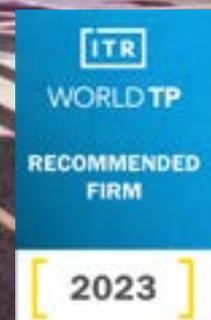


Tax Street

A flagship publication that captures key developments in the areas of Tax and Regulatory environment

June 2023



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Tax Street

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We are pleased to present the latest edition of Tax Street – our newsletter that covers all the key developments and updates in the realm of taxation in India and across the globe for the month of June 2023.

- The **'Focus Point'** sheds light on aspects of UAE corporate tax.
- Under the **'From the Judiciary'** section, we provide in brief, the key rulings on important cases, and our take on the same.
- Our **'Tax Talk'** provides key updates on the important tax-related news from India and across the globe.
- Under **'Compliance Calendar'**, we list down the important due dates with regard to direct tax, transfer pricing and indirect tax in the month.

We hope you find our newsletter useful and we look forward to your feedback.

You can write to us at taxstreet@nexdigm.com. We would be happy to hear your thoughts on what more can we include in our newsletter and incorporate your feedback in our future editions.

Warm regards,
The Nexdigm Team

Focus Point

An overview of UAE Corporate Tax and Transfer Pricing

The UAE Corporate Tax law was introduced in December 2022 and is effective from 1 June 2023. All entities with financial years beginning on any date post 1 June 2023 shall have to comply with the Corporate Tax regime.

All resident judicial persons incorporated in UAE shall be liable to Corporate Tax. Furthermore, natural persons carrying on business activities and non-residents as well, under certain circumstances, shall be liable to UAE Corporate Tax.

The UAE Corporate Tax shall:

- Apply at 9% on taxable income above AED 3,75,000;
- For free zone entities, Corporate Tax shall be at 0%, subject to the satisfaction of conditions.

For free zone entities, it had been mentioned in the tax law that as long as they derive 'Qualifying Income,' the tax will be 0%. However, qualifying income had not been defined in the corporate tax law and the clarification in this regard has been long awaited. Recently, the cabinet finally came out with Ministerial Decision No. 55 and 139 of 2023, where the meaning of 'Qualifying Income' has been finally provided.

Free zone taxation regime in UAE

Entities established in a free zone in UAE can avail the 0% corporate tax regime provided that they become a Qualifying Free Zone Person (QFZP). In order to qualify as a QFZP, the free zone entity has to satisfy the following conditions:

Sr.No	Condition	Description
1	Substance	The free zone entity should maintain adequate substance in UAE. The entity should conduct core income-generating activities in the free zone and also have adequate assets, adequate number of qualified employees and incur adequate expenses in the free zone.
2	Qualifying Income	The entity should derive qualifying income only and its non-qualifying revenue should meet the de minimis conditions.
3	Meets the 'De minimis' requirements	The non-qualifying revenue of a free zone entity should not exceed 5% of its total revenue or AED 5 million, whichever is lower.
4	Election to be subject to corporate tax	The free zone entity should not have elected to be subject to corporate tax.
5	Transfer Pricing	The entity should comply with the arm's length principle for related party transactions and connected persons.
6	Books of accounts	The free zone entity must prepare and maintain audited financial statements.
7	Others	The entity must comply with such other conditions as may be prescribed from time to time.

What is Qualifying income?

Qualifying income shall comprise of the following:

- Income derived from transactions with another free zone person from activities that are not 'Excluded Activities';¹
- Income derived from transactions with any other person (including outside of UAE) only form 'Qualifying Activities';²
- Any other income subject to the satisfaction of De minimis requirements.

The entire Qualifying Income of a free zone entity shall be subject to a 0% Corporate Tax rate, subject to the satisfaction of other conditions.

Points to consider for all UAE entities (including free zone entities)

- To ensure that UAE Corporate Tax registration is complete. Currently, the procedure for registration of certain entities (like a branch of a foreign company) are yet to be prescribed.
- The appropriate evaluation of incomes and expenses to be made in order to determine the taxability;
- The free zone entities need to be mindful of substance requirements, Transfer Pricing (TP) compliance and evaluate whether its income meets the definition of 'Qualifying Income.'
- The entities should maintain appropriate books of accounts and get them audited wherever required;
- The entities need to evaluate the timelines for the first tax return filing based on the tax periods followed.

Webinars and Events

GST and Customs-Contemporary Issues

19 July 2023

Saket Patawari

Unlocking the UAE Corporate Tax and Transfer Pricing Landscape

18 July 2023

Lokesh Gupta

Tax Summit Delhi 2023

5 July 2023

Middle East CFO Summit 2023

21 June 2023

Lokesh Gupta

Tax Strategy & Planning Summit

16 June 2023

Sneha Pai and Saket Patawari

India Outbound – UAE Tax Impact on Operating through Free Zone Company

9 June 2023

Mayank Lakhani

Are free zone companies free from UAE Corporate Tax?

