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Leadership is about speaking less and doing more. It is the art of Daring, Caring and Sharing  
~ Gaur Gopal Das

# *Connection*

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July 2017

### Just to Remind You:

- **July 31 - Filing of IT Return by Individual, HUF, Firm, AOP, BOI (Without Audit)**
- **July 31 - TDS Return for June Quarter**
- **July 31 - Payment & Monthly Return of Maharashtra PT**

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## CBDT notifies rule for Computation of interest income pursuant to secondary adjustments

In exercise of the powers conferred by sub-section (2) to section 92CE and section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes, hereby, makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. (1) These rules may be called the Income-tax (15th Amendment) Rules, 2017.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962, after rule 10CA, the following rule shall be inserted, namely:

‘10CB. Computation of interest income pursuant to secondary adjustments.— (1) For the purposes of sub-section (2) of section 92CE of the Act, the time limit for repatriation of excess money shall be on or before ninety days ,

(i) from the due date of filing of return under sub-section (1) of section 139 of the Act where primary adjustments to transfer price has been made suo-moto by the assessee in his return of income;

(ii) from the date of the order of Assessing Officer or the appellate authority, as the case may be, if the primary adjustments to transfer price as determined in the aforesaid order has been accepted by the assessee;

(iii) from the due date of filing of

return under sub-section (1) of section 139 of the Act in the case of agreement for advance pricing entered into by the assessee under section 92CD ;

(iv) from the due date of filing of return under sub-section (1) section 139 of the Act in the case of option exercised by the assessee as per the safe harbour rules under section 92CB;or

(v) from the due date of filing of return under sub-section (1) section 139 of the Act in the case of an agreement made under the mutual agreement procedure under a Double Taxation Avoidance Agreement entered into under section 90 or 90A;

(2) The imputed per annum interest income on excess money which is not repatriated within the time limit as per sub-section (1) of section 92CE of the Act shall be computed,

(i) at the one year marginal cost of fund lending rate of State Bank of India as on 1st of April of the relevant previous year plus three hundred twenty five basis points in the cases where the international transaction is denominated in Indian rupee; or

(ii) at six month London Inter bank Offered Rate as on 30th September of the relevant previous year plus three hundred basis points in the cases where the international transaction is denominated in foreign currency.

Explanation- For the purposes of

this rule “International transaction” shall have the meaning assigned to it in section 92B of the Act.’

Note: The principal rules were published in the Gazette of India,



Extraordinary, Part II, Section 3, Sub-section (ii) vide notification number S.O. 969 (E), dated the 26th March, 1962 and last amended by the Income-tax (14th Amendment) Rules, 2017, vide notification number G.S.R 569(E), dated the 9th June, 2017.

Explanatory Memorandum Notification No. 52/2017, dated 15th June, 2017

In order to make the actual allocation of funds consistent with that of the primary transfer pricing adjustment, Finance Act, 2017 inserted Section 92CE in the Income-tax Act, 1961 with effect from 1st day of April, 2018 to provide for secondary adjustment by attributing income to the excess money lying in the hands of the associated enterprise. The provision shall be applicable to primary adjustments exceeding one crore rupees made in respect of the assessment year 2017-18 and on wards.

The said rule prescribes the time limit of repatriation of excess



money and the rate at which the interest income shall be computed in the case of failure to repatriate the excess money within the prescribed time limit. In order to provide for an uniform treatment in respect of various types / situations of primary adjustments as referred to in sub-section(1) of section 92CE, it prescribes for a

time limit of 90 days for repatriation of excess money .

With regard to the rate of interest to be computed in the case of failure to repatriate the excess money within the prescribed time limit, it provides for separate interest rates for international transactions denominated in Indian

rupee and those denominated in foreign currency. The rate of interest is applicable on annual basis.

### **CBDT notifies rules to determine of Fair Market Value of unquoted shares**

In exercise of the powers conferred by section 50CA and sub-section (2) of section 56 read with section 295 of the Income-tax Act, 1961 ( 43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. (1) These rules may be called the Income-tax (20th Amendment), Rules, 2017.

(2) They shall come into force from the 1st day of April, 2018 and shall apply in relation to assessment year 2018-19 and subsequent years.

2. In the Income-tax Rules, 1962,

(A) in rule 11UA, sub-rule (1), in clause (c), for sub-clause(b), the following sub-clause shall be substituted, namely:-

“(b) the fair market value of unquoted equity shares shall be the value, on the valuation date, of such unquoted equity shares as determined in the following manner, namely:-

the fair market value of unquoted

equity shares = (A+B+C+D - L) × (PV)/(PE), where,

A= book value of all the assets (other than jewellery, artistic work, shares, securities and immovable property) in the balance-sheet as reduced by,-

(i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any; and

(ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;

B = the price which the jewellery and artistic work would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer;

C = fair market value of shares and securities as determined in the manner provided in this rule;

D = the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property;

L= book value of liabilities shown in the balance sheet, but not including the following amounts, namely:-

(i) the paid-up capital in respect of equity shares;

(ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;

(iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;

(iv) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;

(v) any amount representing provisions made for meeting liabilities,



other than ascertained liabilities;

(vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;

PV= the paid up value of such equity shares;

PE = total amount of paid up equity share capital as shown in the balance-sheet;"

(B) after rule 11UA, the following rule shall be inserted, namely:-

“ Determination of Fair Market Value for share other than quoted share.

