



KALYAN-DOMBIVLI BRANCH OF WIRC OF ICAI

NEWSLETTER AUGUST 2017

First & foremost

Dear Colleagues ,

It's a great honour and privilege for me to communicate with you all as the Chairman of the Branch . As you all know our Branch name has come on top of the map of ICAI as our student CA Raj Sheth has come first in all India CA Final Examination .The result day was a real memorable day for the Branch . We are thankful to the 1stRank Holder Raj for accepting our invitation to come for felicitation in Branch Office and sharing the moment of success with us . CA Siddharth Iyer 17thRank , CA Twinkle Chandariya 40th Rank , CA Palak Jain 49th Rank are the other rank holders from our region . Their wonderful success is going to be a big morale booster for the students from our Branch and will indeed help in overall professional development of the Branch . We wish all the rank holders as well as the all the newly qualified Chartered Accountants a great success in their career .

Our GST conclave on 8th and 9th July was a great success .It was the first major event after the formation of the Branch . We thank all the participants for participating in the said Conference in large numbers . The Programmes likes this is a test of ability of the branch and we could do it successfully because of the Team work . My all the colleagues in managing committee , the Conveners and Dy Conveners of the study circles , Wicasa Team , Branch Staff and the other core team members were working hard for many days to make it happen . Branch is thankful to each one of you .Speakers for the Programmes are our real Heros . They are selflessly sharing the knowledge with their own competitors and that too without taking any cost . We salute for the commitment of the speakers of the Conference and really thank them from bottom of our heart .



Managing Committee

CA Shekhar Patwardhan
Chairman

CA Murtuza Kachwala
Murtuza Kachwala

CA Saurabh Marathe
Secretary

CA Deepak Darji
Treasurer

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Immediate Past Chairman

CA Maheshkumar Birla
Committee Member

CA Suhas Ambekar
Committee Member

CA Hari Dudani

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Continued...

This is just to inform all of you that our Orientation Batches are now going on at Dombivli and Bhivandi .We are trying our best to start the batches at Kalyan and Ulhasnagar . We have the best of the best faculties, in fact the same those are conducting the course at BKC . Infrastructure at those two centers is also very good . We sincerely appeal to all the Practicing Chartered Accountants to send their articles for these courses at our Branch only . We are trying our best to start the courses like Advance ITT and GMCS at our Branch for the benefit of the students in very near future .

We are very happy to inform you that the IT Committee of ICAI has given permission to conduct the DISA batch at Hotel Mayur Ulhasnagar . The said batch is propose to commence from 10th of August 2017 . My colleague in managing committee CA Hari Dudani is the Chief Coordinator for the said batch . It is our sincere appeal to all the DISA aspirants particularly from Ulhasnagar to take the benefit and register for the course .

As You are aware every year we celebrate the CA Day on 1stJuly . As a part of CA Day celebrations we distribute the educational kits to the underprivileged children .This year also various kit distribution programmes were held at various schools .In fact in one Programme Chairman WIRC CA Vishnuji Agarwal was also present as a Chief Guest . He appreciated the efforts of the Branch in this area of Social Responsibility .Members can contribute for this initiative of the branch by sending their cheques in favour of Kalyan Dombivli Branch of WIRC .

Next few months are really crucial for all of us professionally , We Wish all the success in your endeavors .

Thanks With Warm Regards

Sincerely Yours

CA Shekhar Patwardhan

Chairman

Kalyan Dombivli Branch of WIRC

FUTURE OF INTERNAL AUDIT

CA Murtaza Kachwala

internal auditors will now have to change our approach by doing away with the traditional methods of auditing and will have to adopt the art of doing the internal audit

'Change is the Law of Universe'. Not only the companies have changed their approach in doing businesses but even the role of an auditor has changed. From Policing to Being Consultants by being more tech savvy while conducting internal audits. With ever changing environment, the expectations from an internal auditor has changed exponentially. From not only uncovering issues that must be addressed but also adding value to the organisation by offering cost-effective recommendations, ideas and practical solutions thus helping the stakeholders to take informed decisions and gain an edge.