6 June 2023

Lokesh Gupta

1. Meaning of Excluded Activities has been provided in the Cabinet Decision No. 139 of 2023

2. Meaning of Qualifying Activities has been provided in the Cabinet Decision No. 139 of 2023



From the Judiciary

Direct Tax

Whether pre-clinical lab services fall under FTS and whether 'make available' benefit can be claimed under the treaty?

Charles River Laboratories Inc
TS-296-ITAT-2023(Bang)

Facts

The taxpayer is a tax resident of the USA, and a Tax Residency Certificate (TRC) has been issued to it. It is in the business of providing pre-clinical laboratory services to enable the determination of a safe dose and assess the potential toxicity of new drugs. These pre-clinical services are provided through reports containing a generic protocol of the test procedure and results to conclude the testing phase.

The Revenue contended that the taxpayer provides a report to the companies in India, which would involve the technical expertise of the taxpayer and accordingly, it would be taxed in India as Fees for Technical Services (FTS).

The taxpayer contended that while the services qualify as FTS under the Income-tax Act(the Act), the Revenue has not appreciated the true impact of the word 'make available' used in the

treaty while arriving at a conclusion. Test reports generated do not transfer any technology knowledge to the customers, nor do they grant any right to access or use.

Held

The Bangalore Tribunal discussed that make available would only be satisfied when the service recipient can independently provide/transfer the skill or knowledge after it is acquired from the service provider. In the given case, the Tribunal held that the taxpayer has complete knowledge and know-how/ expertise to carry out the research and to issue reports, and this knowledge has not been transferred to its customers. Accordingly, it would not satisfy the make available clause under the tax treaty. The Tribunal also relied upon the decision of the Hyderabad Tribunal wherein Dr. Reddy's Laboratories Ltd entered a similar transaction. In that case, it was held that such services are not to be considered as FTS.

Our Comments

The 'make available' clause under the tax treaty would involve careful consideration on whether an assessee would be eligible for claiming the benefit or not. In this case, Bangalore Tribunal has denied that the services provided do not 'make available' technical know-how.

Whether payment made by the Indian company to its sister concern would be taxable in India in case no element of profit is involved in it?

Trusted Aerospace Engineering Pvt. Ltd
TS-324-ITAT-2023(CHNY)

Facts

The taxpayer (TASE India) is engaged in the business of manufacturing. TASE India entered into a project agreement with Hamilton Sundstrand Corporation, USA (Hamilton USA) for manufacturing products for their new engine program. As per the agreement, Hamilton USA is responsible for the design of the product, which will be provided to TASE India, and TASE India will manufacture it and provide after-sales support services to Hamilton USA.

TASE India, as an entity, is not equipped with the necessary parts/components to manufacture the product. TASE India outsourced the manufacturing to its sister concern TASE USA. TASE India would then make payment to TASE USA for manufacturing the product.

The Revenue was of the contention that the design that was being developed in the USA was supposed to be used in India. Since the design was to be used in India, income earned by the Non-Resident (NR) Company is taxable in India.

Hence, provisions of Tax Deducted at Source (TDS) are attracted, and TDS should be withheld in India, consequent to which disallowance was made under Section 40(a)(ia) of the Act.

The taxpayer contended that the amount remitted has no income element involved and has been paid to the NR company, which has no Permanent Establishment (PE) in India, and since the expenses were incurred outside India for the manufacture of design, etc., for sale outside India, no TDS is required to be deducted under Section 195.

Held

The Chennai tribunal held that the Commissioner of Income Tax (Appeals) [CIT(A)] has rightly held that Section 195 applies only when the payment made to the NR has an element of income embedded in it. If the sum paid or credited is not chargeable to tax, then the obligation to deduct tax does not arise. It has also relied upon the decision of Hon'ble Supreme Court in the case of GE India Technologies Pvt. Ltd. Vs. CIT wherein it was held that when a remittance is made to a NR, an obligation to deduct tax at source under Section 195 of the Act does not arise immediately. It arises only when such remittance is a sum chargeable to tax under the Income Tax Act under Sections 4, 5, and 9 of the Act.

Our Comments

The Chennai ITAT upheld the decision of CIT(A) and relied on the decision of the Hon'ble Supreme Court in the case of GE India Technologies Pvt. Ltd. Vs. CIT, where it has held that if no income element has been involved in payment made to NR, no income will accrue/ arise in India and accordingly no need to withhold tax as per Section 195.

