

Transfer of Completed Immovable Property Exempt from Service Tax

For long there was a debate around when a developer should charge service tax to a home buyer while selling the property—when the property is being constructed, or even after it is finished and occupancy certificates received. Resolving the issue, the Ministry of Finance has issued a circular, stating that developers should not levy service tax on sale of flats and apartments once occupancy certificate is received but completion certificate is not. In its statement, the ministry stated, “...that sale of flats/dwellings, etc., where the entire consideration is received after issue of occupancy certificate by Brihanmumbai Municipal Corporation (BMC), leading to a mere transfer of title in immovable property, falls outside the definition of “Service” provided in Section 65B (44) of the Finance Act, 1994, and is therefore, not taxable.” In many projects, the developer may get the occupation certificate phase-wise, and the completion certificate once the whole project is completed.

(Source: <http://www.business-standard.com/>)

Plans to Rewrite Direct Tax Laws

The government has set in motion the process of rewriting income tax laws to bring them in sync with the contemporary Indian economy. It has constituted a 10-member committee to overhaul the provisions of the Income-Tax Act (I-T Act), 1961 with the aim of reducing litigation arising from ambiguous drafting of laws. The deadline for the committee has been staggered, with the first batch of recommendations due on 31 January 2016, so that they can be incorporated in the Finance bill to be presented along with the Union budget for 2016-17. “We have, over the last few months, been resolving a lot of past issues and now time has come to look at some provisions of the I-T Act to look at how their drafting quality can be improved in order to avoid ambiguity so that everybody is certain as to what the Act itself says,” Finance Minister Arun Jaitley said recently. The move is likely to provide relief to both domestic and foreign investors who have been vocal about the lack of clarity in Indian tax laws and the subsequent prolonged litigation caused by it. Around Rs.4-5 trillion is estimated to be locked up in litigation at various courts and

appellate authorities. The move also comes in the backdrop of the rapid rise of e-commerce in India and the consequent need to put in place tax regulations to govern online marketplaces.

(Source: <http://www.economictimes.com>)

e-Sahyog Pilot Project Launched

The Finance Minister Arun Jaitley has recently launched an "e-Sahyog" pilot project which furthers the Income Tax Department's commitment to work in an e-environment and reduces the need for the taxpayer to physically appear before tax authorities. The "e-Sahyog" project is aimed at reducing compliance cost, especially for small taxpayers. The objective of "e-Sahyog" is to provide an online mechanism to resolve mismatches in Income-tax returns of those assesses whose returns have been selected for scrutiny, without visiting the Income Tax Office. Under this initiative the Department will provide an end to end e-service using SMS, e-mails to inform the tax assesses of the mismatch. The taxpayers will simply need to visit the e-filing portal and log in with their user-ID and password to view mismatch related information and submit online response on the issue. The responses submitted online by the taxpayers will be processed and if the response and other information are found satisfactory as per automated closure rules, the issue will be treated as closed. The taxpayers can check the updated status by logging in to the e-filing portal. The Finance Minister has also inaugurated a drive to provide public service at peoples doorstep by holding "special PAN camps in remote areas".

(Source: Press Information Bureau)

India to Tie Up with G20, OECD

India is set to make major changes in its Income Tax Act and sign a multilateral agreement with G20 and OECD nations to prevent the corporate practice of showing large parts of global profits in low tax countries and tax havens instead of the country where economic activity takes place. The government would sign a legal instrument with nearly 90 countries as early as 2016 to counter tax avoidance strategies of corporations, including abuse of tax treaties such as the one with Mauritius. These nations would also take

coordinated measures to bring digital economy under the tax net, tighten disclosures of cross-border transactions among related group firms, tax the profits held abroad without repatriation and tighten the definition of a company's business presence in a country. The 15 steps announced by OECD, a global thinktank on economic policy, are the outcome of its project on tax Base Erosion and Profit Shifting (Beps). Department of Economic Affairs Secretary Shaktikanta Das said: "Our officers are part of the OECD working groups and India's views are duly reflected in the report." Revenue secretary Hasmukh Adhia also said India was very much in support of the Beps project.

(Source: <http://www.expressindia.com>)

New Rules to Reduce TP Disputes

The government has issued the final rules to incorporate range concept and use of multi-year data in transfer pricing calculations to reduce litigation and bring Indian laws in line with international practices. The Income Tax Department had issued the draft of the rules in May inviting stakeholder comments. The new regime will be applicable for calculating the arm's length pricing of international transactions and specified domestic transactions from April 1, 2014, the finance ministry has said. Tax officials have elaborated rules to fix these prices to ensure companies pay appropriate tax. Most rules are based on how these goods or services would be priced if the transaction was at an 'arm's length' or between unrelated entities. Transfer pricing is one of the main reasons for tax disputes in India. The tax department has made these changes to provide more clarity. "The use of range concept, being a statistical tool, enhances the reliability of analysis undertaken for computation of ALP (arm's length price)," the finance ministry said in a press release. Essentially, after comparing prices with that of comparable companies, if transfer prices shown by the assessee company are within a range, the tax authorities will accept the pricing. This will help reduce adjustments to only cases where transfer prices are outside the range. The new rules also provide for use of multi-year data, which will take care of annual fluctuations.

(Source: www.financialexpress.com)

Govt May Introduce TDS for Certain Services under GST

The government may be looking to introduce tax deducted at source (TDS) for certain services under the goods and services tax (GST)—a move that is likely to increase compliance requirements by companies, plug leakages and boost revenue collection. Most states deduct TDS under value-added tax for some specific areas like work contracts to ensure that small suppliers are not able to evade taxes, but there is no such TDS for service tax at present. In its draft report on the filing of tax returns under the GST made public recently, the government introduced a returns form for TDS deducted by purchasers at the time of payment to suppliers. The report went on to add: "The GST law may contain a provision for TDS for supply of certain goods and/or services to specified categories of purchasers who will be obligated to deduct tax at a certain percentage from the payment due to the suppliers." This is not the first attempt by the government to introduce TDS in service tax—the government had floated this idea in 2011, but shelved it after opposition from industry.

(Source: <http://www.business-standard.com/>)

CBDT Clarifies on Interest Earned by banks on Investments in non-SLR Securities

Accepting the Supreme Court's stance, the Central Board of Direct Taxes (CBDT) has clarified that interest earned by banks on investments in "non-SLR" securities will be taxed only as "business income", not as "income from other sources". The fallout of this CBDT stance is that the Income Tax Department cannot "disallow", for income tax purposes, the expenses incurred by banks for earning income from non-SLR (statutory liquidity ratio) securities. Investments in non-SLR securities cannot be considered eligible for SLR requirement, which is the reserve requirement that Indian banks are required to maintain in the form of gold or government securities before extending credit to customers. The move is expected to benefit banks, as it brings certainty to tax treatment on income earned from investments in "non-SLR" securities. In the absence of this clarity, many field officers were taking the stance that such income of banks was to be taxed as only "income from other sources" and therefore "disallowed" all expenses incurred by banks for earning this income.

(Source: www.thehindubusinessline.com/)