Volume IV
Issue 11

Connection

March
2016

"Success is about creating benefit for all and enjoying the process. If you focus on this & adopt this definition, success is yours."

~ Kelly Kim

INNOVATE CREATE LEAD

Lalit Bajaj & Associates
Chartered Accountants

LALIT BAJAJ & ASSOCIATES

Communiqué

Dear Seniors, Friends & Colleagues,

Welcome to the month of March with light of summer and glimpse of sun rays. March is very important month for all our members on professional ground as well as on personal level. Though we celebrate New Year in January but we professional indulge in New Year activity from April after year end closing. So for smooth run of year end we also need to be healthy as March has combination of summer and residual of winter. We should be very much careful of health as Health leads to healthy environment and also creates enthusiasm in work. As a consultant or employee of the company we should ensure that year end runs smoothly.

We should sit and execute the ideas with proper SWOT analysis on paper with our core staff. It is necessary to execute the ideas as it will help us to achieve the desires objective without much bothering about results. As it's rightly said most Risky thing in world is not taking any RISK.

Recently I heard interview of cricketer (VVS LAXMAN) talking about coach Garry Kirsten with one incident where Laxman got out while trying pull shot on field and Laxman was upset in dressing room thinking that he should not have tried that shot as it's not his shot then Garry told him that he was trying that shot from last 2 training session and it's execution which didn't go well and resulted in catch but it doesn't mean that he shouldn't try that shot. So, on the same line we should also plan things properly and also try to execute the things in well planned manner especially due to year end and bank audits on the verge. We should have proper plans before we go on audits and staff should be adequately trained to take care of routine stuff.

We also got union budget announced on February 29th outlining various changes in direct taxes and indirect taxes. Though budget is analysed on various parameters it's difficult to rate that as it also has some long run effects which we can not see now. Major focus of the budget were

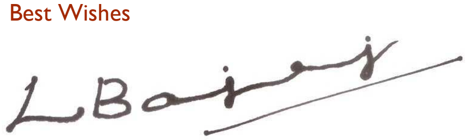
A. Focus on rural sector
B. Lure foreign investors
C. Less positives for urban

Though there were some provisions which working people were not comfortable like EPF where the Finance Minister has already announced the withdrawal of EPF tax proposal before budget is passed.

As fraternity we should advise company and clients about budget changes and help them to adapt to necessary modifications whatever necessary.

Wishing you and your family a Holi filled with sweet moments and colourful memories to cherish forever. Happy Holi!!

Best Wishes



CA Lalit Bajaj

JUST TO REMIND YOU

- **March 15 - Payment of Advance Tax**
- **March 15 - Payment of PF**
- **March 21 - Payment of MVAT & WCT TDS**
- **March 31– ITR for AY 2015-16 and AY 2014-15**
- **March 31– Payment of Service Tax & Excise**

INSIDE THIS ISSUE:

Highlights of Union Budget 2016

The Hon'ble Finance Minister Shri Arun Jaitley announced the Union Budget 2016 on 29th February 2016. The highlights of the Union Budget 2016 relating to taxation are as follows:

RELIEF TO SMALL TAX PAYERS

- Raise the ceiling of tax rebate under section 87A from Rs. 2000 to Rs. 5000 to lessen tax burden on individuals with income upto Rs. 5 laks.
- Increase the limit of deduction of rent paid under section 80GG from Rs. 24000 per annum to Rs. 60000, to provide relief to those who live in rented houses.

