THE GLOBAL TAX CHRONICLE

Presented by, BDO India

Edition 9

November 2022

CONTENTS

PREFACE

On behalf of the tax team at BDO India, I am privileged to present the ninth issue of The Global Tax Chronicle.

This quarterly publication delivers critical tax developments from an international perspective, covering core subjects of direct and indirect taxation and transfer pricing. This publication has been authored and compiled by BDO India's International Tax team

The publication brings forth an expert's perspective on pertinent trends in the area of taxes across countries, aiming to provide comprehensive yet relevant coverage of the developments in the tax world.

The ninth issue of the GLOBAL TAX CHRONICLE focusses on depreciation and its interplay with each of the tax laws viz. corporate, indirect taxes and transfer pricing.

Tax Conversations

- The opening article provides an overview of laws around depreciation in key countries, including highlighting the differences in treatment under the accounting and tax laws, treatment of depreciation on certain items, etc.
- The second article discusses the impact of indirect taxes on the disposal of capital assets in a few countries, along with the impact depreciation has therein
- The last article discusses situations for use of cash profitability ratio for the purpose of transfer pricing benchmarking, which essentially excludes depreciation while determining the profitability of the companies

Australia is a stable, low-risk destination for investment and offers opportunities across a broad spectrum of sectors, ranging from energy, defence, information technology, food and advanced manufacturing. **The World Tax File Focussing On: Australia**, sheds light on the tax and regulatory environment in the country, highlighting the ease of doing business in Australia and its attractive economic position.

Lastly, the publication covers **Tax News from Around the Globe** - a round-up of recent and crucial tax developments worldwide and provides a window to the upcoming compliance calendar for the current and upcoming 2 months.

We hope you find this an interesting and relevant read for your business and related international strategies.

We look forward to receiving your valuable feedback and comments.

MILIND KOTHARI
Managing Partner
BDO India

TAX CONVERSATIONS

AN OVERVIEW OF DEPRECIATION LAWS IN KEY COUNTRIES

INTRODUCTION

For businesses, assets are simply resources that companies invest in to avail future economic benefits. However, companies are not required to account for such assets entirely in the year the assets are purchased. Depreciation is thus the accounting method used to allocate the cost of an asset over its useful life.

The concept of depreciation applies to both accounting and tax practices. In accounting, depreciation is referred to as the cost of a tangible asset allocated over the periods of its useful life, which is treated as a company's expense. On the other hand, for tax purposes, depreciation is considered as a deductible expenditure, which essentially reduces the taxable income of a taxpayer.

From an accounting perspective, not accounting for depreciation appropriately provides a distorted picture of the profits. Whereas under the tax laws, a taxpayer may end up paying higher taxes if depreciation is not claimed as a deductible expenditure in accordance with the laws.

The article discusses the treatment of depreciation in a few key countries, including the differences between accounting and tax treatment of depreciation, accelerated and additional depreciation, methods of calculating and a few peculiarities worth noting.

AUSTRALIA

Depreciation in Australia, referred to as Capital Allowance for tax purposes is generally allowed on the straight line/prime cost method or diminishing value method. Here, taxpayers are free to choose the effective life of the asset as published in the official government document or can themselves determine the effective life.

Land, trading stock and some intangible assets, including goodwill, are assets on which depreciation is not allowed. Depreciation deductions are generally available only to the legal owner of the asset. However, hire purchase arrangements are generally treated as a notional sale of goods. In such cases, the hirer rather than the legal owner is entitled to the deduction.

Certain businesses are eligible for preferential and enhanced depreciation. Further, the Government has introduced the Temporary Full Expensing measure, whereby eligible businesses can claim an immediate deduction for the business portion of the cost of an eligible asset (acquired before 30 June 2023) in the year it is first used or installed ready for use for a taxable purpose.

Depreciation for tax purposes may be different than that used for the purposes of books of accounts. However, the taxpayer shall be entitled to follow the same depreciation principles both for books and tax purposes.

Any gains/losses arising on the disposal of assets are treated as ordinary business income, where such gains/losses are computed as the difference between the sale consideration and the depreciated value of such asset.

UNITED KINGDOM

Depreciation in the UK is termed as capital allowance. The different types of capital allowances allowed are:

- Annual investment allowance (AIA) – A taxpayer claim up to GBP 1mn on certain plant and machinery
- 100% first year allowances – A taxpayer can claim the full amount for certain plant and machinery in the year that it was bought
- Super-deduction or 50% special rate first year allowance – These can be claimed for certain plants and machinery bought between 1 April 2021 to 31 March 2023
- Writing down allowances – Any amount remaining can be claimed in a normal manner i.e., as a percentage of the value of the assets. Different rates are prescribed for different categories of assets

Where it is not possible to claim full costs (for instance, where there are low taxable profits), the taxpayer is allowed to claim depreciation as writing down allowance i.e., as a percentage of the total cost.

With effect from 1 April 2019, relief of 6.5% a year is made available to the taxpayers on the lower cost of goodwill and relevant assets or 6 times the cost of any qualifying IP assets in the business purchased.

With the significant difference in the tax treatment of depreciation, there is usually a huge difference between the tax income and book income.