Transfer Pricing

Whether taxpayer can resile from the method used for the determination of Arms Length Price (ALP) during the course of assessment proceedings?

Star India Private Limited ITA No. 7872/MUM/2019

Facts

The taxpayer engaged in the business of broadcasting and distribution of various satellite channels entered into a Master Rights Agreement (MRA) with its associated enterprise (AE) to purchase a Bundle of Sports Broadcasting Rights (BSB). The said BSB was purchased by the AE for lumpsum consideration from various Independent Sports Bodies (ISBs) in erstwhile years. However, the same was transferred to the taxpayer on a novation basis (75%) and the balance (25%) was sub-licensed. Overall, the BSBs were purchased at a discount of 9.5% (from the AE) vis-à-vis the value paid by the AE to the ISBs. The taxpayer claimed a deduction of INR 3,075 (approximate) for such purchases. It was determined to be at ALP using Other Method (OM) as the most appropriate method (MAM) basis the value determined by the independent valuer using Discounted Cash flow (DCF) method.

The Transfer Pricing Officer (TPO), in the case of the taxpayer for the preceding assessment year, had disregarded the valuation report on the grounds of the projections used in the valuation being inflated and also assigned the terminal value in the valuation to be nil. Considering the facts of the case being akin to last year, the TPO made an adjustment of INR 20.31 billion for the year under consideration. During the assessment proceedings, the taxpayer changed the MAM to Comparable Uncontrolled Price (CUP) method stating that the amount paid by the taxpayer to AE is lesser than the amount paid by AE to third parties.

The Income Tax Appellate Tribunal (ITAT) disagreed with the predecessor bench, which decided the earlier year (AY 2014-15), thereby, a Special Bench (SB) was constituted.

Issues before the SB and SB Ruling

- **Can taxpayers resile from the MAM adopted in the TP study** - SB held that taxpayers may resile from the MAM selected in the Transfer Pricing Study Report (TPSR). However, the onus of proving whether the new method substantiates the ALP is on the party that resiles from the originally selected MAM.
- **Which is the MAM** - The SB highlighted the critical differences between the application of the CUP method and OM and stated that the CUP method emphasizes the actual price paid for the property transferred, unlike OM considers the price which has been paid or would have been paid for same or similar uncontrolled transactions. Thus, while selecting OM as the MAM, quotations and valuation reports assist in determining the ALP of the underlying transaction. Also, in order to apply for CUP, there has to be a comparable uncontrolled transaction with an independent party. In the instant case, the price paid by the AE to ISB cannot be construed as a comparable transaction to the purchase consideration paid by the taxpayer to the AE. Thus, the SB held that in the absence of CUP only method that can be applied as MAM is OM.
- **Determination of ALP** - The matter was directed to be placed before the Division Bench using OM as MAM.

The ruling provides respite to the taxpayers wherein they may resile from the MAM selected at the time of concluding the TP study report at a later point during the course of assessment proceedings.

Projections not to be substituted with actuals

TPG Growth II Markets Pte Ltd
ITA No. 1387/MUM/2022

The taxpayer entered into a share purchase agreement with its AE to acquire the investment, viz., shares (held by the AE) in Sutures India Private Limited (SIPL) and Quality Needles Private Limited (QNPL). The taxpayer sold equity shares of QNPL to SIPL. The price per share (for purchase and sale) for the said arrangement was determined basis valuation report using DCF method. The taxpayer benchmarked the purchase transaction using OM and determined the sale transaction to be at ALP using CUP method and corroborated using OM.

The TPO replaced the future projections with actual financial results.

- **For purchase of shares:** The purchase price was higher as compared to the price arrived at as per the revised valuation report prepared by the TPO post replacing the projected figures with actual. The TPO also proposed a downward adjustment in the cost of shares purchased in the subsequent years and construed the excess amount paid by the taxpayer as deemed a loan to its AE and computed notional interest thereon.
- **For sale of shares:** The amount received by the taxpayer was determined to be less than the ALP. Furthermore, the application of CUP method was rejected on account of timing differences and differences in contractual rights and obligations while buying shares from promoters/shareholders.

The Dispute Resolution Panel (DRP) provided partial relief by deleting the adjustment for deemed loan and notional interest thereon.

Held by the ITAT

Disregarded the approach adopted by the TPO of substituting future projections with actual cash flows citing that the TPO failed to evaluate the deviation in the projected cash flows vis-à-vis actual financial results as recommended by BEPS Action Plan 8. For the transaction relating to the sale of shares, the ITAT held OM as the MAM and remitted the matter back to the TPO to re-compute the ALP basis DCF valuation.

The ruling emphasizes maintaining robust documentation as a pre-requisite while determining the ALP of international transactions. The valuation done as per DCF method or any other method is always applied by considering revenues projections based on the detailed market expectation over the specified period, which cannot be fiddled with at a later point by substituting actuals.

