



8th Asia Pacific Regional Conference

29-30 April 2025 | Kuala Lumpur

Tax Trends Across the Asia-Pacific Region

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International Standards and Compliance

❖ Pillar 2- GloBE rules :

- India has not implemented and is not likely to implement ?
- Indirect impact on account of Indian MNCs having presence in implemented jurisdictions.
- India to strike a balance between tax incentives(GIFT city) and GloBE rules.

❖ CbCR and Master file :

- India has implemented CbCR compliance from 01st of April 2017 onwards.

❖ CRS :

- India has been complying with the rule since 01st of June 2012

❖ Equalization Levy (EL) 1.0 @ 6% on advertisements and Equalization Levy (EL) 2.0 @ 2% on NR E-commerce operators -both repealed in India

Domestic Developments and Policy Trends

- ❖ Digital Taxation :
 - EL both versions repealed
- ❖ In the advent of Pillar 1-Amount A being in limbo what is the way forward for the countries ?
 - UN Framework convention Article 12B is a solution ?
- ❖ GST needs to be revamped by slashing down the common rate of 18% in India.
- ❖ HNI -Taxation to be streamlined by closing the gaps

Dispute Resolution and Landmark Cases

❖ MAP

- India's MAP process is strengthened and is being put on FastTrack

❖ APA

- Central Board of Direct taxes (CBDT)-India entered into a record of 174 (65 BAPAs, 1 MAPA and 108 UAPAs) APAs during FY-2024-25

❖ Nestle Supreme Court- MFN Ruling

- *Assessing Officer (International Taxation) vs. Nestle SA [2023] 155 taxmann.com 384 (SC)/[2024] 296 Taxman 580 (SC)/[2023] 458 ITR 756 (SC)[19-10-2023]*
- MNF Clause interpretation
 - Appropriate notification required to make the clause operational - as India practices *Dualist Doctrine*
 - The third state which claims to be covered by MFN clause should have been a member of OECD at the time of entering the treaty
- Two review petitions dismissed

Current developments and implementation of General Anti Avoidance Rule (GAAR)

❖ Indian GAAR operates:

- Against Impermissible Avoidance Arrangement (IAA) the main purpose of which is to obtain tax benefit
- One of the 4 tainted elements exist :
 - Rights/obligations - not at arms length
 - Misuse /abuse of provisions
 - Lacks commercial substance
 - Means/manner of the transaction- not ordinarily employed
- Initial burden is on the Revenue
- Lot of checks and balances for GAAR to be invoked
- Latest case law Alla Ayodhya Rami Reddy - Telangana High Court
 - *Ayodhya Rami Reddy Alla vs. Principal Commissioner of Income-tax (Central)* [2024] 163 taxmann.com 277 (Telangana)/[2024] 466 ITR 497 (Telangana)[07-06-2024]
 - SAAR vs GAAR

"Trump and Tariffs": The Geopolitical Undercurrent

- ❖ India dropped Equalization Levy only to have a conducive negotiation in the advent of trade/tariff war
- ❖ Response of US on Pillar 2 implementation is highly disappointing for the IF members
- ❖ The tax policy and the trade policy are now to be pursued in coordination ?