BOOST EMPLOYMENT AND GROWTH

- Increase the turnover limit under Presumptive taxation scheme under section 44AD of the Income Tax Act to Rs. 2 crores to bring big relief to a large number of assessees in the MSME category.
- Extend the presumptive taxation scheme with profit deemed to be 50%, to professionals with gross receipts up to Rs. 50 lakh.
- Phasing out deduction under Income Tax:
- Accelerated depreciation wherever provided in IT Act will be limited to maximum 40% from 1.4.2017
- Benefit of deductions for Research would be limited to 150% from 1.4.2017 and 100% from 1.4.2020
- Benefit of section 10AA to new SEZ units will be available to those units which commence activity before 31.3.2020.
- The weighted deduction under section 35CCD for skill development will continue up to 1.4.2020
- Corporate Tax rate proposals:
- New manufacturing companies incorporated on or after 1.3.2016 to be given an option to be taxed at 25% + surcharge and cess provided they do not claim profit linked or investment linked deductions and do not avail of investment allowance and accelerated depreciation.
- Lower the corporate tax rate for the next financial year for relatively small enterprises i.e companies with turnover not exceeding Rs. 5 crore (in the financial year ending March 2015), to 29% plus surcharge and cess.
- 100% deduction of profits for 3 out of 5 years for startups setup during April, 2016 to March, 2019. MAT will apply in such cases.
- 10% rate of tax on income from worldwide exploitation of patents developed and registered in India by a resident.
- Complete pass through of income-tax to securitization trusts including trusts of ARCs. Securitisation trusts required to deduct tax at source.
- Period for getting benefit of long term capital gain regime in case of unlisted companies is proposed to be reduced from three to two years.
- Non-banking financial companies shall be eligible for deduction to the extent of 5% of its income in respect of provision for bad and doubtful debts.
- Determination of residency of foreign company on the basis of Place of Effective Management (POEM) is proposed to be deferred by one year.
- Commitment to implement General Anti Avoidance Rules (GAAR) from 1.4.2017.
- Exemption of service tax on services provided under Deen Dayal Upadhyay Grameen Kaushalya Yojana and services provided by Assessing Bodies empanelled by Ministry of Skill Development & Entrepreneurship.

- Exemption of Service tax on general insurance services provided under 'Niramaya' Health Insurance Scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability.

- Basic custom and excise duty on refrigerated containers reduced to 5% and 6%.

MAKE IN INDIA

- Changes in customs and excise duty rates on certain inputs to reduce costs and improve competitiveness of domestic industry in sectors like Information technology hardware, capital goods, defence production, textiles, mineral fuels & mineral oils, chemicals & petrochemicals, paper, paperboard & newsprint, Maintenance repair and overhauling [MRO] of aircrafts and ship repair.

MOVING TOWARDS A PENSIONED SOCIETY

- Limit for contribution of employer in recognized Provident and Superannuation Fund of Rs. 1.5 lakh per annum for taking tax benefit. Exemption from service tax for Annuity services provided by NPS and Services provided by EPFO to employees.
- Reduce service tax on Single premium Annuity (Insurance) Policies from 3.5% to 1.4% of the premium paid in certain cases.

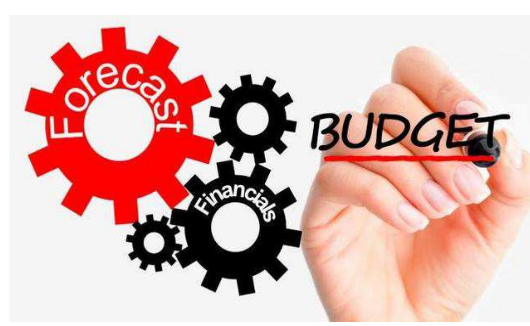
PROMOTING AFFORDABLE HOUSING

- 100% deduction for profits to an undertaking in housing project for flats upto 30 sq. metres in four metro cities and 60 sq. metres in other cities, approved during June 2016 to March 2019 and completed in three years. MAT to apply.
- Deduction for additional interest of Rs. 50,000 per annum for loans up to Rs. 35 lakh sanctioned in 2016-17 for first time home buyers, where house cost does not exceed Rs. 50 lakh
- Distribution made out of income of SPV to the REITs and INVITs having specified shareholding will not be subjected to Dividend Distribution Tax, in respect of dividend distributed after the specified date.
- Exemption from service tax on construction of affordable houses up to 60 square metres under any scheme of the Central or State Government including PPP Schemes.
- Extend excise duty exemption, presently available to Concrete Mix manufactured at site for use in construction work to Ready Mix Concrete.

RESOURCE MOBILIZATION FOR AGRICULTURE, RURAL ECONOMY AND CLEAN ENVIRONMENT

- Additional tax at the rate of 10% of gross amount of dividend will be payable by the recipients receiving dividend in excess of Rs. 10 lakh per annum.
- Surcharge to be raised from 12% to 15% on persons, other than companies, firms and cooperative societies having income above Rs. 1 crore.
- Tax to be deducted at source at the rate of 1 % on purchase of luxury cars exceeding value of Rs. Ten Lakh and purchase of goods and services in cash exceeding Rs. Two Lakh.
- Securities Transaction tax in case of 'Options' is proposed to be increased from .017% to .05%.
- Equalization levy of 6% of gross amount for payment made to non- residents exceeding Rs. 1 Lakh a year in case of B2B transactions.

