

# Large Taxpayer Units: Functions, Structure and Procedure

The Hon'ble Finance Minister, Shri P. Chidambaram, in his speech on 28<sup>th</sup> February 2005, while introducing the Budget 2005-06, proposed to follow international practice and establish Large Tax Payer units (LTUs). These units are intended as a measure of facilitation to provide a single window service to large taxpayers. To begin with, these units are expected to be set up in major cities so that large taxpayers; who pay corporate tax, income tax, excise duties or service tax, will be in a position to avail of such quality service. The Finance Ministry has published a detailed write-up to provide information to the readers. Members may advise their clientele, in suitable cases, to get benefit from this facility.

## I. Preface

A number of tax administrations in the world have established special systems to administer their large taxpayers. In the 1950s and 60s, several OECD countries introduced special tax audit operations for large operations. A more recent trend, especially in developing and transitional countries, has been to set up full-fledged LTUs that are responsible for most tax administration functions relating to such taxpayers, including collection, enforcement of tax arrears and audit. Some developed countries (such as Australia, the Netherlands, New Zealand, the United Kingdom, the United States of America) have reorganised their tax administrations around different types of taxpayers, or taxpayer segments.

In Asia, 13 countries have established LTUs at different points of time, including our neighbours Pakistan, Sri Lanka, Bangladesh and Nepal. The LTUs functioning in these countries have achieved a fair deal of success in meeting their objectives and have universally led to increased satisfaction amongst tax payers by reducing their compliance and transaction costs and in bringing more efficiency in tax administration.

Following the international practice, the Hon'ble Finance Minister in his Budget Speech

2005-06, announced the proposal to set up LTUs, which will act as single window facilitation centres for all large entities paying excise duty, corporate tax/income tax and service tax.

The proposal has since been worked upon in the Government and wide-ranging discussions have also been held with the trade and industry bodies/associations. It has been decided to establish LTUs in India in a phased manner. LTUs will be established initially in five large cities of the country, viz. Bangalore, Chennai, Delhi, Kolkata and Mumbai and will be made operational early in the financial year 2006-07.

## II. Definition and Eligibility

### *What is an LTU?*

LTUs are self-contained tax administration offices under the Department of Revenue acting as single window clearance point for all matters relating to central excise, income tax/corporate tax and service tax. Entities will be able to file their excise returns, direct tax returns and service tax returns at such LTUs and for all practical purposes will be assessed to all these taxes at these LTUs. Such units will be equipped with modern facilities and trained manpower to assist the tax payers in all matters relating to direct and indirect tax, duty payments, filing

of documents and returns, claim of rebates/ refunds, settlement of disputes etc. The scheme aims at reducing tax compliance cost and delays, and bringing out uniformity in the matters of tax/duty determination. An eligible taxpayer can opt to avail of the facilities under the LTU scheme. It is expected that large taxpayers, especially those having multi-location units/ factories, will opt for the scheme, to reap the benefits it offers.

**Eligible Taxpayers:** Every taxpayer (single PAN-based entity),

- (a) who is presently subject to payment of income tax/corporation tax under the Income-tax Act, 1961 in any of the five cities (Bangalore, Chennai, Delhi, Kolkata or Mumbai), and
- (b) who has paid, during the financial year 2004-05,
  - (i) Excise duty in cash (account current) of Rs. 5 crore or more; or
  - (ii) Service tax in cash (account current) of Rs. 5 crore or more; or
  - (iii) Advance (income) tax/corporation tax of Rs. 10 crore or more,

is an eligible taxpayer for the purposes of being served by the LTU.