Regulatory Updates

Companies Act, 2013

Filing of Form CSR-2 by all Companies required to do CSR spending

The Ministry of Corporate Affairs (MCA) notified the Companies (Accounts) Second Amendment Rules, 2023 (referred to as "Amendment Rules") on 2 June 2023 to amend the existing Companies (Accounts) Rules, 2014.

As per the said amendment, all Companies falling under Section 135 of the Companies Act 2013, which mandates Corporate Social Responsibility (CSR) compliance, must file Form CSR-2 for FY 2022-23 by 31 March 2024, subsequent to the submission of either Form No. AOC-4 or Form No. AOC-4-NBFC (Ind AS) or Form No. AOC-4 XBRL (used for filing financial statements for each financial year with the Registrar of Companies) depends on the applicability.

This Form CSR-2, requires notified companies to inter-alia provide the following information:

- Details of CSR expenditure for the past three financial years and on ongoing projects.
- Details about the company's CSR Committee.
- Confirmation of disclosure of the company's CSR activities on its website.
- Net profit and other relevant information for the preceding financial years.
- If any capital assets were acquired or created through CSR expenditure, companies must provide details about the property's address, location, pin code, the amount spent, and registered owner.

Our Comments

The amendment made by the MCA to the Companies (Accounts) Rules, 2014 underscores their ongoing commitment to enhancing corporate governance and accountability within India's business environment, especially towards CSR. Timely submission of Form CSR-2 will help corporates showcase a dedication to fulfilling CSR responsibilities and plays a vital role in advancing social welfare and promoting responsible business conduct.

Indirect Tax**Whether the search, inspection and investigation provisions of GST law were applicable to the SEZ units?**

RHC Global Exports Private Limited & Ors. vs. Union of India & Ors.
TS-230-HC(GUJ)-2023-GST

Facts

- The petitioners, operating as SEZ units, had assailed the jurisdiction of the State Tax authorities to initiate search, inspection, and investigation along with consequential proceedings under the provisions of section 67 r/w Sections 70 and 73 of the Gujarat GST Act r/w CGST Act.
- Such action was initiated based on analytics and intelligence that the petitioners had claimed bogus Input Tax Credit (ITC) vis-à-vis voluminous inward supply (purchases) transactions from fictitious entities, as well as disposed off duty-free imported goods into the Department of Treasuries and Accounts (DTA) without invoices.
- Referring to the Preamble to the IGST Act and the provisions of SEZ Act, the petitioners argued that they were not subjected to the domain of any State Tax authorities and as such, even if coercive proceedings were initiated, they lacked the sanction of law.

Ruling

- Perusing section 22 of the SEZ Act, High Court observed that any officer or agency who that was authorized by the Central Government the Central Government authorized could carry out search, or seizure, or investigation, or inspection in the SEZ or units situated therein. The provision also suggested that the authorized officer of the Central Government was empowered to

carry out such a process without any prior approval or intimation. So the moment authorization was reflected, such measure could be undertaken against the SEZ or unit, observed the Court.

- Furthermore, Section 6 of the Gujarat GST Act also indicated that the respondent authorities were empowered to carry out proceedings in SEZ.
- Accordingly, High Court noted that once the Central Government had notified the functions of proper officers, those functions shall also be applicable to be carried out by the officers under CGST Act, and hence, it cannot be said that there was any lack of authority on the part of respondents.
- Additionally, the provisions of the IGST Act were applicable to the whole of India, wherein supplies to or by SEZ units would be treated as inter-state supplies. Therefore, the petitioners were under the mistaken belief that once their business was carried out within SEZ, they were outside the purview of the authority of the respondent authorities.
- Resultantly, High Court refused to exercise its extraordinary equitable jurisdiction and imposed costs on the petitioners by concluding that these petitions were an attempt to thwart and delay the legal proceedings initiated by the respondents.

Our Comments

In recent times, we have seen that GST authorities have stepped up their vigilance to curb tax evasion. Moreover, the tax authorities have identified registration-linked frauds as one of the key focus areas for tighter scrutiny in FY 2023-24 and are carrying out special investigations.

In this process, the jurisdiction of tax authorities to initiate such actions would be a bone of contention for the taxpayers and the present decision of the Gujarat High Court should put to rest any question on the authority of GST officers to investigate or search the premises of SEZ units, which are otherwise considered to be outside the territory of India.

Whether the State tax authorities were justified in denying the ITC on purchase from a supplier whose registration was cancelled retrospectively?

