Info Capsule

CABINET APPROVES SIGNING OF THE MULTILATERAL CONVENTION TO IMPLEMENT TAX TREATY RELATED MEASURES TO PREVENT BASE EROSION AND PROFIT SHIFTING BY INDIA[1]

The Union Cabinet chaired by the Prime Minister Shri Narendra Modi has given its approval for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. The Convention is an outcome of the OECD / G20 BEPS Project to tackle base erosion and profit shifting through tax planning strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity, resulting in little or no overall corporate tax being paid.

The Final BEPS Project identified 15 actions to address BEPS in a comprehensive manner. Implementation of the Final BEPS Package requires changes to more than 3000 bilateral tax treaties which will be burdensome and time consuming. In view of the same, the Convention was conceived as a Multilateral instrument which would swiftly modify all covered bilateral tax treaties (Covered Tax Agreements / CTA) to implement BEPS measures. For this purpose, formation of an Ad-hoc Group for the development of such multilateral instrument was endorsed by the G20 Finance Ministers and Central Bank Governors in February 2015.

Background:

India was part of the Ad Hoc Group of more than 100 countries and jurisdictions from G20, OECD, BEPS associates and other interested countries, which worked on an equal footing on the finalization of the text of the Multilateral Convention, starting May 2015. The text of the Convention and the accompanying Explanatory Statement was adopted by the Ad hoc Group on 24 November 2016.

The Convention implements two minimum standards relating to prevention of treaty abuse and dispute resolution through Mutual Agreement Procedure. The Convention will not function in the same way as an Amending Protocol to a single existing treaty, which would directly amend the text of the Covered Tax Agreements. Instead, it will be applied alongside existing tax treaties, modifying their application in order to implement the BEPS measures. The Convention ensures consistency and certainty in the implementation of the BEPS Project in a multilateral context. The Convention also provides flexibility to exclude a specific tax treaty and to opt out of provisions or parts of provisions through making of reservations.

[1] Available at: http://pib.nic.in/newsite/erelease.aspx?relid=0

The Convention has been opened for signature as on 31st December 2016 and a first joint signing ceremony is scheduled to be held in Paris on 7th June, 2017. Signature is the first step in the process of expressing consent to be bound by the Convention, which will become binding only upon ratification. A list of Covered Tax Agreements as well as a list of reservations and options chosen by a country are required to be made at the time of signature or when depositing the instrument of ratification.

Cabinet approval has been sought for the signing of the Convention by India. It is also proposed to make a provisional list of Covered Tax Agreements and a provisional list of reservations at the time of signature in June, 2017. Final lists for both will be submitted by India at the time of submission of instrument of ratification.

Signing of the Multilateral Convention will enable the application of BEPS outcomes through modification of existing tax treaties of India in a swift manner. It is also in India's interest to ensure that all its treaty partners adopt the BEPS anti-abuse outcomes. Signing of the Convention will enable curbing of revenue loss through treaty abuse and base erosion and profit shifting strategies by ensuring that profits are taxed where substantive economic activities generating the profits are carried out and where value is created.

POSITION LIMITS FOR CROSS-CURRENCY FUTURES AND OPTIONS CONTRACTS (NOT INVOLVING INDIAN RUPEE) ON EXCHANGES IN INTERNATIONAL FINANCIAL SERVICES CENTRES (IFSC)[2]

SEBI vide its circular dated May 17, 2017 fixed the positions limits for cross currency futures and options contracts on exchange in IFSC. The position limits for eligible market participants i.e., trading members, Institutional Investors, Eligible Foreign Investors and Other Clients, per currency pair per stock exchange, shall be as follows:-

a) **Trading Members** (positions on proprietary basis as well as clients' position) – Gross open position across all contracts not to exceed 15% of the total open interest or USD 1 billion equivalent, whichever is higher.

b) **Institutional Investors –** Gross open position across all contracts not to exceed 15% of the total open interest or USD 1 billion equivalent, whichever is higher

c) **Eligible Foreign Investors –** Gross open position across all contracts not to exceed 15% of the total open interest or USD 1 billion equivalent, whichever is higher

d) **Other Clients –** Gross open position across all contracts not to exceed 6% of the total open interest or USD 100 million equivalent, whichever is higher.

