

February 20, 2013

Mr. Sanjay Kumar Mishra  
Joint Secretary (Tax Policy & Legislation—II)  
Central Board of Direct Taxes,  
Department of Revenue,  
Room No. 147-C, 1st Floor,  
North Block, New Delhi – 110001 India

Mr. Michael Danilack  
Deputy Commissioner (International), LB&I  
Internal Revenue Service  
1111 Constitution Ave., NW, M/S M3-370  
Washington, DC 20001 United States

Re: India-U.S. Bilateral Tax Relationship

Dear Sirs,

We are writing to share our thoughts on the current India-U.S. bilateral tax relationship, which has been the subject of recent reports in both the Indian and U.S. tax press. As indicated in our prior correspondence with both Indian and U.S. officials, our member companies are keenly interested in this, as well as a number of other issues regarding India's taxation of cross-border trade and investment.

Many of our member companies with affiliates, service providers, or customers in India have encountered difficulties in recent years that are very similar to those identified by the Silicon Valley Tax Directors Group in its recent letter to you, although our members represent a broad spectrum of sectors. We have become increasingly concerned that the rapidly evolving policy views of the Indian Competent Authority and other Indian Revenue authorities on transfer pricing, permanent establishment, and other issues, and their assertion in current cases are impeding the proper operation of the dispute resolution procedures established by the India-U.S. treaty. The dearth of agreements between the Indian and U.S. Competent Authorities, despite frequent discussions, is without precedent in our experience. While India's new APA program helpfully acknowledges the need for improvement, we are not optimistic that APAs alone can restore the bilateral relationship to working order if substantive points of disagreement and procedural issues are not first addressed.

All investors need certainty in advance regarding their tax treatment and assurance that cross-border disputes will be promptly resolved on a principled basis. In the interest of bilateral trade and investment, we urge you to do everything possible to resolve the current impasse, and thank you for all of your efforts.

Respectfully submitted,

Investment Company Institute  
National Foreign Trade Council  
Securities Industry and Financial Markets Association  
Software Finance and Technology Executives Council  
United States Council for International Business  
U.S.-India Business Council

cc: The Honorable Sumit Bose, Revenue Secretary, India  
The Honorable Dr. Poonam Kishore Saxena, Chairman, Central Board of Direct Taxes, India  
The Honorable Steven T. Miller, Acting Commissioner of Internal Revenue, United States



**Keith Lawson**  
SENIOR COUNSEL – TAX LAW

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February 20, 2013

The Investment Company Institute (“ICI”) is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of \$14.2 trillion and serve over 90 million shareholders.

ICI shares the recommendations regarding the India-U.S. bilateral tax relationship expressed in the attached letter and urges that those recommendations be followed.

A handwritten signature in black ink, appearing to read 'Keith Lawson', with a long, sweeping underline.

Keith Lawson  
Senior Counsel – Tax Law  
Investment Company Institute  
1401 H Street, NW  
Washington, DC 20005  
202-326-5832  
lawson@ici.org

# NATIONAL FOREIGN TRADE COUNCIL, INC.

1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

February 20, 2013

The NFTC, organized in 1914, is an association of some 250 U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial and service activities. The NFTC therefore seeks to foster a level playing field in the international business arena by eliminating major tax inequities in the treatment of U.S. companies operating abroad. To achieve this goal, American businesses must be able to participate fully in business activities throughout the world, through the export of goods, services, technology, and entertainment and through direct investment in facilities abroad. Foreign trade is fundamental to economic growth.

The National Foreign Trade Council shares the recommendations regarding the India-U.S. bilateral tax relationship expressed in the attached

Sincerely,

A handwritten signature in black ink, appearing to read 'Catherine Schultz', is placed on a light gray rectangular background.

Catherine Schultz  
Vice President for Tax Policy  
National Foreign Trade Council  
[cschultz@nftc.org](mailto:cschultz@nftc.org)  
202-887-0278 ext. 2023



*Invested in America*

February 20, 2013

The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

SIFMA shares the recommendations regarding the India-U.S. bilateral tax relationship expressed in the attached letter and urges that those recommendations be followed.

Sincerely,

A handwritten signature in blue ink, reading "Ken Bentsen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kenneth E. Bentsen, Jr.  
Executive Vice President  
Public Policy and Advocacy  
Securities Industry and Financial Markets Association  
1101 New York Ave., N.W. 8th Floor  
Washington, D.C. 20005



**Software Finance & Tax Executives Council**

[www.softwarefinance.org](http://www.softwarefinance.org)

February 20, 2013

Mr. Sanjay Kumar Mishra  
Joint Secretary (Tax Policy & Legislation—II)  
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Room No. 147-C, 1st Floor,  
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India

Mr. Michael Danilack  
Deputy Commissioner (International), LB&I  
Internal Revenue Service  
1111 Constitution Ave., NW, M/S M3-370  
Washington, DC 20001  
United States

**Re: India-U.S. Bilateral Tax Relationship**

Dear Sirs,

The Software Finance and Tax Executives Council (SoFTEC) shares the recommendations regarding the India-U.S. bilateral tax relationship expressed in the attached letter and urges the following of those recommendations. SoFTEC is a trade association providing software industry focused public policy advocacy in the areas of tax, finance and accounting and is the voice of the software industry in those areas. I can be reached at (202) 486-3725 or [mnebergall@softwarefinance.org](mailto:mnebergall@softwarefinance.org) with any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "Mark E. Nebergall".

Mark E. Nebergall  
President  
Software Finance and Tax Executives Council



February 20, 2013

Founded in 1945, the United States Council for International Business (USCIB) is an international business association whose membership consists of top U.S.-based global companies and professional services firms from every sector of our economy, and with operations in every region of the world. USCIB promotes open markets, competitiveness and innovation, sustainable development and corporate responsibility, supported by international engagement and prudent regulation. With a unique global advocacy network encompassing the International Chamber of Commerce, the International Organization of Employers and the Business and Industry Advisory Committee to the OECD, USCIB provides business views to policy makers and regulatory authorities worldwide, and works to facilitate international trade and investment.

The United States Council for International Business (USCIB) shares the recommendations regarding the India-U.S. bilateral tax relationship expressed in the attached letter and urges that those recommendations be followed.

Sincerely,

Peter M. Robinson  
President and CEO



# USINDIA Business Council

February 20, 2013

Dear Sirs,

The U.S.-India Business Council (USIBC) was formed in 1975 at the request of the Indian and United States governments to advance two-way trade and deepen commercial ties. Today, USIBC is the premier business advocacy association comprised of nearly 400 of America's and India's top companies dedicated to enhancing the U.S.-India commercial relationship.

USIBC shares the recommendations regarding the India-U.S. bilateral tax relationship expressed in the attached letter and urges that those recommendations be followed.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Somers".

Ron Somers  
President  
U.S.-India Business Council