

Technology & Tax Series

September 01, 2020

TECHNOLOGY & TAX SERIES – ISSUE IV: FINTECH PART I: PAYMENT AGGREGATORS AND PREPAID INSTRUMENTS | BUSINESS MODEL CASE STUDY

FinTech is very wide and includes an array of technological enhancements such as mobile and web-based payment services, digital currencies (cyprocurrencies), blockchain technology, peer to peer lending, crowd funding, smart contracts, cloud computing, big data, Artificial Intelligence etc. In the global landscape, India has been a frontrunner in the FinTech space. As per various reports, India ranks second (after China) in terms of adoption of FinTech with an adoption rate of 87 percent (increased from 52 percent in the 2017 index). The efforts of the incumbent government and the RBI in terms of bringing about legal and policy changes to foster a conducive climate for FinTech has been crucial in India achieving this feat.

Some of the most noteworthy achievements of India in FinTech has been in the payments sector. Development of payments services such as Immediate Payments Service (IMPS), Unified Payments Interface (UPI), Bharat Interface for Money (BHIM), Bharat Bill Pay System (BBPS) etc. by the Government has formed the bedrock for developing a state-of-the-art national payments infrastructure in India. Digital payments have thrived in lockdown and are showing increasing adoption of digital payment methods by large sections of public.

In this context and in continuation of our 'Technology & Tax Series', we are pleased to announce the fourth issue of this series: 'Fintech Part I: Payment Aggregators and Prepaid Instruments | Business Model Case Study'. Being a wide topic including crypto and digital currencies, in this issue, we have limited the scope to only the business models of cross border payment aggregators and prepaid instrument issuers. We highlight how different tax outcomes, particularly on attribution under Pillar I principles, may arise due to operational differences of various products and the different models adopted. Further, we lay down the structural relationships as part of the case study to reflect several market realities noticed in such business models. We then analyze the impact of income-tax provisions inter-alia including provisions related to significant economic presence, attribution rules, transfer pricing, equalization levy, and provisions under tax treaties in relation to permanent establishment among other issues. We also delve into the potential implications for each model under the GST regime in detail.

With Fintech being at the forefront due to the phenomenal activity in this sector in recent times, we are certain that this report would be of interest to you. Please note that this report is only for private circulation and is available only on a request basis. Please send an email on [digitaltaxseries\(at\)nishithdesai.com](mailto:digitaltaxseries(at)nishithdesai.com) to request for a copy of the case study.

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