Discovered Small fields

Indian Taxation Regime for E&P sector

26 April 2017
Direct Tax & Regulatory framework
Operating Structure Analysis

**Investment through Wholly owned subsidiary or Project office**
- F Co
  - WOS
  - PO
  - Exploration Asset

**Incorporated Joint Venture**
- JV Partner 1
- JV Partner 2
- JV Partner 3
- Company
  - Exploration Asset

**Unincorporated Joint Venture**
- JV Partner 1
- JV Partner 2
- JV Partner 3
- Consortium
  - Exploration Asset
### Taxability of Operating Structures

**1. Taxability of Indian companies / Indian joint venture**

<table>
<thead>
<tr>
<th>Company</th>
<th>Income- tax on net profits</th>
<th>MAT on book profits</th>
<th>Tax on profit distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indian company / Indian joint venture</td>
<td>34.61%*</td>
<td>21.34%*</td>
<td>20.36%</td>
</tr>
</tbody>
</table>

**2. Taxability of foreign companies**

<table>
<thead>
<tr>
<th>Company</th>
<th>Income- tax on net profits</th>
<th>MAT on book profits</th>
<th>Tax on profit distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign company having a PE in India</td>
<td>43.26%*</td>
<td>20.01%*</td>
<td>NIL</td>
</tr>
</tbody>
</table>

- Foreign company can claim tax treaty benefits, including credit for taxes paid

**3. Tax on unincorporated joint venture**

- Section 293A of the Income-tax Act, 1961 – Each JV member to be taxed on its own share of income
- Each member to maintain separate books to account for their share of revenue

*Maximum rate including surcharge and cess*
Tax Deductions

• **Exploratory & Drilling Expenditure 100% deductible (applicable for Indian and foreign companies) incurred before / after commercial production**, including:
  - Abortive or Infructuous expenditure for area surrendered
  - Developmental drilling eligible
  - Expenditure incurred for acquisition / use of facilities for exploration
  - Capital expenditure in relation to above also eligible

• **Depreciation allowed**
  - at prescribed rates on assets owned by the Company
  - additional depreciation in respect of any new machinery and plant* - @20% / 35%** of actual cost under section 32(1)(iiia) of the Income-tax Act, 1961
  - Oil well – Depreciation at 15% - Notification No. 13 of 2016

• Contributions to Specified Bank account towards **Site Restoration Costs** eligible for 100% tax deduction upto maximum of 20% of profits

• **Weighted deduction** equal to one and half times# the expenditure incurred in respect of expenditure incurred on in-house research and development facility as approved by prescribed authority under section 35(2AB) of the Income-tax Act, 1961

• No tax holiday available section 80 of the Income-tax Act, 1961

* Other than Ships and aircraft, office appliances, computer, vehicle etc.
**In case investment made in notified backward areas in the States of West Bengal, Andhra Pradesh, Bihar and Telangana
# 100% from FY 2020-21
Other relevant provisions

Taxation of foreign service providers:

• **Presumptive taxation @ 4.326%* of gross receipts** for Non-Residents engaged in business of:
  – Providing services / facilities; or;
  – Supplying plant & machinery on hire for prospecting / extraction / production of Mineral Oils.

  Option to claim lower profit on maintenance of books of account, if profit is lower than 10%

• Sub-contractor payments in the nature of Fees for technical services / Royalty may be taxed at 10% on gross basis – Advisable to file application for withholding tax order

*Maximum rate including surcharge and cess
Indirect Taxes in India

**Central Levy**
- Basic Custom Duty
- Additional Duty of Customs (CVD)
- Special Additional Duty (SAD)
- Central Excise Duty
- Central Sales Tax
- Service Tax

**State Levy**
- Electricity Duty
- Octroi / LBT / Entry Tax
- Various taxes, cess, etc.
- Value Added Tax
- Central Sales Tax
- Excise Duty