In order to meet these expectations, I strongly believe that we as internal auditors will now have to change our approach by doing away with the traditional methods of auditing and will have to adopt the art of doing the internal audit with the perfect combination of having the knowledge of business, optimum utilisation of the available resources, use of artificial intelligence and information technologies, appropriate planning and a focused approach in the audit execution. We shall discuss each element in detail in the upcoming series of future of internal audit. Let us start with the first and foremost important element i.e. knowing the Business

As an internal auditor, even before starting any audit, I feel having a sound knowledge of **entity's business is a must. I believe, one can audit well only and only if the auditor knows** the business well. We need to start thinking like a businessman so that we can then add value to the organisation thereby helping them to achieve their bottom lines in an effective and efficient manner. STANDARD ON INTERNAL AUDIT (SIA) 15 KNOWLEDGE OF THE ENTITY AND ITS ENVIRONMENT suggests that the auditor may consider different matters while obtaining the knowledge about the entity i.e. Industry factors, Regulatory factors, External factors, Complexities involved in the business, Business operations, Investment and Investment activities, Finance and financing activities, **Entity's Objectives, Strategies and related business Risks, etc. Para 3 of SIA 15 states 'Prior to accepting an engagement, the internal auditor should obtain a preliminary knowledge of the industry and of the nature of ownership, management, regulatory environment and operations of the entity subjected to internal audit, and should consider whether a level of knowledge of the entity's business adequate to perform the internal audit can be obtained.'**

After knowledge is obtained, the next step is planning an internal Audit. So, what do you think is Planning? How do we plan an internal audit? What do we need to consider while planning an internal audit? What are the factors that affect the planning process? What is the scope? What is the audit universe? A guideline to these questions has been set out in **SIA 1 PLANNING AN INTERNAL AUDIT which states "The internal auditor should, in consultation with those charged with governance, including the audit committee, develop and document a plan for each internal audit engagement to help him conduct the engagement in an efficient and timely manner."**

Let me take you to a step before planning, it is the Risk Rating Step. Audit areas as being rated as High Medium or Low based on the risks and criticality involved. They are then plotted on a heat map so as to select the area to be audited. It is only after this step, an appropriate audit plan is evolved. Planning Process involves obtaining the knowledge of the business, establishing the audit universe, establishing the objectives of the engagement, establishing the scope of the engagement, deciding the resource allocation and preparing the Audit programme.

International Taxation and Double Taxation Avoidance Agreements- An Overview and getting started

CA Prerna K. Peshori

This article intends to provide the overview of International Tax and certain concepts of Double Taxation Avoidance Agreements ('DTAA'). **It would be covered in parts over various editions.**

1. Growing Importance of International Taxation:

Globalisation has made world a global village and has opened up the doors for Foreign Direct Investment ('FDI') and Foreign Portfolio Investment ('FPI') in the country. As on March 2017, India has FDI inflow of approx. USD 4.84 Lakhs (source: dipp.nic.in). Now, the generation of income is not just restricted to borders of a specific country but has extended to global markets. This has urged the Indian taxation to take an entirely different look. International Tax is not something new, it is part of **Income-tax Act, 1961 ('ITA')**. **But its importance has been growing due to transnationalization.** Further, the facets of International Tax have been evolving over the years. It involves resolving double taxation through accessing double taxation avoidance agreement (DTAA)/ Tax Treaties.

International tax law originates from the following:-

- Multilateral international agreements like Vienna Convention on Law of Treaties (VCLT)
- Model Treaties (UN Model, US Model, OECD Model) and Model Commentaries
- Double Taxation Avoidance Agreements (DTAA) entered into between countries
- Customary international law & general principles of law.
- Domestic law allowing implementation of International tax law
- Leading International Commentaries (Eg. Klaus Vogel, Philip Baker etc.)
- Judicial Precedents

2. Source Based Taxation v/s Resident Based Taxation:

RESIDENCE RULE

Where the person RESIDES

A resident is always liable to tax on its global income. Therefore, a resident country always has the first right to tax unless it grants some exemption/deduction

VS

SOURCE RULE

Where Income is ACCRUED/RECEIVED

Country in which the situs of the transaction exists (Source State) also exercises taxing right on the basis of income accrued/deemed to accrue/received/deemed to receive in its country

DTAA intends to avoid the double taxation of same income by providing relief either by exempting the income in the resident country or the source country or through provision of credit by the resident country of taxes paid in the source country. DTAA allocates or distributes right of taxation between source and the resident country. DTAA restricts taxing right of source country either by restricting tax rate (eg. source country can tax royalty income @ 10%) or by granting taxing right only to resident country and thereby exempting income in source country (eg. capital gains from sale of shares taxable only in resident country)