NETHERLANDS

The Netherlands permits taxpayers to adopt any system of depreciation (straight-line, written-down value method, etc.), provided that the system is in accordance with sound business practice and that it is applied consistently. Once adopted, changes are permitted only for reasonable causes. Thus, depreciation as per books and tax can largely confirm to each other.

The maximum depreciation allowance on assets – both tangible and intangible is 20% of the historic cost. However, for certain categories of assets such as acquired goodwill, patents, etc. a maximum of 10% of the cost is allowed.

Where assets are sold or otherwise disposed of, the gain/losses are treated as ordinary business income and the same are computed as the difference between sale consideration and written-down book value.

UNITED STATES OF AMERICA

The depreciation system adopted by the US Federal Government for tax purposes is called MACRS - the Modified Accelerated Cost Recovery System, which provides for a three-step process:

- Determining the applicable depreciation method for the asset;
- Determining the applicable recovery period for the asset; and
- Determining the date during the year that the asset is considered to be placed in service

The applicable depreciation method under MACRS is either the straight-line method or the declining balance method using an enhanced rate, with the method depending on the applicable recovery period of the asset. Intangible assets such as goodwill, trademarks, patents, etc. are usually amortised over a 15-year period.

Taxpayers may claim an expense deduction instead of depreciation for qualified business assets. For 2022, the deduction limit is USD 1,080,000.

CONCLUDING THOUGHTS

In India’s context, while the Indian Accounting Standards usually prescribe adopting the straight-line method for depreciating assets; the tax laws prescribe for charging depreciation on written down value method. Thus, there will always be a difference in the accounting depreciation versus that charged as per the tax laws, leading to the creation of a deferred tax charge.

Any business expanding globally would be required to invest in assets. Businesses need to ascertain the impact of depreciation laws on such assets to optimise the tax benefits it can avail on the newer investments, including claiming of accelerated depreciation.

INDIRECT TAXES ON DISPOSAL OF ASSETS - A GLOBAL PERSPECTIVE

INTRODUCTION

In common parlance, any expense may be classified as either capital or revenue. Revenue expenses are those which are incurred repeatedly over a period and the economic benefit is for a very short time whereas capital expenses provide economic benefit for a longer period generally more than one accounting period (e.g., plant and machinery, furniture, etc.). Capital expenses are capitalised and carried to the balance sheet whereas revenue expenses are expensed off to the Profit & Loss Account. In the ensuing paragraphs, we analyse the treatment of VAT/ GST on the disposal of used capital assets by business entities across countries.

India

Under the Indian GST law, if a registered person sells capital assets used for business purposes, then the tax payable on such sale would be higher of the following:

- The tax computed on the sale value of such capital asset; or
- An amount equal to the Input Tax Credit (ITC) claimed on such capital goods reduced by such percentage points as may be prescribed

In terms of CGST Rules, ITC taken on capital goods shall have to be reversed in case of sale on a pro-rata basis where the useful life of any capital goods will be taken as five years. This can be understood with the help of an example:

Fixed asset purchased worth 100 in the month of July 2020 and input tax credit at 18% i.e., 18 had been taken in the month of July 2020. This fixed asset was sold out in the month of August 2022. The person has used this fixed asset from July 2020 to August 2022 i.e., for 26 months.

The useful life of the fixed asset as prescribed by the CGST Rules is five years i.e., 60 months. The remaining unused life of the fixed asset is 34 months (60-26). The fixed asset has been sold for 60 and the tax charged is INR 10.8. Therefore, tax on a pro-rata basis for the unused period, i.e. 34 months = 18 (ITC availed)*34 (Unused period of the fixed asset)/60 (Useful life of the fixed asset)

Since the tax of 10.8 charged on the sale value of the fixed asset is more than the tax of 10.2 as calculated for the unused period of the fixed asset, therefore the higher amount of tax of 10.8 shall be paid.

EUROPEAN UNION (EU)

The EU has established guidelines for a margin scheme for the sale of used goods with VAT chargeability. The scheme, which is mandatory for all EU nations, covers businesses (taxable dealers) that deal in used products (except precious metals and stones), works of art, collector's items, and antiquities.

Taxable dealers who choose to opt for this scheme will pay VAT on their profit margin (difference between buying and selling price). They will not charge or deduct any VAT on transactions covered by this scheme.

If VAT was paid upon purchase or importation of such goods (e.g., if purchased from a creator or from a taxable person not applying this scheme) a dealer can choose not to apply the scheme to a supply of any of these goods. In this case, the standard VAT arrangements apply and they can deduct the VAT when VAT on the supply becomes chargeable.

United Kingdom (UK)

In terms of the UK VAT, if a taxpayer has been charged VAT on the original purchase of an equipment, then the taxpayer would be required to charge VAT on any subsequent sale. Further, if the taxpayer is selling second-hand equipment bought previously, then no VAT is charged on the sale. However, VAT will be due on the margin if the taxpayer sells it at a profit.

