



For private circulation only | Tax and regulatory | India | 13 January 2015



Indirect Tax Alert

Be in the know

Notification on dual use of
Non Processing Area by
Special Economic Zone and
Domestic Tariff Area entities

Volume: IDTX/1/2015

In this issue

Background
Upcoming Dbriefs - Register
Contacts

Background

Notification on bifurcation of Non Processing Area (NPA) for use by Special Economic Zone (SEZ) and Domestic Tariff Area (DTA) entities

- The Ministry of Commerce and Industry has notified the Special Economic Zones (Amendment) Rules, 2014 (SEZ Rules, 2014). The SEZ Rules, 2014 amends Rule 11 of the Special Economic Zone Rules, 2006 (SEZ Rules). The benefits provided by the second proviso to Rule 11 (10) in the form of concessions, exemptions, and drawback to the Developer / Co-developer on the infrastructure used for business or social purposes in the SEZ, have been withdrawn.
- Rule 11A has been inserted in the SEZ Rules *vide* the SEZ Rules, 2014. This Rule provides for bifurcation of NPA into two parts:-
 - Social / Commercial infrastructure and other facilities permitted to be used by both SEZ and DTA entities; and
 - Social / Commercial infrastructure and other facilities permitted to be used exclusively by SEZ entities

Social / Commercial infrastructure and other facilities permitted to be used by both SEZ and DTA entities

- In case of infrastructure allowed to be used by both SEZ and DTA entities, no exemptions / concessions / drawback shall be admissible for creation of such infrastructure. The tax benefits (Customs Duty, Central Excise Duty, Service Tax etc.) availed by the Developer for creation of such infrastructure, would have to be refunded in full, without interest.
- However, where there is short payment of the amount refundable to the Government, interest at the rate of fifteen percent per annum would be applicable from the day the said amount becomes payable up to the date of actual payment.

- Utilization of SEZ land shall be subject to following conditions:
 - The land use shall conform to the regulations of the concerned State Government / local bodies.
 - In case any exemption / refund (stamp duty, change of land use etc.), has been availed from State, the same shall be refunded and a certificate to this effect obtained from the State Government / local bodies.
 - No Objection Certificate (NOC) from the concerned State Government shall be produced before the consideration of request by Board of Approval (Board)

Social / Commercial infrastructure and other facilities permitted to be used exclusively by SEZ entities

- This portion shall be bonded and physically segregated from DTA, NPA permitted for dual use and processing area of SEZ. The infrastructure for this part of NPA shall be eligible for exemptions / concessions and drawback.

Norms with respect to areas earmarked for residential / commercial and other social facilities

- Under the said Rule 11A, Department of Commerce (DoC) has also provided following norms with respect to area marked for residential / commercial and other social facilities.
 - The Developer/Co-developer shall submit an application along with the copy of infrastructure plan, NOC from the State Government and supporting documents to the Development Commissioner (DC);
 - The application shall indicate the portion of the NPA, where social or commercial infrastructure and other facilities are proposed to be used by SEZ and DTA entities;
 - The DC shall forward the application to the Board;
 - The area restrictions for dual use of NPA in the SEZ shall be as follows:
 - Housing – Not more than 25% of the NPA

- Commercial – Not more than 10% of the NPA
- Open area and circulation area – Not less than 45% of the NPA
- Social and institutional infrastructure like schools / colleges / socio cultural centers / training institutes / banks / post office etc. – In the remaining area
- Floor area ratio or floor space index shall conform to the norms of the concerned local authorities;
- The infrastructure in the dual use NPA can only be leased out and no sale is permitted; and
- Any other conditions as may be specified by the DoC or Board.

Source: Notification No. F. No. C. 1/2/2014-SEZ, dated 2 January 2015

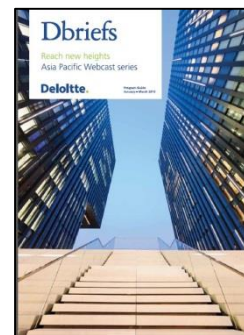
Upcoming Dbriefs - Register

International Tax: What Can We Learn from the Top Tax Cases of 2014?

