the extent to which the HTVI approach has been adopted and applied in practice by countries around the world, with the aim to reduce misunderstandings and disputes between governments.

It is noteworthy here that India has not adopted the HTVI approach.

https://www.oecd.org/tax/oecd-publishes-information-on-the-state-of-implementation-of-the-hard-to-value-intangibles-approach-by-members-of-the-inclusive-framework-on-beps.htm

4. OECD received public comments on Reports for Pillar One and Pillar Two Blueprints

The international community has made substantial progress towards reaching a consensus-based long-term solution to the tax challenges arising from the digitalisation of the economy, and agreed to keep working towards an agreement by mid-2021, according to a Statement released by the OECD on 12 October 2020.

The blueprints of the two-pillar approach have been released in October 2020. The Inclusive Framework members have said that the blueprints reflect convergent views on key policy features, principles and parameters for a future agreement.

Blueprint of Pillar 1 would establish new rules on where tax should be paid ("nexus" rules) and a fundamentally new way of sharing taxing rights between countries. The aim is to ensure that digitally intensive or consumer-facing Multinational Enterprises (MNEs) pay taxes where they conduct sustained and significant business, even when they do not have a physical presence, as is currently required under existing tax rules.

Blueprint of Pillar 2 would introduce a global minimum tax that would help countries around the world address remaining issues linked to base erosion and profit shifting by MNEs.

The aforesaid blueprint of Pillar 1 and Pillar 2 have been approved for public consultation by the participants.

Further, on 16 December 2020, public comments have been received on the reports on Pillar 1 and Pillar 2 blueprints and the public consultation meeting is to be held virtually in January 2021.

http://www.oecd.org/tax/beps/international-community-renews-commitment-to-address-tax-challenges-from-digitalisation-of-the-economy.htm

https://www.oecd.org/tax/beps/public-comments-received-on-the-reports-on-pillar-one-and-pillar-two-blueprints.htm

5. OECD releases fourth peer review report on BEPS Action 5 on the Exchange of Information of Tax Rulings

The OECD/G20 Inclusive Framework on BEPS (Inclusive Framework) has reviewed the progress made by 124 jurisdictions in spontaneously exchanging information on tax rulings, in accordance with the BEPS Action 5 minimum standard.

The transparency framework requires spontaneous exchange of information on five categories of taxpayer specific rulings: (i) rulings related to certain preferential regimes; (ii) unilateral advance pricing arrangements (APAs) or other cross-border unilateral rulings in respect of transfer pricing; (iii) rulings providing for a downward adjustment of taxable profits; (iv) permanent establishment (PE) rulings; and (v) related party conduit rulings.

This report reflects the outcome of the annual peer review of the implementation of the Action 5 minimum standard and covers 124 jurisdictions. It assesses implementation for the 1 January - 31 December 2019 period.

India can legally issue the following two types of rulings within the scope of the transparency framework: (i) cross-border unilateral APAs and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles; and (ii) permanent establishment rulings. In practice, India issued rulings within the scope of the transparency framework as follows:

- 69 past rulings;
- For the period 1 April 2016 - 31 December 2016: 55 future rulings;
- For the calendar year 2017: 73 future rulings,
- For the calendar year 2018: 44 future rulings, and
- For the year in review: 137 future rulings.

http://www.oecd.org/tax/beps/harmful-tax-practices-2019-peer-review-reports-on-the-exchange-of-information-on-tax-rulings-afd1bf8c-en.htm

6. OECD releases report on taxing virtual currencies: An overview of tax treatments and emerging tax policy issues

OECD released a report on tax policy implications of virtual currency titled as: Taxing virtual currencies: An overview of tax treatments and emerging tax policy issues. The report was prepared for the meeting of G20 Finance Ministers and Central Bank Governor in October 2020, where it was formally welcomed, thus recognising its contribution to policy discussion on the regulation of crypto-assets.