It is imperative to note that under the UK VAT if a taxpayer buys brand new equipment from a non-VAT registered supplier (so no VAT is charged on purchase) the taxpayer will need to charge VAT on the sale. Further, this type of sale does not qualify under the second-hand margin scheme

CONCLUDING THOUGHTS

In essence, adding VAT to capital goods or used products is done to collect taxes on such transactions and ensure that these goods are not falling outside the tax net. It aids in passing on the benefits of input tax to purchasers of used items. Additionally, it ensures that the initial owner of the capital goods should only benefit from the tax credits while the capital goods are being used, not permanently. Further, it happens frequently that sellers of capital items or furniture are not registered for VAT, making it impossible for tax authorities to collect VAT on those products and services. Consequently, if a VAT-registered individual sells those items to a second customer, he will be required to collect and pay the VAT. As determined by the local tax authority, various schemes and regulations are applicable in various countries. Some regulations mandate that the VAT be charged on the transaction value, while others mandate that the VAT be chargeable on the reseller's profit margin.

CASH PROFIT LEVEL INDICATOR - WHEN CAN DEPRECIATION BE EXCLUDED

INTRODUCTION

Transfer pricing (TP) deals with investigating the price that one member of a multinational enterprise charges another for goods, intragroup services and intangibles to another group entity. In testing the transfer price, the most applied method is the Transactional Net Margin Method (TNMM). As is commonly understood, the three important aspects in the case of the application of TNMM are the selection of the tested party, the selection of the comparable companies and the selection of profitability ratios or Profit Level Indicator (PLI).

The traditionally used PLI in the application of TNMM generally includes operating profit/sales, operating profit/total cost, gross profit/sales, etc. TP principles have evolved over time and so have the PLIs/adjustments used/made in the TP analysis, initiated by taxpayers customising and using more case-specific applications of PLIs and variations of them. There have been several rulings globally in relation to the application and adjustments of/to specific PLIs to a particular tested party arrangement. There have also been significant TP litigations around what constitutes operating/non-operating expense/income while undertaking PLI computations.

As per TP provisions, it is essential to compare companies after making necessary adjustments. Any receipt or expenditure having no bearing on price or margin of profit can be ignored. One such key item of expenditure is Depreciation. Depreciation has been considered or disregarded in computing profit depending upon the context and purpose for which profit is computed. Depreciation, which can have varied basis and is allowed at different rates is not such an expenditure that must be deducted in all situations. It has no direct connection or bearing on the price, cost or profit margin of international transactions. The object and purpose of the TP are to compare like with the like and to eliminate differences, if any, by suitable adjustment. Thus, even though depreciation is an important factor while computing margins, in cases where when depreciation cost is high due to exceptional reasons, comparing cash profitability ratio (CPR) could also be a relevant criterion. In the subsequent sections, we have discussed the specific scenarios where such adjustments/PLI are applied and their acceptability in detail.

CONCEPT OF CPR

The underlying rule relating to the selection of appropriate comparable companies is to select companies with a similar Functions, Assets and Risks (FAR) profile to that of the tested party. The TP principles generally prescribe that the differences between a company and comparable companies should be eliminated to the extent possible and if the same is not possible, the same should be excluded altogether.

Consequent to the same, in situations requiring the application of a relevant PLI post selection of TNMM (depending on the FAR), there is a need for them to be adjusted for differences in the functionality/accounting and other differences in the financial data of the comparable companies/tested party (to the extent possible). In cases where CPR is selected as the PLI, the computation requires the exclusion of depreciation and amortisation, i.e., PBITDA (Profit Before Interest, Taxes, Depreciation and Amortisation) to Operating Costs (excluding depreciation and interest). Other non-cash items can also be excluded, like provisions and prior period losses. This exclusion of depreciation while computing PLI is often done in cases that involve significant differences in the capitalised asset base wherein a separate adjustment to account for such differences may not be possible.

Practical Applicability

The common commercial and economic scenarios wherein CPR has been selected as the PLI or depreciation adjustment has been made are:

- Capacity underutilisation: There are instances wherein companies are not able to adequately employ their assets to generate profits. In such situations, the true results of the operations may require an adjustment for excess depreciation to the extent of the underutilised capacity.
- Start-up companies: CPR may be applied as a PLI in the case of start-up companies. Excluding the depreciation costs would ensure that the assets that are not yet employed by the business, do not unduly influence the results of the operations for arm's length testing purposes.
- Difference in depreciation policy: There are instances wherein the depreciation methodology adopted by the tested party leads to recognising additional depreciation (in comparison to industry standards). There are also cases where the depreciation policy followed by the tested party and comparable companies are significantly different (including rates of depreciation). In such cases, wherein adjustments are not possible, selecting CPR as the PLI could be considered.
- Difference in capital expansion activities: There are instances wherein the comparable companies may not have undertaken similar capital expansion activities during the year as compared to the tested party, leading to their profitability as per the normal principles of accounting being higher.

INTERNATIONAL GUIDANCE

OECD Guidelines[1] does not separately discuss CPR as a PLI. However, the Berry ratio (ratio of gross profit to operating expense) acts as logical guidance in support of using CPR as a PLI. Based on the OECD Guidelines it can be interpreted that CPR could be used as a reliable PLI thus excluding depreciation from the cost base. As per the OECD:

Para 2.106 "Interest and extraneous income are generally excluded from the gross profit determination; **depreciation and amortisation may or may not be included in the operating expenses, depending in particular on the possible uncertainties they can create in relation to valuation and comparability."**

[1] Organisation for Economic Co-operation and Development, January 2022

Para 2.90 “Difficult comparability issues can arise where the accounting treatment of some items by potential third party comparables is unclear or does not allow reliable measurement or adjustment. This can be the case in particular for depreciation, amortisation, stock option and pension costs. **The decision whether or not to include such items in the determination** of the net profit indicator for applying the transactional net margin method will **depend on a weighing of their expected effects on the appropriateness of the net profit indicator** to the circumstances of the transaction and on the reliability of the comparison.

