

INCOME TAX

+ Non-availability of Permanent Account Number (PAN) to trigger higher Tax Deduction at Source (TDS):

With effect from 1 April 2010, a new provision relating to TDS under Section 206AA under the Income Tax Act, 1961 will become applicable. The key features under the new provisions are:

- Where the PAN of the deductee is not available, then the rate at which tax would have to be deducted would be at the prescribed rate or 20%, whichever is higher.
- If the PAN provided to the payer is incorrect then it shall be deemed that PAN has not been furnished by the payee and higher rate of tax shall apply accordingly.
- In case of tax ruling applications, the Tax authorities are prohibited from issuing certificates for deduction at lower rate or no deduction unless the application bears the PAN of the applicant / payee.
- In order that no dispute regarding quoting / non-quoting of PAN or accuracy thereof arises, the law requires that the PAN be quoted in all correspondences, bills, vouchers and other documents shared between the parties.

It is to be noted here that the above referred provisions will also apply to all non-residents in respect of payments / remittances liable to TDS.

CBDT Press Release No.402/92/2006-MC (04 of 2010) dated 20.01.2010)

+ Erstwhile provisions for withholding tax compliances restored:

With a view to move closer to the electronic system, the CBDT had earlier proposed changes in the mechanism for remittance of tax, filing of returns and issue of certificates with effect from 01.04.2009. Broadly, this required obtaining of unique identification numbers for each of the transactions. However, the same were kept in abeyance. As a result, the tax payers were instructed to follow the erstwhile mechanism till such time the new provisions are implemented.

The CBDT has now amended the provisions to undo the changes proposed in 2009. Consequently, the erstwhile provisions have now been brought back into the statute. However, practically, the procedure and mechanism hitherto followed by the deductors will continue. *((First Amendment) Rules, 2010 (Notification No S.O. 424 (E) dated 18th February, 2010)*

VALUE ADDED TAX

+ Tax deduction at source by SEZ developer or Unit:

The Commissioner of Commercial Taxes has notified that a developer of any SEZ or a unit located in the SEZ shall deduct tax (VAT) at source equivalent to tax payable on such goods. Thereafter, the tax so deducted shall be remitted into the Government account and the deductor (SEZ developer / unit) shall issue a certificate to the deductee (seller of goods). This would be applicable only in respect of purchases on which the SEZ developer or unit is eligible for refund of input tax or is eligible to set off the input tax against its output tax. *(Notification No KSA.CR.165/09-1, Dated: February 22, 2010)*

CENTRAL EXCISE

+ Remittance of tax and filing of returns: Remittance through the internet banking mode and online filing of monthly / quarterly returns would be mandatory in all cases where the total amount of Central Excise paid (including amount paid by utilization of CENVAT credit) during the preceding financial year (2008-09) is Rs. 10,00,000 or more.

Hitherto, remittance of duty through the internet banking mode was mandatory if the total amount of central excise duty paid (excluding utilization of CENVAT credit) was Rs. 50,00,000 or more for the preceding financial year.

The effective date would be 01.04.2010. Thus, the returns / remittances for the period upto 31.03.2010 to be made on / after 01.04.2010 would also have to be done as above. (*Notification No 4/2010 Central Excise-NT, Dated: February 19, 2010*)

SERVICE TAX

+ Remittance of tax and filing of returns: Remittance through the internet banking mode and online filing of half yearly returns would be mandatory in all cases where the total amount of Service Tax paid (including amount paid by utilization of CENVAT credit) during the preceding financial year (2008-09) is Rs. 10,00,000 or more.

Hitherto, remittance of tax through the internet banking mode was mandatory if the total amount of service tax paid (including discharge by utilization of CENVAT credit) was Rs. 50,00,000 or more for the preceding financial year.

The effective date would be 01.04.2010. Thus, the returns / remittances for the period upto 31.03.2010 to be made on / after 01.04.2010 would also have to be done as above. (*Notification No 2/2010 Service Tax, Dated: February 19, 2010*)

FEMA

+ Export and import of foreign currency:

As per the existing FEMA Regulations, any person resident in India may take outside India or having gone out of India on a temporary visit, may bring into India (other than to and from Nepal and Bhutan) currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.5,000 per person. Now, to provide greater flexibility, the existing limit is increased to Rs. 7,500 per person. (*Circular No. 30/RBI Dated: February 01, 2010*).

+ External Commercial Borrowings (ECB) Policy – Liberalisation

As per the existing ECB procedures, any changes in the terms and conditions of the ECB after obtaining the Loan Registration Number (LRN) from RBI require the prior approval of the RBI. Accordingly, the requests of the borrowers for changes in the terms and conditions, such as, drawdown / repayment schedules, currency of borrowing and changes in designated Authorised Dealer (AD) bank, name of the borrowing company, etc. are referred to the Reserve Bank for necessary approval.

As a measure of simplification of the existing procedures, RBI has decided to delegate powers to the designated AD category-I banks to approve the following requests from the ECB borrowers, subject to specified conditions:

+ Changes / modifications in the drawdown / repayment schedule:

Designated AD Category – I banks may approve the requests, subject to the condition that the average maturity period, as declared while obtaining the LRN, is maintained. The changes in the drawdown / repayment schedule should be promptly reported to RBI. However, any elongation / rollover in the repayment on expiry of the original maturity of the ECB would require the prior approval of the Reserve Bank.

+ Changes in the currency of borrowing:

Designated AD Category - I banks may allow changes in the currency of borrowing, if so desired, by the borrower company, in respect of ECBs availed of, both under the automatic and the approval routes, subject to all other terms and conditions of the ECB remaining unchanged. The proposed currency of borrowing should be freely convertible.

+ Change of the AD bank:

Designated AD Category - I banks may allow change of the existing designated AD bank by the borrower company for effecting its transactions pertaining to the ECBs subject to No-Objection Certificate (NOC) from the existing designated AD bank and after due diligence.

+ Changes in the name of the Borrower Company:

Designated AD Category - I banks may allow changes in the name of the borrower company subject to production of supporting documents evidencing the change in the name from the Registrar of Companies.

(Circular No. 33/RBI Dated: February 9, 2010)

UNION BUDGET 2010

- + The Union Finance Minister, Dr. Pranab Mukherjee presented the budget proposals for 2010-11 on 26th February 2010. The government needed to do a balancing act of sustaining growth, managing the fiscal deficit and controlling the inflationary trends. In this backdrop, we have analysed the tax proposals in our special communiqué titled "Growth, Fiscal Consolidation, and Inflation – Calibrating the Taxes". The same can be accessed at www.accretiveglobal.com.



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