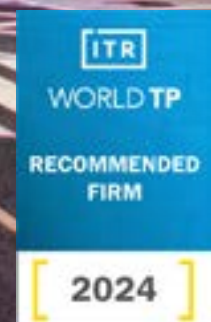


Tax Street

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

October 2024



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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 October 2024.

- The **'Focus Point'** covers key aspects of the FEMA compounding rules 2024.
- 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

FEMA Compounding Rules 2024

The Government of India in September 2024 notified the Foreign Exchange (Compounding Proceedings) Rules, 2024 in supersession of the erstwhile Foreign Exchange (Compounding Proceedings) Rules, 2000.

If a person violates any provision of the Foreign Exchange Management Act, 1999 (FEMA) or any rule, regulation, notification, direction, or order issued under the act, they have the option, under Section 15 of FEMA, to apply for the compounding of the contravention. However, this does not apply to violations under Section 3(a) of FEMA (which involves contraventions related to suspected money laundering, terrorist financing, etc.). The application for compounding is a **voluntary action by the individual, who acknowledges the contravention and seeks resolution by paying a monetary penalty**. The compounding authority will review the application, provide an opportunity for a personal hearing, and then determine the penalty.

Key Changes and Implications

The gist of proposed amendments are discussed below:

Change in monetary limits:

- In a case, where the sum involved in such contravention does not exceed **INR 6 million**, an officer not below the rank of the Assistant General Manager of the Reserve Bank;
- In a case, where the sum involved in such contravention does not exceed **INR 25 million**, an officer not below the rank of the Deputy General Manager of the Reserve Bank;
- In a case, where the sum involved in such contravention does not exceed **INR 50 million**, an officer not below the rank of the General Manager of the Reserve Bank; and
- In a case, where the sum involved in such contravention is above **INR 50 million**, an officer not below the rank of the Chief General Manager of the Reserve Bank.

The revised rules have increased the limits of the sum involved in contravention for each of the officers of the RBI for handling compounding matters.

Hence, this will reduce the burden and dependency on higher officers of RBI for compounding matters. This will also reduce the time required for compounding.

Increase in compounding application fees:

- The amendment rules have increased the application fees from INR 5,000 to INR 10,000 (plus applicable GST)

Online payment process

- The application fees and compounding amount can be paid by demand draft or NEFT, or RTGS, or such other permissible electronic or online modes of payment in favor of the compounding authority. Earlier, such an amount was accepted only in form of a demand draft.

Non-compoundable cases:

No contravention shall be compounded:

- where the amount involved is not quantifiable; or
- where the provisions of Section 37A of the FEMA are applicable; or

- where the Directorate of Enforcement is of the view that the proceeding relates to a serious contravention suspected of money laundering, terror financing or affecting the sovereignty and integrity of the nation, the compounding authority shall not proceed with the matter and shall remit the case to the appropriate Adjudicating Authority for adjudicating contravention under Section 13; or
- where the Adjudicating Authority has already passed an order imposing a penalty under Section 13 of the act; or
- where the compounding authority is of the view that the contravention involved requires further investigation by the Directorate of Enforcement to ascertain the amount of contravention under Section 13 of the act.

Pending proceedings:

- Any compounding application pending before the compounding authority, on the date of commencement of these rules, shall be governed by the provisions of the Foreign Exchange (Compounding Proceedings) Rules, 2000 superseded herein.

Discontinuation of adjudication

- New Rules clarify that in respect of contravention which is already compounded prior to adjudication of such contravention under Section 16 of FEMA, no inquiry or further inquiry can be initiated or continued against the person. There was always a bar on holding or initiating an inquiry for adjudication of contravention which has been successfully compounded however, this revised provision clarifies also to discontinue any existing inquiries by the adjudicating authority.

Powers of Compounding Authority

- In addition to the powers granted to the compounding authority under the previous rules to request further information, records, or documents, the new rules also empower the authority to require the applicant to take necessary actions related to the transactions involved in the contravention. As part of the process, compounding of the contravention is permitted only after all administrative actions are completed, such as obtaining the necessary approvals from the Government or RBI, finalizing pending filings, unwinding transactions, etc. The compounding authority is now authorized to mandate the completion of any other actions required to compound the contravention, without needing to return the application, while ensuring that the process is completed within the prescribed timeline.

These recently introduced changes undoubtedly simplify the existing FEMA compounding process. The provision of multiple payment options aligns with current trends, offering greater flexibility. Increasing monetary thresholds for handling compounding matters and discontinuing pending adjudication actions for compounded cases should help improve the efficiency of compounding officers, ensuring quicker resolution of cases. Additionally, the revision of reporting formats and clarifications on matters such as the treatment of currently pending applications is a positive step.