The report addresses the rapid change in this emerging asset class, as well as the breadth of virtual currency applications. The increased interest in virtual currencies from tax authorities and other regulators demonstrates that this asset class is receiving serious attention from policymakers. This report provides key considerations to help policymakers keen to improve their tax policy frameworks for virtual currencies. http://www.oecd.org/tax/tax-policy/taxing-virtual-currencies-an-overview-of-tax-treatments-and-emerging-tax-policy-issues.htm

III. UN updates

1. UN 21st session discusses proposed Article 12B

The 21st session of the Subcommittee on Tax Challenges Related to the Digitalization of the Economy was held in October 2020 whereby substantial time was dedicated to the tax issues related to the digitalization of the economy, more specifically, to the inclusion of a new Article 12B into the UN model. As there were different views of some nations, no final decision was made on this aspect and the committee will reconvene in the year 2021. Meanwhile, the subcommittee will improve the draft of the Article and the Commentary where possible, and will include a minority view in the Commentary. https://www.un.org/development/desa/financing/sites/www.un.org.development.desa.financing/files/2020-10/CITCM%2021%20CRP.41_Digitalization%2010102020%20Final.pdf

2. UN 21st session discusses updates to UN TP Manual

The 21st session of the UN committee discussed, among other issues, the guidance on the relationship between transfer pricing and intra-group financial transactions, and on centralised sales functions. The committee shall work on the action points and provide final updated draft UN TP manual for discussion and adoption at the 22nd session in 2021.

The broad areas/ sections where the UN TP manual is being updated has been provided below:

A. Transfer pricing in a global environment;
B. Comparability analysis;
C. Transfer pricing and customs valuation;
D. Additional guidance on Centralized sales functions;
E. Group Synergies and Centralized procurement;
F. Financial transactions (Guarantee and examples);
G. General legal environment and establishing and updating transfer pricing regime;
H. Establishing transfer pricing capability on documentation;
I. Risk assessment;
J. Transfer pricing audits; and
K. Dispute avoidance and resolution.

https://www.un.org/development/desa/financing/sites/www.un.org.development.desa.financing/files/2020-10/CRP40%20Transfer%20Pricing%20Manual%20Combined%20compressed.pdf

IV. Country-wise international tax updates

1. Italy issues new transfer pricing documentation requirements and proposes changes to APA procedure

The Italian tax administration, on 23 November 2020, issued new instructions regarding the content and validity of the elective transfer pricing (TP) documentation available to Italian resident enterprises and Italian permanent establishments (PE) of foreign entities.

The new instruction has introduced significant changes to the mandatory contents of the TP documentation as defined under the previous instructions (2010 Instructions). This is done in order to adopt the BEPS Action 13 deliverable and the associated revisions to the OECD Transfer Pricing Guidelines (OECD TPG) on documentation. The new instructions introduce the possibility of covering only certain intercompany transactions, and a window for amending the TP policy/documentation for earlier financial years upon certain conditions without any penalty or interest.

2. Ghana publishes Transfer Pricing Regulations 2020

New Transfer Pricing regulations have been recently introduced in Ghana and the same been entered into force on 2 November 2020.

The new Regulations incorporate many of the revisions introduced by the July 2017 edition of the OECD TPG, but with significant variations in certain cases. There are significant changes in the compliance obligations for affected taxpayers.

https://gra.gov.gh/

3. German Ministry of Finance issues new administrative principles for examination of income allocation between AEs

Background: Germany has administrative principles (AP) in place since 2005 that, among other things, provide guidance on the obligations of taxpayers for undergoing a transfer pricing examination.

Update: On 3 December 2020, the German Ministry of Finance updated the AP 2005 by issuing AP 2020 which focuses on two chapters of the AP 2005, (i) obligations of taxpayers (and their relevant related parties) to cooperate (Sec. 90 Fiscal Code (FC)); and (ii) estimation of tax bases and penalties by

German tax authorities (Sec. 162 FC). The parts of the AP 2005 not modified by the AP 2020 remain intact.

