

**Just 5 Minutes**

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

# INCOME TAX ACT

## 1. *New procedures for sharing information with tax deductor/ collector*

The Central Board of Direct Taxes has revised the procedures laid down for sharing information with tax deductors /collectors for Sections 206AB & 206CCA considering the changes introduced by the Finance Act, 2022. The Board has earlier laid down the procedure vide Notification No. 01 of 2021 dated 22nd June 2021.

## 2. *Guidelines on the interplay between two key schemes meant for minimizing litigation*

The Central Board of Direct Taxes (CBDT) has issued a set of guidelines on the interplay between two key schemes meant for minimizing litigation--the Vivad se Vishwas direct tax dispute settlement scheme and the mutual agreement procedure (MAP) that offers relief to multinational companies. Authorities will allow the country's taxpayers to access the mutual agreement procedure (MAP) for cross-border disputes. This is even if they had settled the case under the direct tax dispute resolution scheme – Vivad se Vishwas – without deviating from the outcome of the scheme.

# INCOME TAX ACT

## 3. *CBDT has issued a new clarifications regarding Form 10AC issued*

The Central Board of Direct Taxes (CBDT) has issued clarifications with regards to Form 10AC issued between April 01, 2021 to June 03, 2022. The Board has listed down conditions that shall be considered while granting registration/approval or provisional registration/ provisional approval to trusts and institutions in view of amendments made by the Finance Act, 2022

## 4. *Guidelines reg. TDS on benefits in respect of new section 194R*

The CBDT has issued guidelines for removal of difficulties regarding deduction of tax on benefit or perquisite in respect of business or profession (new section 194R applicable from 1st July 2022) vide circular no. 12 of 2022 dated 16th June 2022 wherein guidelines in form of question and answers regarding deductor is required to deduct tax under the said section or not with some examples.

## 5. *Indexation cost for FY 2022-23*

The CBDT has notified the Cost Inflation Index for Financial Year 2022-23 at 331 vide notification No. 62/2022 dated 14th June 2022.

# FEMA/ RBI REGULATIONS

## 1. *Amendments in Non-Debt Instrument Rules*

The Reserve Bank of India has released amendments in Non-Debt Instrument Rules i.e. Foreign Direct Investment guidelines and provided more clarity to AD banks and Indian Companies. These amendment includes guidance on:

- a) Validity of Valuation Reports - Should not be older than 90 days as on the date of transfer
- b) Share Based Employee Benefit schemes - Scheme should be drawn either in terms of regulations issued by SEBI or the Companies (Share Capital and Debentures) Rules, 2014 or as per other applicable law
- c) Clarification in the definition of Real Estate Business
- d) Definition of an Indian Company - Now any entity other than Indian company may bring FDI which is a body corporate established or constituted by or under any Central or State Act
- e) Tenor of Convertible Note - Tenor increased from 5 to 10 years
- f) Rights Issuances - While valuation is exempted for Right issuance however if right is renounced by R in favor of NR then Valuation would apply

# LABOUR LAWS

## *1. Decriminalisation of labour penalties relieves employers*

The implementation of the labour codes will relieve employers from the fear of imprisonment as the Labour Ministry has decriminalized all general penalty clauses under the four labour codes (i.e. age Code, the Code on Social Security, the Industrial Relations Code and the Occupational, Safety, Health and Working Conditions Code) barring grievous cases while protecting the rights of the workers.

Further, imprisonment provisions under multiple sections of existing labour laws have been replaced with the compounding provisions, valid for three to five years, depending on the codes.

# CASE LAWS - INCOME TAX

1. *M/s Shah Realtors vs. ACIT (ITAT Mumbai)*

It has been held that where the assessee has sold flats at an undervaluation does not mean that he has understated the consideration and earned undisclosed 'on money'. The mere presumption that excess price could have been charged is not a ground for coming to the conclusion that the assessee did charge a higher price. The burden of proving such understatement or concealment is on the Revenue

2. *Vikrant Happy Homes (P.) Ltd. v. DCIT [2022] 138 taxmann.com 559 (Pune - Trib.)*

It has been held that Where assessee, engaged in land dealing and development, purchased certain lands through cash payments and treated said lands as its stock-in-trade, since cash payments were not claimed as deduction under business head, no disallowance under section 40A(3) could be made by Assessing Officer.

# CASE LAWS - INCOME TAX

## 3. *Dev Multicom (P.) Ltd. v. State of Jharkhand*

It has been held that where amount of TDS deducted was not more than Rs. 50,000 and TDS amount was deposited with interest, criminal proceedings initiated against assessee for offence under section 276B were liable to be quashed.

## 4. *Agility Logistics (P.) Ltd. v. Deputy Commissioner of Income-tax*

It has been held that TP adjustment envisaged in Chapter X is only in respect of international transactions of assessee with its AEs and cannot be extended to transactions entered into by assessee with independent unrelated third parties

## 5. *Mateen Pyarali Dholkia vs. DCIT (ITAT Mumbai)*

It has been held that Portfolio Management Scheme (PMS) fees paid by the assessee to the PMS Manager neither falls under the category of transfer fees nor cost of acquisition/improvement. Consequently, it is not deductible while computing capital gains from sale of the shares.

# CASE LAWS - INDIRECT TAX

1. *Spy Agro Industries Ltd. v. Union of India*

It has been held that penalty imposed through rectification order is an additional liability and such order passed without providing opportunity of hearing is not sustainable



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