Quotes and Coverage

GSTN's new ITC integration move to increase compliance, but clarity needed

17 October 2024

ET CFO | Sanjay Chhabria

<https://tinyurl.com/bderzvt6>

RoCs tighten CSR enforcement; over a dozen businesses get penalty orders so far this year

17 October 2024

Mint | Subodh Dandawate

<https://tinyurl.com/3mduvuwk>

India's SUV makers get a ₹10,000 crore tax notice

15 October 2024

CNBC TV18 | Sanjay Chhabria

<https://tinyurl.com/yku6eccd>

No GST on foreign airlines for service imports from offshore branches: CBIC

10 October 2024

Financial Express | Sanjay Chhabria

<https://tinyurl.com/8t5fbmpm>

GoM may gradually phase out of 12% GST slab to rationalise rates

8 October 2024

Money Control | Sanjay Chhabria

<https://tinyurl.com/322fxna9>

Bankruptcy code has helped rescue 109 businesses so far this fiscal year

3 October 2024

Mint | Subodh Dandawate

<https://tinyurl.com/bddxxswm>



From the Judiciary

Direct Tax

Can an individual with dual residency be treated as a resident for India tax purposes under Article 4 of the India-US tax treaty, based on his economic ties?

Ashok Kumar Pandey
[TS-736-ITAT-2024(Mum)]

Facts

The Assessee, filed his return of income, declaring an income of INR 9500. The Assessee was a dual resident of India as well as USA and he claimed that his 'center of vital interest' was in the USA under Article 4(2)(a) of the India-US tax treaty and thus, he was a US resident for tax purposes. Assessee is a US passport holder, and his family primarily resides in the USA. However, he actively manages a company in India with a substantial financial involvement.

The key issue was whether the Assessee, who claimed dual residency in India and the U.S., should be treated as a U.S. resident for tax purposes under the India-U.S. Double Taxation Avoidance Agreement (DTAA).

The AO argued that based on the Assessee's presence in India for over 183 days, the AO classified him as a resident of India under Indian tax law and assessee's active business involvement in India.

The case was brought before the Mumbai Tribunal or Mumbai Income Tax Appellate Tribunal (Mumbai ITAT), which examined the 'tie-breaker' rule of the DTAA.

Held

After applying tie-breaker rule, the Mumbai ITAT held the following:

- It determined that, based on his active role in the Indian company, substantial time spent in India, and primary residence with his family in India, the Assessee's center of vital interest was closer to India.
- It emphasized that personal and economic relationships, including active business management, took precedence over passive investments in establishing residency.
- Concluding that the Assessee was an Indian resident under Article 4(2)(a) of the India-US DTAA, the Mumbai ITAT dismissed the appeal, confirming that his global income, including income sourced from the USA, is taxable in India under Indian tax laws.

Our Comments

The decision highlights the application of the 'tie-breaker' rule under the India-U.S. DTAA, focusing on the importance of clear and substantial connections to a country for residency claims and

how both personal and economic relationships can influence tax residency under international treaties.

Can sales and marketing services provided by a foreign subsidiary be considered FTS under Section 9(1)(vii) or the India-US DTAA, thereby triggering Tax Collection at Source (TDS) under Section 195?

Algonomy Software Pvt. Ltd
[TS-773-ITAT-2024(Bang)]

Facts

The Assessee, Algonomy Software Pvt. Ltd. is a domestic software and IT-enabled services (ITeS) company. The Assessee had made payments of sales commission to its US subsidiary (Manthan Systems Inc.) and other associated enterprises (AEs) for marketing services. The Assessee did not deduct TDS on these payments.

During the assessment, the AO argued that these payments are classified as Fees for Technical Services (FTS) under the Act and Article 12 of the India-US tax treaty.

The Assessee argued that the services rendered by the US subsidiary did not meet the 'make available' conditions under Article 12 of the India-US DTAA, which would require transfer of technical knowledge or skills

for classification of FTS. Assessee submitted that the issue is squarely covered by the decision of the coordinate bench in Assessee's own case¹ for AY 2012-13 to 2015-16, where similar payments were held outside the scope of FTS, supporting the position that no TDS was required.

The Revenue took the matter before the Bangalore Income Tax Appellate Tribunal (Bangalore ITAT).

Held

It deleted the disallowance under Section 40(a)(ia) of the Act on payments made by an Indian company to its US subsidiary as sales commission.

It held that the sales and marketing services rendered to Assessee by its US based subsidiary does not fall within the ambit of FTS as defined under Section 9(1)(vii) or Article 12 of India-US DTAA, thus, liability to deduct tax at source u/s 195 does not arise;

It was held that income received towards sales commission is not in the nature of managerial, technical, and consultancy services.

Our Comments

This case addresses a common dilemma on the payments of sales commission for sales and marketing services to foreign subsidiaries. Like many other similar precedents on this aspect, the Bangalore Tribunal has continued to uphold the position that payment of commission will not be FTS in the absence of any technical, managerial or consultancy services.

Transfer Pricing

Delhi High Court Dismisses Revenue's Appeal: 'Other Method' can be considered at most appropriate method only after appropriately rejecting other methods

Sabic India Pvt Ltd²

Facts of the case

The taxpayer merely provides marketing support services to its associated enterprises (AEs) to facilitate sale of fertilizers, chemicals and polymers and does not enter into any contract with the customer. The taxpayer used Transactional Net Margin Method (TNMM) as the most appropriate method with OP/VAE (Operating Profit/ Value Added Expenses) as the profit level indicator for benchmarking its international transactions. The taxpayer furnished that the fees received from its AE were a percentage of sales of various products. However, the Transfer Pricing Officer (TPO) rejected this approach and instead applied the "other method" under Rule 10B(1)(f), claiming it was more appropriate due to the nature of taxpayers operations as a commission agent without title to inventory. This adjustment resulted in a significant upward revision of INR 3.61 billion to the taxpayer income leading to an appeal that was ultimately resolved in the High Court (HC). The taxpayer contended that TNMM was the most appropriate method as it had been consistently used for prior assessment years (2009-10 to 2014-15) without challenge from the TPO. Taxpayer further argued that the TPO did not justify the shift to the 'other method' and that the comparables selected were not suitable due to differing business models.

