



Bangalore Chamber of Industry and Commerce

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Report on the Seminar on “Direct Tax Code 2010” held on December 17 & 18, 2010

Bangalore Chamber of Industry and Commerce (BCIC) organized a Two-day Seminar on Direct Tax Code (DTC) on December 17 & 18, 2010 with an impressive array of experts participating with great involvement to demystify the DTC and highlight the drawbacks in the proposals, particularly when India is on a take off stage towards its ambitious march towards the top spot among the global economies.

In his welcome address, Mr. Shekar Viswanathan, President commended the government for having taken decisions to unfold a new regime of tax and accounting systems to align the country's statutes and practices with that of the global paradigm. He hoped that new initiatives such as introduction of legislation on Goods and Services Tax, implementation of International Financial Reporting System (IFRS) from April 2011 and making far reaching changes in the Direct Taxes through the DTC Bill would strengthen the optimism of U.S. President Barack Obama, who had said India is not a **‘rising power but has already risen’** in the global economic arena.

Mr. K R Girish, Immediate Past President, BCIC in his presentation on **“Economic impact on Direct Tax Code”** said that with India becoming a hotspot investment destination for MNCs and resurgence in the business confidence after the recent global setback, a friendly and simple direct code would play a vital role in attracting more Foreign Direct Investment. He said DTC suggests clearly its intent to introduce a congenial taxation process. However, he pointed out that certain proposals such as rolling back of exemptions from Minimum Alternate Tax, Value Added Tax and Dividend Distribution Tax were out of tune and could increase the tax cost for investors. He also felt that DTC could prove to be a road block for Special Economic Zone (SEZs) business of Oil and Gas sector, particularly when India is looking at enhanced private sector’s participation into the sector. The change in the incentive from profit-linked tax holiday to investment-linked tax incentive could significantly impact on the pay-back period for investors.

Mr. Girish felt that it was too early for India to introduce new tax principles for Controlled Foreign Companies (CFC) and said CFC rules were based on mature tax systems of developed countries like the US and UK. The provisions could lead to cash flow problems. He said “when Indian Rupee is not fully convertible it is too early to bring in CFC”.

Mr. K R Sekar, Chairman, Direct Taxes Expert Committee, BCIC highlighted on the objective of the Seminar and set the tone by eliciting the key issues faced by the industry, in general.

In his key-note address, Mr. Suresh Senapaty, CFO and Executive Director, Wipro Ltd. welcomed the decision of changing the tax laws through DTC Bill but added that certain provisions need rethinking in view of the Indian economy having matured to attract developed economies attention for equal status.

Among others he referred to issues such as MAT, taxing passive income of controlled foreign corporate and said for Indian to get global footprint at the back of its remarkable growth pushing its claim to become the third largest economy by 2030, tax laws should be more equitable and simple.

With regard to MAT, Mr. Senapaty suggested the government should do a benchmark rate at one third of the normal tax than the prescription of 20 per cent proposed in DTC, as the higher rate would result in a significant cash outgo affecting re investments in the business and raise concerns in regard to availing of MAT credit with the extended period of 15 years.

On tax laws concerning Controlled Foreign Corporate, Mr. Senapaty said the international feature of taxing passive income and CFC is incorporated in low tax jurisdictions is built into the Code. Economists would recommend CFC provisions only when there is a continuous trend of outbound investments. Ironically in recent times, outbound investments are almost equal to the FDI into India. However, these investment flows are without improving India's share in global trade. Lack of transparency in holding structure, particularly unlisted entities seems to be the prime concern of the government while introducing CFC regulations. Appropriate suggestions from trade and industry for ensuring transparency in holding structures would perhaps help the government to eliminate proposal with regard to wealth tax and tax on deemed dividend.

Prefacing his address with a rider that he was only expressing his personal opinion, Mr. P K Prasad, IRS, Commissioner of Income Tax - Bangalore V said that since the primary responsibility of the tax authorities was to adopt measures to reduce litigation relating to collection and assessment of income tax, DTC should focus on this issue more. In order to speed up judicial process on income tax matters there is a dire need for greater involvement of arbitration and reconciliation. He further added, "In the present system, the assessing officer assumes a dual role affecting objectivity of the purpose of settling the issues of collection and assessment principles."