### III. Benefit/Facilities Offered

- (i) Large taxpayers (single PAN-based entity) can file all their direct tax, excise and service tax returns at a single place, irrespective of the geographical location of their units.
- (ii) All other documents, correspondence, intimations such as export/import related central excise documents, bonds, proof of exports, etc. pertaining to all these establishments can be filed with the LTUs.
- (iii) To begin with, the returns of the company and its units can be filed electronically and the payment of tax/duty can

be made electronically. Gradually, these units will be provided with the required software and infrastructure so that other documentations, such as filing of rebate/ refund claims, filing of intimations or permission, reply to notices can also be done electronically.

- (iv) Digital signature certificates can be issued on request by the Department, free-of-charge, to facilitate electronic transactions. There will be no requirement for filing a parallel paper document.

Upon joining the LTU, an officer of the level of Assistant/Deputy/Joint/Additional Commissioner will be appointed as a 'Client Executive' for each taxpayer. The taxpayer can remain in touch with the client executive for assistance in any/all tax matters (for example for filing returns, classification issues, intimation matters relating to refund/rebate, exports, other claims, etc). This will ensure that the taxpayer need not interact with different sections/officers of the LTU.

- (v) Once a taxpayer opts for the scheme, the erstwhile jurisdictional field officers (including preventive units of the erstwhile Excise Commissionerates) will not *suo moto* visit its units or interact with them for any issues arising. However, certain procedures under the Central Excise Rules, requiring physical control and verification of premises or documents, will be carried out by the local Commissionerates under the express directions of the LTU. Further, excise and service tax matters, on-going investigations, appeals or provisional assessments, which had commenced prior to the large taxpayer opting for LTU, will continue to be with the erstwhile jurisdictional Commissionerate.

- (vii) Cases where show cause/demand notices have been issued by the erstwhile jurisdictional officers, but not adjudicated, will stand transferred to the LTU and officers posted at the LTU will adjudicate the same. All pending matters with the jurisdictional Commissionerates of Income Tax, other than those with CIT (Appeals) will stand transferred to the LTU.
- (viii) The taxpayer will have the option to transfer any excess CENVAT credit (of central excise duty or service tax) accumulated in one manufacturing unit or service providing unit to any other eligible unit of his choice through a simple mechanism. Necessary changes in the CENVAT Credit Rule, 2004 are being made.
- (ix) The taxpayer will have the facility of removing capital goods and inputs from one unit to any other unit of its choice, without payment of duty/reversal of credit through a simple method. Similarly the finished product of one unit can be transferred to another unit, without payment of duty, provided the second unit uses the products as inputs and pays excise duty on the finished goods manufactured using such inputs.
- (x) The taxpayers will not be subjected to mandatory audit. The selection of a taxpayer for audit will be based on 'risk assessment'. The Department will ensure that audit schedules are drawn in consultation with the taxpayers so as to cause minimum inconvenience.
- (xi) The taxpayers will do self-sealing in case of all exports. In order to ensure that there is no delay in examination and sealing by the officer, the requirement of examination/sealing by the officers at the units of taxpayer will be dispensed with.
- (xii) It will be ensured that there is uniformity in practice as regards classification, valuation, credit availment and similar other issues, for various units of a taxpayer. Trade notices will be issued centrally by the LTU.
- (xiii) The rebate/refund claims will be disposed off within 30 days of their filing, if the claims filed are in order.
- (xiv) With respect to income tax specifically, facilities will be provided for online submission of returns, e-payment of taxes, electronic credit of income-tax refunds, and online filing of grievances and appeals.

#### **IV. Functions**

The LTU will perform all the statutory functions presently mandated under the Income tax Act, 1961, Wealth Tax Act and Rules made thereunder (in respect of direct tax matters), under the Central Excise Act, 1944 and Rules made thereunder (in respect of central excise matters), Customs Act/Rules (in respect of functions handled by excise authorities) and under the Finance Act, 1994 and Service Tax Rules (in respect of service tax matters).