Held by ITAT

The ITAT was in favor of the taxpayer contentions, ruling that the TPO's rejection lacked sufficient justification and also that the selection of comparables could not be a ground for rejecting the method. ITAT emphasized that the principle of consistency should prevail, as TNMM had been accepted in prior years. The ITAT was of the view that the use of the "other method" under Rule 10AB is permissible only if none of the primary five methods are applicable, which, in the taxpayers case, was not established by the TPO.

Held by High Court

The Delhi High Court upheld the ITAT's ruling, agreeing that the TPO had unjustifiably rejected the TNMM method. The Court highlighted the principle from the Supreme Court's ruling in Radhasoami Satsang v. CIT, which stresses the need for consistency in tax treatment unless there are substantial reasons for change. The High Court observed that the TPO provided no specific reasons for dismissing TNMM, which had been applied in previous years. The Court also clarified that the "other method" under Rule 10AB should only be applied if none of the five prescribed methods are suitable, a criterion the TPO failed to establish. Given these observations and the inconsistencies in the comparables chosen by the TPO, the High Court dismissed the Revenue's appeal and ruled in favour of the taxpayer, reaffirming that the international transactions were at arm's length.

Our Comments

The High Court's decision underscores the importance of consistency in transfer pricing methods and reinforces the need for thorough justification and appropriate rejection of other methods before shifting to the 'other method.' The case also highlights that comparables must reflect similar functional and transactional profiles to maintain the reliability of the transfer pricing analysis.

1. (Manthan System Inc [TS-777-ITAT-2022(Bang)])

2. High Court ITA No. 514/2024 & CM Appl. 59663/2024 for AY 2016-17

ITAT Rejects notional interest on sum advanced to AE for subscription of shares, as the delay in allotment of shares was due to delay in granting of statutory approvals and the same was not attributable on taxpayer or its AE

Aries Agro Limited

Facts of the case

The taxpayer had, prior to 2010, remitted funds for subscription of shares to its AE registered in UAE. Until the year under consideration no shares were allotted to the taxpayer due to inordinate delay in granting of approval by the statutory authority of the AE i.e. the Sharjah Airport International Free Zone (SAIF) for increasing the share capital and allotment of the shares. The TPO made an addition for notional interest on share application money overdue and the same was upheld by Dispute Resolution Panel (DRP). The DRP disregarded the application made in the year 2017 by the Appellant and its AE seeking status request from SAIF as the same was not acknowledged. Aggrieved by the final order passed pursuant to the directions of the DRP, the Appellant preferred an appeal before the ITAT.

Held by ITAT

The ITAT observed that similar additions were made in the case of Appellant for earlier years and ITAT ruled in favor of Appellant as the delay in allotment of shares was attributed solely due to delay in granting the approval from SAIF. Further on the status application filed before SAIF by the Appellant and AE, the ITAT didn't consider the same as the same was not acknowledged. However, the delay in allotment of shares can't be attributed to the Appellant or its AE as the same was due to operation of the law. Thus, ITAT accepted Appellant's contention that share application money can't be re-characterized as loan advanced to its AE, merely due to inordinate delay in allotment of shares.

Our Comments

The ITAT's decision signifies that circumstantial evidence and facts needs to be weighed in for the purpose of making any addition to income. Further, statutory and operational issues needs to be taken into consideration by the tax authorities. It can also be observed that the acknowledged copy of communication with relevant authorities may have helped taxpayer in avoiding further litigation.

Indirect Tax

Whether clauses (c) and (d) of Section 17(5) of the CGST Act restricting the eligibility of ITC in respect of works contract services, and goods, and/or services used for construction of immovable property, were constitutionally valid?

Whether the time limit to avail ITC prescribed under Section 16(4) is arbitrary and discriminatory in nature?

Chief Commissioner of Central Goods and Services Tax & Ors. vs. Safari Retreats Private Limited & Ors.
[TS-622-SCC-2024-GST]

Note:

Section 17(5)(c) reads as follows:

'(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service'

Section 17(5)(d) reads as follows:

'(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.'

Further, the Explanation to Section 17 states:

"For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes:

- i. land, building or any other civil structures;
- ii. telecommunication towers; and

- iii. pipelines laid outside the factory premises.”

Facts

- In 2019, Orissa HC read down the provisions of Section 17(5)(d) while concluding that if the Assessee was required to pay GST on the rental income from the mall, it would be entitled to ITC of the GST paid on the construction of such mall.
- It was held that the narrow interpretation given by the Department to Section 17(5)(d) would frustrate the very object of the Act.
- Consequently, the Revenue approached the Supreme Court challenging the aforesaid HC judgement.

