

- As per the existing jurisprudence on externalities, the judiciary is **generally satisfied with laws of externment** if they are in accordance with the **principles of natural justice**. However, considering that externalities infringe upon an **individual's liberty**, there is a pressing need to set the procedure right by mandating independent scrutiny by an impartial tribunal

**Instacurios:** Evolution of externment jurisprudence in India- [Reference](#)

#### Prelims link

- What is article 19?
- Grounds for restriction of article 19
- Differences between Fundamental rights, DPSP and Fundamental duties

- What are externment rules?

**Mains link:** Misuse of externment rules and ways to address them

*Topics: Functions and responsibilities of the Union and the States, issues and challenges pertaining to the federal structure, devolution of powers and finances up to local levels and challenges therein.*

## 1. What is the sovereign right to taxation?

#### Context:

The Indian government recently decided to withdraw [the retrospective taxation amendment](#) in the I-T Act introduced in March 2012.

#### Background:

The Indian government had in 2012 retrospectively amended the Income-tax Act. This was in response to a Supreme Court verdict, which had held that Vodafone cannot be taxed for a 2007 transaction that involved its purchase of a 67 per cent stake in Hutchison Whampoa for \$11 billion.

#### What does 'sovereignty' mean?

An act of sovereign power is one which cannot be prevented or annulled by any other power recognised by the constitution of the state.

#### What is the 'sovereign right to taxation' in India?

The Indian Constitution gives **the government the right to levy taxes on individuals and organisations, but makes it clear that no one has the right to levy or charge taxes except by the authority of law**. Any tax being charged has to be backed by a law passed by the legislature or Parliament.

#### How does scrapping [retrospective feature](#) help?

- With the removal of the retrospective feature a clear and predictable taxation law and intent has been presented to the companies which are expected to structure their assets accordingly while doing deals hereon.
- It also provides clarity for deals between companies of countries where these are not covered under any tax treaty benefits.
- The companies stand to gain by withdrawing the litigation with the arbitration (for cases before 2012) and then there will be a refund of any taxes that have been already paid or refunded in respect of any demands that have been adjusted.

**Insta Curious:** Do you know what Marginal Tax rate is? [Read Here](#)

#### InstaLinks:

#### Prelims Link:

- What is retrospective taxation?
- When was it introduced in India?
- Who can impose new taxes?

- Latest Amendments.

**Mains Link:** Discuss the issues associated with retrospective taxation in India.