

CORPORATE UPDATE

For Client Circulation Only

No. 07/2006

7th August, 2006

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INCOME TAX

I. DTAA between India & Japan

The Double Taxation Avoidance Agreement (DTAA) between India & Japan, notified vide notification no. GSR 101(E), dated 01.03.1990, has been amended. The Protocol amending the Agreement has been notified by the Central Govt. vide notification no. 186/2006, dated 19.07.2006.

Consequently, the amendments in DTAA will become applicable with respect to taxes on income for any previous year, on or after 01.04.2007.

The highlights of the amendments are as under:

(a) Amendment in para 2 of Article 10 on 'Dividends':

The rate of tax on dividend paid to resident of the other contracting state if taxed in the country of payer has been reduced from 15 to 10%.

(b) Amendment in Para 2 of Article 11 on 'Interest':

The rate of tax on interest paid to resident of the other contracting state and if taxed in the country of payer has been reduced to 10%, for all payees.

(c) Amendment in Para 2 of Article 12 of DTA on 'Royalties and fees for Technical Services:

Royalties and fees for technical services were subject to tax @ 20% of the gross amount, if paid to the resident of the other contracting state and taxed in the contracting state in which they arise. This rate has now been reduced to 10% .

II. New Income Tax Forms Introduced

CBDT has notified amendments in the existing Rule 12 of the Income Tax Rules, 1962 vide notification no. 189/2006 dated 24.07.2006, substituting the existing forms of return of income (Form No. 1, Form No. 2, Form No. 3) with new Form No. 1, Form No. 2 and Form No. 3. Further, a new Form No. 3B has been introduced for assesseees furnishing only return of fringe benefits.

These new forms are comprehensively designed so as to do away with all kinds of attachments and facilitate electronic filing. All documents and other evidences in support of the computation of the tax payable and the tax paid and audit report are not to be attached with the return in these forms.

Form No. 1: Corporate tax payers (other than those claiming exemption u/s 11 of the Income-tax Act) are required to file their return of income and return of fringe benefits for AY 2006-07 in new Form 1. *This form is to be compulsorily filed electronically.* The procedure for electronic transmission is as under:

- If the return is digitally signed, it can be filed electronically to web-site <http://www.incometaxindia.gov.in>. There is no need to file a paper return subsequently.
- However, where the return of income cannot be signed digitally, it will be necessary to file the return by a two-step procedure. First, the return is to be transmitted electronically (without digital signature) to web-site <http://www.incometaxindia.gov.in>. The date of transmission and acknowledgement number issued by the Income-tax Dept. should be entered in the Certificate below the Verification of the return. Thereafter the paper return should be filed with the Income-tax Dept.

Form No. 2: Non-corporate tax payers (other than those claiming exemption u/s 11 of the Income-tax Act), having income from business or profession are required to file their return of income and return of fringe benefits for AY 2006-07 in new Form 2. This form can be filed electronically, following the procedure laid down above for Form no. 1 or physically, at the option of the assessee.

Form No. 3: Non-corporate tax payers (other than those claiming exemption u/s 11 of the Income-tax Act), having income from business or profession are required to file their return of income for AY 2006-07 in new Form 3. This form can be filed electronically, following the procedure laid down above for Form no. 1 or physically, at the option of the assessee.

Form No. 3B: This is a new form for furnishing only return of fringe benefits. This return form is to be used by the following assessees:

- who are required to furnish return of income and return of fringe benefits and have already furnished return of income in old forms before revision of these forms, or are furnishing return of income in Form 2D;
- who are not required to furnish the return of income but are required to furnish return of fringe benefits.

Its optional for the assessee to file this return form electronically or physically.

The new forms are available at web-site <http://www.incometaxindia.gov.in> . However, the software for electronic filing of tax returns in Form 1, 2 , 3 and 3B will be available on the same web-site from the middle of September, 2006.

III. Due Date for Filing of Return of Income Extended

In order to enable the taxpayers to familiarize themselves with the new return forms (as specified in Point 2), CBDT has issued an order on 24-07-2006 extending the due date for furnishing return of income, return of fringe benefits for A.Y. 2006-07 form 31st July, 2006 to 31st October, 2006 for all non corporate taxpayers (including partners of the firms and charitable trusts and institution). However, in the case of individuals and HUFs not having income under the head "Profits and gains from business or profession", the due date for filing the return of income is 31st July 2006.

IV. File your return even at Post Offices

Return of income can now even be filed at designated post offices in the city where the taxpayer is assessed. Government has designated 2000 post offices for the said purpose. To file through a Post Office, returns may be prepared in duplicate and one copy should be submitted in an unsealed envelop with details of:

- PAN
- Name of the taxpayer

- Address of taxpayer
- Assessment Year
- Ward/Circle where assessed

The search for nearby designated Post Office could be made by State, City & Pin code at site <http://www.incometaxindia.gov.in/search-post.asp>

V. Clarification on deduction of interest u/s 43B

The Finance Act, 2006 amended section 43B of the Income Tax Act to provide that if any interest on any loan/borrowing/advance has been converted into loan/borrowing/advance but has not been actually paid, then it shall not be allowed as deduction in the computation of income. Department has now, issued Circular No. 7/2006 dated 17.07.2006 for giving clarificatory explanation of the abovesaid rationale. This circular is attached herewith for ready reference.