- Krishi Kalyan Cess, @ 0.5% on all taxable services, w.e.f. 1 June 2016. Proceeds would be exclusively used for financing initiatives for improvement of agriculture and welfare of farmers. Input tax credit of this cess will be available for payment of this cess.
- Infrastructure cess, of 1% on small petrol, LPG, CNG cars, 2.5% on diesel cars of certain capacity and 4% on other higher engine capacity vehicles and SUVs. No credit of this cess will be available nor credit of any other tax or duty be utilized for paying this cess.
- Excise duty of '1% without input tax credit or 12.5% with input tax credit' on articles of jewellery [excluding silver jewellery, other than studded



with diamonds and some other precious stones], with a higher exemption and eligibility limits of Rs. 6 crores and Rs. 12 crores respectively.

- Excise on readymade garments with retail price of Rs. 1000 or more raised to 2% without input tax credit or 12.5% with input tax credit.
- 'Clean Energy Cess' levied on coal, lignite and peat renamed to 'Clean Environment Cess' and rate increased from Rs. 200 per tonne to Rs. 400 per tonne.
- Excise duties on various tobacco products other than beedi raised by about 10 to 15%.
- Assignment of right to use the spectrum and its transfers has been deducted as a service leviable to service tax and not sale of intangible goods.

PROVIDING CERTAINITY IN TAXATION

- Committed to providing a stable and predictable taxation regime and reduce black money.
- Domestic taxpayers can declare undisclosed income or such income represented in the form of any asset by paying tax at 30%, and surcharge at 7.5% and penalty at 7.5%, which is a total of 45% of the undisclosed income. Declarants will have immunity from prosecution.

- Surcharge levied at 7.5% of undisclosed income will be called Krishi Kalyan surcharge to be used for agriculture and rural economy.
- New Dispute Resolution Scheme to be introduced. No penalty in respect of cases with disputed tax up to Rs. 10 lakh. Cases with disputed tax exceeding Rs. 10 lakh to be subjected to 25% of the minimum of the imposable penalty. Any pending appeal against a penalty order can also be settled by paying 25% of the minimum of the imposable penalty and tax interest on quantum addition.
- High Level Committee chaired by Revenue Secretary to oversee fresh cases where assessing officer applies the retrospective amendment.
- One-time scheme of Dispute Resolution for ongoing cases under retrospective amendment.
- Penalty rates to be 50% of tax in case of underreporting of income and 200% of tax where there is misreporting of facts.
- Disallowance will be limited to 1% of the average monthly value of investments yielding exempt income, but not exceeding the actual expenditure claimed under rule 8D of Section 14A of Income Tax Act.
- Time limit of one year for disposing petitions of the tax payers seeking waiver of interest and penalty.
- Mandatory for the assessing officer to grant stay of demand once the assesse pays 15% of the disputed demand, while the appeal is pending before Commissioner of Income-tax (Appeals).
- Monetary limit for deciding an appeal by a single member Bench of ITAT enhanced from Rs. 15 lakhs to Rs. 50 lakhs.
- 11 new benches of Customs, Excise and Service Tax Appellate Tribunal (CESTAT).

SIMPLIFICATION AND RATIONALIZATION OF TAXES

- 13 cesses, levied by various Ministries in which revenue collection is less than Rs. 50 crore in a year to be abolished.
- For non-residents providing alternative documents to PAN card, higher TDS not to apply.
- Revision of return extended to Central Excise assesses.
- Additional options to banking companies and financial institutions, including NBFCs, for reversal of input tax credits with respect to non- taxable services.
- Customs Act to provide for deferred payment of customs duties for importers and exporters with proven track record.
- Customs Single Window

Project to be implemented at major ports and airports starting from beginning of next financial year.

- Increase in free baggage allowance for international passengers. Filing of baggage only for those carrying dutiable goods.