Ruling

Discussion on Section 17(5)(c) and (d)

- SC noted that Section 17(5)(d) is different from clause (c) in various aspects. There are two exceptions in clause (d):
 - First, where goods and/or services are received to construct an immovable property consisting of a “plant or machinery”;
 - Second, where the construction of immovable property is not on the taxable person’s own account.
 - Construction is said to be on a taxable person’s “own account” when (i) it is made for his personal use and not for service, or (ii) it is used by the person constructing as a setting in which business is carried out. However, construction cannot be said to be “on own account” if it is intended to be sold or given on lease or license.
- On the other hand, clause (c) operates in a completely different field. It applies only to works contract services supplied for the construction of immovable property.
- It further observed that the

expression ‘plant or machinery’ used in Section 17(5)(d) cannot be given the same restricted meaning as the expression ‘plant and machinery’ defined by the Explanation to Section 17, which excludes land, buildings or any other civil structures. The legislature has made the distinction consciously.

- Therefore, in a given case, a building can also be treated as a plant, which is excluded from the purview of the exception carved out by Section 17(5)(d), held the Court.
- Whether a mall, warehouse or any building other than a hotel or a cinema theatre can be classified as a plant within the meaning of the expression ‘plant or machinery’ is a factual question, which should be determined by applying the functionality test.
- Consequently, the Apex Court dismissed the challenge to the Constitutional validity observing that the provisions involved intelligible classification with a rational nexus to the legislative objective.

Discussion on Section 16(4)

- As per the Court, the Assessee had failed to show how the provision, which restricts ITC after 30 November following the end of FY, was arbitrary and discriminatory. It remarked, ‘The fact that the provisions could have been drafted in a better manner or more articulately is not sufficient to attract arbitrariness.’

Our Comments

The judgement is expected to ease the financial burden on industries involved in property development and leasing, marking a crucial shift in how ITC regulations are applied in these cases. However, the application of functionality test has been left open for interpretation by the GST authorities.

Given this, it would be imperative that the GST Council issues clear

clarifications/guidelines on this matter, including on applicability of this ratio to other sectors such as ports, airports, factories, warehouses, data centers, etc., as well as treatment of ITC in relation to works contract services availed for construction of immovable property for leasing purposes.

Further, it would be interesting to see whether any retrospective or prospective amendment is made to the legislation to mitigate the implications of this judgement.

Alerts

NCLT dismisses selective capital reduction

10 October 2024

<https://tinyurl.com/52z6p2ef>

Summary of significant changes in Executive Regulations of Federal Decree-Law

7 October 2024

<https://tinyurl.com/5n8njf76>

Key Highlights of GST Notifications and Clarification Circulars September 2024

7 October 2024

<https://tinyurl.com/258rz2jk>



Tax Talk

Indian Developments

Direct Tax

CBDT notifies amendments in income-tax rules for ease in claiming tcs credit to a person other than the collectee, in whose hands the income of the collectee is assessable

Notification G.S.R. 645(E) [NO. 114/2024/F. NO. 370142/21/2024-TPL] Dated 16-10-2024

- i. Sub-section (4) of Section 206C of the Act was amended to allow the credit of Tax Collection at Source (TCS) to a person other than the collectee. For instance, such as a parent in the case of a minor collectee—when the minor's income is clubbed with that of the parent. Accordingly vide this notification, Rule 37-I of the Income Tax Rules, 1962 (the Rules) has been amended to allow credit of tax collected at Source to a person other than the collectee, in whose hands the income of the collectee is assessable.
- ii. To claim tax credit, the collectee must file a declaration with the collector, who will then report the tax collected under another person's name. This declaration must include the recipient's details and payment amount, and the collector will issue a tax collection certificate in that recipient's name.

CBDT notifies amendments in income-tax rules for ease in claiming credit for tcs collected/tds deducted for salaried employees

Notification No. G.S.R. 639(E) [NO. 112/2024/F. No. 370142/19/2024-TPL] Dated 15-10-2024

- iii. Sub-section (2B) of Section 192 of the Income Tax Act, 1961 (ITA) states that any income chargeable under any other head of income (or house property loss) apart from salaries or any tax deducted or collected at source, as applicable, may be included in the details submitted to the payer following prescribed form and verification.
- iv. Accordingly, vide this notification, the Rules have been amended, introducing Form No. 12BAA as the prescribed statement of particulars required under sub-section (2B) of Section 192 of the Act. Employees must provide these particulars to their employers, who are responsible for making payments under sub-section (1) of Section 192. The employer, in turn, shall deduct TDS on salary after taking into account the furnished particulars.

Indirect Tax

Customs

CBIC issues guidelines on retrospective issuance of Certificate of Origin under India-UAE CEPA

Instruction No. 21/2024-Customs Dated 16 October 2024

The Central Board of Indirect Taxes and Customs (CBIC) has clarified that preferential benefit under the Comprehensive Economic Partnership Agreement (CEPA) cannot be denied where a valid Certificate of Origin (COO) has been furnished within the prescribed period (of 12 months) after the import of goods, provided the authenticity of such Certificate and product origin are not disputed. Accordingly, the requirement of uploading COO on e-Sanchit while filing bill of entry would not apply in this case.

Further, minor procedural discrepancies concerning rules of origin should not be seen as countering the intent of extending substantive benefit under the trade agreement, unless such discrepancies cast a doubt on the originating status of the product.