**Indirect Tax – Current Regime**

<table>
<thead>
<tr>
<th>Tax</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>BCD</td>
<td>10%</td>
</tr>
<tr>
<td>CVD</td>
<td>12.50%**</td>
</tr>
<tr>
<td>SAD</td>
<td>4%**</td>
</tr>
<tr>
<td>Excise Duty</td>
<td>12.50%**</td>
</tr>
<tr>
<td>Service Tax</td>
<td>15%</td>
</tr>
<tr>
<td>Central Sales Tax</td>
<td>2% – 15%</td>
</tr>
<tr>
<td>Value Added tax</td>
<td>5%-15%*</td>
</tr>
<tr>
<td>Entry Tax / Octroi/ LBT</td>
<td>1% – 15% or fixed rate per unit***</td>
</tr>
</tbody>
</table>

* 22-30% for Oil & Petroleum products

** Excise duty, CVD and SAD credit available to manufacturer, while SAD refund available only to trader

*** Rate depends on the State / Municipality where the goods are consigned

*Cost Pass through*

- 22-30% for Oil & Petroleum products

- Excise duty, CVD and SAD credit available to manufacturer, while SAD refund available only to trader

- Rate depends on the State / Municipality where the goods are consigned
Current benefits to E & P Companies

E & P Companies:

• **Customs Duty exempt** on import of goods such as seismic survey equipment, rigs, marine vessels, etc. required for petroleum operations (list attached as annexure)

• **Excise Duty exempt** on goods supplied against ‘International Competitive Bidding’ where such goods are exempt from customs duty

Others:

• **Customs duty exempt** on parts and raw materials used for manufacture of goods to be supplied in connection with offshore oil exploration or exploitation

*subject to prescribed conditions
<table>
<thead>
<tr>
<th>Land Seismic Survey Equipment and accessories</th>
<th>Helicopters including assemblies/parts</th>
</tr>
</thead>
<tbody>
<tr>
<td>All types of Drilling rigs, jackup rigs, submersible rigs, ROV, etc.</td>
<td>All types of casing pipes, drill pipes, production tubing, etc.</td>
</tr>
<tr>
<td>All types of oil field chemicals including synthetic products</td>
<td>Specialized antenna system, simplex telex over radio terminals, etc.</td>
</tr>
<tr>
<td>All types of Marine vessels including work boats, barges</td>
<td>Common depth point (CDP) cable, logging cable, connectors, etc.</td>
</tr>
<tr>
<td>All types of Equipment/units for specialized services like diving, cementing, logging, etc.</td>
<td>Single buoy mooring systems, mooring ropes, fittings like chains, shackles, etc.</td>
</tr>
<tr>
<td>Technical drawings, maps, literature, Data tapes, Operational and Maintenance Manuals</td>
<td>All types of fully equipped vessels and other units/equipment required for pollution control, fire prevention, etc.</td>
</tr>
<tr>
<td>All types of drilling bits, including nozzles, breakers and related tools</td>
<td>Mobile and skid mounted pipe laying, pipe testing and pipe inspection equipment</td>
</tr>
<tr>
<td>All types of valves including high pressure valves</td>
<td>Communication equipment</td>
</tr>
<tr>
<td>Non-directional radio beacons, intrinsically safe walkie-talkies, directional finders, etc.</td>
<td>Line pipes for flow lines and trunk pipelines including weight-coating and wrapping</td>
</tr>
<tr>
<td>X-band radar transponders, area surveillance system</td>
<td>Cathodic Protection Systems including anodes</td>
</tr>
<tr>
<td>Wellhead and christmas trees, including valves, chokes, heads spools, etc.</td>
<td>Derrick barges, Mobile and stationary cranes, trenchers, pipelay barges, etc.</td>
</tr>
<tr>
<td>Process, production and well platforms for oil, gas and water injection including items forming part of the platforms and equipment</td>
<td>Sub-assemblies, tools, accessories, stores, spares, materials, supplies, consumables for running, repairing or maintenance of the goods specified above</td>
</tr>
</tbody>
</table>
Thank you

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