Gargo Traders vs. The Joint Commissioner, Commercial Taxes (State Tax) & Ors.
2023-VIL-360-CAL

Facts

- The State tax officers had denied the ITC and imposed interest and penalty on the ground that the registration of the supplier had already been cancelled with a retrospective effect covering the transaction period.
- The petitioner's appeal was also rejected and therefore, they approached the High Court. It was submitted that the State tax officers had not considered the documents such as the tax invoice cum challan, debit note, e-way bill, and the statement of bank account furnished to prove the genuineness of the transaction.
- On the other hand, Revenue contended that the transaction was of November 2018, but the supplier had accepted the cancellation of their registration from October 2018.

Ruling

- The High Court noted the admitted fact that at the time of the transaction, the name of the supplier as the registered taxable person was already available in the government record and the petitioner had paid the amount of purchased articles as well as tax thereon through bank and not in cash.
- It was not the case of the Revenue authorities that there was collusion between the petitioner and supplier with regard to the transaction.
- Hence, High Court found that without proper verification, it could not be said that there was any failure on the part of the petitioner in compliance of any obligation required under the statute before entering into the transaction in question.
- The High Court observed that the unreported judgement in LGW Industries Limited & Ors. vs. Union of India & Ors. [WPA 23512 of 2019] was squarely applicable to the present case.
- Resultantly, High Court set aside the impugned order and directed the Appellate Authority to consider the petitioner's grievance afresh by taking into account the supporting documents.

Our Comments

Ineligibility of ITC vis-à-vis purchases from registration canceled suppliers is a common parameter in scrutiny proceedings. In such instances, the supporting documents furnished to substantiate the veracity of the transaction are often disregarded by the lower tax authorities, thereby warranting a relief in appellate proceedings.

The present order should support the taxpayers who are facing similar issues in relation to their ITC claim.

Alerts

Highlights of the 50th GST Council Meeting

13 July 2023

<https://bit.ly/44k7wL4>

Key Highlights of GST Notifications and Clarification Circulars – June 2023

3 July 2023

<https://bit.ly/3rgtPT8>

High Court quashes tax recovery fastened on the Director of a delinquent company

22 June 2023

<https://bit.ly/3PR1n4J>

SEBI Amends Listing Regulations

21 June 2023

<https://bit.ly/3pH8r9w>

NCLT confirms that requirements of the Companies Act do not apply on commencement of Voluntary Liquidation

5 June 2023

<https://bit.ly/43OzduS>



Tax Talk

Indian Developments

Direct Tax

Extension of time limit for submission of certain tds/tcs statements for Q1

Circular No. 9/2023
dated: 28 June 2023

- The Central Board of Direct Taxes (CBDT) extends the due date for furnishing of Form 26Q and 27Q TDS statements for the first quarter (April to June) of the financial year 2023-24 from 31 July to 30 September.
- Furthermore, the time limit for submission of Form 27EQ Tax Collected at Source (TCS) statement has also been extended from 15 July to 30 September.

Important changes W.R.T LRS and TCS

Press Release
dated: 28 June 2023

- In the Budget this year, certain changes were announced to the system of TCS on payments under the Liberalized Remittance Scheme (LRS) and on overseas tour program packages. These were to take effect from 1st July 2023. However, these changes will now be applicable from 1st October 2023.

- It has been decided that there will be no change in the rate of TCS for all purposes under LRS and for overseas travel tour packages, regardless of the mode of payment, for amounts up to INR 0.7 million per individual per annum.
- From 1 October 2023, an increased rate of TCS from 5% to 20% for remittance under LRS, as well as the purchase of an overseas tour program, will be applicable.
- For the overseas tour program package, TCS shall continue to apply at the rate of 5% for the first INR 0.7 million per individual per annum and above this limit, TCS will be collected at the rate of 20%.
- These changes will not be applicable when the remittance is for education or medical purposes.

Indirect Tax

Customs

CBIC clarifies procedure for IGST and Cess payment under Advance Authorisation scheme pursuant to 'pre-import condition' upheld by Apex Court

Circular No. 16/2023-Cus
dated 7 June 2023

The Central Board of Indirect Taxes and Customs (CBIC) has issued guidelines for implementation of the Hon'ble Supreme Court's judgment in the matter of Cosmos Films Ltd., which upheld the mandatory fulfillment of 'pre-import condition' under the Advance Authorisation Scheme. Accordingly, for payment of IGST and Compensation Cess along with interest for past imports, the Out-Of-Charge (OOC) shall be canceled, and the subject Bills of Entry (BoE) shall be assessed again. On completion of the payment, the port of import shall make a notional OOC for the BoE on the Customs Electronic Data Interchange (EDI) system (so as to enable transmission of IGST and Cess payments to GSTN portal). This procedure can be applied once to a BoE. It has been further clarified that ITC with respect to such assessed BoE shall be available subject to eligibility and prescribed conditions.

