Government Bets on New Tax Code to Bring Back Black Money

With the growing pressure for steps to tackle unaccounted income hidden abroad, the government has identified the proposed Direct Taxes Code (DTC) as a significant tool in this regard. A comprehensive strategy shared by the finance ministry at the highest level of the government last week outlines the DTC provisions to help tackle this problem. The DTC is proposed to be implemented from April next year. According to the plan, for the purpose of levy of wealth tax, taxable assets have been defined to include deposits in banks outside India in the case of individuals, unreported bank deposits in the case of others, interest in a foreign trust or any other entity (other than a foreign company) and any equity or preferential shares held in a controlled foreign company. Further, the General Anti-Avoidance Rule (GAAR) has been incorporated to deal with aggressive tax planning devises used to circumvent tax laws. Specific Controlled Foreign Company (CFC) rules have been incorporated to bring into the tax net all passive income earned by residents from substantial shareholding in companies situated in low tax jurisdictions. A reporting requirement has also been introduced obliging resident assesses to furnish details of their investment and interest in any entity outside India. As part of its ongoing exercise to gather information on black money from other countries, the income tax department has collected diverse information from countries with which India has signed Double Tax Avoidance Agreements of details of payments received by Indian citizens in various countries, besides information of LGT accounts.

(***Source:*** *http://www.indianexpress.com/)*

Economy Likely to Grow by About 8.5 Per Cent in FY12: PMEAC

In the backdrop of the RBI's tight monetary policy and high inflation, Chairman of Prime Minister's Economic Advisory Council (PMEAC) C Rangarajan has said India's economic growth in the 2011-2012 fiscal is likely to be about 8.5 per cent, lower than the Budget projection. "I believe (it would be closer to) 8.5 per cent," he said at an Organisation for Economic Cooperation and Development (OECD) event. In his Budget speech, Finance Minister Pranab Mukherjee had pegged economic growth for 2011-2012 at 9 per cent. However, the Reserve Bank, in its monetary policy in May, said that GDP growth during 2011-2012 would be only around 8 per cent. Mr. Rangarajan, however, exuded confidence that India has the potential to clock GDP growth of 9 per cent in the medium term. Mukherjee, too, said recently that the growth drivers of the country were intact, as the government aims at GDP growth of 9 per cent to 9.5 per cent during the XII Five-Year Plan, starting April, 2012.

(***Source:*** *Press Trust of India)*

SEBI Plans Independent Auditor for IPOs

The Securities and Exchange Board of India (SEBI) is contemplating introducing a process audit to be carried out by an independent auditor of initial public offerings or IPOs. The auditor would examine the procedures followed by registrar and transfer agents responsible for processing applications and maintaining records of allotted shares during a public issue. As per the current practice, exchanges obtain and upload data provided by registrars. But there is no way of verifying whether due and uniform process has been followed in all the cases, such as whether discarded applications have been rejected by following the uniform policy. Currently, different registrars follow different processes during the execution of an IPO. An independent auditor would check whether the correct processes have been followed and submit a report to the exchanges as well as the merchant banker, said a person familiar with the matter, declining to be identified. The timelines for IPOs are also being crunched for intermediaries. SEBI has reduced the time between the close of a public issue and listing on exchanges from 22 to 12 days, which may be contributing to errors, experts said. SEBI seemed disinclined to make such a process mandatory because of the increase in the costs for coming out with an IPO, but it has said that exchanges could look to introduce the same on a voluntary basis, according to a source.

(***Source:*** *http://beta.profit.ndtv.com/news)*

PMS Gains Should be Taxed at 15 Per Cent and Not 30 Per Cent: ITAT

Gains from portfolio management services (PMS) should be taxed at a lower rate, according to Income-Tax Appellate Tribunal (ITAT), a quasi-judicial body. In a recent ruling, the Mumbai bench of ITAT said that gains arising from PMS transactions are capital gains and not business profits. Short-term capital gains are taxed at 15 per cent, against 30 per cent for business income. While the tax department had laid down the features to differentiate between the two kinds of transactions, there were grey areas that left room for interpretations by assessing officers. Thanks to conflicting rulings and views, the issue sparked multiple legal disputes in the past few years. PMS, offered by brokerages and fund houses, are sold to HNIs who are willing to take extra risks. PMS industry handles funds worth ₹20,000 crore for more than 70,000 rich clients. The ruling is expected to cheer fund managers as well as investors. It supported the proposition that an investment portfolio managed by a fund manager is an investment asset in the hands of the tax payer. The gains derived by the taxpayer from the sale of securities belonging to such an investment portfolio should be treated as capital gains. But while the ruling favours the concerned investor in this particular case, it is not clear whether the tribunal view can serve as a benchmark for future disputes. Tribunal added that whether the assessee is engaged in the business of dealing in shares or investment in shares has to be determined according to the circumstances. The issue has become highly litigious, owing to a plethora of conflicting rulings on the matter. Indian courts have ruled that one would need to consider multiplicity of factors before formulating a view."

