

Direct Tax Vista

Your weekly Direct Tax recap

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1. Complying with Advance Tax 'e-campaign'

Through e-campaign, persons/entities carrying out significant financial transactions are being 'alerted' through email/SMS to 'urge' them to compute and deposit their due advance tax on or before 15.03.2024. ***This is being done as a part of 'taxpayer service' and 'easing compliance for taxpayers'.***

The Income Tax Department has received certain information on specific financial transactions undertaken by persons/entities during Financial Year (F.Y.) 2023-24. On the basis of analysis of the taxes paid so far during the current financial year, the Department has identified such persons/entities where payment of taxes for F.Y. 2023-24 (A.Y. 2024-25) is not commensurate with the financial transactions made by the persons/entities concerned, during the said period.

This information is reflected in the Annual Information Statement (AIS) module and is available to the persons/entities for viewing. For viewing the details of significant transactions, the persons/entities should login to their e-filing account (if already created) and go to the Compliance Portal. On this portal, e-Campaign tab can be accessed to view significant transactions.

So now that Income Tax Department has initiated a service, taxpayers also need to oblige by a quid-pro-quo service. To comply with the same, the following are the suggested steps –

Step 1. Most important is not to ignore this communication

Step 2. Log in to the e-filing income tax return (ITR) website- <https://www.incometax.gov.in/iec/foportal/>. If you are using the e-filing portal for the first time, make sure to register on it.

Step 3. Click on 'Compliance Portal' button under the 'Pending Actions' tab.

Step 4. A pop-up browser window will open, and it will say that the 'Compliance Portal' is hosted on another web address and on clicking 'Proceed' you are going to leave the e-filing website and get redirected to the 'Compliance Portal' website. Click on the 'Proceed' button.

Step 5. Click on the 'e-campaign' button and access the e- campaign' page on the compliance portal. If there is any transaction that has been identified by the tax department it will show up here.

Step 6. Thereafter you need to follow instructions and 'view feedback in AIS'

Step 7. Important to note is that it is only mandatory to provide feedback on the transactions where response is 'expected'. Others marked as 'optional' are not mandatory. You can select the 'bulk response' section also for each party.

2. Priority/out of turn disposal of appeals by CIT(A) Assessment Units and Additional Joint CIT(Appeals)

A reference from the Prime Minister's Office or a VIP reference will help an Income Tax Appeal to be taken up on priority or out of turn disposal, CBDT has said in its new guidelines no. F. No. 279/Misc./M-102/2021-ITJ. Hopefully this reference will be due to a matter of National Importance. The new guidelines, will replace the 2021 mechanism. The 2021 guidelines also prescribed five situations, out of those, four have been retained while a refund of ₹1 lakh has been replaced.

The CBDT on 28th May 2023 had notified e-Appeals Scheme 2023 in respect of disposal of appeals by Joint Commissioner (Appeals). The section 246 of the Income Tax Act 1961 was also amended by the Finance Act 2023 for making provision for creation of the post JCIT(Appeals).

On a Writ Petition/PIL being filed before the Hon'ble Delhi High Court with prayers to formulate a policy and to make clear guidelines for the Commissioner Appeals to dispose off the appeals in a chronological manner, the Delhi High Court on the basis of affidavit and Central Action Plan (CAP) of CBDT 2022-23 and 2023-24 was satisfied that the road map drawn up by the CBDT adequately addressed the concerns raised and as such no directions were issued. Now The CBDT, to ensure

priority/out of turn disposal of pending appeals at the level of CIT(A/AU) and Addl./Jt.CIT(Appeals), has decided that requests for such disposal of appeals, covering genuine and exceptional circumstances, raised at the instance of the appellant or referred to by the Assessing Officer/Range Head, may be considered by the Pr.CCsIT/CCsIT/DGsIT on the basis of recommendations of jurisdictional Pr.CIT/Pr.CIT(Central)/CIT(IT). The request for such disposal of appeals, covering genuine and exceptional circumstances raised at the instance of the applicant or referred to by the Assessing Officer/Rang Head, may be considered by the Pr.CCsIT/CCsIT/DGsIT based on recommendations of jurisdictional Pr. CIT/Pr.CIT(Central)/CIT(IT), in the following situations:

- Cases having demand over Rs. 1 crore; or
- Cases where a VIP/PMO reference is received for expeditious disposal or
- Cases where directions to this effect have been issued by the Courts or
- Cases where the request is made by Senior Citizens and/or Super Senior Citizens or
- Any other case of genuine hardship.

Disposal of appeals have been the key focus of the appeal, as huge amounts of money demanded involved in cases pending before the Commissioner of Income Tax (Appeal). For example, earlier last year, Finance Ministry informed the Lok Sabha that over ₹14 lakh crore amount locked up in appeals at the end of Fiscal Year 2021-22. Similarly, Central Action Plan for FY24 mentioned while closing number of appeals at the end of FY23 was over 5.16 lakh, approximate pendency in respect of appeals filed prior to April 1, 2020, as on March 31, 2023 was over 2.82 lakhs.

3. Further Income Tax Benefit to banks, finance units, brokers, investment advisors, distributors, fintech entities and others in IFSC

The Government of India has issued a notification exempting specific payments made to IFSC Units from Tax Deducted at Source (TDS) under the Income Tax Act, 1961. This exemption applies for ten consecutive assessment years starting from April 1, 2024.

The notification outlines various types of payments made to IFSC Units like Interest income on External Commercial Borrowings (ECBs) and Loans Professional fees Commission income Dividend income Referral fees and more, that are now exempt from TDS.

