

**Just 5 Minutes**

TAXCON<sup>TM</sup> INDIA PRIVATE LIMITED

# INCOME TAX ACT

## 1. *TDS on Salary – Clarification Circular*

The Central Board of Direct Taxes (CBDT) has issued circular for deduction of tax at source (TDS) from salaries, explaining the obligation of employers with regard to TDS from salaries under section 192 of the Income-tax Act, 1961 for the Financial Year 2021-22 in a comprehensive manner.

## 2. *No Penalty on small bank balances of NRI*

CBDT issues Instruction on exceptions to prosecution under Black Money Act, clarifying wherein persons holding foreign accounts with minor balances, which may not have been reported because of oversight or ignorance, it has been provided that failure to report bank accounts with a maximum balance of up to Rs. 5 lakhs, at any time during the year will not entail penalty or prosecution.

# INCOME TAX ACT

## 3. *Exclusion - Faceless Penalty Scheme 2021*

The CBDT has notified an exclusion to the cases where penalty shall not be imposed in a faceless manner. The Board has notified that penalty proceedings, in cases where pendency couldn't be created on ITBA because of technical reasons or cases not having a PAN, shall remain outside the purview of Faceless Penalty Scheme 2021.

## 4. *Text released for India-Iceland DTAA*

The Central Board of Direct Taxes (CBDT) has released the synthesized text for India- Iceland DTAA., incorporating the changes made by the MLI on the basis of respective positions taken by both the countries. The MLI provisions that are applicable are included in boxes in the relevant provisions of convention.

# COMPANIES/LLP ACT

## 1. *Requirement for accounting package – April 01, 2022*

As per the recent amendments in the Companies (Accounts) Rules 2014, it is made mandatory that the accounting software which is being used for maintaining the books of accounts should have the following features:

1. Feature of recording Audit trail of each and every transaction
2. Creating an edit log of each change made in books of accounts along with the date when such change is made
3. Ensuring that the audit trail cannot be disabled.

The said amendment is effective from 1st April 2022.

# COMPANIES/LLP ACT

## 2. *Limited Liability Partnership (Second Amendment) Rules, 2022*

The MCA has made amendments in the LLP Rules and the major highlights of the same are as below:-

- a) There can be 5 Designated partners (without having DIN) at the time of Incorporation as against 2 allowed earlier
- b) LLP Formation Process has become web based Just like the SPICE Forms for Company formation.
- c) Directors Details can be fetched from Digi Locker Database.
- d) PAN TAN of LLP will be available along with LLP Incorporation.
- e) All Forms of LLP now became web based.
- f) Each and every change in LLP Deed will have to be marked in Form 3 with precise information.
- g) Web Based Form 9 Consent of Partners is implemented. Resultantly, all Designated Partners Digital Signatures will be required.
- h) Form 12 introduced for updating place of maintenance of Accounts other than Registered Office.

# CASE LAWS - INCOME TAX

## 1. *In the Case of Abhay Kumar Mittal.*

The Delhi bench of the Income Tax Appellate Tribunal (ITAT) has held that IT Act does not prohibit claiming HRA exemption on the rent paid to one's spouse.

## 2. *Kapil Kumar Agarwal vs. DCIT (ITAT Delhi)*

It has been held that section 54F is a beneficial provision and should be liberally interpreted. An assessee who has purchased a house property is entitled to exemption u/s 54F despite the fact that construction activities of the new house has started before the date of sale of the original asset.

# CASE LAWS - INCOME TAX

## 3. *Lovy Ranka vs. DCIT (ITAT Ahmedabad)*

It has been held that though section 50C is a deeming provision and the AO is obliged to compute the capital gains by taking the valuation arrived at by the DVO in place of the actual consideration received by the assessee, the assessee is entitled to challenge the correctness of the DVO's valuation before the CIT(A) and the Tribunal. The DVO has to be given an opportunity of hearing.

## 4. *Unique Estates Development Co. Ltd. Vs. DCIT (ITAT Mumbai)*

It has been held that the Income from unsold flats shall be treated as Business Income under Income Tax Act.

# CASE LAWS - INDIRECT TAX

## 1. *AAAR in the matter of Premier Sales promotion (P) Ltd.*

The Appellant Authority for Advance Ruling has held that Vouchers are goods and do not qualify as money unless redeemed and are liable to GST @ 18%. The appellant was engaged in trading of vouchers like gift vouchers, cash back vouchers and Multi Option Vouchers. The AAAR held that appellant does not settle an obligation rather creates an obligation and cannot be termed as money. Also the voucher is an instrument recognized by RBI and does not qualify as money unless redeemed.



# CASE LAWS - INDIRECT TAX

## 2. *Madras High Court – ITC on ST paid under RCM*

The Madras High Court in a recent decision has held that service tax paid under the reverse charge mechanism (RCM) after the due date of Form GST TRAN-1 which would have otherwise been eligible as CENVAT Credit to a taxpayer can be considered transitioned as input tax credit under the GST in terms of section 142(3) of the Central Goods and Services Tax Act, 2017. Taking cognisance of the peculiar facts, the court invokes the doctrine of necessity by observing that the taxpayer should not be rendered remediless merely because the GST regime has come into effect.

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