CBIC's pilot import and re-export clearances at ACC, Bengaluru, under the Electronic Repairs Services Outsourcing initiative

Circular No. 14/2023-Cus dated 3 June 2023

The Electronic Repairs Services Outsourcing (ERSO) initiative involves the import of goods (defective, damaged electronic goods) by designated repair service entities in India, to repair and re-export them reliably. The pilot procedure for import and re-export clearances is being tested at ACC Bengaluru to achieve an ecosystem conducive to providing quick and reduced turnaround time. This involves, inter alia, furnishing of continuity/running re-export bond (without bank guarantee) by the importer and opting for the first check while filing the import declaration.

Mandatory additional qualifiers in import/export declarations in respect of certain products w.e.f. 1 July 2023

Circular No. 15/2023 dated 7 June 2023

In consultation with the Department of Chemicals and Petrochemicals, Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy (AYUSH), and the Directorate General of Foreign Trade (DGFT), the CBIC has prescribed additional qualifiers at the time of filing relevant declarations in respect of imports under Chapters 28, 29, 32, 38 and 39 of the Customs Tariff Act, and in respect of exports under Chapters 12, 30, and 84 of the Customs Tariff Act. The said qualifiers shall be mandatory from 1 July 2023.

Foreign Trade Policy

Norms fixation/review of advance authorization from new IT module

Trade Notice No. 10/2023 dated 22 June 2023

The DGFT has activated the process of Norms Fixation/Review of Norms to electronic mode from physical mode. Accordingly, all the applicants seeking Norms Fixation/Review of Norms from Norms Committee (NC-7) may apply only via online mode by navigating to the DGFT website, and no hard copies shall be accepted herewith.

DGFT introduces an online personal hearing facility for exporters from 1 June 2023

Trade Notice No. 6/2023-24 dated 31 May 2023

The DGFT has introduced an online facility of requesting appointments for virtual meetings/personal hearings by the exporters w.e.f. 1 June 2023. The Regional Authorities of DGFT shall provide a suitable time as well as the link for virtual hearing through the online facility.

Tax Talk

Global Developments

Direct Tax

OECD launches new version of the BEPS Multilateral Convention matching database to further support international tax co-operation

Excerpts from OECD.org dated 29 June 2023

A new and improved version of the database supporting the application of the Multilateral Convention to implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the BEPS MLI) has been released and will allow tax authorities and other interested parties to make projections on how the MLI modifies a specific tax treaty.

The updated database includes significant improvements that will enhance user experience and provide additional features to support the implementation and application of the BEPS MLI. One of the key updates is the inclusion of historical data, which allows users to view the application of the BEPS MLI at specific points in time. The upgrade also offers a more intuitive interface that makes searching for and accessing information easier.

Transfer Pricing

Denmark – CbCR introduced effective for FY commencing 1 January 2025

The Country-by-country reporting (CbCR) legislation is effective from 22 June 2023 (i.e., FYs starting 22 June 2024 or later). Public CbCR would be applicable to the parent company of a multinational group (MNE) if the consolidated revenue for two consecutive FY exceeds DKK 5.6 billion (approx. EUR 750 million). The MNE group should either be European Union (EU) parented or have subsidiaries or branches in the EU.

The parent company will be exempted from filing of CbCR if:

- Its a subsidiary of another parent company that has a qualifying presence in the EU and prepares the report on behalf of the Group;
- Its subsidiaries & branches are all exclusively established in Denmark;
- It is a part of the medium-large sized EU-based Group having a non-EU-based parent company preparing/publishing the report.

The CbCR would include disclosure of data pertaining to the nature of activities, turnover, profit/loss, tax paid, accumulated earnings, employees, etc., being in alignment with the requirements as per EU directive and Organization for Economic Co-operations and Development (OECD) Guidelines. An option is available with the companies to not to disclose certain sensitive information for a maximum period of five years, subject to providing an explanation for non-disclosure. Such information, however, would be required to be submitted in a separate report.

The public CbCR is required to be prepared and published by the EU-based parent company on its corporate website for a minimum of five years. It is also required to be submitted to the Danish company registry. The report needs to be filed within 12 months from the end of the relevant FY.

In case subsidiaries are exempted from preparing the report on account of the same being prepared by another group entity, currently, there are no provisions relating to the filing of CbCR notification by the subsidiaries. The subsidiaries are required to submit the report on an annual basis, thereby increasing the compliance burden on the subsidiaries on a year-on-year basis.

The EU subsidiaries and branches would be required to prepare CbCR where the EU Member State laws are not applicable to the ultimate parent company and it has not published the report covering the said subsidiaries and branches.