The AP 2020 focuses solely on procedural aspects which play an increasingly important role in German tax audits. The AP 2020 sets forth comprehensive precautionary evidence obligations for taxpayers that are involved in cross-border transactions. Germany's AP although not binding on taxpayers and tax courts, they serve as additional guidance for the interpretation and illustration of the tax law and executive order.

The extent of multinational group's obligations to cooperate and keep records in the arena of Transfer Pricing has developed into one of the most controversially discussed issues in German international tax law.

https://www.bundesfinanzministerium.de/Content/DE/Downloads/BMF_Schreiben/Weitere_Steuerthemen/Abgabenordnung/2020-12-03-Verwaltungsgrundsaetze-2020.html

4. Australian Taxation Office (ATO) releases final guidance on outbound interest-free loans between related parties

On 10 December 2020, ATO released the final version of Schedule 3 to its Practical Compliance Guideline PCG 2017/4 (PCG 2017/4C5) in relation to outbound interest free loans between related party. The final Schedule applies from 1 January 2020 to both new and existing instruments and outlines the ATO's views on factors that taxpayers are required to consider in risk scoring an outbound interest-free loan arrangement. This schedule seeks to provide practical guidance as to when the ATO will dedicate resources to review arrangements involving outbound interest-free loans between cross-border related parties.

PCG 2017/4 | Legal database (ato.gov.au)

5. Vietnam issues guidance on related party transactions and transfer pricing

The Vietnam Government on 5 November 2020 issued Decree 132/2020/ND-CP on tax administration for transactions with related parties. The same is effective from 20 December 2020 and is applicable for the corporate income tax period 2020 and future years.

Also, following the enactment of the Law on Tax Administration No. 38/2019/QH14 effective from 1 July 2020), the Government issued Decree No. 126/2020/ND-CP to provide guidance on the implementation of a number of articles of the Law on Tax Administration, including guidance on transfer pricing.

The above Decrees have been issued with an objective to strengthen the legal base for TP documentation.

https://www.gdt.gov.vn/wps/portal

6. Chilean tax authorities introduce regulations for foreign pass-through investment vehicles

Background: Chilean domestic tax regulations limit the amount of corporate income tax that may be credited against dividend withholding tax to 65% for dividend distributions made to foreign investors that are not treaty resident, which results in an effective tax burden of 44.45% in Chile.

Foreign investors resident in countries with a double tax treaty, however, are excluded from this limitation and may fully credit the corporate income tax against the 35% dividend withholding tax, resulting in a 35% effective tax burden. The same benefit temporarily applies until 2026 to foreign investors resident in countries with treaties that are signed but not yet in force (i.e., the US-Chile and UAE-Chile treaties).

Update: Tax authorities have issued a resolution, which includes regulations for foreign investors that use pass-through investment vehicles located in countries that have double tax treaty in force with Chile. It further consolidates the regulations that require foreign taxpayers to prove tax residence to claim benefits under double tax treaty and the regulations that allow taxpayers to fully offset dividend withholding tax with the corporate income tax paid.

https://www.sii.cl/normativa_legislacion/resoluciones/2020/reso151.pdf

7. UK's Brexit Taxation Bill - Controlled Foreign Corporations to pay back tax exemptions received from 2013-2018

In preparation for the Brexit transition period, the UK Government has put the Taxation (Post-transition Period) Bill before Parliament. The Bill includes provisions to give Her Majesty's Revenue and Customs the power to recover State aid in relation to the financing exemption for controlled foreign companies (CFCs) which was previously found to be unlawful by the European Commission. The Bill requires Multi-National Corporations (MNEs) to pay back CFC state aid. MNEs that had received tax exemptions from the UK government under controlled foreign corporation rules between 2013 and 2018 will be obliged to pay back the tax retrospectively under measures included in the Brexit Taxation Bill.

