

### INCOME TAX

- + Due date for submitting acknowledgement for the FY 2008-09 extended:** In respect of income tax returns filed online (without digital signature), the Board has extended the period for filing a copy of the acknowledgement from 90 days to 120 days or 31.03.2010, whichever is later. Further, the Board has indicated that in cases where the acknowledgement in Form ITR-V is not received, the tax payer may send another duly signed ITR-V form by speed post to CPC, Bangalore. Hitherto the same was required to be filed within 90 days from the date of online filing. *(Press release by CBDT dated 27.01.2010)*

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- + Adjustment of Advance Tax in respect of Fringe Benefits for Assessment Year 2010-11 against Advance Tax:** The CBDT has issued a circular clarifying that advance fringe benefit taxes paid (if any) for the FY 2009-10 would be considered as advance corporate tax paid in respect of the income for the FY 2009-10 (Circular No. 2/2010 dated 29.01.2010).

Several taxpayers had during June 2009 remitted their 1<sup>st</sup> Installment of advance tax on fringe benefits in accordance with the law prevalent at that point in time. Subsequently, vide Finance (No 2) Act, 2009 the fringe benefit tax levy was abolished with effect from 1st April 2009. Consequentially there existed an ambiguity on the manner in which the advance fringe benefit tax could be reclaimed from the Central Government. The CBDT has now clarified that the tax payer can adjust the advance fringe benefit taxes paid earlier for FY 2009-10 against the income tax payable for the FY 2009-10; or in case of tax payers having a loss, the same can claimed as a refund. *(Circular No 2/2010, Dated: January 29, 2010)*

- + Filing of objections against the Draft Order of under the DRP Scheme is optional:** The Ministry of Finance has clarified that filing of objections against the draft order of the assessing officer under the DRP scheme is optional. If the tax payer chooses not to file the objections, an appeal before the CIT (Appeals) may be filed later against the assessment order passed by the Assessing Officer. *(F. No. 142/22/2009-TPL (Pt. II) Dated: January 20, 2010)*

### CENTRAL EXCISE

- + Clarification on area based exemption for specified areas:** Area based exemption from payment of excise duty is available to units operating in the specified areas (such as the North-East region, Jammu & Kashmir, Himachal Pradesh and Uttarakhand). This relief is available either for industrial units newly set up in terms of the due dates as per the relevant notifications or to existing units which have undertaken substantial expansion by way of increase in installed capacity by atleast 25%. The Department has now clarified that the relief for substantial expansion needs to be measured only in relation to the capacity of the goods specified in the respective exemption notification and not to any other goods. *(Circular No. 912/02/2010-CX., Dated: January 22, 2010).*

- + Clarification on CENVAT credit for activities not amounting to manufacture:** It is known that when the activity undertaken does not amount to manufacture, there is not duty liability and hence the credit of CENVAT would also not be allowed. However, with a view to continue the CENVAT chain and to enable transfer of credits to the downstream users in the supply chain, there have been instances where the excise duty liability has been discharged on an activity not amounting to manufacture through use of CENVAT credits.

In this regard, it is clarified as follows:

- In case of activities such as connect rising, testing, repacking and relabeling of feeder cables, cutting of HR/CR coils into sheets or slitting into strips which do not amount to manufacture, the processors are advised not to avail / utilize CENVAT credit for discharge of liability.
- Where an assessee has paid excise duty on a product under the belief that the process is excisable and subsequently it is held by the Courts as not amounting to manufacture, the Central Government may issue an order for non-reversal of such credit in past cases and regularization of the credits availed.
- The circular further states that the department advise such assesseees, the apt position of the law and advise not to avail CENVAT credit on the inputs and not to discharge duty liability on the outputs.

*(Circular NO 911/01/2010-CX. Dated: January 14, 2010)*

## SERVICE TAX

- + Refund of service tax to exporters:** The service exporters, specifically the call center and BPO community, have made various representations with respect to difficulties faced in getting refund of service tax on input services. With a view to ascertain the causes for delays / rejections, the CBE&C has conducted various meeting with departmental officers to understand the impediments. In this regard, the CBE&C has now issued certain clarifications on technical and procedural impediments with a view to ease the efforts involved therein and to provide speed for processing the claims.

The CBE&C has clarified that:

- a nexus though indirect between the input service and the export service is sufficient to claim refund
- self declaration / certification by the auditors would suffice to establish the correlation between the input services and export services
- service tax credits accumulated from previous quarters may also be claimed during the current quarter and this would not require a separate application to be made, and
- liberal view should be taken while scrutinizing the contents of input service invoices

The above clarifications would be equally applicable to all such refund applications already made but are in process. *(Circular No. 120/01/2010-ST dated January 19, 2010)*

You could access our special communiqué on this circular at [http://accretiveglobal.com/kte\\_articles.html](http://accretiveglobal.com/kte_articles.html)

## VALUE ADDED TAX

**+ Use of self generated delivery challans restricted in Karnataka:** In a significant procedural amendment, the Government of Karnataka has notified that all dealers required to transport goods under the cover of a delivery note shall with effect from 01.01.2010 transport the goods only under the cover of an electronically generated delivery note in "Form VAT 505". The use of self generated delivery note in Form VAT 515 is hitherto restricted. (No.KSA.CR.228/2008-09 dated 31.12.2009).

**+ Rate/s of tax:**

Certain State Governments have changed the base rate of tax under the VAT laws. This action of the State Governments is a deviation from the in-principle agreement between States entered into at the time of implementation of VAT. This is likely to foster tax wars between States till such time the GST is implemented.

State	Description of goods	Revised rate of tax	Reference
Delhi	All goods liable to tax at 4% - other than declared goods	5% with effect from 13.01.2010	(Notification No. F.14 (16)/LA-2009/LJ/10/LCLAW/1) dt 06.01.2010 and (F.3 (23)/Fin.(T&E)/2009-10 dt 13.01.2010)
Andhra Pradesh	All goods liable to tax at the standard rate of 12.50%	14.50% with effect from 15.01.2010	(G.O.Ms.NO.35 dated 12.01.2010)
Punjab	All goods liable to tax at 4% - other than declared goods	5% with effect from 29.01.2010	(S.O. /P.A.8/2005/S.8/2010)

## FEMA

**+ Purchase of Immovable Property in India by Persons of Indian Origin:** Persons of Indian Origin can buy property in India subject to certain conditions. The Person of Indian Origin was defined as an individual, not being a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan AND who

- (i) at any time, held an Indian Passport or
- (ii) either of whose father or whose grandfather was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955.

Clause (ii) of the above definition is now amended to include mother or grandmother was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955). Consequently, the definition of person of Indian origin is enlarged. (RBI Circular No. 25/RBI Dated: January 13, 2010)

**+ Provisions in relation to remittance of salary earned by foreign nationals in India relaxed:** A foreign national resident in India and employed with a foreign company on deputation to the office /branch /subsidiary /joint venture in India of such foreign company; or an Indian citizen employed by a foreign company outside India, can remit the whole of his or her salary into a foreign currency account in a foreign bank outside the country provided that income-tax is paid on the entire salary as accrued in India. Earlier the individual was allowed to receive only upto 75% of the salary in foreign currency account with a bank outside India.

Further, now the foreign national resident in India being in employment with a company incorporated in India is allowed to remit the whole salary received in India in Indian Rupees with foreign currency account with a bank outside India provided that income-tax chargeable under the Income-tax Act, 1961 is paid on the entire salary accrued in India. [RBI/2009-10/288]

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