In applying the Comparable Profits Method (CPM) in the US or the TNMM in other OECD countries, the depreciation rate of property, plant, and equipment may vary, which needs to be considered and an adjustment should generally be carried out (to the extent the data is available), to enhance the comparability.

Further, tax authorities worldwide differ on what should be included in the cost base. The US regulations define operating expenses inclusive of a “reasonable allowance for depreciation and amortization,” and the OECD provides for “net” (meaning net of depreciation) profits. Also in the IRS APA training manual, depreciation is specifically included in the cost base when calculating the Berry ratio.

INDIA’S PERSPECTIVE

CPR as a PLI or depreciation adjustment has been widely discussed in various Rulings in India. Notably, Schefenacker Motherson Limited[2] one of the first rulings by the Indian appellate authorities on the said issue accepted the argument that CPR is no different than making depreciation adjustments to operating profit-based PLI. The said principle has also been accepted in several other Rulings.

There have also been instances wherein CPR or depreciation adjustments have not been accepted by the Indian Authorities. They have specifically rejected the use of CPR in some cases considering the characterisation of the tested party and the nature of the business for which the related party transactions were being tested. For e.g., in the case of an asset-intensive company, the company would strive to maximise the use of its assets to generate profits for the business. Accordingly, it would be a difficult proposition to measure profitability without considering depreciation in its entirety.

CONCLUDING THOUGHTS

CPR is computed post the exclusion of depreciation and amortisation from the operating profit/operating cost base. TP principles do not favour or advocate the application of any particular PLI under the TNMM approach. Adjustments are made to the PLIs/specific PLIs are selected to enhance comparability. It is imperative to keep in mind that CPR or depreciation adjustment may be considered only based on the facts of each case. The characterisation of the tested party, the nature of the industry and the availability of data will need to be considered while applying this ratio.

The selection of CPR as a PLI or depreciation adjustment has been questioned by Revenue Authorities during TP audits. Accordingly, it would be critical for taxpayers to maintain robust TP documentation detailing the FAR analysis, leading to reasons for the choice of PLI. It would be pertinent to detail adequate business and commercial rationale substantiating the exclusion of depreciation. The said commercial reasons and detailed documentation would be crucial in the event of a TP audit.

[2] Schefenacker Motherson Ltd v. ITO (2009) (123 TTJ 509) (Delhi)

THE WORLD TAX FILE: FOCUSSING ON: AUSTRALIA 

SYNOPSIS

Australia is a highly developed country with a mixed-market economy. As of 2022, Australia was the 14th largest national economy by nominal GDP, the 20th largest by PPP-adjusted GDP, the 22nd largest goods exporter and the 24th largest goods importer. Australia's growth is expected to remain strong at an estimated 4.2% in 2022, with the economy predicted to be the 12th largest by 2023. Australia is a highly attractive destination for foreign direct investment.

This article highlights the tax and regulatory environment prevailing in Australia.

CHOICE OF LEGAL ENTITY

For a foreign business wanting to establish a presence in Australia, the preferred forms of business for foreign investors are:

- **Proprietary Company (Pty)**

  Pty is the most favoured type of company for foreign investors. Such companies can have up to 50 non-employee shareholders. Such companies are usually limited by shares. Further, Pty companies are categorised as large and small companies; whereby small companies are exempted from certain statutory filings.

- **Public Company**

  A public company can have more than 50 non-employee shareholders and may or may not be listed on the Australian Stock Exchange. In both cases, there is some ownership by the public and there are usually no restrictions being placed on such companies regarding share offers.

- **Partnership Firm**

  An investor can form either of the following types of partnerships:

  - General Partnership (GP) is where all partners are equally responsible for the management of the business, and each has unlimited liability for the debts and obligations it may incur
  - Limited Partnership (LP) is made up of general partners whose liability is limited to the amount of money they have contributed to the partnership. Limited partners are usually passive investors who don't play any role in the day-to-day management of the business
  - Incorporated Limited Partnership (ILP) - is where partners in an ILP can have limited liability for the debts of the business. However, under an ILP there must be at least one general partner with unlimited liability. If the business cannot meet its obligations, the general partner (or partners) becomes personally liable for the shortfall

- **Branch**

  A foreign company may carry on business in Australia through a branch. In such cases, it is required to register as a "foreign company" within a month of the commencement of its branch activities in Australia.

While partnerships are relatively simpler and inexpensive to setup, companies remain the favoured choice for businesses.

TAX AND REGULATORY FRAMEWORK

Income Taxes

- **Tax structure:**

  The standard corporate income tax rate on income (including net capital gains) is 30%. For small businesses with an aggregate turnover of less than AUD 50mn the corporate tax rate is 25%.

