

Global Tax Update

India

Deloitte Tohmatsu Tax Co.

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1. Government of India (GOI) approves INR 146,000- crore (US\$ 19.5 billion) Production Linked Incentives (PLI) scheme for 10 sectors

Following the positive response received on Production Linked Incentive ('PLI') schemes issued earlier this year for mobile manufacturing, pharmaceutical and medical devices sector, the Union Cabinet, on 11 November 2020, approved introduction of PLI schemes for ten key specific sectors. While details around investments incentive thresholds, production requirements, application window etc. are yet to be notified, the official press release issued in this regard indicates the list of sectors in order of their priorities, along with the corresponding product lines and the financial outlay over a five-year period.

Upon notification, the schemes will benefit key manufacturing sectors of India, such as automobiles and auto components, white goods, electronics, batteries, pharmaceuticals, textiles etc. Details of sectors and product lines sought to be covered are as under:

| Priority | Sector | Products | Approved incentive over 5-year period (in USD billions) |
|----------|--------------------------------------|---|---|
| 1 | Advance Chemistry Cell (ACC) Battery | ACC Batteries | 2.41 |
| 2 | Electronic/Technology Products | Semiconductor Fab, Display Fab, Laptop/ Notebooks, Servers, IoT Devices, Specified Computer Hardware | 0.67 |
| 3 | Automobiles & Auto Components | Automobile and Auto Components | 7.61 |
| 4 | Pharmaceuticals drugs | <p>Category 1 which includes biopharmaceuticals, Complex generic drugs, patented drugs or drugs nearing patent expiry, cell based or gene therapy products, orphan drugs, special empty capsules, complex excipients</p> <p>Category 2 which includes active pharma ingredients (APIs) / key starting materials (KSMs) and / drug intermediaries (DIs)</p> <p>Category 3 which includes repurposed drugs, auto-immune drugs, anti-cancer drugs, anti-diabetic drugs, anti-infective drugs, cardiovascular drugs, psychotropic drugs and anti-retroviral drugs, in-vitro diagnostic devices (IVDs), phytopharmaceuticals, other drugs not manufactured in India, other drugs as approved</p> | 2.00 |
| 5 | Telecom & Networking Products | Core Transmission Equipment, 4G/5G, Next Generation Radio Access Network and Wireless Equipment, Access and Customer Premises Equipment (CPE), Internet of Things (IoT) Access Devices and Other Wireless Equipment, Enterprise equipment: Switches, Router | 1.63 |

| | | | |
|----|--|---|-------------|
| 6 | Textile Products: Man-made fiber and technical textiles | Man-Made Fiber Segment, Technical Textiles | 1.42 |
| 7 | Food Products | Ready to Eat / Ready to Cook (RTE/ RTC), Marine Products, Fruits and Vegetables, Honey, Desi Ghee, Mozzarella Cheese, Organic eggs and poultry meat | 1.45 |
| 8 | High Efficiency Solar PV Modules | Solar PVs | 0.60 |
| 9 | White Goods | Air conditioners, LED | 0.83 |
| 10 | Speciality Steel | Coated Steel, High Strength Steel, Steel Rails, Alloy Steel Bars and Rods | 0.84 |
| | | Total | 19.5 |

2. Revised SOP¹ issued by DPIIT² for processing the FDI³ proposals requiring government approval

With an aim to expedite the process of clearances of FDI proposals and to align erstwhile SOP with FEMA NDI Rules⁴, Press Note.3 and FDI Policy 2020, the GOI has issued revised SOP on 9 November 2020 which provides further clarity, mentions the documents required, timelines for processing the FDI proposals requiring government approval, including for cases covered under Press Note. 3. The revised SOP issued by GOI is aimed at smoothening the FDI application review process in a time-bound manner and is aligned with FEMA Non-Debt Rules 2019 and FDI Policy, 2020. Inter-ministerial coordination is key for review of FDI proposals and the revised SOP provides clarity on timelines, documents to be furnished and accountability and would facilitate ease of doing business in India. Please see link below:

[Tax Alert | Delivering clarity 26 November 2020 \(Deloitte India website \(PDF\) \)](#)

3. Extension of GST⁵ e-invoicing mechanism for more taxpayers from 1 January 2021

GST e-invoicing would be applicable from 1 January 2021 for taxpayers with aggregate turnover exceeding INR 1 billion during any of the financial years 2017-18 onwards.

4. Salary of non-resident employees recharged to project office for work performed outside India, not taxable

The Delhi Bench of the Income-tax Appellate Tribunal rendered its decision⁶ that non-resident employees' salary (for work performed outside India) recharged by head office to its Indian project office, is not chargeable to tax in India and hence, its payment is not subject to withholding tax in India.

5. Expenditure on employee stock options is deductible

The Karnataka High Court rendered its decision⁷ that discount on issue of employee stock option (i.e. difference between grant price and the market price of the shares as on the date of grant of options), is deductible.

1 Standard Operating Procedure

2 Department for Promotion of Industry and Internal Trade

3 Foreign Direct Investment

4 Foreign Exchange Management (Non-Debt Instrument) Rules, 2019

5 Goods and Services Tax

6 Ecorys Nederland's B.V. v. ADIT (ITA no 6494/Del/2016) (Delhi ITAT)

7 CIT v. Biocon Ltd (ITA no 653 of 2013) (Karnataka HC)

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