CBIC issues clarification on classification of laboratory chemicals under Heading 9802

Circular No. 18/2024-Customs
Dated 23 September 2024

Pursuant to amendment to Note 3 to Chapter 98 w.e.f. 19 September 2024, the CBIC has clarified that to merit classification as “laboratory chemicals” under Heading 9802, the goods must be imported and intended only for own use. On the other hand, laboratory chemicals imported for purposes like trading, further sale, etc. are out of the scope of said Heading irrespective of the quantity / volume and the packing size and thus, are classifiable under their appropriate Chapter / Heading in the First Schedule. Similarly, in the case of packings exceeding 500 grams or 500 milliliters, the goods would be classified under their appropriate Chapter/Heading in the First Schedule.

Government digitizes certain Customs Bonded Warehouse procedures to facilitate ease of doing business

The Government has introduced a Warehouse Module on Indian Customs EDI Gateway (ICEGATE) to enable:

- Online filing of application for obtaining a warehouse license under Section 57, 58 and 58A of Customs Act;
- Online submission and processing of requests for transfer of warehoused goods to another person and / or another warehouse; and
- Uploading monthly returns (Form A and Form B) for the Customs Bonded Warehouse.

User Manuals have been issued in this regard to serve as a guide for the trade and officers alike.

Foreign Trade Policy (FTP)

DGFT amends Export Policy of Cough Syrup; Exempts mandatory testing in certain situations

Notification No. 35/2024-25
Dated 1 October 2024

The Directorate General of Foreign Trade (DGFT) has amended the Export Policy of Cough Syrup falling under HSN 3004 thereby waiving off the requirement of mandatory testing of export samples and production of Certificate of Analysis from laboratories in case the manufacturers export said goods to USA, UK, Canada, EU, Japan, Australia, Singapore, Republic of Korea, and Switzerland. Further, if the Cough Syrup is manufactured in a plant/section approved by the regulatory agencies of the abovementioned countries for any product, the same shall be permitted to be exported to any country without testing.

DGFT imposes restriction on import of parts of cigarette lighters with immediate effect

Notification No. 36/2024-25
Dated 13 October 2024

Import of parts of pocket lighters, gas fuelled, non-refillable or refillable lighters (cigarette lighters) falling under HSN 96139000 has been ‘restricted’ with immediate effect.

No NOC for Acetic Anhydride procured from SEZ units by Advance Authorization holders

Policy Circular No. 08/2024-25
Dated 11 October 2024

The DGFT has clarified that the provisions under Para 4.08(ii) (requiring NOC from Drugs Controller and Narcotics Commissioner of India) will not be applicable to an Advance Authorization holder where the Acetic

Anhydride is manufactured and procured from Special Economic Zone (SEZ) units, against Certificate of Supplies.

Alerts

RBI provides operation framework for reclassification of Foreign Portfolio Investment to Foreign Direct Investment

14 November 2024

<https://tinyurl.com/yvv6m955>

Public Clarification on updating information in tax records with FTA

8 November 2024

<https://tinyurl.com/uspauv5f>

Key Highlights of GST Notifications and Clarification Circulars October 2024

5 November 2024

<https://tinyurl.com/bdhpwz6w>



Tax Talk

Global Developments

Direct Tax

Tobacco taxation reforms are needed to reduce tobacco use in Latin America and the Caribbean

Excerpts from [oecd.org](https://www.oecd.org)
Dated 28 Oct, 2024

Countries in Latin America and the Caribbean (LAC) could reduce the widespread consumption of tobacco and its cost to society by better design and administration of tobacco taxes, according to a new OECD report.

Tobacco Taxation in LAC finds that the social and economic costs of tobacco use across LAC countries significantly outweigh the revenue raised from tobacco taxes. Well-designed tobacco taxes are a cost-effective policy tool for counteracting the impact of tobacco consumption, and countries in LAC have significant scope to improve their design and administration.

“Taxes play a vital role in limiting the social and economic costs of smoking,” OECD Secretary-General Mathias Cormann said. “Governments should be sure to maintain, and where necessary strengthen, the stringency of tobacco taxation.”

While countries in LAC have gradually, albeit partially, aligned their tobacco tax policy with the World Health

Organization (WHO) best practices, progress on tobacco excise tax reform has stagnated since 2012 and significant scope for improvement remains. The most common policy gaps include the lack of mechanisms to ensure that a minimum amount of tobacco excise tax is paid and that taxes are not applied consistently across different tobacco products, including new tobacco and nicotine products.

More than 350 000 people across LAC countries died in 2021 as a result of tobacco use or second-hand smoke, and over 40% of respiratory cancers in the region were attributable to tobacco use (Global Burden of Disease Study, 2021). The smoking-attributable medical costs can reach up to 1.5% of GDP per year on average.

Tobacco use remains widespread with 12% of the population currently using tobacco in LAC. It is particularly high among men, whose tobacco use prevalence is three times that of women. In half of the LAC countries, tobacco use prevalence among people aged 13-15 is higher than amongst the adult population.

Cigarettes, which are the most widely consumed tobacco product in the region, are in general highly affordable and have become more so over time.

