Newsletter
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Kreston OPR Advisors LLP

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HIGHLIGHTS

- POEM rules target shell companies, firms with Rs. 50 Crores sales excluded
- Digital Payments : Chandrababu Naidu led panel recommends levy of cash transaction tax on Rs. 50000 and above
- Pvt educational trusts come under IT scanner for money laundering
- Banks to report cash payment of Rs. 1.00 Lacs on credit card bills to IT Department
- Note Ban: IT Dept writes to RBI; says Co-operative Banks cash records are seriously tempered
- IDS Disclosures valid if taxes realized by December, 5: CBDT
- Take Note: Claiming LTA is set to get complex from this year
- Anti-Avoidance Tax rules to kick in from April
- Taxman to ensure no grievances to remain pending for more then 30 days
- India to levy service tax on freight for imports on delivered basis
- GST: Tax evasion upto Rs. 2.00 Crores a bailable offence

POEM RULES

The PoEM rules with an aim to assess the tax liability was to come into effect in the current fiscal. The final guidelines have now been issued. Government said it aims to target the shell companies that are created to evade taxes through the place of effective management (POEM) rules, but excluded firms with an annual turnover of less than Rs 50 crore from its purview. "The final guidelines onPOEMcontain some unique features. Active Business Outside India (ABOI) test has been provided so as not to cover companies outside India which are engaged in active business," CBDT said in a statement. "The intent is not to target Indian multinationals which are engaged in business activity outside India. The intent is to target shell companies and companies which are created for retaining income outside India although real control and management of affairs is located in India." POEM is an internationally recognised test for determination of residence of a company incorporated in a foreign jurisdiction. Most of the tax treaties entered into by India recognise the concept of place of effective management for determination of residence of a company as a tiebreaker rule for avoidance of double taxation. "The concept of POEM for deciding the residential status of a company was introduced by the Finance Act, 2015. It is effective April 1, 2016, and accordingly shall apply from assessment year 2017-18 onwards" CBDT said.

http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/588/CBDT-Guiding-Principles-determination-Effective-Management-POEM-Company-24-1-2017.pdf

Digital Payments – Chandrababu Naidu led panel recommends levy of cash transaction tax

Give tax incentive and subsidies to boost digital transactions, but levy a banking cash transaction tax on cash transactions of Rs 50,000 and above, a chief ministers' committee on digital payment said in its interim report to Prime Minister Narendra Modi on 24.01.2017. The Committee, headed by Andhra Pradesh chief minister Chandrababu Naidu, also recommended abolition of merchant discount rate (MDR) to make digital payments cheaper than cash. The panel also suggested that there should be no retrospective taxation on merchants doing digital transactions. The panel said in its interim report that all payment banks and banking correspondents should be made interoperable through AEPS and also provide infrastructure for 1,54,000 post offices by way of interoperable Aadhaar enabled Micro-ATMs. Mr. Naidu also suggested insurance for all digital transactions to safeguard the interest of people going cashless.

PVT Education Trusts: Under IT Scanner for Money Laundering

Several private educational trusts being run on a not-for-profit model have come under the Income Tax lens after recent search operations revealed that they were allegedly involved in money laundering. Taxmen are closely monitoring the accounts of these institutions, and the flow of money into them. Sources said many of these trusts are repositories of black money. The government had been looking into ways to bring educational institutions on a par with other commercial entities as far as the tax net is concerned, considering that they charge high fees – besides capitation funds – from students. However, most of the institutes have no record of money coming in as capitation funds. The Income Tax department can cancel the registration of such institutions if they are found to be flouting the principles pertaining to charitable trusts.

Banks to report cash payment of Rs. 1.00 lacs on credit card bills to IT Dept

In a January 17 notification, the Central Board of Direct Taxes (CBDT) listed cash transactions which need to be reported to tax authorities and set up an e-platform for doing so. The tax department has asked banks to report deposits in any account aggregating Rs 10 lakh in a year, as well as cash payments of Rs 1 lakh or more on credit card bills. Credit card payments of Rs 10 lakh or more made by any mode (including cheque or wire transfer) in a financial year are to be reported. It also reiterated its November 2016 instruction asking banks to report all cash deposits of Rs 2.5 lakh or more made in one or more accounts of a person during November 9 to December 30, 2016.

Note Ban: IT writes to RBI; says Co-op banks cash records seriously tempered with

Income-tax authorities are said to have uncovered an anomaly afflicting cooperative banks following demonetisation. Deposits shown on their books are in excess of the physical stock of old Rs 500 and Rs 1,000 notes held, giving rise to speculation about possible irregularities. Several such instances have come to the department's notice in cooperative banks located in Jaipur, Rajkot and Pune. Fearing that the problem could be more widespread, the investigative wing of the income-tax department has informed the Reserve Bank of India. Meanwhile, there have been several reports of the Enforcement Directorate investigating cooperative and other banks after large numbers of accounts were opened and money deposited into them following demonetisation.

