

# Global Tax Update

## India

Deloitte Tohmatsu Tax Co.

January 2018

### 1. Payment received for intra-group services, reimbursement of expenses, not taxable in India<sup>1</sup>

The Kolkata Tribunal has held that where services are rendered by third parties and such costs are discharged by foreign group companies initially and later charged back at cost to Indian entities, since the foreign group entity has not provided any service and there is no income element in the amounts charged back, there is no requirement for Indian company to withhold taxes.

Please note that the above is a Tribunal ruling and the issue of taxability of reimbursement of expenses and the obligation to withhold tax at source, on the person making the payment, has been a matter of considerable debate.

### 2. Date of reversal of provisions important to decide whether income in respect of year-end provisions has accrued to payee or not<sup>2</sup>

In India, many companies make provisions towards expenses at the end of the financial year for finalising their financial statements and audit. These expenses are disallowed for computing taxable income. However, these provisions are reversed next year and the reversals are claim as deduction while computing the taxable income.

The Bangalore Tribunal has ruled that if there is a time gap between creation of provision towards expenses and reversal, the withholding tax liability would arise.

### 3. Extension of due date for filing GST<sup>3</sup> returns<sup>4</sup>

The government has extended the due date for filing the details of the outward supplies in the form GSTN – 1. The details are as under:

For taxpayers having aggregate turnover up to INR 15 million in preceding financial year or current financial year

| Period (Quarterly)       | Due date          |
|--------------------------|-------------------|
| July – September, 2017   | 31 December, 2017 |
| October – December, 2017 | 15 February, 2018 |
| January – March, 2018    | 30 April, 2018    |

1 The Timken Company [TS-569-ITAT-2017 (Kol.)] – Kolkata Tribunal

2 Bangalore Tax Tribunal

3 Goods and Services Tax – This is a recently introduced indirect tax law which replaced the earlier complicated system from 1 July 2017.

4 Notification Nos. 57/2017 and 58/2017 – Central Tax dated – 15 November, 2017

For taxpayers having aggregate turnover of more than INR 15 million in preceding financial year or current financial year

| <b>Period</b>         | <b>Due Dates</b>  |
|-----------------------|-------------------|
| July to October, 2017 | 31 December, 2017 |
| November, 2017        | 10 January, 2018  |
| December, 2017        | 10 February, 2018 |
| January, 2018         | 10 March, 2018    |
| February, 2018        | 10 April, 2018    |
| March, 2018           | 10 May, 2018      |

Timelines for filing of Forms GSTR-2 (form to report details of inward supplies) and GSTR-3 (form to report details of all outward as well as inward supplies of goods and services based on which input credits are determined) for the months of July 2017 to March 2018 shall be subsequently notified in the Official Gazette.

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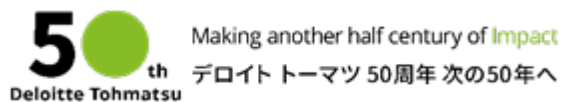
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