11UAA. For the purposes of section 50CA, the fair market value of the share of a company other than a quoted share, shall be determined in the manner provided in sub-clause (b) or sub-clause(c),

as the case may be, of clause (c) of sub-rule (1) of rule 11UA and for this purpose the reference to valuation date in the rule 11U and rule 11UA shall mean the date on which the capital asset, being share of a company other than a quoted share, referred to in section 50CA, is transferred.” .



## TDS not deductible on GST Component

The Central Board of Direct Taxes (the Board) had earlier issued Circular No. 1/2014 dated 13.01.2014 clarifying that wherever in terms of the agreement or contract between the payer and the payee, the Service Tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Income-tax Act, 1961 (the Act) on the amount paid or payable without including such Service Tax component.

2. References have been received in the Board seeking clarification as to what treatment would be required to be given to the component of Goods and Services Tax (GST) on services, which has been introduced by the Government with effect from 1st of July, 2017 and into which the erstwhile Service Tax has been subsumed.

3. The matter has been examined. It is noted that the Government has brought in force a new Goods and Services Tax regime with

effect from 01.07.2017 replacing, amongst others, the Service Tax which was being charged prior to this date as per the provisions of Finance Act, 1994. Therefore, there is a need to harmonize; the content of Circular No. 1/2014 of the Board with the new system for taxation of services under the GST regime.

4. In the light of the fact that even under the new GST regime, the rationale of excluding the tax component from the purview of TDS remains valid, the Board hereby clarifies that wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid or payable without including such 'GST on services' component. GST for these purposes shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and

Services Tax and Union Territory Goods and Services Tax.

5. For the purposes of this Circular, any reference to 'service tax' in an existing agreement or contract which was entered prior to 01.07.2017 shall be treated as 'GST on services' with respect to the period from 01.07.2017 onward till the expiry of such agreement or contract.





## GST Exemption on intra-State supplies of second hand goods

In exercise of the powers conferred by sub-section (1) of section 11 of the Goods and Services Tax (Compensation to States) Act, 2017 ( 15 of 2017), read with sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of second hand goods re-

ceived by a registered person, dealing in buying and selling of second hand goods and who pays the goods and services tax compensation cess on the value of outward supply of such second hand goods as determined under sub-rule (5) of rule 32 of the Central Goods and Services Tax Rules, 2017, from any supplier, who is not registered, from the whole of the goods and services tax compensation cess leviable thereon under section 8 of

the Goods and Services Tax (Compensation to States) Act, read with sub-section (4) of Section 9 of the Central Goods and Services Tax Act.

## GST on Services provided by Housing Society

There are some press reports that services provided by a Housing Society [Resident Welfare Association (RWA)] will become expensive under GST. These are completely unsubstantiated.

It may be mentioned that supply of service by RWA (unincorporated body or a registered non-profit entity) to its own members by way of reimbursement of charges or share of contribution up to an amount of five thousand rupees per month per member for providing services and

goods for the common use of its members in a housing society or a residential complex are exempt from GST.

Further, if the aggregate turnover of such RWA is up to Rs. 20 Lakh in a financial year, then such supplies would be exempted from GST even if charges per member are more than Rs. five thousand.

RWA shall be required to pay GST on monthly subscription/contribution charged from its members if such subscription is more than Rs. 5000 per member and the annual turnover of RWA by way of supplying of services and goods is also Rs. 20 lakhs or more. Under GST, the tax burden on RWAs will be lower for the reason that they would now be entitled to ITC in respect of taxes paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input

services such as repair and maintenance services. ITC of Central Excise and VAT paid on goods and capital goods was not available in the pre- GST period and these were a cost to the RWA.

Thus, there is no change made to services provided by the Housing Society (RWA) to its members in the GST era.



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*Congratulations*



Shri Ram Nath Kovind

The President of India

### Service Tax Return for April to June 2017 to be filed by 15.08.2017



In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely: -

1. (1) These rules may be called the Service Tax (Fourth Amendment) Rules, 2017.

(2) They shall come into force on the date of their publication in

the Official Gazette.

2. In the Service Tax Rules, 1994,-

(i) in rule 7, in sub rule (2), after the second proviso, the following proviso shall be inserted, namely: -

“Provided also that the return for the period from the 1st day of April, 2017, to the 30th day of June, 2017, shall be submitted by the 15th day of August, 2017, in Form ‘ST-3’ or ‘ST-3C’, as the

case may be.”

(ii) in rule 7B, in sub rule (1), the following proviso shall be inserted namely:-

“Provided that the revised return for the period from the 1st day of April, 2017, to the 30th day of June, 2017, shall be submitted within a period of forty five days from the date of submission of the return under rule 7.”

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