Canada Government seeks consultation from stakeholders to provide clarity on arm's length principle, issues consultation paper

The Department of Finance with a view to reform and modernize the TP Rules, released a consultation paper 'Consultation on Reforming and Modernizing Canada's TP Rules' to invite comments from the stakeholders which are due by 28 July. The main focus was on the TP adjustment rule 247 of the Income Tax Act (Act) and potential administrative measures.

This is in alignment with the OECD TP guidelines and provides clarity on various technical aspects, which included defining controlled transactions basis the 'economically relevant characteristics' of the parties involved and the inclusion of "conditions" in determining the arm's length principle etc.

The paper also intended to revive certain administrative measures that include:

- standardized template for Local File;
- implementing Master File regulations;
- relief for small taxpayers and low-value transactions with the introduction of simplified documentation requirements, annual reporting schedule, exemptions, etc., based on a threshold or size criteria;
- revisiting the penalty provisions;
- introducing Safe Harbor returns for distributors performing routine activities and low-value-added intra-group services;

- defining the acceptable range with respect to loan arrangements by limiting the term and using credit rating, as well as removing subordination features and embedded options.

Articles

GST Council hits half-century: An all-round performance

13 July 2023 | Taxsutra
Saket Patawari
<https://bit.ly/3pKr5NJ>

Family Arrangements Taxation Aspects Involving Companies

20 June 2023
<https://bit.ly/44lQnup>

Foreign Trade Policy 2023 - Roadmap to India's Global Leadership in Exports

16 June 2023 | CII Western Region magazine - Pascheem June 2023
Sanjay Chhabria and Hiren Vora
<https://bit.ly/3JoHdLb>



Indirect Tax

Taxpayers with taxable revenue exceeding 70 million Saudi Riyals under 'Phase 2' of e-invoicing from 1 January 2024

Excerpts from various sources

The Zakat, Tax and Customs Authority (ZATCA) has announced that the sixth group of taxpayers will consist of those with taxable revenue exceeding 70 million Saudi Riyals during 2021 or 2022 to comply with the second phase of implementation of the e-invoicing system. This mandate will start from 1 January 2024.

Swiss VAT Act to undergo revision from 1 January 2025

Excerpts from various sources

The Switzerland Government has passed a new law to amend the VAT Act, which is likely to enter into force from 1 January 2025. Some of the key changes include:

- Electronic platforms facilitating the sale and delivery of goods will be held responsible for VAT on the turnover generated, requiring compliance with a series of conditions. All electronic platforms must furnish information about sellers and buyers as part of their VAT obligations, ensuring transparency in online transactions.
- The purchase of emission rights will be subject to the Acquisition tax, even if the seller is based in Switzerland (domestic acquisition tax).
- Travel agency services (including resold travel services) will be exempt from VAT without the ability to claim input VAT credit. However, certain cases, such as business travel, may still have an option for taxation.

- The "place of supply" for streaming services in culture, arts, sports, education, science, and entertainment will be deemed to be at the recipient's location.
- Various changes are expected in VAT regulations, including expanded exemptions in the healthcare sector, a VAT exemption for investment foundations, and the potential waiver of a fiscal representative for foreign taxpayers in the future.

Quotes and Coverage

GST Council to consider legal opinion on taxing online gaming

10 July 2023 | Business Today
Saket Patawari
<https://bit.ly/46QTQZU>

Rise in net direct tax collection till June 17 by 11% shows continuing economic, GDP growth, say experts

22 June 2023 | Financial Express
Sneha Pai
<https://bit.ly/3XQTWwk>

May GST collection data strengthens belief in economic activity growth, macroeconomic stability, say experts

2 June 2023 | Financial Express
Saket Patawari
<https://bit.ly/44GnJtR>

UAE free zones not fully exempt from first-time corporate tax

1 June 2023 | FDI Intelligence
Lokesh Gupta
<https://bit.ly/42kIVUz>



Compliance Calendar

- Direct Tax
- Indirect Tax

7 July 2023

- Due date for the deposit of TDS/TCS for June 2023. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without the production of an Income-tax Challan.
- Due date for deposit of TDS for April 2023 to June 2023 when Assessing Officer has permitted quarterly deposit of TDS under Section 192, 194A, 194D or 194H.

13 July 2023

- GSTR-6 for June 2023 to be filed by Input Service Distributor (ISD).
- GSTR-1 for the quarter of April 2023 to June 2023 to be filed by all registered taxpayers under the QRMP Scheme.
- GSTR-5 for June 2023 to be filed by a non-resident foreign taxpayer.

20 July 2023

- GSTR-5A for June 2023 to be filed by a non-resident service provider of Online Database Access and Retrieval (OIDAR) services.
- GSTR-3B for June 2023 to be filed by all registered taxpayers, not under the QRMP Scheme.