TECHNOLOGY FOR ACCOUNTABILITY

- Expansion in the scope of e-assessments to all assessees in 7 mega cities in the coming years.
- Interest at the rate of 9% p.a against normal rate of 6% p.a for delay in giving effect to Appellate order beyond ninety days.
- 'e-Sahyog' to be expanded to reduce compliance cost, especially for small taxpayers.

Clarification on taxability of consortium members

A consortium of contractors is often formed to implement large infrastructure projects, particularly in Engineering, Procurement and Construction ('EPC') contracts and Turnkey Projects. The tax authorities, in many cases have taken a position that such a consortium constituted an Association of Persons ('AOP') i.e. a separate entity for charging tax. The claim of taxpayers, on the other hand, is contrary to this view. This has led to tax disputes particularly in those cases where each member of the consortium, although jointly and severally liable to the contractee, has a clear distinction and role in scope of work, responsibilities and liabilities of the consortium members.

The term AOP has not been specifically defined in the income-tax Act, 1961 ('Act'). The issue as to what would constitute an AOP was considered by the Apex Court in some cases. Although certain guidelines were prescribed in this regard, the Court opined that there is no formula of universal application so as to conclusively decide the existence of an AOP and it would rather depend upon the particular facts and circumstances of a case. In the specific context of the EPC contracts/ Turnkey projects, there are several contrary ruling of various Courts on what constitutes an AOP.

The matter has been examined. With a view to avoid tax-disputes and to have consistency in approach while handling these cases, the Board has decided that a consortium arrangement for executing EPC/Turnkey contracts which has the following attributes may not be treated as an AOP.

- each member is independently responsible for executing its part of work through its own resources and also bears the risk of its scope of work i.e. there is a clear demarcation in the work and costs between the consortium member and each member incurs expenditure only in its specified area of work;
- each member earns profit or incurs losses, based on performance of the contract falling strictly within its scope of work. However, consortium members may share contract price at gross level only to facilitate convenience in billing.
- the men and materials used for any area of work are under the risk and control of respective consortium members;
- the control and management of the consortium is not unified and common management is only for the inter-se coordination between the consortium members for administrative convenience;

There may be other additional factors also which may justify that consortium is not an AOP and the same shall depend upon the specific facts and circumstances of a particular case, which need to be taken into consideration while taking a view in the matter.

It is further clarified that this Circular shall not be applicable in cases where all or some of the members of the consortium are Associated Enterprises within the meaning of section 92A of the Act. In such cases, the Assessing Officer will decide whether an AOP is formed or not keeping in view the relevant provisions of the Act and judicial jurisprudence on this issue.

CBDT notifies New form 35 for e-filing of Appeal

In exercise of the powers conferred by sub-section (1) of section 249, 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) These rules may be called the Income-tax (3rd Amendment) Rules, 2016.

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

In the Income-tax Rules, 1962 (herein after referred to as the said rules), for rule 45, the following rule shall be substituted, namely:-

"45. Form of appeal to Commissioner (Appeals).-(1) An appeal to the Commissioner (Appeals) shall be made in Form No. 35.

Form No. 35 shall be furnished in the following manner, namely:-

(a) in the case of a person who is required to furnish return of income electronically under sub-rule(3) of rule 12,-

(i) by furnishing the form electronically under digital signature, if the return of income is furnished under digital signature;

(ii) by furnishing the form electronically through electronic verification code in a case not covered under sub-clause (i);

(b) in a case where the assessee has the option to furnish the return of income in paper form, by furnishing the form electronically in accordance with clause (a) of sub-rule(2) or in paper form.

The form of appeal referred to in sub-rule (1), shall be verified by the person who is authorised to verify the return of income under section 140 of the Act, as applicable to the assessee.

Any document accompanying Form No. 35 shall be furnished in the manner in which the said form is furnished.

The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall-

(i) specify the procedure for electronic filing of Form No.35 and documents;

(ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule(2), for the purpose of verification of the person furnishing the said form; and

(iii) be responsible for formulating and implementing appropriate security, archival and retrieval of policies in relation to the said form so furnished."