Only Cash Deposit can be declared under PMGKY

Undisclosed income in assets such as jewelry, stock or immovable property or in foreign bank accounts will not be accepted under the Pradhan Mantri Garib Kalyan Yojana (PMGKY). The Central Board of Direct Taxes has said that only undisclosed income in domestic bank accounts, post offices or stashed elsewhere will be accepted under the scheme. Launched on December 12 last year and open till March 31, PMGKY is a second chance available to those with undisclosed income in the defunct Rs. 500 and Rs. 1,000 notes to declare their illicit cash and pay tax, surcharge and penalty of 49.9 per cent of such income. It also mandates a deposit of at least 25 per cent of the income in the scheme for the welfare of the poor while the balance 25 per cent can be taken out after a four-year lock-in period. The CBDT further said bank accounts and post offices are also "specified entities" under the scheme and undisclosed income through inter bank fund transfers or parked in savings account, current account, recurring deposit account, fixed deposit account, loan account, small savings accounts like the public provident fund and Jan Dhan Yojana Account can also be declared.

IDS Disclosures valid if taxes realized by 5/12 :CBDT

In a minor relaxation to IDS tax payment rules, the Income Tax Department has said disclosures under the scheme will be considered valid even if the tax amount has been realised by December 5. The first instalment of taxes was to be paid by November 30. In an instruction to principal commissioners, the income tax department has asked them to condone the delay in payment of first instalment which has arisen due to "genuine technical difficulties". CBDT has directed to accept the request for condonation of delay in payment of tax payable under the scheme in cases where payment has been made through cheque, RTGS, electronic transfer etc on or before the date of November 30, 2016, but the same has been credited by banks after the due date of November 30, 2016, but on or before the December 5, 2016. The instruction follows representations received from field authorities and stakeholders that there has been delay in payment of first instalment of tax, surcharge and penalty under IDS in some cases owing to some technical errors in the system, non-deposit of cheque by collecting banks, payment made by filling wrong challan etc.

Employers Take Note: Claiming LTA is set to get complex

The salaried class are likely to come under more scrutiny from employers this year. And, all perks like LTA, house rent allowance and interest paid on home loans will come under this heightened scrutiny. The government has made employers responsible for verifying whether the claims filed are according to the law. Earlier, companies went only by self-declaration of employees. The regulations were changed to counter the Supreme Court's ruling that employers are under no statutory obligation to collect bills and details to prove the employees have utilised the amounts obtained against claims on travel and related expenses, according to experts. They say the proofs required to claim a deduction could be more stringent now. Employees will also need to submit claims using a prescribed form (12BB). While most other deductions are straightforward and well-defined, LTAregulations can get complex, depending on how you reached the destination and with whom you travelled. Single claim for multiple flights: A person can claim LTA only for the travel. Other expenses such as sightseeing and hotel stay are not eligible. For air travel, only economy class fares are considered. The ticket price needs to be equal to or lower than those of the government carrier. If you go by train, you can claim expenses for any class, be it air-conditioned first class, second class or sleeper. In both cases, however, you should have opted for the shortest route to reach the destination. If you are travelling from Delhi to Goa, you should opt for a direct flight or a direct train journey. If you take a connecting flight, the rates should be lower than a direct one.

Anti Avoidance Tax Rules kick in from April

Income Tax department has said that Tax anti—avoidance rules GAAR will kick in from April 1, 2017. These were originally to be implemented from April 1, 2014, however their implementation was being postponed. It contains provision allowing the government to prospectively tax overseas deals involving local assets. There have been fears that the government may use it to target P—Notes. Through the use of GAAR, government may try to tax P—Notes as indirect investments, which could attract a tax rate of up to 15 per cent. An investor may have to prove that P—Notes were not set up specifically to avoid paying taxes. Finance Minister Arun Jaitley had in his Budget speech in 2015, deferred GAAR implementation by two years and also said that the investments made up to March 31, 2017 shall not be subjected to GAAR, which was to be applied on those claiming tax benefit of over Rs. 3 crore.

TAXMAN – To ensure no grievances remain pending over 30 days

The department's new wing called the 'Directorate of Tax Payer Services' has asked all the regional heads of the IT departments to ensure that "there are no grievances aged more than 30 days pending at any level" pertaining to complaints of refunds, PAN issues and other Income Tax related subjects. In a communication, the Directorate has also underlined the fact that Prime Minister Narendra Modi during his review meetings in this regard has "stressed upon adhering to the timeline of 30 days for the redressal of a particular grievance". The Directorate has also directed the taxman that in case the grievance does not pertain to the authority directed by the CBDT, it "should be transferred back in not more than five days time." The communication added that any action like referring the matter to the Bengaluru based Central Processing Centre (CPC) of the I-T department (where I-T Returns are e-filed) or a similar centre for Tax Deducted at Source (TDS) processes in Ghaziabad, should be intimated in case the issue requires their intervention.