https://publications.parliament.uk/pa/bills/cbill/58-01/0227/200227.pdf

Key international tax rulings

1. Coca Cola case: IRS wins and reallocates ~ 9 billion USD of taxable income to the US

In November 2020, the US Tax Court issued an opinion in the case of The Coca-Cola Co. v. Commissioner, 155 T.C. No. 10 (2020). The Court held that the Commissioner of Internal Revenue did not abuse his discretion by reallocating income to Coca-Cola by employing the comparable profits method rather than the alternate transfer pricing methods submitted by the taxpayer. Key points highlighted are: i) It is evident that actual conduct of the parties is deviating from the contractual framework. ii) TCCC was not able to support their statements with facts iii) Taxpayers are not allowed to disregard their own contractual framework. https://www.ustaxcourt.gov/UstcInOp2/OpinionViewer.aspx?ID=12357

2. French Administrative Supreme Court expands its Definition of a Dependent Agent constitutive of a PE

Background: An Irish company entered into a services agreement with a French company for the performance of digital marketing and administrative and back office support services. In a March 1, 2018 decision, the Paris administrative court of appeal ruled that the company could not be considered a dependent agent of the Irish company since it was not legally authorized to conclude contracts in the name of the dependent agent.

Update: The French Administrative Supreme Court held that an Irish tax resident entity performing digital marketing activities had a French PE, for corporate income tax purposes, through its French affiliate, where contracts with clients were not formerly concluded in France by the affiliate. The Court considered that the France-Ireland tax treaty of 1968, and in particular its provisions regarding dependent agent PE, should be interpreted by reference to the most recent OECD model treaty clause comments. According to the Court, a French company must be regarded as exercising such powers even if it does not formally enter into contracts in the name of the Irish company, 'where it decides on transactions that the Irish company merely endorses and which, when so endorsed, are binding on it'.

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2020-12-11/420174

IFA EVENTS AND ANNOUNCEMENTS

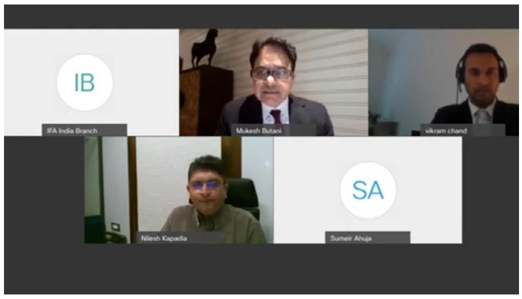
Contributed by:
Sagar Wagh and Ameya Khare

IFA India Branch
EARLIER HELD EVENTS:

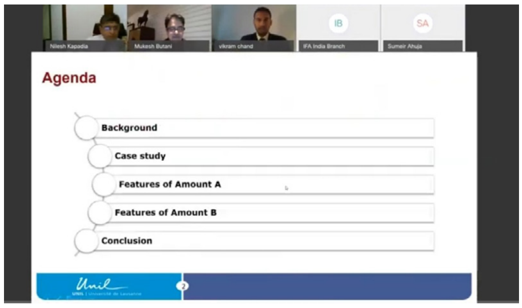
DATE	:	25-Jan-2021
PLACE	:	Webinar
EVENT	:	USTR Report on India Digital Tax
Speakers	:	Mr. Gary Sprague, USA, Mr. Rod Hunter, USA, K. Vaitheeswaran, India, Tarun Jain, India
WEBSITE	:	www.ifaindia.in
REGISTRATION LINK	:	https://www.ifa.nl/calendar/ifa-india-branch-ustr-report-on-indian-digital-tax
E-MAIL	:	info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in

DATE	:	16-Jan-2021
PLACE	:	In-person Workshop and Webinar
EVENT	:	Pillar 1 & 2 announced by the OECD - In depth analysis and discussions with Q & A and case studies
SPEAKERS	:	Mr. Rasmi Ranjan Das, IRS and Radhakishan Rawal, Partner Deloitte
WEBSITE	:	www.ifaindia.in
E-MAIL	:	info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in

