

# COVID-19 PREPAREDNESS DIRECT TAX PERSPECTIVE



**KHAITAN  
&CO**  
Advocates since 1911



**NRIs / Frequent flyers:** Check your day count of stay in India for FY 2019-20, as the test for Indian tax residency is a 'physical presence test' (with a threshold of 182 days or more) and no exceptions are provided under the statute for involuntary stay (mobility restrictions).



**Offshore entities having directors in India:** Evaluate the impact of POEM (Place of Effective Management) based tax residency rule under Indian income-tax law on account of directors' Indian presence - it may result in offshore entities being deemed as Indian tax residents if key management and commercial decisions are taken in India.



**Compliance Check:** Meet your advance tax obligations before 31 March 2020 to avoid interest implications. Ensure filing of belated / revised return for FY 2018-19, if any, as there is no automatic extension of deadline even for adverse scenarios.



**Exporters:** Evaluate the position of related party receivables from COVID-19 hit countries which are facing liquidity issues. To avoid any adverse transfer pricing implications, establish documentary evidences capturing the fact that the realisation of such receivables is getting hampered due to unavoidable circumstances.



**Taxpayers with pending litigation:** Take stock of all pending appeals and explore whether to opt for the Vivad se Vishwas Scheme. Under the scheme, taxpayers would be granted waiver of interest and penalty if the amount of disputed tax is paid by 31 March 2020. For payment after 31 March 2020, some additional amount will have to be paid.



**Indian Project Offices:** Revisit the taxable presence exposure (PE risk) on account of local presence, especially if the workforce has been demobilised - in such a scenario, it is possible that the local presence may not exceed the threshold number of days prescribed for constituting a taxable presence in India.



**Investors:** Investors infusing fresh investments at discounted valuations in companies facing liquidity issues should be careful about the tax implications since Income-tax law has fair value requirements for investments.



**General:** Keep an eye on any tax sops announced by the Indian Government for setting up quarantine centres. Also, assess the impact of COVID-19 on taxability of contractual obligations / covenants etc on account of the Force Majeure clauses.

Contact our COVID-19 team at [COVID19@khaitanco.com](mailto:COVID19@khaitanco.com).  
Visit our [COVID-19 Resource Centre](#) which is live on our website.