(***Source:*** *http://www.thehindubusinessline.com/)*

Tax Exemption on Postal Savings Account Interest Capped at ₹3,500

People will now have to pay tax on interest earned beyond ₹3,500 on a postal savings bank account. In a recent decision, the Central Board of Direct Taxes, the

apex direct taxes body, withdrew the blanket exemption enjoyed hitherto by the scheme. The exemption will be available only on interest earned up to ₹3,500 in case of individual accounts and ₹7,000 in case of joint accounts from the current fiscal year itself. Experts say some of the concessions granted earlier had to be reviewed to see if they were in line with the current economic reality or had outlived their utility.
(***Source:*** *http://economictimes.indiatimes.com/)*

SEBI for Disclosures, Regulation in Non-Disruptive Manner

The Securities and Exchange Board of India (SEBI) Chairman, U.K. Sinha has stressed the need for more disclosures and regulation in a non-disruptive manner in the mutual fund industry and asked the industry to simplify the initial public offering (IPO) process. SEBI is looking into distributor regulation, but not in a disruptive manner. It will be for limited number of large distributor and will be a disclosure-based system. If we set the rules of games and apply it uniformly, it will help the industry, Mr. Sinha said. He was speaking at the seventh edition of the national CII Mutual Fund Summit 2011, with the theme Indian mutual fund industry: distribution spectrum in a changing business environment, a flagship event of Confederation of Indian Industry (CII).
(***Source:*** *http://economictimes.indiatimes.com/)*

Present Tax Growth to Continue: Finance Secretary

Central receipts from direct taxes in the first two-and-a-half months of the current financial year till 15th June registered a 27.3 per cent growth in spite of higher base effect over the corresponding period last year, and as against the 26 per cent growth targeted for the full year. Disclosing this recently, Sunil Mitra, finance secretary, said he was confident of sustaining the initial tax growth till the last quarter of the current fiscal. This was enough to meet all the obligations, including clearance of total tax refund payouts amounting to ₹105,000 crore due for the last two years, he added. According to Mitra, gross tax collections during 1st April to 15th June stood at ₹75,521 crore, even though the corresponding period in last year witnessed unusually high rate of growth.
(***Source:*** *Press Trust of India)*

Frauds Go Undetected for Longest Period in Asia: Survey

Fraudsters go undetected for a longer duration in Asia, with a survey revealing that frauds in the region sometimes do not come into the light for ten years or more. In Asia, it takes longer to detect frauds than any other region in the world, says a survey report of a global consultancy firm. "The duration of fraud prior to detection in Asia is an average of five years, with 16 per cent of frauds going undetected for 10 years or more, compared to 4.2 years in North America and 3.7 years in Western Europe," the survey report said. In India, a whopping 88 per cent of frauds are not communicated while enforcement action is initiated in one-quarter of cases and disciplinary action is taken in 25 per cent of investigated cases, according to the report. The findings are based on research of 348 actual fraud investigations carried out by the firm in 69 countries and many of the cases have never been made public. "The 2011 survey data reveals a slight decrease in the internal disclosure of fraud, down from half of all cases in 2007 to 46 per cent. "Full disclosure of details fell from 35 per cent in 2007 to 13 per cent in 2011. India [88 per cent of frauds not communicated] and Eastern Europe [72 per cent] have least propensity to reveal details of fraud, while the most transparent countries are South Africa, Australia and New Zealand," it noted. Corporate fraudsters are typically male in the age group of 36 to 45 years and often commit fraud against their own employer.
(***Source:*** *http://economictimes.indiatimes.com/)*

India Asks Mauritius to Re-work Tax Treaty

India has made a fresh request to Mauritius to re-work an over three-decade-old tax treaty that spares FIIs routing their investments through the island nation from paying capital gains tax on the sale of Indian shares. "Mauritius has agreed to participate in the joint working group (JWG) which lends hope that the island nation would agree to rework the tax treaty. We have sent our agenda for discussion and suggested a few dates in July and August. We want to re-work the treaty on the same lines as the other double taxation avoidance agreements (DTAA) that we are entering into now or are under renegotiation," said Sunil Mitra, Finance Secretary. This means that India will push for imposing capital gains tax on Mauritius residents on the sale of Indian shares. This would bring them at par with domestic investors who pay a ten per cent capital gains tax on shares sold within a year of purchase. "We are insisting on source-based taxation of capital gains in our new DTAAs and the older ones that are being re-negotiated to ensure that India gets a due share of tax revenues," said a senior government official. India also wants to have safeguards to curb treaty shopping, a practice where the resident of a third country enjoys the beneficial tax treatment of the Indo Mauritius treaty. There is also a widespread perception that some Indian investors indulge in round-tripping - the practice of taking money out of India and bringing it back through the Mauritius route.
(***Source:*** *http://www.hindustantimes.com)*

India Inbound M&A Volume Touches $23 bn This Year

India's Inbound Mergers and Acquisition volume has surged to $23.4 billion this year with the United Kingdom emerging as the top acquirer into India. According to global deal tracking firm Dealogic, India inbound M&A volume has surged to $23.4 billion till last week, slightly behind the record volume announced in the same period of 2007. The United Kingdom has emerged as the top acquirer into India with deals worth $15 billion, much more than the corresponding period last year, when the year-to-date inbound deal volume stood at $151 million, the report said. The top acquirer nations into India so far this year were the UK, which was responsible for 64 per cent of inbound M&As, followed by the United States (17 per cent), Germany (6 per cent), Japan (4 per cent), Denmark (3 per cent).
(***Source:*** *http://www.business-standard.com/india/)*