#### **V. Organisational structure**

Each LTU will be manned by officers and officials drawn from the Customs and Central Excise Department and the Income Tax Department. The LTU will be headed by a Chief Commissioner drawn from either of the two departments who will be the overall in-charge of the LTU for all matters pertaining to its functioning. Under the Chief Commissioner, will be commissioners who will perform the administrative and statutory functions in respect of the three taxes. Under each Administrative/Executive Commissioner, officers of the rank of Additional/Joint Commissioners will be placed as Range heads who, in turn, will be supported by Deputy/Assistant Commissioners and other supervisory and managerial staff.

## VI Procedure

### i) Application

An eligible large taxpayer must submit a 'Consent Form' (as per Annexure enclosed) when opting for the LTU scheme. The Consent Form may be sent to: The Deputy Secretary, Central Board of Direct Taxes, Ministry of Finance, Room No. 243-F, North Block, New Delhi or faxed at 011-2309 3902. The form can also be e-mailed at ltu@incometaxindia.gov.in. On acceptance of the Consent Form, the taxpayer shall be issued an LTU membership number by the concerned LTU.

### ii) Registration

No new registration will be required. However, in case a new factory/service provider/registered dealer comes up after the taxpayer has opted for LTU scheme, new registration has to be taken from the LTU.

### iii) Filing of Returns

The taxpayer will be required to file the direct taxes returns in the LTUs with respect to excise matters. Individual returns will be filed for all units (as is being done presently). However, all the unit returns will be filed with LTU office. Option will be given to the taxpayer for e-filing the returns.

### iv) Payment of Taxes

The facility for payment of the three taxes through the Internet will be provided by the LTUs. The excise duty/service tax payable will be paid by the taxpayer separately for individual units. As mentioned however, the taxpayer will have the option to transfer any excess CENVAT credit (of central excise duty or service tax) accumulated in one manufacturing unit or service providing unit to any other eligible unit of his choice under cover of a transfer voucher. The credit balances at both the units will have to be suitably adjusted by the respective unit. In case duty/service tax is paid in excess of the amount due, the taxpayer can adjust it against

his future tax/duty payments. For this purpose he shall take credit of the excess tax/duty, as if the same was tax/duty paid on his inputs, capital goods or input services. However, these adjustments will be allowed only under the same accounting head. In case a taxpayer wants to transfer inputs, capital goods or finished goods from one of his units to another, the same can be done without payment of duty on a challan. Both the units will have to maintain records showing receipt and dispatch.

### v) Refunds

The rebate/refund claims will be disposed off within 30 days of their filing, if the claims filed are in order. In respect of income tax, facility for direct credit of refunds to the bank account of taxpayers will be made available.

### vi) Audit and Scrutiny

The unit-wise audit shall be conducted by the LTU. While there will be no 'mandatory' audit, case selection for audit will be based on 'risk assessment' and an attempt will be made to ensure that audit schedules are made in consultation with the taxpayers so as to cause minimum inconvenience. Cases for scrutiny under the Income Tax Act will be similarly picked up on the basis of scientific risk management procedure.

### vii) Adjudication/Appeals

In respect of direct taxes, all appeals presently pending with the CIT (Appeals) will be heard and disposed by them. All future appeals will lie with the CIT (Appeals) in the LTUs. Facilities for online filing of appeals will also be provided.

In respect of central excise/service tax matters, in cases where show cause/demand notices have been issued by the erstwhile jurisdictional officers, but not adjudicated, will stand transferred to LTU and the same will be adjudicated by officers posted at LTU. The process of adjudication will be completed within 3 months of the issuance of the notice,

wherever possible. The erstwhile jurisdictional Commissioner (Appeals) will adjudicate the appeals pending with them. However, all future appeals will be filed with Commissioner (Appeals), LTU. In case any duty/tax has been short paid and a notice has to be issued for its recovery, the LTU will first inform the taxpayer about his liability before issuance of any demand notice. In case the taxpayer pays up the duty/tax/interest within a period of 15 days from such intimation, no notice will be issued.