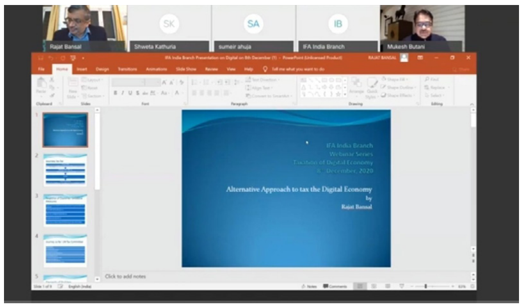
DATE : 10-Dec-2020
PLACE : Webinar
EVENT : Case studies of Pillar Two of the OECD Report on taxation of digital economy
DESCRIPTION : Dr. Vikram Chand, Associate Professor & Program Director at the University of Lausanne
RECORDED LINK : https://www.youtube.com/watch?v=7AJ9TDKm9BI
WEBSITE : www.ifaindia.in
E-MAIL : info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in



DATE : 09-Dec-2020
PLACE : Webinar
EVENT : Case studies of Pillar One of the OECD Report on taxation of digital economy
DESCRIPTION : Dr. Vikram Chand, Associate Professor & Program Director at the University of Lausanne
RECORDED LINK : www.youtube.com/watch?v=kyaSMpLtsHQ
WEBSITE : www.ifaindia.in
E-MAIL : info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in



DATE : 08-Dec-2020
PLACE : Webinar
EVENT : Alternate approach to tax the digital economy
DESCRIPTION : Mr. Rajat Bansal, IRS member of the UN's subcommittee on Tax Challenges of the Digitalization of the Economy
RECORDED LINK : www.youtube.com/watch?v=CAluNIqwxss
WEBSITE : www.ifaindia.in
E-MAIL : info@ifaindiaacademy.in, shelly.wadhwa@ifaindiaacademy.in



SECTION - III

IFA Worldwide
EARLIER HELD EVENTS :

DATE : 4-Feb-2021
PLACE : Webinar
CONFERENCE : Debt restructuring: international legal and tax considerations
DESCRIPTION : Panel discussions in International tax dialogue format with tax attorneys, tax academics and senior tax professionals/experts
WEBSITE : https://www.ifa.nl/calendar/ifa-singapore-branch-debt-restructuring-international-legal-and-tax-considerations
E-Registration Link : https://docs.google.com/forms/d/e/1FAIpQLSeQ3y3XA89-Ql0YQjwu6luyarqTDlSvmG79OGZRIG7PjOFFUQ/viewform

DATE : 28-Jan-2021
PLACE : Webinar
CONFERENCE : The Portuguese state budget and the tax outlook for 2021
DESCRIPTION : Speaker discussing the above topic shall be Mr. Dr. António Mendonça Mendes, Secretary of State for Fiscal Affairs
WEBSITE : https://www.ifa.nl/calendar/ifa-portugal-webinar-the-portuguese-state-budget-and-the-tax-outlook-for-2021
E-Registration Link : https://www.afp.pt/calendario/714-webinar-oe-e-perspectivas-2021

E-MAIL : afp@afp.pt
DATE : 27-Jan-2021
PLACE : Webinar
CONFERENCE : Reshaping the EU own resources and its impact on third countries
DESCRIPTION : Panel discussions on EU law with senior European tax experts, tax academics and tax directors from Industry
WEBSITE : https://www.ifa.nl/calendar/webinar-ifa-european-region-in-collaboration-with-eatlp
E-MAIL : mailto@congress@ifa.nl

DATE : 16-Dec-2020 - 18-Dec-2020
PLACE : Webinar
CONFERENCE : IFA USA International Tax Conference – "The Tax Cuts and Jobs Act – A Three-Year Review"
DESCRIPTION: Substantive sessions panel discussions on international tax topics, featuring prominent speakers from Private Practice, IRS and Treasury and Government.
WEBSITE : https://www.ifa.nl/media/6360/usa-conference-16-18-december-2020-technical-programm.pdf
E-MAIL : info@ifausa.org

DATE : 15-Dec-2020
PLACE : Webinar
EVENT : WIN Spain Seminar "Tax reforms for a green and digital just recovery: Spain in the International and European context"
DESCRIPTION : The first WIN Spain Seminar Co-organized by the Spanish Institute for Fiscal Studies
WEBSITE : www.ifa.nl/media/6379/webinar-win-15_12_2020-def.pdf
E-MAIL : jesus.alonso@ief.hacienda.gob.es

