KPMG

Tax Alert

ISSUE 08 | **MARCH 2018**

In this issue, we have provided a summary of key tax and regulatory changes in India.

1. India Union Budget 2018-19

The Indian Government presented the Union Budget 2018-19 on 1 February 2018. The Union Budget holds special significance being the first budget post implementation of GST in July 2017. After a long journey of economic reforms and the challenging fiscal situation, the Budget endeavours to continue its focus on rural economy, healthcare, education, infrastructure and digitalisation towards a confident India.

The Indian Government continues to take steps to align the domestic tax laws with OECD-BEPS Action Plans. In this Budget, the Government expanded the scope of Business Connection to align with the new provisions in the Tax Treaties when they are modified by Multilateral Instruments. These changes include incorporation of a concept of 'Significant Economic Presence' in an attempt to widen the tax base for emerging business models such as digitised businesses.

The Budget announces concessional corporate tax rate of 25 percent for domestic companies having total turnover / gross receipts not exceeding INR250 crore (approximately SGD50 million).

The Budget re-introduces tax on Long Term Capital Gain(s) (LTCG) exceeding INR1 lakh (including Foreign Portfolio Investors) arising from transfer of equity shares in a company or units of an equity oriented mutual fund, or units of a business trust. These gains would now be taxed at the rate of 10 percent without indexation benefit for residents and without foreign currency fluctuation benefit for non-residents. However, gains until 31 January 2018 have been grandfathered.

For more information on the India Budget, read the report prepared by KPMG in India.

2. FAQs on new taxation regime of long-term capital gains proposed in Finance Bill, 2018

The Indian Budget proposes to bring LTCG arising from transfer of long-term capital asset exceeding INR1 lakh under the tax net at a rate of 10 percent.

Since the introduction of the Union Budget on 1 February 2018, several queries have been raised on various issues relating to the proposed new regime for taxation of LTCG. The Central Board of Direct Taxes has issued responses to these queries in the form of 24 FAQs on 4 February 2018.

Amongst other clarifications, the FAQs addresses the following key concerns:

- The grandfathering provisions with respect to LTCG would also be applicable to Foreign Institutional Investors and the Capital Gains would be calculated in the same manner as in the case of resident taxpayers.
- Applicability of withholding tax provisions vis-à-vis resident as well as non-resident taxpayers.
- Availability of set-off and carry forward of short term capital losses as well as treatment of bonus, rights shares and a few other instances which were not subject to Securities Transaction Tax.

Please click here for more information.

3. Liberalisation of the Foreign Direct Investment Policy

Government of India announced another set of amendments to the Foreign Direct Investment (FDI) Policy in key sectors. Some of the changes in the sectors are:

- Single brand retail trading which was earlier under a partial approval route for foreign investments is now permissible for 100 percent foreign investments without prior approval, subject to conditions.
- Civil Aviation – Foreign airlines have been permitted to invest up to 49 percent in Air India under approval route, subject to conditions.
- Power Exchanges – Foreign Institutional Investors / Foreign Portfolio Investors are now permitted to invest through primary markets in addition to secondary markets.

The Press Note also brings about some other operational changes. Please click here to read it.

Singapore point of view

India has been progressing rapidly in bringing about BEPS related changes to its local law. It all started with Equalization Levy for online transactions and now it is expanding the scope of doing business in India through Dependent Agents and introducing the concept of significant economic presence.

While these recent changes are currently protected under the Singapore-India Tax Treaty and does not have immediate impact on transactions from Singapore, it empowers the Indian government to re-negotiate tax treaties with its treaty partners, including Singapore. One will have to watch this space in the coming months.

For tax on LTCG, investments made prior to 1 April 2017 will still be protected and would not be subject to tax in India. For shares acquired after 1 April 2017 and sold before 31 March 2019, the tax on capital gains from such shares will be taxed at 50 percent of India's domestic tax rate, i.e. 5 percent in the current scenario. For fresh investments, taxability of gains in Singapore depends on the nature of gain from the Singapore perspective, and if the gain is not taxable in Singapore, no credit for taxes paid in India (Foreign Tax Credit) will be available.

How we can help

As a committed tax advisor to our clients, we welcome any opportunity to discuss the relevance of the above matters to your business.

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