

# TAX FLASH NEWS

11 April 2019

## Tax department issues income-tax notices to multinational companies

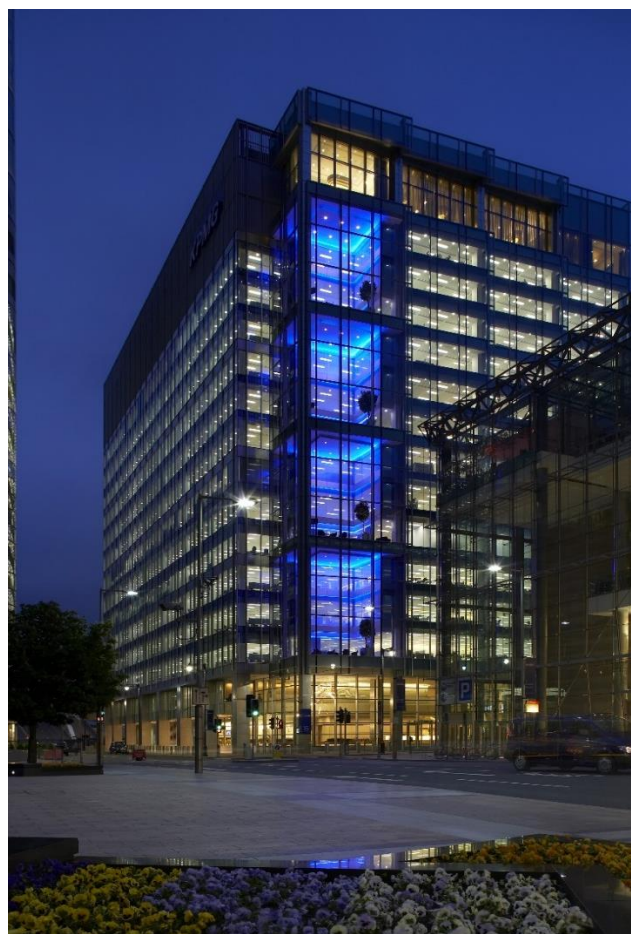
Recently, the Income-tax department issued notices to certain Multinational Companies (MNCs) for allegedly having escaped assessment over the previous years<sup>1</sup>. Notices are issued under Section 147 of the Income-tax Act, 1961 (the Act) when the Assessing Officer (AO) has a reason to believe that income has escaped assessment. Further, pursuant to such notices the AO wants to examine whether appropriate taxes have been withheld or whether the foreign entity has treated the income as exempt.

The notices have been issued after the Indian government introduced several measures to tax global companies which do not have a Permanent Establishment (PE) in India. India and other countries are looking to tax MNCs based on their volume of transactions and number of consumers in the digital space. In this regard the Act has already been amended to include the concept of 'significant economic presence' or digital PE within the domestic legislation. However, the thresholds for the applicability of these provisions are still awaited.

The tax department seeks to establish that the aforesaid developments have more likely than not led to the MNCs having a taxable presence in India. On the other hand, it has been argued by these MNCs that they do not have a presence in India and have thus not filed tax returns in India.

Several MNCs, as a matter of preference, do not operate actively from India since they prefer to abstain from getting involved with the tax authorities anywhere except in their home country. These companies are now apprehensive that the notices that are being issued could lead to questions about their PE status, royalty payments and certain payments made to the headquarters. In certain cases, there could be disputes on the classification of income as royalty or fees for technical services.

In this context, it would be interesting to see how the tax authorities will assess the MNCs and determine the taxable presence of these MNCs in India.



<sup>1</sup> [www.economicstimes.com](http://www.economicstimes.com)

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