International Taxation and Double Taxation Avoidance Agreements- An Overview and getting started

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Illustration:

Mr. Sharma, an Indian Resident had received some interest income on his UK Bank deposits. India being the Country of Residence ('COR') would like to tax that income. At the same time, UK being the Country of Source ('COS') would like to tax the said interest income since the same is accrued and received in UK. Both the countries will want to claim their taxing rights. Assuming there is no treaty between two countries, following would be the tax implication:

Particulars	Earned in UK	Say only earned in India
Total Interest Income	GBP 100	Rs.100
Tax Rate in India	Say 40%	40%
Tax Rate in UK	Say 30%	NA
Effective income after tax	GBP 30	Rs.60

This leads to double taxation of same income. 70 percent of Mr. Sharma's income goes into paying tax. If Mr. Sharma would have invested equivalent money into Indian Bank A/c (ignoring exchange rate fluctuation) and assuming the same rate of interest and same rate of tax say 40% , net income received would be much higher i.e. Rs.60. This would obviously discourage any overseas trade and investment.

Now, if say DTAA does exist between India-UK and say the treaty restricts tax rate to 10% on interest income. Then

Particulars	UK – Source Country	India – Resident Country
Total Interest Income	GBP 100	GBP 100
Tax Rate	30%	40%
Tax Rate as per DTAA	10%	
Tax on Income	GBP 10 (beneficial rate to assessee would be lower of GBP 30 or GBP 10)	GBP 40
Total Tax paid in both countries	GBP 10	GBP 40
Credit of taxes in India		(GBP 10)
Balance tax to be paid in India		GBP 30
Net income after taxes		GBP 60

beneficial rate to the assessee would be adopted in UK i.e. lower of 30% or 10%. Further, relief shall be provided by India by granting credit of taxes paid in UK.

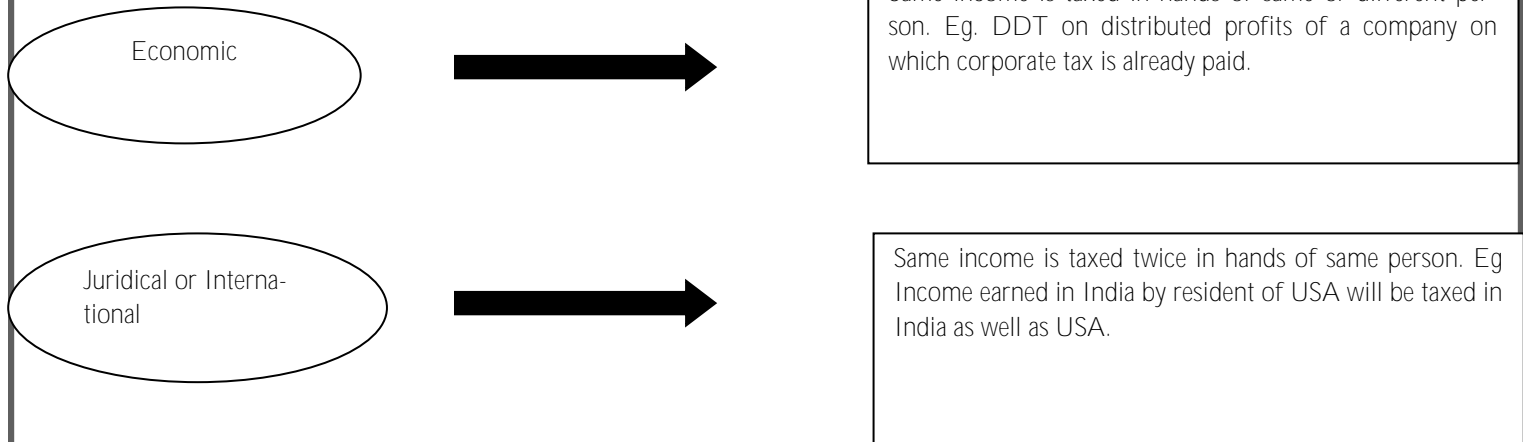
Therefore, it can be seen that with the relief under DTAA, the burden of taxes gets reduced and the assessee pays taxes of only GBP 40 (GBP 10 in UK and GBP 30 in India) as India grants the credit of taxes paid in UK (It is like VAT where the dealer gets credit of VAT paid in earlier stage).