  Non-resident companies operating through a branch, pay tax at the same rates as resident companies. There is no branch profit remittance tax in Australia.

- **Withholding Taxes**
  - **Dividend**

    The withholding tax on dividends is 30% unless an exemption or reduction is provided for under a tax treaty.
  - **Interest**

    The standard withholding tax rate on interest payments to non-residents is 10% unless an exemption or reduction is provided for under a tax treaty.
  - **Royalty**

    The standard withholding tax rate of 30% applies on royalties unless an exemption or reduction is provided for under a tax treaty.
  - **Commission, Rent and other fees**

    There are no withholding provisions in relation to commissions and rentals, but certain payments to non-residents such as works and related activities performed in Australia could be subject to a withholding tax of 5% on the gross payment.

- **Group treatment**

  Australian entities forming part of a common group i.e., one entity is a shareholder of the other entity or both entities have a common foreign controller can elect to be taxed on a consolidated basis. Transactions between such companies within the group shall be ignored. Such an election to be taxed on a consolidated basis shall be irrevocable once exercised.

Indirect taxes

The Goods and Services Tax in Australia is leviable on the sale of products and services. The general rate of GST is 10%.

Other indirect taxes include the following:

- Customs duty on imports
- State taxes, including stamp duty and land tax
- Excise duty (e.g., on fuel and alcohol).

Transfer Pricing (TP)

- Australia generally follows the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (the OECD Guidelines). Accordingly, the usual methods prescribed under the OECD Guidelines are also acceptable to benchmark inter-company transactions.
- CBC reporting applies to entities that were either a CBC reporting entity or a Significant Global Entity (SGE) for a period prior to their income year.
- An entity is a CBC reporting entity if it is either:
  - A CBC reporting parent which can be a standalone entity whose annual global income is AUD 1bn or more, or a member of a CBC reporting group who is not controlled by another entity in the group and has an annual global income of AUD 1bn or more
  - A member of a CBC reporting group and one of the other group members is a CBC reporting parent.

Tax on exit and ease on exiting

- Gains/losses on the sale of shares in an Australian private company are generally taxable in Australia at ordinary tax rates
- Upon closure of business, a company must make an application for voluntary deregistration. A company cannot be deregistered voluntarily if it owes money or if it is insolvent. If a company doesn’t meet the requirement for voluntary deregistration, it can be wound up.

Tax Compliance

- The financial year in Australia runs from 1st July to 30th June. However, a corporation may apply to adopt a substitute year of income.
- **Deadlines for Filing Corporate Tax Returns are as follows: -**
  - Entities qualifying as large and medium-sized companies in the previous year – the 15th day of the 7th month after the end of the income year (i.e., 15 January in the case of companies following the standard year ending 30 June)
  - Companies with an annual total income exceeding AUD 2mn in the previous income year: 31 March following the income year; and
  - Other entities: 15 May following the income year.
    - **VAT/GST Return**

      The due date to lodge and pay your annual GST return is 31 October. If you aren't required to lodge a tax return, then the due date is 28 February following the annual tax period.
    - **CbCr, Master File & Local file**

      All CBC reporting statements must be lodged within 12 months after the end of the relevant reporting period.

AUSTRALIA – AN ATTRACTIVE JURISDICTION FOR DOING BUSINESS

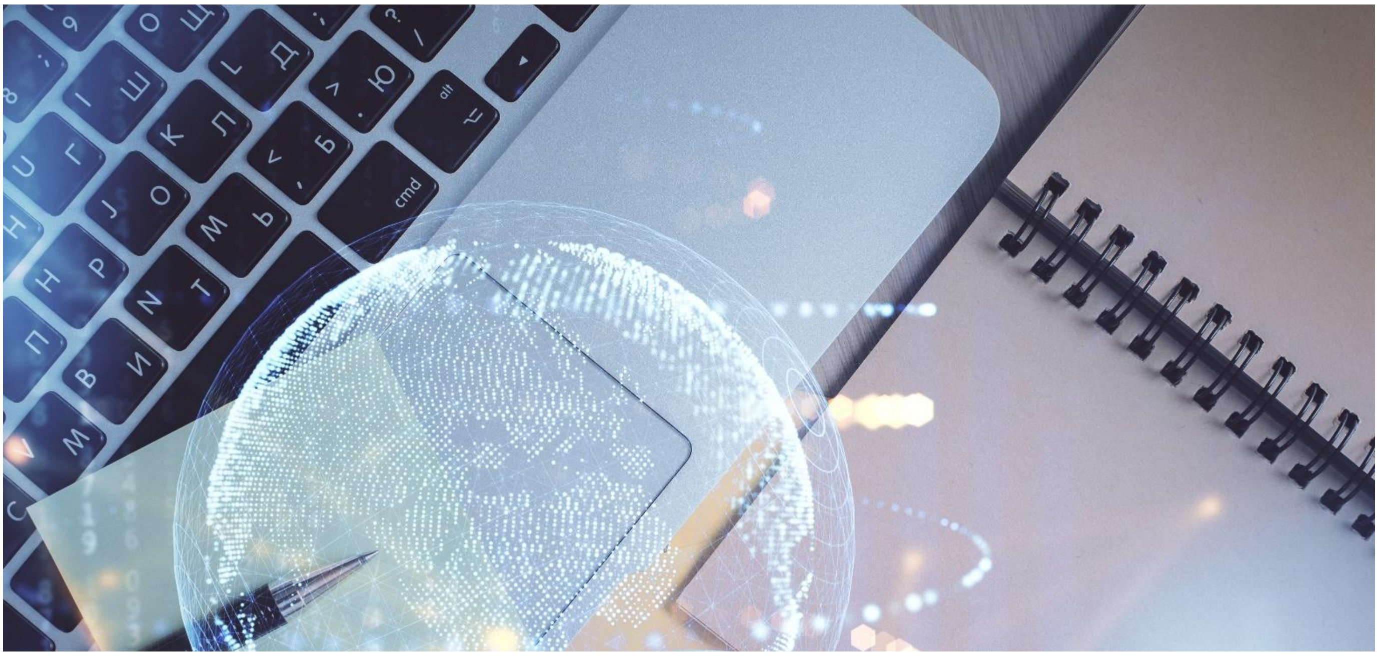
- Australia has a highly qualified pool of labour, which is attributable to the excellent quality of education and available resources to upskill employees. The Australian population that holds a bachelor’s degree or above has more than tripled over the past 20 years, implying a highly talented resource pool available for businesses to do business. Further, Australia attracts professionals from across the world who desire to shift their base and be able to offer their services in Australia

