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A moment of truth: Implementing BEPS

With a straight-faced expression of foresight, the OECD has literally ushered in the journey of BEPS from Bending Every Possible Structure (BEPS) to Bringing Every Penny to Surface (BEPS).

The mystery behind BEPS may have subsided but the OECD initiatives is surely keeping the entire international tax fraternity in anticipation. Changes made by OECD are ultimately aimed at bilateral tax treaties forming part of the bigger picture i.e. the broader international tax architecture.

Revolutionising treaties through Multilateral Instruments

After realising that modifications to a tax treaty of each and every country would take a lot more time than a US President holding office, a need for a common convention to optimise all treaty changes under an umbrella was voiced.

Today, the OECD has delivered the Multilateral Convention text which has begun implementation in more than 100 jurisdictions in a bid to cover 2000 tax treaties globally. Through this remarkable step taken to clamp down on tax treaty abuse and improve functioning of international tax system, companies will find it more difficult to shift corporate profits in low or no tax environments.

Mauritius has become the latest addition to the OECD's roster for implementing BEPS' inclusive framework on an equal footing.

With so many changes happening all over world, India too has amended various tax treaties with countries like Mauritius, Cyprus, Japan and Korea in order to fix loopholes in various treaties.

Amendment to India-Cyprus treaty

Amended treaty now provides for source based taxation of capital gains arising from alienation of shares. For investments made before April 1, 2017, this would continue to be taxed in country of residence following grandfathering provisions. Tax rates on royalty has been reduced from 15% to 10% making it uniform with India's domestic tax rate. Furthermore, India has retrospectively revoked the classification of Cyprus in Notified Jurisdiction Area. This will clear the confusion and aid the foreign investors in providing a clear picture of Cyprus.

Scope of permanent establishment has further been improved and with increased importance on exchange of information, both countries have agreed to exchange information on tax issues and bank information.

Amendment to India-Japan tax treaty

India and Japan have put the cogs in motion for strengthening exchange of information through their amended bilateral tax treaty effective from October 29, 2016. Article 26 of the treaty has now been replaced to serve this purpose.

This amendment shall facilitate ease in collection of taxes between India and Japan. The treaty shall now act as a deterrent and address the problem of tax avoidance and evasion. Further, "revenue claim" has been widened to include indirect taxes such as wealth tax, excise duty, service tax, sales tax and value added tax.

Article 11 Regarding taxability of interest, Article 11 has been amended to classify certain 'Central Banks' as eligible to claim benefit of interest income under this treaty. Interest income arising in Japan shall be taxable in India only if the interest is derived and beneficially owned by Indian Government or Central Bank or financial institution of India.

Treaty changes shall be effective in Japan from January 1, 2017 and in India from April 1, 2017.

In other NEWS:

CBDT finalises 4 more unilateral APAs, Count goes up to 115 agreements.

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