INDIRECT TAXES

India to levy Service Tax on freight for imports on delivered basis

Overseas exporters chartering foreign vessels to supply goods to India will have to pay a service tax on freight from 22.01.2017, a government notification said. It will be the same as the 4.5 percent service tax that India currently levies on free-on-board (FOB) cargoes, where the ship is chartered by a local buyer. Prior to the change, imports in foreign ships hired by the overseas seller - known as on a cost and freight (CFR) basis - have been exempt from this charge. The difference in tax rates has affected the business of Indian shipping lines such as Shipping Corp of India, Great Eastern Shipping Co Ltd and Mercator Ltd .

GST: Tax evasion upto Rs. 2.00 Crores a bailable offence

Under GST, the provision of arrest is proposed to be restricted to forgery and non-deposit of collected taxes with the exchequer within the stipulated timeframe. "In case of offences where the amount does not exceed Rs 2 crore, the person arrested for violation of GST laws will be entitled to bail," an official said, adding that the penal provisions in the GST will be less onerous than the provision in the Indian Penal Code (IPC) for the same type of offences. Under the IPC 1860, forgery and cheating are non- bailable offence, which means that bail can only be granted by a court. Most other offences like availing of wrong input tax credit or refund and failure to furnish documents, which were earlier listed in the revised draft GST law for prosecution, will not lead to arrest but may attract only financial penalty. While in the case of service tax, there is a provision of arrest for non-deposit of the tax beyond Rs 50 lakh with the government, the excise law gives the Commissioner discretion to invoke arrest provision in the case of default.

Tax Planning – Last month of the financial year

- With changes in slab rates in the budget, it is necessary to work out tax implication and plan necessary investment strategies for planning tax liability.
- Income tax slab rates for A.Y 17-18:

Income Slabs	Individuals below 60yrs	Senior Citizen individuals – above 60 yrs but below 80 yrs	Very senior citizen individuals – above 80 yrs	Corporates
Upto 2,50,000	Nil	Nil	Nil	Income is chargeable @ 30%
2,50,000-3,00,000	10%	Nil	Nil	
3,00,00 – 5,00,000	10%	10%	Nil	
5,00,000-10,00,000	20%	20%	20%	
Above 10,00,000	30%	30%	30%	

Investment:

To save tax over and above the tax slab rates, Income tax Act provides wide range of sections, some of the most popularly applicable sections applicable to Individuals / HUF are:

- 80C – LIC, PPF, Repayment of Principle amount of Loan, NSC, Fixed Deposit with Nationalized Bank (minimum upto 5 years), Subscription to Equity Shares, Pradhan Mantri Bima Yojana (PMBY)
- Sec. 24 – Interest on housing loan – eligible amount of deduction is Rs 2,00,000
- **80CCD (1B) National Pension Scheme Section** – This scheme is **only** available for Individuals. Here, even non-salaried assesees can take the benefit of this scheme and avail an additional deduction of Rs 50,000 /-.

The aggregate amount of deduction u/s 80C, 80CCC, and 80CCD (1) shall not exceed Rs 1,50,000.

- 80D – Mediclaim
- 80TTA – Interest on Saving Bank A/c, Post Office Deposits is exempt upto Rs 10,000
- 80G – Donations – deduction u/s can be availed by corporate as well as non-corporate assesse.

Tax Planning & Tax Compliance – Last month of the financial year

- Advance Tax means income tax should be paid in advance instead of lumpsum payment at the year end. It is also known as *pay as you earn tax*.
- Advance tax – If your tax liability exceeds Rs 10000 or more in a financial year, you are required to pay advance.

Due Date	Advance Tax Payable
On or Before 15th June	15% of Advance Tax
On or Before 15th Sept	45% of Advance Tax
On or Before 15th Dec	75% of Advance Tax
On or Before 15th March	100% of Advance Tax

Compliance Calendar – March, 2017

Sr. No.	Particulars	Frequency	Due Date
1.	Service Tax Payment	Monthly	5th March / 6th March
2.	Central Excise Payment	Monthly	5th March / 6th March
3.	TDS / TCS Payment	Monthly	7th March
4.	Central Excise Return	Monthly	10th March
5.	PF Payment	Monthly	15th March
6.	CST Payment	Monthly	20th March
7.	VAT Payment	Monthly	20th March

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