

# EY Tax Alert

## New Foreign Trade Policy, 2023 released by the Government

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### Executive summary

This Tax Alert summarizes the key highlights of New Foreign Trade Policy (FTP), 2023, released by the Minister of Commerce and Industry, Mr. Piyush Goyal on 31 March 2023, and the Handbook of Procedures (HBP), 2023 notified by Directorate General of Foreign Trade (DGFT) on 1 April 2023.

The key highlights of the FTP are:

- ▶ There is no end date to the new policy. Subsequent revision(s) shall be done as and when required.
- ▶ Approvals for various permissions under FTP shall now be online without any physical interface.
- ▶ Reduction in user charges for Micro, Small and Medium Enterprises (MSME) under Advance Authorization (AA) and Export Promotion Capital Goods (EPCG) schemes.
- ▶ Revamp of e-Certificate of Origin (CoO) platform for self-certification of CoOs as well as automatic approval of the same is proposed, where feasible.
- ▶ Paperless filing of export obligation discharge applications for greater use of technology.
- ▶ FTP benefits extended for export realizations in INR through special Vostro accounts setup as per RBI Circular.
- ▶ Common service providers (CSP) in Towns of Export Excellence (TEE) are now entitled for authorization under EPCG schemes.
- ▶ Facilitation of e-commerce export by extending all FTP benefits to such exports.
- ▶ Steps like introduction of Prime Minister Mega Integrated Textile Region and Apparel Parks (PM MITRA) scheme have been taken with respect to apparel and clothing sector, etc., to boost domestic manufacturing.
- ▶ Introduction of special one-time amnesty scheme for one-time settlement of default in export obligations.

## Background

- ▶ The new Foreign Trade Policy (FTP) 2023 was announced on 31 March 2023 by Minister of Commerce and Industry, Mr. Piyush Goyal.
- ▶ Consequently, the Directorate General of Foreign Trade (DGFT) notified Handbook of Procedures (HBP), 2023 on 1 April 2023.
- ▶ FTP 2015-20, which was to end on 31 March 2020, was extended due to COVID pandemic and volatile geo-political scenario till 31 March 2023.
- ▶ FTP 2023 has been announced to provide the policy continuity and a responsive framework.
- ▶ There is no end date to the new policy. Subsequent revision(s) shall be done as and when required.
- ▶ Changes have been made to move focus from incentives to tax remissions. The policy aims for greater facilitation through technology, automation and continuous process re-engineering.
- ▶ Focus has been placed on emerging areas like E-commerce exports, developing districts as export hubs, etc.

## Trade facilitation measures

- ▶ For ease of doing business, reduction in transaction cost and e-initiatives will be implemented as follows:
  - ▶ Automatic approval of various permissions under FTP based on process simplification and technology implementation.
  - ▶ Reduction in processing time and immediate approval of applications under automatic route of exporters:

Permission type	Current processing time	Automatic route processing time
Advance authorization (AA) issuance	3-7 days	1 day
Export Promotion Capital Goods (EPCG) issuance	3-7 days	1 day
Revalidation of authorizations	3 days - 1 month	1 day
Extension of Export obligation period	3 days - 1 month	1 day

- ▶ Reduction in user charges for Micro, Small and Medium Enterprises (MSMEs) under Advance

Authorization (AA) and Export Promotion Capital Goods (EPCG) schemes as follows:

License value (in INR)	User charges for non-MSMEs	Reduced User charges for MSMEs
Upto 1 crore	1 per 1000	100
1 crore - 10 crores	1 per 1000	5000
Above 10 crores	Cap at 100000	5000

- ▶ Revamp of the e-Certificate of Origin (CoO) platform proposed to provide for self-certification of CoOs as well as automatic approval of CoOs, where feasible. Initiatives for electronic exchange of CoO data with partner countries has been envisaged.
- ▶ In addition to the application process for issuance of authorization with respect to exports being paperless, all export obligation discharge applications are also to be paperless now.
- ▶ Validity period of EPCG Authorization has been increased from 18 months to 24 months.

## Export promotion initiatives

- ▶ Effective steps will be taken towards internationalization of Rupee by extending FTP benefits for rupee realizations through special Vostro accounts setup as per RBI Circular<sup>1</sup> issued on 11 July 2022.
- ▶ Common service provider (CSP) in Towns of Export Excellence (TEE) shall be entitled for authorization under EPCG scheme which can help in increasing the competitiveness of the cluster and provide enabling environment.