To avoid this situation of double taxation and to encourage overseas trade, many countries have entered into double taxation avoidance agreements. India has signed approximately more than 90 DTAA till date.

International Taxation and Double Taxation Avoidance Agreements- An Overview and getting started

Continued...

3. Types of double taxation:



DTAA mainly attempts to curb juridical double taxation.

4. Purpose of Signing Tax Treaty:

Section 90 and 90A empowers the Central Government to enter into agreements with foreign countries for following purposes:-

1. Avoidance of double taxation by way of granting relief through credit of taxes paid in source country or through exempting income taxed in source country.
2. Exchange of information for prevention of tax avoidance.
3. Preventing tax evasion
4. Recovery of Income-tax under ITA or any other law.

5. Types of DTAA:

1. **Bilateral:** Its an agreement signed between 2 countries eg. India-USA DTAA
2. **Multilateral:** Its an agreement signed between more than 2 countries eg. Multi-lateral instrument under OECD's Base Erosion and Profit Shifting (BEPS) Plan
3. **Comprehensive:** It covers distribution of taxation rights for all types of income like income from salaries, house property, capital gains, business profits etc.
4. **Limited:** It covers distribution of taxation rights for only certain type of income like shipping and airline income eg. between DTAA between India-Pakistan, India-Afghanistan etc.

International Taxation and Double Taxation Avoidance Agreements- An Overview and getting started

Continued...

6. models of DTAA:

OECD Model

1. Established in 1961 with developed countries as its members
2. Essentially a model treaty between two developed nations
3. Gives taxing right to country of residence rather than country of source
4. India is not member of OECD

UN Model

1. Tax treaties between developed and lesser developed countries, or between developing countries
2. Drafted in 1980, designed to encourage flow of investments from the developed to developing countries.
3. Gives taxing right to source country
4. Is a compromise between source principle and residence principle
5. Gives more weightage to source principle, i.e. income should be taxed where it arises
6. Since, India is member of UN, most of India's tax treaties are based on this model

US Model

1. Only model which USA uses as a basis of negotiating treaties with its other treaty partners

A model convention is like "Table A" in the Companies Act. It is a standard draft of Memorandum and Articles of Association. Parties using the draft just take it as a starting point. They modify the clauses as per their own needs and negotiations. The model convention is a help in negotiating and drafting tax treaties. It is not a law but it definitely has a persuasive value as reference can be drawn therefrom.

7. Basic Structure of DTAA (As per OECD Model)

Article	Coverage
1	Scope
2	Taxes covered
3	Definition
4	Residence
5	Permanent Establishment
6-21	Taxation of Income
22	Taxation of Capital
23A,23B	Methods for Elimination of Double Taxation
24	Non- discrimination
25	Mutual Agreement Procedure(MAP)
26	Exchange of Information
27	Assistance in collection of taxes
28	Members of Diplomatic Mission
29	Territorial Extension
30	Entry into force
31	Termination

Notification No. 58/2017 [F. No. 370142/10/2017-TPL] / GSR 821(E) : [Income -tax \(18th Amendment\) Rules, 2017](#) - Amendment to Form 3CD

(1) These rules may be called the Income -tax (18th Amendment) Rules, 2017

(2) They shall come into force from the 19th day of July 2017.

In the Income-tax Rules, 1962, in Appendix II, in Form No. 3CD, for serial number 31 and the entries relating thereto the following shall be substituted, namely:—

(a) Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year :—

(i) name, address and Permanent Account Number (if available with the assessee) of the lender or depositor;

(ii) amount of loan or deposit taken or accepted;

(iii) whether the loan or deposit was squared up during the previous year;

(iv) maximum amount outstanding in the account at any time during the previous year;

(v) whether the loan or deposit was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;

(vi) in case the loan or deposit was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

(b) Particulars of each specified sum in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year:—

(i) name, address and Permanent Account Number (if available with the assessee) of the person from whom specified sum is received;

(ii) amount of specified sum taken or accepted;

(iii) whether the specified sum was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;

(iv) in case the specified sum was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

(Particulars at (a) and (b) need not be given in the case of a Government company, a banking company or a corporation established by the Central, State or Provincial Act.)

(c) Particulars of each repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T made during the previous year:—

(i) name, address and Permanent Account Number (if available with the assessee) of the payee;

(ii) amount of the repayment;

(iii) maximum amount outstanding in the account at any time during the previous year;

(iv) whether the repayment was made by cheque or bank draft or use of electronic clearing system through a bank account;

(v) in case the repayment was made by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

(d) Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.

