

Income Tax:

Preparing for Recent upcoming Changes & Compliances

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Taxpayers with undisclosed Foreign Assets like real estate, bank accounts, shares, debentures, insurance policies or Foreign Income to revise their ITRs by 31st December 2024... atleast those who get e-mail or SMS

It is understood that 2 lakh ITRs have been filed so far during the current assessment year giving details of foreign assets and income. All Indian residents are required to declare their foreign assets. This can include **real estate, bank accounts, shares, debentures, insurance policies or any other financial assets**. A resident Indian is also required to inform the Income Tax Department about the shares received from their employers and income earned through employee stock options by filling the foreign assets and foreign source income schedule.

The CBDT has vide Press Release dated 16th Nov 2024 has launched a Compliance-Cum-Awareness Campaign for Assessment Year (AY) 2024-25 to inform taxpayers to accurately complete their Schedule Foreign Assets and reporting income from foreign sources in their ITRs. Compliance with Schedule FA and FSI is mandatory under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, which requires the full disclosure of foreign assets and income.

These messages will be sent to individuals identified through information received under bilateral and multilateral agreements, suggesting that they may hold foreign accounts or assets, or have received income from foreign jurisdictions.

Taxpayers with undisclosed Foreign Assets like real estate, bank accounts, shares, debentures, insurance policies or Foreign Income to revise their ITRs by 31st December 2024... atleast those who get e-mail or SMS

Those who have such assets or income but have filed ITR-1 or ITR-4 will have to file revised or belated returns by December 31, 2024, to avoid penalties and prosecution as prescribed under the anti-black money law. The taxpayer should use ITR-2 or ITR-3 as per his tax profile to correctly reflect the Schedule Foreign Assets (Schedule FA). Incase taxpayers do not disclose the income earned from their foreign assets or their foreign assets in the ITR, they may be fined up to Rs 10 lakh.

The Common Reporting Standards (CRS) by OECD and Foreign Account Tax Compliance Act (FATCA) by USA are other such international initiatives to keep tax evasion under check. Under CRS and FATCA, India receives detailed information about financial accounts held by its residents in foreign jurisdictions. This includes:

- Account holder's name, address, and tax identification number (TIN)
- Account number and balance
- Income details such as interest, dividends, and other financial proceeds.

This information helps the Income Tax Department to know global income of its resident taxpayers and to identify taxpayers who may not have disclosed their foreign assets and income.

For further guidelines, one can access –

<https://www.incometax.gov.in/iec/foportal/sites/default/files/2024-11/Enhancing%20Tax%20Transparency%20on%20Foreign%20Assets%20and%20Income.pdf>

THE DIRECT TAX VIVAD SE VISHWAS SCHEME, 2024

Delhi HC in **NAVEEN KUMAR AGGARWAL [W.P.(C) 17014/2024 and CM APPLs. 72115-16/2024]** has directed CBDT to consider eligibility of the Direct Tax Vivad se Vishwas Scheme, 2024, to those taxpayers also, whose statutory time limit to file appeal has not expired on 22.7.2024.

The "unit of settlement" under the DTVSV Act is a specific appeal, writ petition, or special leave petition, not the entire assessment year. taxpayers can settle disputes from specific appeals or issues.

ROSE WOOD BUILDWELL PRIVATE LIMITED Vs PR. COMMISSIONER OF INCOME TAX-7 & ORS [2024-VIL-235-DEL-DT]

Ease in claiming credit for TCS collected/TDS deducted by salaried employees: Employers should take Form 26AS of Employees

Employers to See 26AS of Employees for deducting TDS u/s 192

1. Section 192 of the Act provides for deduction of tax at source on salary income. Further, sub-section (2B) of section 192 of the Act provides for consideration of income under any other head and tax, if any, deducted thereon to be taken into account for the purposes of making the deduction under sub-section (1) of the aforesaid section, subject to certain conditions.
2. Representations have been received that credit of TCS paid should be allowed while computing the amount of tax to be deducted on salary income of the employees as this will help in avoiding cash flow issues for employees. Similarly, all TDS may be taken into account for the purpose of deduction of tax from the salary income of employees. Moreover when the TCS etc is not taken into account, the same is required to be claimed as a refund by the employee which adds to the compliance process.
3. **In order to ease compliance, Sub-section (2B) of section 192 is amended to expand the scope of the said sub-section to include any tax deducted or collected under the provisions of Chapter XVII-B or Chapter XVII-BB, as the case may be, to be taken into account for the purposes of making the deduction under sub-section (1) of section 192.**
4. The amendments will take effect from the 1st day of October, 2024.