Effective tax rates on cigarettes remain below the WHO’s recommended tax rate of at least 75% of the retail price of tobacco. In the short run, a tobacco tax increase will tend to have a positive impact on tobacco tax revenue, even if tobacco use would decrease, because smokers tend to adjust their smoking behaviour slowly over time. In the longer run, the reduction in health, economic and social costs would outweigh the drop in tax revenue, thereby resulting in a positive impact for the government budget and improved health outcomes.

To improve the effectiveness of tobacco tax policy and administration, the report recommends that LAC countries increase tobacco excise tax rates, seek to account for the strategic responses of the tobacco industry when designing tobacco tax policy, strengthen tobacco tax administration, introduce accompanying measures to tackle illicit tobacco trade, ensure that tobacco excise and income tax policies are coherent, and strengthen domestic and regional tobacco tax co-operation.

The report provides detailed information on tobacco taxation in 18 countries in LAC (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay).

Transfer Pricing

UAE transfer pricing disclosure

The Federal Tax Authority (FTA) has updated the format of the UAE Corporate Tax return, which now has a specific portion on Transfer Pricing (TP) related disclosure. Following are the highlights of the TP disclosures, inter-alia, required in the tax return

- Separate schedule for related party and connected persons,
- Suo-moto adjustments
- Gross income
- Tax residence of related party
- Reporting of transaction type
- Attachments

A brief of the disclosure requirements is provided in this article – [Click Here](#)

Cyprus issues additional FAQs on new transfer pricing rules

The Cyprus Tax Department has released additional frequently asked questions (FAQs), i.e., 25 – 43, clarifying certain provisions of Articles 33 and 33C of the Cyprus's Income Tax Law (ITL), concerning the adoption of Transfer Pricing legislation in Cyprus as made applicable from 1 January 2022. The additional FAQs provide further guidance on certain matters, inter-alia, relating to the completion of the Summary Information zTable (SIT), the use of safe harbors, Simplified Transfer Pricing Documentation (STPD) and the quality assurance review confirmation issued by licensed firms with respect to local files.

Few key take aways from the FAQs are as follows:

#25 addresses the question as to whether the interest-free payable balances should be reported in SIT and whether the same should be considered while assessing the threshold of Article 33(7) of the ITL. The FAQ clarifies

that taxpayers should not take these balances into account when assessing the threshold and should not report them in the SIT for the years 2022 and 2023. However, for 2024 and onwards, the same should be taken into account when assessing the threshold of Article 33(7) and should be reported in the SIT.

#41 addresses the options of a company in case it has controlled transactions in a particular Category that cumulatively do not exceed the required threshold on the basis of the arm's length principle in a tax year for the purposes of transfer pricing documentation. In such a scenario the company can opt for one of the following three options:

- Meet the minimum STPD requirements; or
- Make use of the safe harbor rules for categories 'Financial Transactions' and 'Low Value Adding Services' and comply with the minimum STPD requirements; or
- Prepare a Transfer Pricing Study / include the controlled transactions in a Cyprus Local File (if applicable).

Italy transposes EU's public country-by-country reporting

EU's public country-by-country reporting (EU's public CBCR) requires all MNEs with consolidated revenues exceeding EUR 750 million and operations in multiple EU member states to annually disclose certain income tax information on a country-by-country basis to the general public. EU Member States had until 22 June 2023 to transpose the EU's public CbCR Directive into their respective national legislation. As at 8 October 2024, 24 Member States have passed legislation transposing the Directive into national law. Italy being the latest entrant in this list published a decree on 12 September 2024 implementing the EU public CBCR directive into Italian law. The new provisions apply to financial years beginning on or after 22 June, 2024.

Indirect Tax

Thailand exempts VAT on Cryptocurrency and Digital Token transfers w.e.f. 1 January

Excerpts from [globalvatcompliance.com](#)

The Thai Official Gazette released Royal Decree No. 788 to exempt VAT on transfers of cryptocurrencies and the utilization of digital tokens w.e.f 1 January 2025. The Decree came into effect on 25 September.

Slovakian Parliament approves 3% VAT hike from 2025 along with new 19% reduced rate

Excerpts from various sources

The Slovakian Parliament, the National Council, has voted in favor of increasing the VAT rate from 20% to 23% from 2025. In addition to the standard rate rise, there will also be a new 19% reduced rate (replacing the existing 10%) with no change to the super reduced rate of 5%.

Further, overseas companies without a registered office or permanent establishment in Slovakia will be required to register for VAT if they perform taxable transactions within the country. On the other hand, small enterprises with a permanent establishment in the EU and possessing a Slovak VAT identification number ending with 'EX' will have the option to opt out of VAT registration.

Peruvian Congress considers Bill to repeal tax on digital services

Excerpts from [globalvatcompliance.com](#)

The Peruvian Congress has accepted to consider Bill to repeal the application of 18% general sales tax (IGV) and the selective consumption tax on digital services used within the country and on the importation of intangible goods over the internet.

Saudi Arabia announces criteria for sixteenth wave of e-invoicing integration

Excerpts from globalvatcompliance.com

The Saudi General Authority of Zakat and Tax Authority has announced the criteria for the 16th wave of integrating taxpayer VAT e-invoicing systems with its Fatoora platform. The integration will commence on 1 April 2025, and targets businesses with VAT taxable revenues exceeding SAR 3 Million (approximately USD 800,000) in either 2022 or 2023.

