

CBDT notifies Foreign Tax Credit (FTC) rules

- Effective from 1st April 2017, new Rule 128 incorporating foreign tax credit shall be made available against tax, surcharge (and cess) and Minimum Alternate Tax but not interest, fee or penalty
- Rules to allow credit of disputed foreign tax once settled after complying certain conditions. Taxpayer should submit evidence of settlement within 6 months from the end of month in which dispute is finally settled.
- FTC to be calculated as sum of separate sources of foreign income in following manner:
 - Lower of tax payable under Income-tax act (the Act) or foreign tax paid.
 - Excess FTC to be ignored.
- Taxpayer required to issue statement of taxable income from foreign country containing details, nature of income resulting in foreign tax and amount of tax deducted in Form No. 67 to claim FTC.
- Rules also provide for situations of carry backward of loss of the current year, resulting in refund of the foreign tax

India-Cyprus tax treaty successfully reach agreement on pending issues

CBDT is set to retrospectively remove Cyprus from the list of notified jurisdictional areas as of 1st November 2013. Both countries have agreed to follow source based taxation for gains arising from alienation of shares bringing the revised treaty in line with India-Mauritius treaty. Further, the treaty shall now grandfather investments made up till April 1, 2017.

CBDT notifies final 'indirect transfer rules'

After inviting public consultations, CBDT notifies final rules as a mechanism devised to determine fair market value with regard to indirect transfer

provisions and ease its compliance requirements in India.

- Adopts major propositions of draft rules as covered previously in our May 2016 bulletin. (<http://transprice.in/pdf/TransPrice-Times-16th-to-31st-May-2016.pdf>)
- Valuation of FMV for transfer of share between 2 people who are not connected persons under the Act shall be A+B, where,
 - A= market capitalization of company on 'full value of consideration'
 - B= book value of liabilities
- Final rules define the term 'right of management or control' which shall include:
 - right to appoint majority of directors
 - control management / policy decision
- FMV of asset located in India to be valued taking all assets and business operations notwithstanding its location.

ICDS now applicable from 1 April 2016

Indian Government defers applicability of Income Computation and Disclosure Standards (ICDS) by one year after considering various comments by stakeholders. Instead ICDS shall be made applicable from 1st April 2016 i.e. AY 2017-18 through a notification yet to be released.

CBDT revises GAAR provisions applicability

General anti-avoidance rules (GAAR) shall be made applicable from 1st April 2017 through Notification No. 49 of 2016. As per this notification, grandfathering date for GAAR provisions shall be amended from 30th August 2010 to 1st April 2017. Further, any income from transfer of investments before 1st April 2017 shall not be subject to GAAR provisions. This provides a lot of certainty to various business houses and investors.