#### **viii) Export**

All other documents, correspondence intimations such as export/import related central excise documents, bonds, proof of exports etc. pertaining to the establishment can be filed with LTUs. The taxpayers will be eligible for self-sealing in case of exports. In order to ensure that there is no delay in examination and sealing by the officer, the requirement of examination/sealing by the officers at the units of taxpayer is dispensed with.

#### **ix) TDS Returns**

All companies are presently filing the quarterly TDS statements and the annual TDS returns electronically through the designated intermediary. The same system will continue after they join the LTU. However, jurisdiction over the TDS returns will shift from the local Commissionerates to the LTU.

#### **ix) General Procedure**

In case of any procedure or difficulties that do not have revenue implications, the Chief Commissioner in-charge of LTU can prescribe procedures, methods or relaxations to facilitate tax compliance by the taxpayer.

### **VII. Interactive Forum**

A website is being developed enabling taxpayers to access all information relating to the functioning of LTUs, avail e-services being offered in respect of the three taxes, submit miscellaneous applications and post their views/suggestions. At present, taxpayers can e-mail their views at ltu@incometaxindia.gov.in.

Annexure

### **CONSENT FORM FOR COMPANIES PARTICIPATING IN LTUs**

Ms \_\_\_\_\_, hereby gives consent to be administered as a large taxpayer under the Large Taxpayer Unit situated at \_\_\_\_\_ (Bangalore/Chennai/Delhi/Kolkata/Mumbai). Following information regarding the company is furnished.

1. PAN:
2. Address as in last income-tax return filed:
3. Jurisdiction of Assessing Officer before whom income-tax return is filed:
4. Details of registrations (under central excise and service tax Rules):

Name and address of the Unit	Excise Registration No. and particulars of present jurisdiction	Dealer Registration No. and particulars of present jurisdiction	EOU Registration and particulars of present jurisdiction	Service Tax Registration No. and particulars of present jurisdiction	Input Service Distribution Registration No. (ISDN) and particulars of present jurisdiction	Others*(please specify) including particulars of present jurisdiction

(\* including exempted units)

5. Details of TAN allotted and TDS returns filed in the following format

S. No.	Name and address of the Deductor	TAN	TDS effected under section(s) of the IT Act, 1961	Jurisdiction of CIT before whom TDS return filed
1				
2				

6. Details of total taxes paid by the company during financial year 2004-05

- (i) Excise duty through cash (account current)
- (ii) Service tax through cash (account current)
- (iii) Advance tax (income tax/corporation tax)

7. Name, designation, phone and fax numbers and e-mail address of the contact person(s) of the company (to be authorised by the company)

(Signature)

(Name and Designation of the person authorised u/s 140 of the IT Act, 1961)

## Aspects of International taxation- A Study

The Fiscal Laws Committee is happy to inform the members that it has brought out a new publication "Aspects of International Taxation- A Study" which contains a detailed study of the issues connected with international taxation.

The advent of economic reforms in our country has resulted in the rapid growth in Indian economy. There has been tremendous increase in the activities of multinational corporations and other non-residents in the manufacturing and servicing sector of the economy. Outsourcing which was confined only to non-core activities has been expanding its scope to cover even core and strategic activities of the foreign corporates. These developments in the frontiers of business have naturally resulted in the emergence of taxation issues which have cross border implications. This publication of the Fiscal Laws Committee covers all the relevant issues relating

to international taxation. Broadly, it covers the following topics:

1. Economic analysis of international taxation.
2. Broad features of Income-tax Act, 1961
3. Taxation of Non-residents.
4. Double taxation
5. Double taxation avoidance agreements
6. Transfer pricing
7. Advance ruling
8. Contentious issues
9. Appendices
  - a) OECD model convention and UN model convention
  - b) Synopsis of important circulars
  - c) Synopsis of important judgements and advance rulings.

The price of the publication is Rs.400/-The same is available at the headquarters and all regional offices of the Institute.