Events and Webinars

Middle East Taxation Summit, Dubai

18 October 2024

Bizintegration | Lokesh Gupta, Nishit Parikh

Webinar: Navigating the Indian Tax Landscape: Key Updates

14 October 2024

USIBC | Maulik Doshi, Sanjay Chabbria

Advanced Training Course on GST, New Delhi

9 October 2024

Achromic Point | Sanjay Chabbria

Upcoming Events

Taxsutra Conclave

20 November 2024

Taxsutra | Maulik Doshi

Advanced Training Course on GST, Pune

22 November 2024

Achromic Point | Sanjay Chabbria

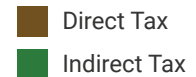
Advanced Training Course on GST, Bengaluru

27 November 2024

Achromic Point | Sanjay Chabbria



Compliance Calendar



7 November 2024

- Collection and recovery of equalization levy on specified services in the month of October 2024.
- Due date for deposit of Tax deducted/collected for the month of October, 2024. 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 production of an Income tax Challan.
- Securities Transaction Tax - Due date for deposit of tax collected for the month of October 2024.
- Commodities Transaction Tax - Due date for deposit of tax collected for the month of October 2024.
- Declaration under sub-section (1A) of Section 206C of the ITA to be made by a buyer for obtaining goods without collection of tax for declarations received in the month of October 2024 in Form 27C.

14 November 2024

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of September 2024 in Form 16B.
- Due date for issue of TDS Certificate for tax deducted under Section 194-IB in the month of September 2024 in Form 16C.
- Due date for issue of TDS Certificate for tax deducted under Section 194M in the month of September 2024 in Form 16D.
- Due date for issue of TDS Certificate for tax deducted under Section 194S in the month of September 2024 in Form 16E.

20 November 2024

- GSTR-5A for the month of October 2024 to be filed by Non-Resident Service Providers of Online Database Access and Retrieval (OIDAR) Services.
- GSTR-3B for the month of October 2024 to be filed by all registered taxpayers not under QRMP scheme.

30 November 2024

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of October 2024 in Form 26QB.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IB in the month of October 2024 in Form 26QC.
- Due date for furnishing of challan cum statement in respect of tax deducted under Section 194M in the month of October 2024 in Form 26QD.

10 November 2024

- GSTR-7 for the month of October 2024 to be filed by taxpayers liable to TDS.
- GSTR-8 for the month of October 2024 to be filed by taxpayers liable to TCS.

11 November 2024

- GSTR-1 for the month of October 2024 to be filed by all registered taxpayers not under Quarterly Return and Monthly Payment of Taxes (QRMP) scheme.

13 November 2024

- GSTR-6 for the month of October 2024 to be filed by Input Service Distributors (ISDs).
- Uploading B2B invoices using Invoice Furnishing Facility (IFF) under QRMP scheme for the month of October 2024 by taxpayers with aggregate turnover of up to INR 50 million.
- GSTR-5 for the month of October 2024 to be filed by Non-Resident Foreign Taxpayers

15 November 2024

- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending 30 September 2024 in Form 16A.
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of October 2024 in Form 24G.
- 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 October 2024 in Form 3BB.
- Due date for furnishing statement in Form No. 3BC by a recognized association in respect of transactions in which client codes have been modified after registering in the system for the month of October 2024 in Form 3BC.

25 November 2024

- Payment of tax through GST PMT-06 by taxpayers under QRMP scheme for the month of October 2024.

Compliance Calendar

- Direct Tax
- Indirect Tax

30 November 2024

- Due date for furnishing of challan cum statement in respect of tax deducted under Section 194S in the month of October 2024 in Form 26QE.
- Return of income for the Assessment Year 2024 -25 in the case of an assessee that is required to submit a report under Section 92E pertaining to international or specified domestic transaction(s).
- Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2023-24.
- Statement of income distribution by Venture Capital Company or Venture Capital Fund in respect of income distributed during previous Year 2023-24 (Form No. 64).
- Report from an accountant to be furnished under sub-section (2AB) of Section 35 of the Act relating to in-house scientific research and development facility (if due date of submission of return of income is 30 November 2024) in Form 3CLA.
- 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 30 November 2024).
- Statement of income paid or credited by a securitization trust to be furnished under Section 115TCA of the Income tax Act, 1961 in Form 64E.
- Annual Compliance Report on Advance Pricing Agreement (if due date of submission of return of income is October 31, 2024) in Form 3CEF.
- Payment of Self Assessment Tax (if due date of submission of return of income is 30 November 2024).
- Certificate from the principal officer of the amalgamated company and duly verified by an accountant regarding achievement of the prescribed level of production and continuance of such level of production in subsequent years in Form 62.
- Due date to exercise option of safe harbor rules for international transaction by furnishing Form 3CEFA.
- Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2023-24. This statement is required to be filed electronically to Principal CIT or CIT in Form No. 64A.
- Audit report under (sub-rule (12) of rule 17CA) of the Income-tax Rules, 1962, in the case of an electoral trust in Form 10BC.
- Application for exercise of option under sub-section (4) of Section 115BA of the ITA in Form 10-IB.