SECTION - III

DATE	:	10-Dec-2020
PLACE	:	Webinar
EVENT	:	IFA Portugal Webinar on "The future of the relationship between accounting and taxation - The role of the certified accountant"
DESCRIPTION	:	Discussion on the Accounting and Taxation Relationship
WEBSITE	:	www.afp.pt
E-MAIL	:	afp@afp.pt

DATE	:	09-Dec-2020 - 16-Dec-2020
PLACE	:	Webinar
EVENT	:	8th IFA Indonesia 2020 Annual International Tax Seminar
DESCRIPTION	:	Several topical issues relating to cross-border taxation, including the impact of BEPS report to Indonesia and developing countries were discussed.
WEBSITE	:	www.ifa.nl/media/6373/ifa-2020-indonesia-231120.jpeg
E-MAIL	:	indah.ratnaningati@rsm.id / info@ifa-indonesia.com

DATE	:	02-Dec-2020 - 04-Dec-2020
PLACE	:	Webinar
EVENT	:	IFA Argentina 6th International Tax Summit
DESCRIPTION	:	The summit hosted sessions on the subject of Deductions under new rules of TP and News for Non-cooperative and Low-tax countries
WEBSITE	:	www.aaef.org.ar
E-MAIL	:	teresa@aaef.org.ar

DATE	:	26-Nov-2020 - 27-Nov-2020
PLACE	:	Webinar
EVENT	:	IFA Korea Tax Webinar
DESCRIPTION	:	The webinar would provided an excellent opportunity for exchange of views and knowledge sharing in the area of international tax policy, administration and jurisprudence with well-known Indonesian and International Tax Practitioners and Government Officials.
WEBSITE	:	www.ifa.nl/media/6336/ifa-korea-november-2020.pdf
E-MAIL	:	kygelee@yulchon.com, ted.kim@leeko.com

DATE	:	26-Nov-2020
PLACE	:	Webinar
EVENT	:	IFA Portugal: Webinar "A tax reform for the prosperity"
DESCRIPTION	:	The speaker for webinar was José Maria Pires; Lawyer at Centre for tax studies and university lecturer and commentator Elísio Brandão; Full tax law professor - Faculty of Economics, University of Porto.
WEBSITE	:	www.afp.pt
E-MAIL	:	afp@afp.pt

ANNOUNCEMENT

NOMINATION AS COUNTRY REPORTERS FOR IFA 2022 CANCUN CONGRESS

We are pleased to advise that the titles of the Subjects of the IFA's 75th Congress to be held in Cancun, Mexico from 10-15 September 2022, have been phrased as follows:

Subject 1: Sharing and Shifting losses – The "new" profit sharing?
General Reporter – Rene Matteotti

Subject 2: Good faith in domestic and international tax law
General Reporter - Craig Elliffe and Sjoerd Douma

India Branch of IFA invites applications from members interested in being nominated as country reporters on any of these two subjects.

The applications may be forwarded to ifaindiabranch@gmail.com with a copy to vijay@vkgc.com latest by 20 March 2021 to enable the Executive Committee to finalise the names. Desirous members may send their brief CV along with the application indicating the subject of their choice and a note from an IFA Executive Committee member proposing the nomination. The reports are expected to be submitted by December 2021.

YIN IFA members are also encouraged to apply, separately, or in conjunction with another IFA member.

Nominations received will be reviewed by the Executive Committee or a panel and branch reporters will be selected on this basis.

The selected members should not be in arrears of fees due to IFA.

In order to give opportunity to maximum members, members who have not written country reports in the last five years will be given preference while selecting the reporters.

IFA~INDIA BRANCH **NEWS** LETTER

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www.ifa.nl/about-ifa/yin
www.ifaindia.in/YIN.htm

To know more about WIN, please visit:
www.ifa.nl/about-ifa/win

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).

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