Govt. issues guideline to promote online and Card payment

The Guidelines for the promotion of payments through cards and digital means have been approved, as given below:

2. Objectives

- Improve the ease of conducting card/ digital transactions for an individual.
- Reduce the risks and costs of handling cash at the individual level.
- Reduce costs of managing cash in the economy.
- Build a transactions history to enable improved credit access and financial inclusion.
- Reduce tax avoidance.
- Reduce the impact of counterfeit money.

3. Scope

- Provide access to financial payment services to every citizen along with ability to conduct card/ digital transactions.
- Digitalize Government collections by equipping each collection point with a method to accept card/ digital payments.
- Migrate payment transactions from cash dominated to non-cash through incentivization of card/ digital transactions and disincentivization of cash based transactions.

- Enhance acceptance infrastructure in the country to promote digital transactions.
- Encourage corporates, institutions and merchant establishments to facilitate card/ digital payments.

4. Definition

Digital transactions are defined as transactions in which the customer authorizes the transfer of money through electronic means, and the funds flow directly from one account to another. These accounts could be held in banks, or with entities/ providers. These transfers could be done through means of cards (debit / credit), mobile wallets, mobile apps, net banking, Electronic Clearing Service (ECS), National Electronic Fund Transfer (NEFT), Immediate Payment Service (IMPS), pre-paid instruments or other similar means.

5. Goal

The goal of the proposed policy changes is to provide the necessary incentives to use digital financial transactions to replace the use of cash – either in government transactions, or in regular commerce over a period of time through policy intervention.

6. Short Term Steps

The Short Term Steps for Promotion of Payments through Card/ Digital Means, which will be implemented within one year, are suggested as follows:

A. Promotion of Card! Digital Transactions in Government Payments and Collections

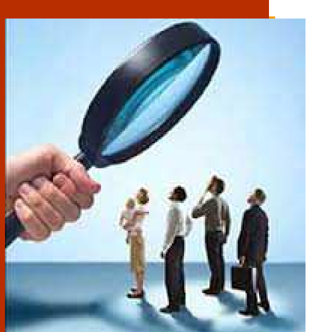
- Government Departments/ Organizations/ Central Public Sector Undertakings/ Anchor Networks shall take steps to (a) withdraw convenience fee/service charge/ surcharge on customers who prefer to make card/ digital payments for essential commodities, utility service providers, petrol pumps, gas agencies, railway tickets / IRCTC, tax department, museums, monuments etc.; (b) take appropriate steps to bear MDR cost like other merchants; and (c) build acceptance infrastructure (POS/ Mobile POS terminals) for card/ digital payments at all collection centres.
- Ministry of Road Transport & Highways/ Min stry of Urban Development shall facilitate the use of existing open-loop systems issued by a bank for multi-purpose use, including for making transit payments with a dedicated application (eg. Toll fees, metro rail and bus services, etc.).
- Department of Financial Services/ RBI shall ensure that each e gible accoun holder under PMJDY may be provided access to the digital financial services in additon to the 'RuPay Card'.
- Department of Electronics & Information Technology shall formulate an action plan to ensure Government Departments/Organisations introduce appropriate acceptance infrastructure and facilitate collection of all revenue, fee, penalties etc., through card/ digital means beyond a specified threshold, through 'PayGov India or other mechanisms.
- Department of E ectronics & Information Technology shall develop 'PayGov India as a "singe unified portal" across centralstate governments and ther public sector undertakings for collection purposes.

B. Measures for Wider Adoption of Card! Digital Transactions

- Department of Financial Services/RBI shall take steps to (a) rationalize Merchant Discount Rate (MDR) on Card transactions; and (b) formulate a differentiated MDR framework for some key transaction segments, such as utility payments and railway ticketing by examining the matter holistically in consultation with the stakeholders.

- Department of Financial Services/RBI shall relax Two Factor Authentication for both card present and card not present transactions below a certain specified amount. DFS/RBI shall work out a multi tired authentication framework for low, medium and high value transactions.
- Department of Revenue shall take steps to remove double taxation, if any, on service tax currently paid on MDR by the acquiring bank and on interchange fee by the issuing bank.
- Wherever needed, the Departments/ Ministries shall make modifications in the Rules and Regulations that may have been issued, so that appropriate change is incorporated to allow payments / receipts by using cards/ digital means also. Cash payments by any Government Department/ Agency shall be allowed only under very specific circumstances for clearly stated reasons.