24 July 2023

- GSTR-3B for the quarter of April 2023 to June 2023 to be filed by registered taxpayers under the QRMP Scheme and having principal place of business in Category 2 states.

10 July 2023

- GSTR-7 for the month of June 2023 to be filed by taxpayer liable to Tax Deducted at Source TDS.
- GSTR-8 for the month of June 2023 to be filed by taxpayer liable to Tax Collected at Source TCS.

11 July 2023

- GSTR-1 to be filed by registered taxpayers for the month of June 2023 by all registered taxpayers not under the QRMP Scheme.

15 July 2023

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA/194-IB/194M/194S for April 2023.
- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending June 2023.
- Quarterly statement of TCS deposited for the quarter ending 30 June 2023.
- Upload the declarations received from recipients in Form No. 15G/15H during the quarter ending June 2023.
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of June 2023.

22 July 2023

- GSTR-3B for the quarter of April 2023 to June 2023 to be filed by registered taxpayers under the QRMP Scheme and having principal place of business in Category 1 states.

30 July 2023

- Quarterly TCS certificate in respect of tax collected by any person for the quarter ending 30 June 2023.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA/194-IB/194M/194S for 30 June 2023.

Compliance Calendar

- Direct Tax
- Indirect Tax

31 July 2023

- Quarterly statement of TDS deposited for the quarter ending 30 June 2023.
- Return of income for the AY 2023-24 for all assessee other than:
 - a. corporate-assessee or
 - b. non-corporate assessee (whose books of account are required to be audited) or
 - c. partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of Section 5A applies or
 - d. an assessee who is required to furnish a report under Section 92E.
- Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending 30 June 2023.
- Statement by scientific research association, university, college or other association or Indian scientific research company as required by rules 5D, 5E and 5F (if due date of submission of return of income is 31 July 2023).
- Intimation in Form 10BBB by a pension fund in respect of each investment made in India for quarter ending June 2023.
- Intimation in Form II by Sovereign Wealth Fund in respect of investment made in India for quarter ending June 2023.

7 August 2023

- Due date for the deposit of TDS/TCS Tax deducted/collected for the month of July, 2023. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without the production of an Income-tax Challan.

10 August 2023

- GSTR-7 for the month of July 2023 to be filed by the taxpayer liable for Tax Deducted at Source TDS.
- GSTR-8 for the month of July 2023 to be filed by the taxpayer liable for Tax Collected at Source TCS.

11 August 2023

- GSTR-1 to be filed by registered taxpayers for July 2023 by all registered taxpayers not under QRMP Scheme.

13 August 2023

- GSTR-6 for the month of July 2023 to be filed by ISD.
- Uploading B2B invoices using Invoice Furnishing Facility under the QRMP scheme for July 2023 by taxpayers with aggregate turnover of up to INR 50 million.
- GSTR-5 for the month of July 2023 to be filed by non-resident Foreign taxpayer.

Notes:

Category 1 states - Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep

Category 2 states - Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi

Easy Remittance Tool

by Nexdigm



Form 15CA/CB Automation



Review of tax position by experts



Issuance of bulk certificates through Automated tool



Repository - Access to entire set of documents



Access to Detailed transaction wise reports



Representation Support



Generation 15CA bulk files & utility to generate Form A2

About Nexdigm

Nexdigm is an employee-owned, privately held, independent global organization that helps companies across geographies meet the needs of a dynamic business environment. Our focus on problem-solving, supported by our multifunctional expertise enables us to provide customized solutions for our clients.

We provide integrated, digitally driven solutions encompassing Business and Professional Services, that help companies navigate challenges across all stages of their life-cycle. Through our direct operations in the USA, Poland, UAE, and India, we serve a diverse range of clients, spanning multinationals, listed companies, privately-owned companies, and family-owned businesses from over 50 countries.

Our multidisciplinary teams serve a wide range of industries, with a specific focus on healthcare, food processing, and banking and financial services. Over the last decade, we have built and leveraged capabilities across key global markets to provide transnational support to numerous clients.

From inception, our founders have propagated a culture that values professional standards and personalized service. An emphasis on collaboration and ethical conduct drives us to serve our clients with integrity while delivering high quality, innovative results. We act as partners to our clients, and take a proactive stance in understanding their needs and constraints, to provide integrated solutions. Quality at Nexdigm is of utmost importance, and we are ISO/ISE 27001 certified for information security and ISO 9001 certified for quality management.

We have been recognized over the years by global organizations, like the International Accounting Bulletin and Euro Money Publications.

Nexdigm resonates with our plunge into a new paradigm of business; it is our commitment to *Think Next*.

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