- Australia offers a wide range of business-friendly incentives. There are generous R&D incentives that help to lower business costs. Entities engaged in R&D may be eligible for a 45% refundable tax offset if their turnover is less than AUD 20mn per annum or 40% non-refundable tax offset for entities with turnover above AUD 20mn per annum.
- Australia has healthy business relationships with major Asian economies like India, China, Hong Kong and Singapore. Additionally, the nation currently has 15 Free Trade Agreements in place and more are under negotiation with several major economies.
- Australians have high purchasing power which helps to create better conditions for businesses as people tend to spend more. According to the OECD Better Life Index, Australia ranks 5th for average disposable income per household.

CONCLUDING THOUGHTS

The India-Australia Economic Cooperation and Trade Agreement has been recently approved by the Australian parliament. The agreement, once implemented, is expected to provide duty-free access to the Australian market for over 6,000 broad sectors of India, including textiles, leather, furniture, jewellery and machinery, implying a great opportunity for Indian businesses to do business with Australia. Further, the country has committed to resolving the long pending issue of taxation of offshore IT services provided from India to Australia, thereby ensuring Indian businesses are not burdened with extra taxes. For the reasons above and many others, Australia has established its reputation as a business hub in the Asia Pacific region over the years. Therefore, the country remains a viable choice for investors to register their business in Australia.

TAX NEWS FROM AROUND THE GLOBE



GERMANY

The withholding tax treatment of remuneration in connection with software purchases or software development - even after a basic classification of the payments was made by the MoF guidance dated 27 October 2017 - repeatedly gives rise to discussions between remuneration creditors and remuneration debtors regarding the obligation to withhold tax pursuant to Section 50a (1) No. 3 German Income Tax Act (ITA). The discussions centre around whether transactions should be viewed as a final transfer of a right or as a (temporary) license to use a right for a limited period of time, as only the latter gives rise to withholding tax under domestic law.

https://www.bdo.de/en-gb/insights/publishments/tax-legal/german-withholding-tax-software-development-services

NETHERLANDS

The step-up CIT rate will be increased from 15% to 19% and the 25.8% headline CIT rate will start applying to taxable profits above € 200,000 (Effective Date - 01/01/2023)

The Dutch government proposes to limit the 30% ruling, which allows employers to pay 30% of the salary paid to an expatriate seconded to the Netherlands free from Dutch wage tax as a deemed reimbursement of costs incurred by the expatriate employee for moving to and living in, the Netherlands. The amount subject to the 30% tax exemption is capped at € 216,000 annually.

https://www.bdo.global/en-gb/microsites/tax-newsletters/global-tax-alerts/netherlands-highlights-of-main-tax-proposals-in-budget-2023

Solar panel installation and/or delivery will be subject to 0% VAT starting 1 January 2023. Solar panels installed on or near houses are the only objects subject to the 0% tariff (also public housing and leased-out housing). The 0% rate will also apply to installation services for the solar panels described above.

https://www.government.nl/latest/news/2022/09/20/tax-plan-2023-a-better-balance-between-tax-on-labour-and-tax-on-wealth

NEW ZEALAND

The Bill proposes to extend the current GST rules applicable to certain offshore and New Zealand-based electronic marketplaces to include certain additional services provided through digital platforms.

The Bill also proposes a GST flat-rate credit regime to allow GST on costs to be recognised in part for service providers who are not GST registered.