TDS on payment of salary, remuneration, interest, bonus or commission by partnership firm to partners

Payments to partners of firms.

194T. (1) Any person, being a firm, responsible for paying any sum in the nature of **salary, remuneration, commission, bonus or interest** to a partner of the firm, shall, at the time of credit of such sum to the account of the partner (including the capital account) or at the time of payment thereof, whichever is earlier shall, deduct income-tax thereon at the rate of **10%**.

(2) No deduction shall be made under sub-section (1) where such sum or the aggregate of such sums credited or paid or likely to be credited or paid to the partner of the firm does not exceed **Rs.20,000/-** during the financial year.

Inserted vide Section 49 of the Finance (No. 2) Act, 2024 dated 16-08-2024 w.e.f. **01-04-2025**

Disallowance of settlement amounts being paid to settle contraventions

Settlement amounts paid for conclusion of proceedings due to an infraction of law and relate to contraventions etc and, therefore, should not be allowed as business expenses.

1. Section 37 of the Act provides for allowability of expenditure laid out or expended wholly and exclusively for the purpose of business or profession.

2. Explanation 1 of sub-section (1) of section 37 provides that any expenditure incurred by an assessee for any purpose which is an **offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession** and no deduction or allowance shall be made in respect of such expenditure.

3. Explanation 3 of sub-section (1) of section 37 clarifies that the expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law", referred to in Explanation 1, includes expenditure incurred for any purpose which is an offence or is prohibited by, **any law enacted in or outside India**; or is incurred to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession and **acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation** or guideline under the law governing the conduct of such person; or is incurred to compound an offence under any law for the time being in force in or outside India.

4. Settlement amounts are incurred due to an infraction of law and relate to contraventions etc and, therefore, should not be allowed as business expenses.

Disallowance of settlement amounts being paid to settle contraventions

5. Accordingly, Explanation 3 to sub-section (1) of section 37 of the Act is amended to clarify that "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law" under Explanation 1 shall include any expenditure incurred by an assessee to **settle proceedings initiated in relation to a contravention under any law for the time being in force, as may be notified by the Central Government in the Official Gazette in this behalf.**

6. The amendment is proposed to be made effective from the 1st day of April, 2025 and will accordingly apply from assessment year 2025-2026 onwards.

Impact:

1. **SC in Mahalakshmi Sugar Mills Co. Ltd. vs CIT** (123 ITR 429) and **CIT vs Hyderabad Allwyn Metal Works Ltd** (172 ITR 113 SC) wherein it was held that when an amount paid by assessee could be regarded as compensatory (reparatory) in character then it would be allowable u/S 37(1) and if it were penal in nature it was not allowable.

2. In the case of **Desiccant Rotors International** (DEL HC), the taxpayer paid amounts for settlement of a case for infringement of patents. It was held compensatory – based on business expediency

Reporting of income from letting out of house property under 'Income from House Property'

Amendment is made in Section 28 of the Act so as to clarify that any income from letting out of a residential house or a part of the house by the owner shall not be chargeable under the head "Profits and gains of business or profession" and shall be chargeable under the head "Income from house property".

This amendment will take effect from the 1st day of April, 2025 and will, accordingly, apply in relation to assessment year 2025-26 and subsequent assessment years.

Note: The same is an explanation and has retrospective application. Builders providing property on rent may face notices

However, the fact that the FA states that the explanation is applicable w.e.f. 1.4.25 may be argued as well as judicial precedents may be taken shelter under

THANK YOU



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This PPT is merely for training purpose and should be construed as such. The matter should not be used for any professional purpose