Appropriate penalties shall be imposed by stock exchanges for violation of position limits by eligible market participants.

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2 Available at: http://www.sebi.gov.in/legal/circulars/may-2017/position-limits-for-cross-currency-futures-and-options-contracts-not-involving-indian-rupee-on-exchanges-in-international-financial-services-centres-ifsc-_34892.html

EMPLOYEE'S COMPENSATION (AMENDMENT) ACT, 2017[3]

In exercise of the powers conferred by sub-section (2) of Section 1 of the Employee's Compensation (Amendment) Act, 2017 (11 of 2017), the Central Government vide its notification S.O. 1545(E) dated 12th May, 2017 hereby appoints the 15th day of May, 2017, as the date on which the said Act shall come into force.

CABINET APPROVES PAN-INDIA IMPLEMENTATION OF MATERNITY BENEFIT PROGRAM[4]

The Union Cabinet chaired by the Prime Minister Shri Narendra Modi has given ex-post facto approval to Pan-India implementation of Maternity Benefit Program which now has been extended to all districts of the country w.e.f. 01.01.2017. The Prime Minister in his address to the nation on 31.12.2016 had announced Pan-India implementation of Maternity Benefit Program.

The Maternity Benefit Program will provide compensation for the wage loss in terms of cash incentives so that the women can take adequate rest before and after delivery and not be deprived of proper nutrition.

The total cost of the proposal for the period from 01.01.2017 to 31.03.2020 including Central and State Government share isRs.12,661crore. Government of India's share during the period 01.01.2017 to 31.03.2020 comes to around Rs. 7932 crore.

Objective of the Scheme

i) To provide partial compensation for the wage loss in terms of cash incentives so that the woman can take adequate rest before and after delivery of the first living child.

ii) The cash incentives provided would lead to improved health seeking behaviour amongst the Pregnant Women and Lactating Mother (PW&LM) to reduce the effects of under-nutrition namely stunting, wasting and other related problems.

Target Group

All eligible Pregnant Women and Lactating Mothers (PW&LM), excluding the Pregnant Women and Lactating Mothers who are in regular employment with the Central Government or State Government or Public Sector Undertakings or those who are in receipt of similar benefits under any law for the time being. It has been decided to give the benefit of Rs. 5000/- to PW&LM in three installment for the birth of the first live child by MWCD and the remaining cash incentive as per approved norms towards Maternity Benefit under existing programmes after institutional delivery so that on an average, a woman will get Rs. 6000/-.

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[3] Available at: http://egazette.nic.in/WriteReadData/2017/175968.pdf
[4] Available at: http://pib.nic.in/newsite/erelease.aspx?relid=0

Conditions and installments

Pregnant Women and Lactating Mothers who are eligible will receive a cash benefit of Rs.5,000/- in three installment at the following stages as specified in the table given below:

Cash Transfer	*Conditions*	*Amount (in Rs.)*
First installment	Early Registration of Pregnancy.	1,000/-
Second installment	Received at least one antenatal Check-up (after 6 months of pregnancy)	2,000/-
Third installment	Child birth is registered. Child has received first cycle of BCG, OPV, DPT and Hepatitis-B or its equivalent/substitute.	2,000/-

The eligible beneficiaries would continue to receive the remaining cash incentive as per approved norms towards Maternity Benefit under existing programmes after institutional delivery so that on an average, a woman will get Rs. 6000/-.

Mode of cash transfer to the Beneficiaries

The conditional cash transfer scheme would be in DBT mode.

Background

The Government of India is committed to ensure that every woman gets adequate support and health care during pregnancy and at the time of delivery and every newborn is immunized on time which is the foundation for better health of the mother and the newborn. Normally, the first pregnancy of a woman exposes her to new kinds of challenges and stress factors. Hence, the scheme intends to provide support to the mother for safe delivery and immunization of her first living child. The improved health care seeking behaviour of the PW&LM would lead to better health status for the mother and the child.

Team ICSI