The Bill further proposed to implement the OECD information reporting and exchange framework from the 2024 calendar year. In effect, digital platforms would be required to conduct certain due diligence procedures for sellers on their platform, collect and collate information, and report this to Inland Revenue.

https://www.bdo.global/en-gb/microsites/tax-newsletters/indirect-tax-news/issue-4-2022/new-zealand-measures-proposed-to-bring-operators-of-electronic-marketplaces-within-the-scope-of-gs

UNITED KINGDOM

Reversal of the tax measures set out in the growth plan. Those policies will no longer be taken forward. Notable mentions of policies reversed are:

- Cutting the basic rate of income tax to 19% from April 2023. While the Government aims to proceed with the cut in due course, this will only take place when economic conditions allow for it and a change is affordable. The basic rate of income tax will therefore remain at 20% indefinitely. This is worth around £ 6bn a year.
- Cancellation of corporation tax rate increase from April 2023 – now reversed. It will rise to 25% from April 2023.

  Chancellor brings forward further Medium-Term Fiscal Plan measures - GOV.UK (www.gov.uk)

1 January 2023 - Default surcharge changes

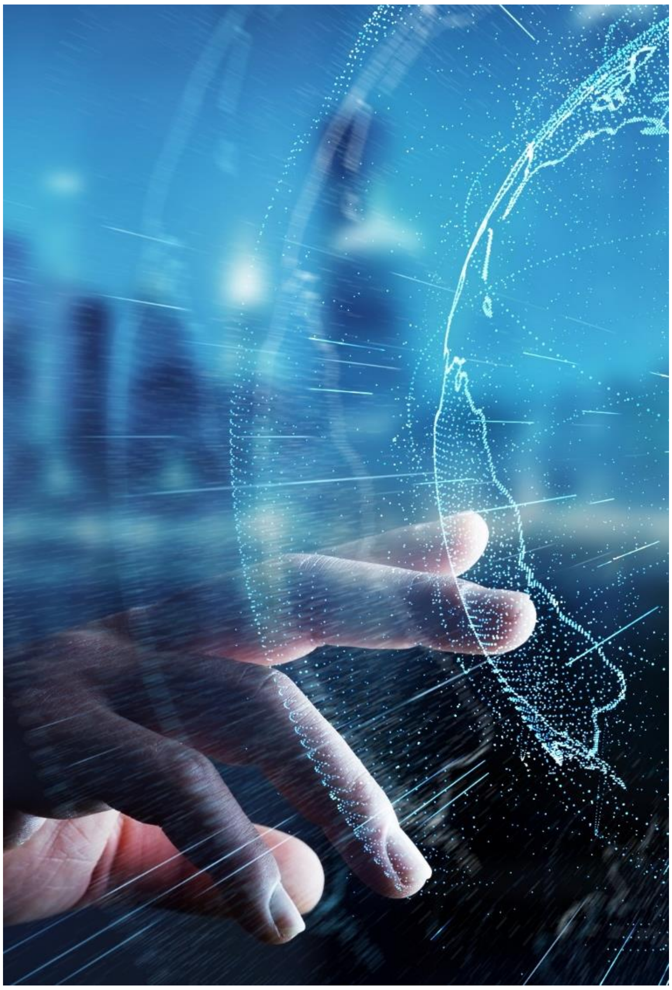
The long-standing default surcharge regime that applies to the late submission of returns and/or the late payment of accompanying VAT will be replaced by a new penalty regime for VAT periods starting after 1 January 2023. This will use a points-based system where late filing earns points and when those points reach a certain level, a fixed penalty of £ 200 is assessed. When payments are past due for more than 15 days, late payment penalties are assessed, and after 30 days, a daily rate is charged to any unpaid balances. In order to give taxpayers time to adjust to the changes, HMRC has stated that it will not impose penalties for the first late payment after 2023.

https://www.bdo.co.uk/en-gb/insights/tax/vat-and-indirect-taxes/are-you-ready-for-2022-upcoming-changes-in-vat-and-other-indirect-taxes

UNITED STATES OF AMERICA

President Biden signed into law the Inflation Reduction Act (the Act) on 16 August. One key-revenue raising provision is a 15% minimum tax based on adjusted financial statement income (book minimum tax, or BMT). This insight focuses on certain international aspects of the BMT. The BMT is effective for tax years beginning after 31 December 2022. The book minimum tax will increase a taxpayer's tax only to the extent the minimum tax calculation exceeds the regular tax, as well as the base erosion and anti-abuse tax.

https://www.bdo.global/en-gb/microsites/tax-newsletters/corporate-tax-news/issue-63-august-2022/united-states-inflation-reduction-act-becomes-law



COMPLIANCE CALENDAR

November 2022

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	**7**	8	9	**10**	11	12
13	14	**15**	**16**	17	18	19
20	21	22	23	24	**25**	26
27	**28**	29	**30**			

December 2022

SUN	MON	TUE	WED	THU	FRI	SAT
				1	2	3
4	5	**6**	7	8	9	**10**
11	**12**	13	14	**15**	**16**	17
18	19	20	21	22	23	24
25	**26**	27	**28**	29	**30**	**31**

January 2023

SUN	MON	TUE	WED	THU	FRI	SAT
1	2	3	4	5	**6**	7
8	9	**10**	11	**12**	13	14
15	**16**	**17**	18	19	20	21
22	23	24	25	**26**	**27**	28
29	**30**	**31**				

ABOUT BDO GLOBAL

BDO is a leading professional services organisation and are global leaders of the mid-tier, with a presence in 160+ countries and over 95,000 people working out of more than 1,700 offices. We endeavor to deliver an exceptional client experience through a tailored solutions approach, while partnering with our employees and clients globally.