This will provide facility to exporters to not own all the infrastructure for conversion from inputs to final export products.

## E-commerce exports

- ▶ All FTP benefits have been extended to e-commerce exports.
- ▶ Necessary enablement of IT systems in various Departments of the Government will be undertaken in six months.
- ▶ Further, to streamline e-commerce export facilitation, guidelines are being formulated in consultation with other ministries.

<sup>1</sup> RBI/2022-2023/90 A.P. (DIR Series) Circular No.10

- ▶ Special outreach and training activities to be initiated for small e-commerce exporters.

## Sector specific benefits

- ▶ Apparel and garments
  - ▶ Prime Minister Mega Integrated Textile Region and Apparel Parks (PM MITRA) scheme has been added as an additional scheme eligible to claim benefits under CSP Scheme of EPCG.
  - ▶ Special AA scheme extended to export in this sector on self-declaration basis to facilitate prompt execution of export orders. Norms for the same will be fixed within fixed time frame.
- ▶ Dairy Sector
  - ▶ This sector to be exempted from maintaining Average Export Obligation (AEO). Support will be provided to upgrade the technology.
- ▶ Green energy
  - ▶ Measure have been taken for promotion of green energy exports by providing reduced Export Obligation requirement under EPCG Scheme in green technology products such as battery electric vehicles, vertical farming equipments, wastewater treatment and recycling, rainwater harvesting system and rainwater filters and green hydrogen.
- ▶ Others
  - ▶ Benefits of Self-Ratification Scheme for fixation of Input-Output Norms extended to 2 star and above status holders in addition to Authorized Economic Operators at present.
  - ▶ Fruits and vegetables exporters are being included for double weightage for counting export performance under eligibility criteria for Status House certification.

## Special one-time amnesty scheme for exporters

- ▶ Special one-time amnesty scheme has been announced for settlement of default in export obligation (EO) by AA and EPCG authorization holders.
- ▶ All pending cases of default in EO can now be regularized by the holder on payment of all customs duties exempted in proportion to the unfulfilled EO.
- ▶ Maximum interest is capped at 100% of such duties exempted. Further, no interest shall be payable on the portion of Additional Customs Duty and Special Additional Customs Duty.
- ▶ The scheme shall be available upto 30 September 2023.

- ▶ However, cases under investigation for fraud and diversion are not eligible for this scheme.

## Miscellaneous

- ▶ Importer-Exporter Code (IEC) can be surrendered only if all authorizations/ obligations have been closed or transferred to the IEC of new entity in case of transfer of business.
- ▶ Items covered under Chapter 7 and Chapter 15 of ITC (HS) Schedule 2, which are prohibited for export, may be allowed to be exported under the AA scheme, unless specifically disallowed.
- ▶ In case, any exporter fails to comply with the export control provisions of the Foreign Trade (Development and Regulations) Act, 1992 (FTDR Act); The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005; Customs Act, or any regulation related to SCOMET authorization, a voluntary self-disclosure option has been provided.

Exporter is liable for strict action under the provisions of the FTDR Act for any violation of SCOMET policy brought to the notice of DGFT in cases other than voluntary self-disclosure.

## Comments

- With no sunset date, the policy appears to be dynamic with long-term focus ensuring certainty and support to export industry in India as well as FDIs. Effective implementation of Policy will be key to its success.
- Automation of processes and paperless filing of applications may aid in ease of doing business objective of the Government. Businesses will need to adapt their systems to such digitized procedure.
- Reduction in user charges in case of AA and EPCG schemes for MSMEs is likely to reduce the operational cost and encourage further exports by such enterprises.
- While the establishment of e-commerce export hubs may facilitate significant growth in digital cross border trade, industry would expect business friendly procedures and guidelines for success of the government initiative.
- Focus on green energy products may result in the EV sector emerging as the flag bearer of the Indian export industry.
- The special one-time amnesty scheme may provide much needed relief to importers who could not fulfil export obligation under AA and EPCG schemes. Reduction in duty and interest payments could have provided further comfort to such authorization holders.

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