"Department of Revenue/ Financial Services shall mandate e-payments beyond a prescribed threshold"



- Department of Revenue/ Department of Financial Services shall mandate payments beyond a prescribed threshold only in card/ digital/cashless mode.

C. Creating Acceptance Infrastructure

- Department of Financial Services/ RBI shall introduce of formulae linked acceptance infrastructure for different stakeholders of certain card products through appropriate ratio of POS terminals/ mobile POS terminals to cards issued or other means. The possibility of creating an Acceptance/ Financial Inclusion Fund for the purpose shall be explored.

- Department of Financial Services/ RBI shall re-examine requirements under PML Act and Rules, for bringing Uniform (Know Your Customer) KYC norms based on an authorised identity for all payment systems, including Unique Identification Number or other proof of identity. Appropriate steps shall also be taken to introduce tiered KYC for facilitating low, medium and high value transactions through cards and digital means.

- Department of Financial Services/ RBI shall amend and simplify the Merchant Acquisition guidelines to include Unique Identification Number or other identity based eKYC for merchants.

- Department of Financial Services / RBI shall take steps to allow enhanced Cashout, of a specified amount, at Point of Sale (PoS) Terminals through Cards/ Digital means.

D. Encouraging Mobile Banking/ Payment Channels

- Department of Telecommunications shall take appropriate steps for rationalization/ reduction of USSD Charges and the feasibility of its being charged only on successful transactions.

- Department of Telecommunications/ Department of Financial Services/ RBI shall make a provision for a unified USSD platform which can support transactions across all payment mechanisms.

- Department of Financial services/ RBI shall promote Mobile banking to leverage upon the huge infrastructure available at lower cost. Towards this end, steps shall be taken to address mobile banking registration and activation challenges; ease regulations and reduce entry barriers to digital wallets/ pre-paid instruments.

E. Awareness and Grievance Redressal

- Department of Financial Services/RBI shall take steps (a) to create necessary assurance mechanisms for fraudulent transactions wherein, in case of a fraudulent transaction, the money wll be credited back to customers' account and blocked and subsequently released after the investigation is complete, within maximum of 2-3 months; (b) to strengthen the role of banking ombudsman to provide greater customer confidence and (c) to formulate a comprehensive customer protection policy for transactions through cards and digital means.

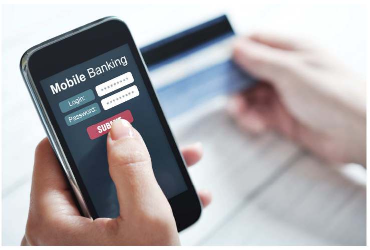
- Department of Financial Services/RBI shall take steps to optimally use funds under Depositor Education and Awareness Fund (DEAF) for expanding acceptance infrastructure and conducting awareness campaigns for a less cash society.

7. Medium Term Steps

The Medium Term Steps for Promotion of Payments through Cards/ Digital Means, which may be implemented within two years, are suggested below:

i. Department of Financial Services/RBI shall frame necessary guidelines for merchant payment standards and interoperability between various issuers and acceptance networks, including telecom, internet, pre-paid instrument providers and Payments Banks, to ensure that merchant payments are interoperable across the broad spectrum of payments and settlements system.

ii. Department of Economic Affairs shall constitute one or more Committees with key industry stakeholders, RBI and concerned Government Departments to review the payment system in the country. The following issues, among other, may be addressed by the Committee:



- Need for changes, if any, in the regulatory mechanisms under the Payments and Settlement Systems (PSS) Act, 2007 and, in other legislations affecting the payment ecosystem.
- Leveraging Unique Identification Number or other proof of identity for authentication of card/ digital transactions and setting up of a Centralised KYC Registry.
- Introduction of single window system of Payment Gateway to accept all types of Cards/ Digital payments for Government receipts and enable settlements between consumer and merchants via NPCI or other agencies within specified timelines.
- Studying feasibility and framing rules for creating a payments history for all card/ digital payments and ensure merchants/ consumers can leverage their credit history to access instant, low-cost micro-credit through digital means and create necessary linkages between payments transaction history and credit information.

iii. Department of Revenue/ Department of Economic Affairs/ Department of Financial Services shall grant tax rebates/incentives or introduce mechanisms for cash back/lottery or any other measures to incentivise transactions through cards and digital means.

iv. Department of Financial Services/ RBI shall develop a methodology for enabling very high value transactions through cards and digital means beyond the limits presently prescribed.