The IFSC Unit shall Furnish a statement-cum-declaration (Form No. 1) to the payer, detailing eligibility and opting for the exemption for ten consecutive assessment years. It shall Maintain registration under relevant IFSC Authority regulations. The Payer shall Not deduct tax upon receiving the Form No. 1 from the IFSC Unit. It will Include details of TDS-exempt payments in the tax deduction statement.

4. Waiver Off Late Fees & Interest for Delayed Filing of Form 26QE for Period from July 2022 to Feb. 2023 for TDS u/s 194S... till 30.5.2023

Circular No. 04/2024, issued by the Central Board of Direct Taxes (CBDT) on March 7, 2024, brings a relief for specified persons under section 194S of the Income-tax Act. CBDT has announced the ex post facto extension of due date for filing Form No. 26QE which was required to be filed during the period 01.07.2022 to 28.02.2023 (pertaining to F.Y. 2022-23). The due date is extended to 30.05.2023 in those cases where the tax was deducted by specified persons under section 194S of the Act during the period from 01.07.2022 to 28.02.2023. Fee levied under section 234E and/or interest charged under section 201(1A)(ii) of the Act in such cases for the period upto 30.05.2023, shall be waived.

Important to note is that for the period after 30.5.2023, interest and fee would be levied.

5. CBDT clarifies provisions under Finance Act 2023 relating to donations made by a trust / institution to another trust / institution for purposes of application of income

Income of any fund or institution or Trust or any university or other educational institution or any hospital or other medical institution referred to in certain clauses of section 10(23C) of the Income-tax Act, 1961 (ITA) or any Trust or institution registered under section 12AA or 12AB of the ITA is exempt, subject to the fulfilment

of certain conditions that at least 85% of income of the Trust/institution should be applied during the year for charitable or religious purposes; Trusts or institutions are allowed to apply mandatory 85% of their income either themselves or by making donations to the Trusts with similar objectives; and If donated to other Trust/institution, the donation should not be towards corpus.

In order to ensure intended application towards charitable or religious purposes, Finance Act, 2023 (FA 2023) provided that eligible donations made by a Trust/institution shall be treated as application for charitable or religious purposes, only to the extent of 85% of such donations and accordingly, the FA 2023 made the amendments by inserting clause (iii) in Explanation 4 to section 11(1) of the ITA that "any amount credited or paid, other than the amount referred to in Explanation 2, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid". A similar amendment was made by inserting clause (iii) in Explanation 2 to third proviso of section 10(23C) of the ITA.

The CBDT, vide Circular No. 3/2024 dated 6 March 2024, has clarified the manner of computation of exemption for donations made by an eligible Trust/institution to another eligible Trust/institution considering the amendment introduced vide Finance Act, 2023.

It has been reiterated that eligible donations made by a Trust/institution to another Trust/institution under any of the two regimes shall be treated as application for charitable or religious purposes only to the extent of 85% of such donations. Hence, when a Trust/institution donates INR 100 to another trust/institution, it will be considered to have applied 85% (INR 85) for the purpose of charitable or religious activity.

Further, it clarifies that 15% (INR 15) of such donations by the donor Trust/institution shall not be required to be invested in specified modes under section 11(5) of the ITA [relating to accumulated/set apart income to be invested or deposited in specific forms or modes] as the entire amount of INR 100 has been donated to the other Trust / institution and is accordingly, eligible for exemption under the first or second regime.

6. One time Amnesty... Till 31st March 2024...for NGOs/ Trusts who have filed the wrong Form for Audit Report

One of the conditions required to be fulfilled by the trust or institution in order to be eligible to claim exemption, is, that it is required to get its accounts audited and furnish the audit report in the prescribed Form No. 10B / 10BB before the specified date. Non-furnishing of audit report in the prescribed form would result in denial of exemption in such cases. In AY 2023-24, due to the new criteria for filing Form 10B/ 10BB as compared to the earlier criteria, in a number of cases trusts / institutions have furnished audit report in Form No. 10B, where Form No. 10BB was required to be furnished for the A.Y. 2023-24. Similarly, in a number of cases trusts / institutions have furnished audit report in Form No. 10BB, where Form No. 10B was required to be furnished.

The CBDT has now allowed those trusts / institutions which have furnished audit report on or before 31st October, 2023 in Form No. 10B where Form No. 10BB was applicable and vice-versa, to furnish the audit report **in the applicable Form No. 10B / 10BB** for the A.Y. 2023-24, on or before 31st March, 2024.

Concerned NGOs/ Trusts should take benefit of this.

7. RBI issues directions to card networks for issuance of credit card to customers

The RBI has authorized card networks collaborate with banks and non-bank entities for the issuance of credit cards. There are five authorised card networks in India: American Express Banking Corp., Diners Club International Ltd., MasterCard Asia/Pacific Pte. Ltd., National Payments Corporation of India-Rupay, and Visa

Worldwide Pte. Ltd. the customer might find it easier to get RuPay credit cards compared with MasterCard, Visa, and Amex credit cards due to the more stringent requirements to get credit cards from the latter network. However, the decision regarding which network is utilized for a customer's card is made by the card issuer, whether it be a bank or a non-bank institution, and is influenced by the agreements between the issuers and the card networks.

Now, RBI has barred card issuers from entering into any arrangement or agreement with card networks that restrains them from availing of the services of other card networks. This effectively means that credit card issuers, especially those with a large customer base, will have to enter into tie-ups with multiple card networks.

The direction will provide customers options to choose from multiple card networks at the time of issue. However, it will not be applicable to credit card issuers with less than 10 lakh active cards issued or to credit cards issued on the authorised card network.

It will be effective six months from the date of the circular.

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