He said one of the tasks of the DTC was to reduce corruption in the income tax process, but it would be a difficult task to achieve unless the mindset of people changes like in any other sector of society.

The Inaugural Session was followed by the following Technical Sessions:-

Technical Session I**Chaired by: - Mr. M L Agrawall, IRS Chief Commissioner of Income Tax-I, Bangalore**

Speaker	Presentation on
Mr. Milan Chakravarti Group Manager – Taxation ITC Ltd.,	Profits and Gains of Business of Profession
Mr. Anurag Jain Partner, BMR Advisors, New Delhi	Tax Holiday / MAT

Technical Session II**Chaired by: - Mr. V N Venkatanathan, Executive Vice President – Finance,
TVS Motors Co. Ltd.**

Speaker	Presentation on
Mr. S. Ramanujam Head of Taxation UB Limited	M & A Tax Issues
Mr. Hitesh Gajaria Partner KPMG	CFC Regulations
Ms. Tapati Ghose Partner Deloitte Haskins & Sells	Salaries – Income from House; Property / Income from other sources from an Industry prospective
Mr. Vikram Bapat ED – Tax & Regulatory Services, PWC	Broad comparison of Income Tax Act & Direct Tax Code

Technical Session III - Tax Issues relating to non-residents**Chaired by:- Mr. Indranil Chowdhury, Vice President and CFO, Volov India Pvt Ltd.,**

Speaker	Presentation on
Mr. Padam Khincha Partner, HC Khincha & Co.	Capital Gains – Tax Issues including FIIDTC vs. Income Tax
Mr. K.R. Sekar Chairman, Direct Taxes Expert Committee, BCIC	GAAR
Mr. Rajendra Nayak Partner – International Tax Services Ernst & Young	Treaty Override and Transfer Pricing- Direct Tax Code

Technical Session IV: - Industry perspective
Chaired by:- Mr. Ganesh Murthy, CFO, Mphasis Ltd.

Speaker	Presentation on
Mr. P V Srinivasan Head Taxation Wipro Limited	Transition issues affecting Industry and Tax Payer
Mrs. Archana Choudhary, IRS Commissioner of Income Tax (TDS)	TDS Issues and other transitional issues

The Two-day Seminar which was divided into Four Technical Sessions was addressed by tax experts from leading corporate, consulting and accounting firms.

Making a comparative analysis of the IT Act, 1961 and the proposed DTC Bill, the speakers highlighted the need for the Corporate to prepare themselves to adopt the changes that will soon be part of their system. They felt that BCIC could make an attempt to represent their view concerning the changes that needed to be made in the proposals to make DTC a friendlier Code.

Each Technical Sessions were followed by Q & A Session where in the speakers responded to all the queries raised by the participants.

While the speakers spoke with circumspection about the DTC Bill in its present form standing the test of challenges of the changed global business character, many felt that the government's initiative was welcome so far as it could set a beginning towards meeting the growth needs of the economy.

Speakers welcomed the government's resolve to implement it from 2012 and welcomed DTC's objective of a long term perspective thus reducing the scope of litigation and providing simplified tax procedures.

Several speakers, though alluded to DTC as only a 'old wine in new bottle' for its less than bold initiatives and felt it fell short of the industry and business expectations, particularly relating to implications regarding assessment and processes in arriving at principles of taxation on international business of Indian companies. They hoped that BCIC would take up the issues presented at the Seminar and present it to Government for making changes before the DTC Bill was presented to Parliament.

The Seminar was attended by a large number of representatives of a cross section of India Inc.

Mr. K R Sekar, Chairman, Direct Taxes Committee, BCIC in his concluding remarks thanked all the distinguished Speakers and said that the interactions were more focused and purposeful. He also thanked the participants for their valuable contributions in making the Seminar a very useful and interactive event. He assured that BCIC would make a report of the proceedings and suggestions of the participants to be presented to the Government for its consideration.