Investors Grievances through SCORES

SCORES is online platform to file, monitor and redress investors grievances of Listed Companies/ intermediary registered with SEBI. Investors of Listed Companies can utilize this platform to communicate their grievances to the Company through SEBI.

In case of grievances pertaining to securities market the investors should first lodge their complaints with the Compliance Officer of the Listed Company or intermediary against whom the investors has grievances. In case the grievances remains unresolved by the company concerned or respective registered intermediary after direct approach to them by the investors then the aggrieved investors can utilize this platform of SCORES to resolve his genuine grievances with the direct interference with SEBI.

Eligibility of Complaints:

SEBI deals with the Complaints that are related with SEBI Act, Securities Contract Regulation Act, Depositories Act and rules and regulation made there under and Shares Transfer/ Transmission related issues.

However in the following circumstances complaints will not be entertained by SEBI:

- If the complain are not complete in all respect;
- If the Complain does not carry necessary back-up papers/documents;
- Complains pertaining to Unlisted Companies.

Complaints against Listed Company:

In case of complaint against listed Companies, the same can be processed by in-house or its Registrar or Share Transfer Agent (RTA).

However ,even if a listed company decides to handed over the responsibility to redress investors

"Investor complaints can be lodged on the web portal of scores www.scores.gov.in"

grievances to RTA still the Company should keep track with the RTA regarding proper redressal of grievances and uploading of Action Taken Report(ATR) , because failure on the part of the RTA to take appropriate action to redress grievances and uploading of ATR within 30 days will be treated as failure on the part of the Listed company.

Procedure to file complaints by Investors through SCORES:

Step 1:

Investors should first lodge their complaints to the concerned Company or intermediary against whom the Investors has complaints/ grievances. If the Investor is not satisfied with the initiative of the Company or intermediary then the Investors can file their compliant to the SEBI through SCROES.

Step-2:

Before filing complaints to SEBI Investor shall first visit scores.gov.in and create his user id and password by filing complaint registration form.

For doing this user needs to give his/her personal informations like name, e-mail, address, PAN no. etc. On successful registration, SCORES will send user id and password to registered e-mail id.

Step-3:

After receiving the complaint by SEBI, and if the Complaint is in order, then SEBI should forward the same to the concerned Company for taking action.

Step-4:

Complainant can check the status of his complaint through web portal of SCORES by using his complaint registration number. User can track the status and send reminders too. Even they can also call SEBI at their Tool free Investors helpline Number 1800 266 7575 or 1800 22 7575;

Responsibility of Listed Company and Intermediaries:

The Board of Directors of Listed Companies or Board of Directors /Proprietor /Partner of registered intermediaries are responsible to ensure proper compliances.

SEBI vide its circulars had directed all the listed companies to get SCORES authentication within the prescribed time period.

SEBI has already inflicted penalty to some Listed Companies for failing to register with SEBI with its online complaint system namely SCORES.

Intermediaries Not Covered:

However, Stock Brokers, Sub-brokers, and Depository Participants are not required to obtain SCORES authentication because complaints against these intermediaries shall continue to be routed through the platforms of concerned stock exchange.

Physical Complaint with SEBI:

Though SEBI has started online platform to redress Investors Grievances, still those Investors who are not frequent with the online system or resides in remote area where required infrastructure to use online platform SACORES is not available can file complain physically also.

Secretarial Check Point:

1. Company Secretary of Listed Company should ensure that their employer Organization has obtained authtication code.

2. Company Secretary should also keep track on the web portal (http://scores.gov.in) to check the status of Investors Grievances;

3. Secretarial Auditor, before while conducting Secretarial Audit should make it a point that the Company has duly obtained authentication of SCORES and Investors Grievances are duly redressed and ATR uploaded on time;

Hindrance:

Investors should utilize this platform for redressal of genuine complaints only. It should be kept in mind that this platform is for redressal of grievances only and not for obtaining information. Also, multiple complaints on same subject matter or complaint on a matter answer on which is otherwise available on Stock Exchange portal should be discouraged by SEBI.