30 November 2024

- Application for exercise of option under sub-section (7) of Section 115BAB of the ITA in Form 10-ID.
- Annual Statement of Exempt Income under sub-rule (2) of rule 21AJA and taxable income under sub-rule (2) of rule 21AJAA (if due date of submission of return of income is 30 November 2024) in Form 10-IK.
- Report from an accountant to be furnished for purpose of Section 9A regarding fulfilment of certain conditions by an eligible investment fund in Form 3CEJA.
- Application for exercise of option under sub-section (5) of Section 115BAA of the ITA 1961 in Form 10-IC.
- Certificate under sub-section (3) of Section 80QQB for authors of certain books in receipt of royalty income, etc. (if due date of submission of return of income is 30 November 2024) in Form 10CCD.
- Certificate under sub-section (2) of Section 80RRB for Patentees in receipt of royalty income, etc. (if due date of submission of return of income is 30 November 2024) in Form 10CCE.
- Report under Section 80LA(3) of the ITA (if due date of submission of return of income is 30 November 2024 in Form 10CCF).
- Taxation of income from retirement benefit account maintained in a notified country (if due date of submission of return of income is 30 November 2024) in Form 10-EE.
- Certificate of foreign inward remittance (if due date of submission of return of income is 30 November 2024) in Form 10H.
- Certificate of the medical authority for certifying person with disability, severe disability, autism, cerebral palsy and multiple disability for purposes of Section 80DD and Section 80U (if due date of submission of return of income is 30 November 2024) in Form 10IA.
- Application for exercise of option under sub-section (5) of Section 115BAD of the ITA (if due date of submission of return of income is 30 November 2024) in Form 10-IF.
- Statement of Exempt income under clause (4D) of Section 10 of the ITA (if due date of submission of return of income is 30 November 2024 in Form 10IG.
- Statement of income of a Specified fund eligible for concessional taxation under Section 115AD of the ITA (if due date of submission of return of income is 30 November 2024 in Form 10IH.

30 November 2024

- Statement of exempt income under clause (23FF) of Section 10 of the ITA (if due date of submission of return of income is 30 November 2024 in Form 10-II).
- Form for opting for taxation of income by way of royalty in respect of Patent (if due date of submission of return of income is 30 November 2024) in Form 3CFA.
- Income attributable to assets located in India under Section 9 of the ITA (if due date of submission of return of income is 30 November 2024) in Form 3CT.
- Particulars to be furnished under clause (b) of sub-section (1B) of Section 10A of the ITA (if due date of submission of return of income is 30 November 2024) in Form 56FF.
- Details of amount attributed to capital asset remaining with the specified entity (if due date of submission of return of income is 30 November 2024) in Form 5C.
- Declaration to be filed by the assessee claiming deduction under Section 80GG (if due date of submission of return of income is 30 November 2024) in Form 10BA.
- Form for furnishing particulars of income under Section 192(2A) for claiming relief u/s 89 (if due date of submission of return of income is 30 November 2024) in Form 10E.
- Authorization for claiming deduction in respect of any payment made to any financial institution located in a Notified jurisdictional area. (if due date of submission of return of income is 30 November 2024) in Form 10FC.
- Application for exercise of option under clause (i) of sub-section (6) of Section 115BAC or withdrawal of option under the proviso to sub-section (6) of Section 115BAC of the ITA in Form 10-IEA.
- Application for exercise of option under sub-section (5) of Section 115BAE of the ITA in Form 10-IFA.
- Statement of eligible investment received in Form 10BBD.
- Application for Opting for Safe Harbor in respect of Specified Domestic Transactions in Form 3CEFB.
- Certificate of accountant in respect of compliance to the provisions of clause (23FE) of Section 10 of the ITA by the notified Pension Fund in Form 10BBC.

7 December 2024

- Securities Transaction Tax - Due date for deposit of tax collected for the month of November 2024.
- Commodities Transaction Tax - Due date for deposit of tax collected for the month of November 2024.
- Declaration under sub-section (1A) of Section 206C of the ITA to be made by a buyer for obtaining goods without collection of tax for declarations received in the month of November 2024 in Form 27C.
- Collection and recovery of equalisation levy on specified services in the month of November 2024.
- Due date for deposit of Tax deducted/collected for the month of November, 2024. 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 production of an Income tax Challan.

10 December 2024

- GSTR-7 for the month of November 2024 to be filed by taxpayers liable to TDS.
- GSTR-8 for the month of November 2024 to be filed by taxpayers liable to TCS.

11 December 2024

- GSTR-1 for the month of November 2024 by all registered taxpayers not under QRMP scheme.

13 December 2024

- GSTR-6 for the month of November 2024 to be filed by ISDs.
- Uploading B2B invoices using IFF under QRMP scheme for the month of November 2024 by taxpayers with aggregate turnover of up to INR 50 million.
- GSTR-5 for the month of November 2024 to be filed by Non-Resident Foreign Taxpayers.

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/IEC 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, World Commerce and Contracting, Everest Group Peak Matrix® Assessment 2022, for Procurement Outsourcing (PO) and Finance and Accounting Outsourcing (FAO), ISG Provider Lens™ Quadrant 2023 for Procurement BPO and Transformation Services and Global Sourcing Association (GSA) UK.

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

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