- We offer sensible, actionable advice grounded in local knowledge backed by regional and global experience
- We set high standards and our global systems give our people responsibility for delivering tailored service that is right for clients
- We support our clients every step of the way as they expand abroad

Leading consolidation in the mid tier	Over 1700 offices in more than 160 countries	Over 95,000 highly skilled partners and staff worldwide	BDO posted global revenues of $11.8 billion in 2021

TO BE THE LEADER FOR EXCEPTIONAL CLIENT SERVICE

*anticipating **client needs** and being forthright in our views to ensure the best outcome for them*

ANTICIPATING CLIENT NEEDS

*being clear, open & swift in our **communication***

CLEAR COMMUNICATION

*agreeing to and meeting our **commitments**: we deliver what we promise, everyday, for every client*

MEETING OUR COMMITMENTS

*providing the right environment for our **people** and the right people for our clients*

ENCOURAGING OUR PEOPLE

*creating **value** through giving clients up to date ideas and valuable insight and advice that they can trust*

DELIVERING VALUE

ABOUT BDO IN INDIA

BDO in India offers Assurance, Tax, Advisory, Business Services & Outsourcing and Digital Services for both domestic and international clients across industries. The team at BDO in India consists of over 4,500 professionals led by more than 200 partners and directors operating out of 14 offices, across 11 key cities.

200+ PARTNERS DIRECTORS

4,500+ STAFF

11 KEY CITIES

Ahmedabad | Bengaluru | Chandigarh | Chennai | Goa | Hyderabad | Kochi | Kolkata | Mumbai | New Delhi | Pune

ASSURANCE

- Accounting Advisory Services
- Financial Statement Audit and Attestation Services

BUSINESS SERVICES & OUTSOURCING

- Global Outsourcing
- Shared Services & Outsourcing

ADVISORY

- Business Restructuring
- Corporate Finance and Investment Banking
- Deal Value Creation
- Financial Due Diligence
- Forensics
- Government Advisory
- IT Risk Advisory & Assurance
- M&A Tax and Regulatory
- Management Consulting
- Risk Advisory Services
- Strategy & Commercial Due Diligence
- Sustainability & ESG
- Valuations

TAX

- Corporate Tax Services
- Customs & International Trade
- FS Tax
- Indirect Tax Assessment & Litigation Assistance
- International Tax Services
- Global Employer Services
- Goods & Services Tax (GST)
- Private Client Services
- Tax Outsourcing
- Tax Technology
- Transfer Pricing

DIGITAL SERVICES

- Digital Services
- Technology Products and Solutions

Contact Us

For any content related queries, you may write in to taxadvisory@bdo.in or get in touch with,

GUNJAN PRABHAKARAN
Partner & Leader
Indirect Tax
gunjanprabhakaran@bdo.in

DEEPA SURESH
Partner
Tax & Regulatory Services
deepasuresh@bdo.in

KUNAL SHAH
Associate Partner
Tax & Regulatory Services
kunalshah@bdo.in

For any other queries or feedback, kindly write to us at marketing@bdo.in

BDO in India

Ahmedabad
The First, Block C - 907 & 908
Behind ITC Narmada, Keshavbaug
Vastrapur, Ahmedabad 380015, INDIA

Bengaluru
SV Tower, No. 27, Floor 4
80 Feet Road, 6th Block, Koramangala
Bengaluru 560095, INDIA

Chandigarh
Plot no 55, 5th Floor,
Industrial & Business Park,
Phase 1, Chandigarh 160002, INDIA

Chennai
No. 443 & 445, Floor 5, Main Building
Guna Complex, Anna Salai, Teynampet
Chennai 600018, INDIA

Delhi NCR - Office 1
The Palm Springs Plaza, Office No.
1501-10, Sector-54, Golf Course Road
Gurugram 122001, INDIA

Delhi NCR - Office 2
Windsor IT Park, Plot No: A-1,
Floor 2, Tower-B, Sector-125
Noida 201301, INDIA

Goa
701, Kamat Towers
9, EDC Complex, Patto
Panaji, Goa 403001, INDIA

Hyderabad
1101/B, Manjeera Trinity Corporate
JNTU-Hitech City Road, Kukatpally
Hyderabad 500072, INDIA

Kochi
XL/215 A, Krishna Kripa
Layam Road, Ernakulam
Kochi 682011, INDIA

Kolkata
Floor 4, Duckback House
41, Shakespeare Sarani
Kolkata 700017, INDIA

Mumbai - Office 1
The Ruby, Level 9, North West Wing
Senapati Bapat Marg, Dadar (W)
Mumbai 400028, INDIA

Mumbai - Office 2
Floor 6, Raheja Titanium, Western Express
Highway, Geetanjali Railway Colony, Ram Nagar
Goregaon (E), Mumbai 400063, INDIA

Pune - Office 1
Floor 6, Building # 1
Cerebrum IT Park, Kalyani Nagar
Pune 411014, INDIA

Pune - Office 2
Floor 2 & 4, Mantri Sterling, Deep
Bunglow Chowk, Model Colony,
Shivaji Nagar, Pune 411016, INDIA