FAQs on SEBI (Share Based Employee Benefits)

1. In terms of proviso to regulation 3(12) of the SEBI (Share Based Employee Benefits) Regulations, 2014, the un-appropriated inventory of shares which is not backed by grants but has been acquired through secondary acquisition by the Trust has to be sold on the recognized stock exchange within a period of five years from the date of notification of these regulations. For the purpose of classifying the inventory as un-appropriated, whether the appropriation made to the scheme can be considered as compliance?

Appropriation towards ESPS/ ESOP/SAR/General Employee Benefits Scheme/ Retirement Benefit Schemes by October 27, 2015 would be considered as compliance with proviso to regulation 3(12). The company may appropriate towards individual employees or sell in the market during next four years so that no un-appropriated inventory remains thereafter.

2. In terms of the provisions of the SEBI (Share Based Employee Benefits) Regulations, 2014 and the Companies Act, 2013, independent directors are not entitled to ESOPs. However, prior to commencement of these provisions, independent directors were eligible to receive ESOPs. In light of this, if an independent director has been granted ESOPs before commencement of the said provisions and such options remain to be exercised, can he/she still exercise such ESOPs?

Yes. The restriction on grant of ESOPs to independent directors applies only on fresh grants of ESOPs after commencement of the aforesaid provisions. Any grant already made prior to commencement of these provisions shall remain valid i.e. an independent director can exercise such ESOPs, subject to fulfilment of terms and conditions of the ESOP schemes framed by the companies in terms of the relevant regulations.

3. Regulation 22(2) of the SEBI (Share Based Employee Benefits) Regulations, 2014 prescribes lock-in of shares issued under ESPS for a minimum period of one year from the date of allotment. Whether the said lock-in is applicable to the Trust, if an ESPS scheme is implemented through Trust route?

No. The lock-in requirement is applicable at the level of employee and not at the level of Trust. Lock-in in terms of regulation 22(2) shall be applicable from the day shares are received by the employees.

4. Shares have been acquired by the Trust from secondary market and held for a minimum period of six months in terms of regulation 3(13) the SEBI (Share Based Employee Benefits) Regulations, 2014 pursuant to which the same are transferred to employees under ESPS. Whether the requirement of lock-in, in terms of regulation 22(2) of the regulations, shall be applicable to shares received by employees?

No. Lock-in shall not be applicable to the shares received by employees.

"The restriction on grant of ESOPs to independent directors applies on fresh grants."

WIRC Office Bearers 2016-17

Congratulations

CA Shruti Shah
Chairperson

CA Hardik Shah
Vice Chairman

CA Kamlesh Saboo
Secretary

CA Shilpa Shinagare
Treasurer

CA Pradeep Agrawal
Chairman WICASA

Lalit Bajaj & Associates

Office No.: 5, Barsana, Salasar Brij Bhoomi,
Near Maxus Mall, Bhayandar (West),
Thane - 401101
Maharashtra, India

Upcoming Office:
525, The Summit Business Bay,
Near Western Express Highway,
Andheri (East), Mumbai - 400069
Maharashtra, India

Phone: +91 - 22 - 28180400
+91 - 22 - 28040048
E-mail: admin@bajajit.com

Innovate Create Lead

EPF Tax Proposal Withdrawn

The Finance Bill, 2016 had proposed that 60% of the total corpus withdrawn at the time of retirement would be taxed, both under Recognised Provident Fund and NPS. On March 1, 2016 the Government had issued following clarification as there was lack of understanding in public about such changes proposed in the Finance bill, 2016:

"*The purpose of proposing tax on EPF is to encourage more number of private sector employees to go for pension security after retirement instead of withdrawing the entire money from the Provident Fund Account.*

When this 60% of the remaining Corpus is invested in Annuity no tax is chargeable. So what it means is that the entire corpus will be tax free, if invested in annuity.

There is no change in the existing tax treatment of Public Provident Fund (PPF)."

However, this step of the Government drew ire of various salaried class employees across the sectors.

Now, in view of the representations received and keeping in view sentiments of the employees, the Hon'ble Finance Minister, Arun Jaitley has announced rollback of EPF tax proposal in the Parliament today, on 8th March, 2016. However, proposal of 40% exemption given to NPS subscribers at the time of withdrawal has been retained.