(i) name, address and Permanent Account Number (if available with the assessee) of the lender, or depositor or person from whom specified advance is received;

(ii) amount of loan or deposit or any specified advance received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.

(e) Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received by a cheque or bank draft which is not an account payee cheque or account payee bank draft during the previous year:—

(i) name, address and Permanent Account Number (if available with the assessee) of the lender, or depositor or person from whom specified advance is received;

(ii) amount of loan or deposit or any specified advance received by a cheque or a bank draft which is not an account payee cheque or account payee bank draft during the previous year.

(Particulars at (c), (d) and (e) need not be given in the case of a repayment of any loan or deposit or any specified advance taken or accepted from the Government, Government company, banking company or a corporation established by the Central, State or Provincial Act)”.

Important Notifications

Notification No. 62 /2017[F. No. 370142/ 20/2017-TPL] / GSR 891(E) : [Income-tax \(21st Amendment\) Rules, 2017](#) – Amendment in Form 3CEFA

These rules may be called the Income-tax (21st Amendment) Rules, 2017.

They shall come into force and shall be deemed to have come into force from the 1st day of April, 2017.

In the Income-tax Rules, 1962, in Appendix II, in Form No 3CEFA, in paragraph 2, under the heading **“Eligible International Transaction”**—

(I) in Sl. No. 3, __

(i) after item (d), following item shall be inserted, namely: __

“(e) Employee cost in relation to operating expense declared”;

(ii) the existing items (e), (f) and (g) shall be renumbered as (f), (g) and (h) respectively;

(II) in Sl. No. 4, __

(i) after item (d), the following items shall be inserted, namely: __

“(e) Currency of denomination of the amount of loan for each loan transaction

(f) Whether credit rating of AE has been done? If yes, the credit rating rank and the name of the credit rating agency”;

(ii) the existing items (e) and (f) shall be renumbered as (g) and (h) respectively;

(III) after Sl. No. 9, the following Sl. No. 10 and entities relating thereto shall be inserted, namely:

SL. No.	Particulars in respect of eligible international transaction	Remarks		
10	<p>Has the eligible assessee entered into any international transaction in respect of receipt of low value-adding intra-group services as referred to in item (x) of rule 10TC?</p> <p>If yes, provide the following details:</p> <p>Name and address of the associated enterprises (AE) with whom the eligible international transaction has been entered into.</p> <p>Name of the country or territory in which AE (s) is located.</p> <p>Whether country or territory is a no tax or low tax country or territory as defined in rule 10TA</p> <p>Description of the eligible international transaction</p> <p>Amount paid or payable in relation to such transaction</p> <p>Mark-up charged in per cent.</p> <p>Whether transfer price is in accordance with the circumstances specified under rule 10TD.</p>	<p>Yes No</p> <table border="1"> <tr> <td style="width: 50px; height: 20px;"></td> <td style="width: 50px; height: 20px;"></td> </tr> </table>		

Important Circulars

Circular No. 22/2017 : Clarifications in respect of section 269ST of the Income-tax Act, 1961

1. With a view to promote digital economy and create a disincentive against cash economy, a new section 269ST has been inserted in the Income-tax Act, 1961 (the Act) vide Finance Act, 2017. The said section *inter-alia* prohibits receipt of an amount of two lakh rupees or more by a person, in the circumstances specified therein, through modes other than by way of an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account. Penal provisions have also been introduced by way of a new section 271DA, which provides that if a person receives any amount in contravention to the provisions of section 269ST, it shall be liable to pay penalty of a sum equal to the amount of such receipt.
2. Subsequently, representations have been received from nonbanking financial companies (NBFCs) and housing finance companies (HFCs) as to whether the provisions of section 269ST of the Act shall apply to one instalment of loan repayment or the whole amount of such repayment.
3. In this context, it is clarified that in respect of receipt in the nature of repayment of loan by NBFCs or HFCs, the receipt of one instalment of loan repayment in respect of a loan shall constitute a '*single*

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GST CONCLAVE



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CELEBRATING SUCCESS OF OUR BRIGHT STUDENTS



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CELEBRATING CA DAY



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Tree Plantation Drive



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Visit of WIRC Chairman CA Vishnu Agrawal



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