

Tax optimisation in the BEPS world

TAX-EFFICIENT CASH REPATRIATION

- **Distribution of profits**

There is no tax on distribution of profits by an LLP to its partners. Have you considered the option of setting up an LLP or converting an existing company into an LLP?

- **Back-office operations**

Is the Indian entity only carrying on back-office operations for the group? If yes, have you considered the option of structuring this tax efficiently?



- **Management fee**

Management fee structures are being challenged by the Indian tax authorities from the transfer pricing and withholding tax perspective. Is it time now to relook at such structures to strengthen positions and minimize litigation?

- **Cash repatriation to India**

Are you looking to repatriate cash to India from an overseas subsidiary? Can this be optimised from a tax perspective?

CORPORATE STRUCTURES

- **Inbound intermediary holding structures**

Is the Indian entity held through an intermediary holding structure? This may be a good time to revisit such structures, including considering change of PoEM / migration of incorporation of overseas holding company.

- **Outbound intermediary holding structures**

Does the Indian group invest overseas through an intermediary holding company? If so, you may consider relooking at the entire structure, including the impact of PoEM rules.

- **Restructuring prior to sale**

Have you considered restructuring of business (say, amalgamation or demerger), prior to sale, to ensure tax efficiency?

- **Indirect holding to direct holding**

Are you looking to convert indirect holding (of say, promoters) to a direct holding in an Indian entity? Can this be done to optimise the tax situation?

- **PE investment**

Does the company intend to have investment by a private equity investor? If yes, what are the options available for such investments?



TAX BENEFITS

- **Patent regime**

Does the Indian company have patents registered in India, or is looking to register patents? The concessional tax regime with a tax rate of 10% on patent income may be worth considering.

- **Weighted deduction**

Has the company considered obtaining a weighted deduction for agriculture extension services?



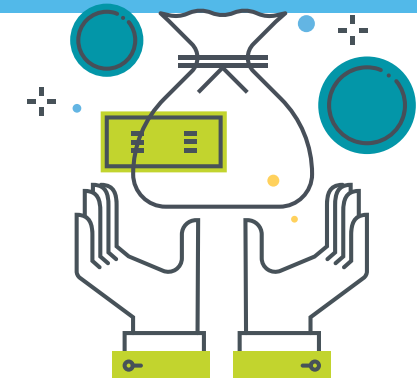
MINIMUM ALTERNATE TAX

- **Set off losses and depreciation**

Is the company liable to pay MAT? If yes, is there a way of setting off brought forward business loss and unabsorbed depreciation to maximise the benefit?

- **Impact of APA adjustment**

Has the company signed, or applied for an APA? What will be the impact of an APA adjustment relating to past years / roll back years on MAT?



TAX LEVIED BY OVERSEAS JURISDICTIONS (INCLUDING WITHHOLDING TAX)

- **Non-taxability of overseas income**

Does the Indian company have income from an overseas branch? Can it be argued that such income is not taxable in India?

- **Refund of withholding tax from overseas jurisdiction**

Is the Indian company unable to take credit for overseas withholding tax? Is there a possibility of claiming a refund of such withholding tax from the overseas jurisdiction?



Note: Each opportunity is fact-specific and needs to be analysed based on facts and circumstances of the case, tax positions adopted, impact in overseas jurisdiction, potential challenge under GAAR / BEPS, etc.

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