Tuesday, 10 February, 11:30 AM – 12:30 PM IST

Fascinating court decisions have emerged in 2014 involving the interpretation of double tax treaties and other international tax issues. What do these cases reveal? Join in to understand technical and practical implications of key rulings and discover how they apply to your company's international tax planning. For more information, visit the [Dbriefs](#) page.

[Register now](#)



Contacts

Mumbai

Prashant Deshpande /M.S.Mani
pradeshpande@deloitte.com /
msmani@deloitte.com

Anjlika Chopra
achopra@deloitte.com

Indiabulls Finance Centre,
Tower 3, 28th Floor,
Elphinstone Mill Compound,
Senapati Bapat Marg, Elphinstone (W),
Mumbai – 400013
Tel: + 91 (022) 6185 4000
Fax: + 91 (022) 6185 4101

Kolkata

Debasish Ghosh
dghosh@deloitte.com

Bengal Intelligent Park Building Alpha, 1st
floor, Block EP and GP Sector V, Salt Lake
Electronics Complex, Kolkata - 700 091.
Tel: + 91 (033) 6612 1000
Fax: + 91 (033) 6612 1001

Chennai

L Sayee Mohan
lsmohan@deloitte.com

No.52, Venkatanarayana Road, 7th Floor,
ASV N Ramana Tower,
T-Nagar, Chennai 600 017.
Tel: +91 (044) 6688 5000
Fax: +91 (044) 6688 5050

Bangalore

Krupa Venkatesh
krvenkatesh@deloitte.com
Deloitte Centre, Anchorage II,
100/2, Richmond Road,
Bangalore 560 025.
Tel: +91 (080) 6627 6000
Fax: +91 (080) 6627 6010

Ahmedabad

Y.G. Shah
yshah@deloitte.com
Heritage” 3rd Floor,
Near Gujarat Vidyapith,
Off Ashram Road, Ahmedabad – 380 014.
Tel: + 91 (079) 2758 2542
Fax: + 91 (079) 2758 2551

Pune

Rajesh Chanchlani
rpchanchlani@deloitte.com
Sachhin Shinde
sachhins@deloitte.com
106, B-Wing, 1st Floor
ICC Trade Tower,
Senapati Bapat Road,
Pune – 411 016.
Tel: + 91 (020) 6624 4600
Fax: +91 (020) 6624 4605

Delhi/Gurgaon

R. Muralidharan
rmuralidhar@deloitte.com
Saloni Roy
saloniroy@deloitte.com
Building 10,
Tower B, 7th Floor,
DLF Cyber City, Gurgaon 122 002
Tel: +91 (0124) 679 2000
Fax: + 91 (0124) 679 2012

Hyderabad

S. Thirumalai
sthirumalai@deloitte.com
1-8-384 and 385, 3rd Floor,
Gowra Grand S.P.Road, Begumpet,
Secunderabad – 500 003.
Tel: +91 (040) 6603 2600
Fax: +91 (040) 6603 2714

Coimbatore

Perinkulam Krishnan
pskrishnan@deloitte.com
"Shanmugha Manram"
41, Race Course, Coimbatore
Tamil Nadu - 641018
Tel: + 91 (0422) 439 2801
Fax: +91 (0422) 221 3615

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

This material and the information contained herein prepared by Deloitte Touche Tohmatsu India Private Limited (DTTIPL) is intended to provide general information on a particular subject or subjects and is not an exhaustive treatment of such subject(s). This material contains information sourced from third party sites (external sites). DTTIPL is not responsible for any loss whatsoever caused due to reliance placed on information sourced from such external sites. None of DTTIPL, Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this material, rendering professional advice or services. The information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this material.

© 2015 Deloitte Touche Tohmatsu India Private Limited. Member of Deloitte Touche Tohmatsu Limited

[Home](#) | [Add Deloitte as safe sender](#)

