

Technical Session Previews by Kuntal Dave, Partner, DTS & Associates

1. GAAR – tax planning days are over?

As a result of active participation of G20 countries in the BEPS project, we have witnessed concentrated and systematic effort by many countries towards establishing tax policies which will protect its tax base. Various anti-tax avoidance measures have been incorporated in the domestic tax laws as well as in treaties. Consequently, tax payers & advisors are now dealing with GAARs, SAARs, and TAARs coupled with provisions on PPT/LOB. The Indian GAAR is also now in full force.



Whilst government of India has released guidelines and clarifications to facilitate smooth administrations of the GAAR provisions, IFA Congress will provide an excellent platform to learn how other countries have implemented or are in the process of implementing anti-avoidance provisions. Noteworthy cases on the operation of GAAR from other jurisdiction will help tax payers & advisors.

Subject 1 “Seeking anti-avoidance measures of general nature and scope – GAAR and other rules” and Seminar A “Effectiveness of anti-avoidance mechanisms (including Limitation of Benefits)” will provide interesting insight which should be very useful.

2. Digital taxation

The development of the digitalized economy has challenged the prevailing tax laws & policies. OECD, EU, UK and many other countries have released various reports highlighting the need & method of dealing with tax challenges faced by both tax payers and tax authorities. The much awaited Final report on Action Plan 1 will take some time. However, in the interim, many countries have either implemented unilateral tax measure (like India) or are in the process of implementing their own unilateral measures. It is recognized that such unilateral and inconsistent action from individual countries shall not be conducive for the tax payers as well as the digitalized economy.

The proposal of withholding tax or other levy (like equalization levy) shall pose many practical & fundamental issues which would need to be closely debated.

The discussion therefore during Subject 2 “Withholding tax in the era of BEPS, CIVs and digital economy, Seminar C “Limits of tax jurisdiction – non-traditional ‘business presence’”, Seminar E “IFA/OECD” and Seminar H “Recent Developments in international Taxation” will be useful in this regard.

3. US tax Reforms

The first IFA Congress after the implementation of US tax reform under “Tax Cuts and Jobs Act” (TCJA). It is now clear that this tax reform and inherent broader policy shall have huge impact for the international tax system. Analysis of some high level technical aspects in this regard arising from Base Erosion Anti-Abuse Tax (BEAT), the Global Intangible Low-Taxed income (GILTI) and the Foreign Derived intangible Income (FDII) would be much desirable for international tax advisors and multinational companies.



It would be interesting to learn on few fundamental concerns related to US tax reforms, for e.g. territoriality of the tax policy, compatibility of the provisions with WTO rules, compatibility to the recommendations of the BEPS project, compatibility with non-discrimination clauses in tax treaties and potential significance of the US tax reform for the tax burden of US multinationals & foreign multinationals with US activities.

In this regard, it would be useful to follow the discussion in Seminar E “IFA/OECD” and Seminar H “Recent Developments in international taxation”.

4. Other Recent Developments

IFA Congress provides a great opportunity for the tax advisors and tax payers to understand the impact of some of the recent developments at various jurisdictions on the matters related to international taxation.

The development at OECD on various projects, at EU and other key trading partners will be highlighted at Seminar E “IFA/OECD”, Seminar G “IFA/EU” and Seminar H “Recent Developments in international Taxation”.