VI. Taxation Laws Amendment Act, 2006

The central government has passed the Taxation Laws (Amendment) Act, 2006 which has been notified on 14.07.2006. The highlights of the changes in various provisions of Income Tax Act, 1961 are as under:

A. TDS

- The definition of 'rent' for the purpose of deduction of tax at source (TDS) u/s 194I of the Income tax Act has been widened to include not only payments for lease of any land or building but also payments for hiring of any machinery, plant, equipment, furniture or fittings.
- The scope of section 194J of the Act has been widened to also include within the ambit of TDS, payments on account of 'royalty' and 'non – compete fees' as defined u/s 28(va) of the Act.

The above amendments are effective from 14.07.2006.

B. Business Deductions:

- The scope of section 40(ia) of the Act has been widened to include payment on account of "rent" and "royalty". Accordingly, deduction from taxable income will not be available to the assessee for the above mentioned expenses, if TDS on the payments is not deducted or deposited during the previous year or in subsequent year, before expiry of time u/s 200(1) of the Act. This expense however, shall be allowed in the year in which tax has been deposited.
- The provisions relating to disallowance of expenditure for which payment exceeds Rs. 20,000/- made otherwise than by 'crossed' cheque or 'crossed' bank draft have been amended. The disallowance will now be made for payments above Rs. 20,000/- made otherwise than by an 'account payee' cheque or an 'account payee' bank draft.

The above amendments are effective from 14.07.2006.

C. Penalty Proceedings:

Under the provisions, as it existed before the amendment by the Amendment Act, there was no provision authorizing the tax authorities to amend the penalty orders passed by them, based on subsequent amendments of the assessee's income/loss.

The tax authorities have now been empowered to modify their orders imposing / enhancing / reducing / canceling penalty or dropping the penalty proceedings upon receipt of appellate or other orders of the higher authorities, Tribunal or judiciary, revising the assessment.

Such orders need to be passed within six months of receiving the aforesaid orders. The order imposing or enhancing penalty shall be appealable.

This amendment is effective from 14.07.2006.

D. Gifts:

The current provisions relating to taxability of "gifts" provides for charging to tax any sum of money exceeding Rs. 25,000/- received without consideration, by an individual or HUF from any person. However, money received from specified persons e.g. relatives, and in specified circumstances is exempt from tax. Vide the Amendment Act, money received from certain tax-exempt entities such as local authority or a charitable / not profit organisations, has also become non-taxable.

Further W.e.f 1.04.2006, the limit of Rs. 25,000/- per payment has been amended to Rs. 50,000/- in aggregate. Therefore, any sum of money in excess of Rs. 50,000 in aggregate (other than from specified persons or under specified circumstances) received by an individual or HUF on or after 01.04.2006 shall be subject to tax.

E. Tax benefits for Software Technology Park units / Export Oriented units etc.:

Tax benefit available to software technology park units/export oriented unit etc. is dependant on the export proceeds in convertible foreign exchange being received / brought into India within specified time frame.

In case where deductions has been denied earlier to the assessee, for failure to receive/bring foreign exchange into India within the stipulated time frame and subsequently the sale proceeds / part thereof is received / brought into India with the requisite approvals, the Amendment Act has now empowered the assessing officer to amend the assessment and allow deduction for the same.

This amendment in the assessment order can be effectuated by the assessing officer within four years from the end of the year in which sale proceeds are received/brought into India.

The amendment is effective from July 14, 2006.

F. Other Amendments:

- The scope of compulsory filing of return has been extended w.e.f A.Y. 2006-07, to every University, college or other institutions referred to in clause (ii) and (iii) of section 35(1).
- W.e.f 14.07.2006, the amount of tax payable or refundable shall be rounded off to nearest ten rupees instead of one rupee.

VII. Bank Term Deposit Scheme, 2006

The Central Govt. has vide notification no. 203/2006 dated 28.07.2006 notified the Bank Term Deposit Scheme, 2006. Any investment made as per this scheme is eligible for deduction u/s 80C of the Income tax Act, 1961.

As per the scheme as applicable from 28.07.2006, investment can be made in term deposit i.e a deposit with a scheduled bank for a fixed period of 5 years or more upto maximum of Rs. 1 lacs in multiples of 100.

Other features of the scheme relating to type of term deposit, rate of interest etc. have also been dealt with in the notification.

DATES TO REMEMBER

S.No.	Particulars	Due Date
1.	Deposit of TDS for the month of July, 2006.	7 th August, 2006
2.	Deposit of Service Tax by Corporates for the month of August, 2006.	5 th September, 2006
3.	Deposit of 1 st and 2 nd installment of advance tax for the F.Y. 2006-07 by non – corporate assesses and corporate assesses respectively.	15 th September, 2006
4.	Deposit of e-TDS statement for deductions made u/s 195 of the Act during the quarter ending 30 th September, 2006.	14 th October, 2006
5.	Deposit of e-TDS statements for salary and for payments other than salary, for the quarter ending 30 th September, 2006.	15 th October, 2006
6.	Deposit of Fringe Benefit Tax for the quarter ending 30 th September, 06	15 th October, 2006
7.	Filing of return of income by non corporate assessee having income from “Business or Profession” (including partners and directors), for the F.Y. 2006-07.	31 st October, 2006
8.	Filing of return of income by all corporate assesses, for the F.Y. 2006-07.	31 st October, 2006