Sambalpur Branch of EIRC – E-Newsletter
August 2024 Edition

Branch Chairman's Message

Dear Professional Colleagues,

As we steer towards the pursuit of sustainable development, issues like climate change and environmental degradation needs to be dealt with more consciousness taking into account a sustainable tomorrow. This journey towards sustainable development is long and arduous requiring collective efforts of all stakeholders i.e. Government, Industry and Public.

The Imperative of Sustainable Finance

As accounting professionals, we are the fulcrum of economic activity and being able to work with both policymaker and industry. Our role in promoting sustainable finance becomes critical in enhancing trust, credence and transparency by adopting global standards which would ensure fair and standardized information to investors and foster innovation through policy making in crafting financial investment instruments.

Accounting Profession & Sustainability

The accounting profession in India is uniquely positioned to lead the transition towards a sustainable economy. Our expertise in financial analysis, reporting, and assurance makes us essential partner in the journey towards sustainability.

As professionals, we must be vigilant in ensuring that ESG practices are not merely a box-ticking exercise but a genuine commitment to sustainability. Also, we must ensure that financial and non-financial information is presented meaningfully and that the impact of business activities on society and the environment are accurately disclosed.

The transition to a sustainable economy requires supportive policies and regulations. The accounting profession with its insights across segments has a voice in shaping these frameworks. We must advocate for policies that encourage sustainable finance, such as carbon pricing, green finance incentives and mandatory ESG disclosures. By engaging with policymakers, we can help create an environment where sustainable business practices are not only encouraged but required.

The Path Forward

The challenges of shaping a sustainable future (Sustainable finance, Sustainability reporting and assurance) are numerous, but they also present opportunities for our profession to make meaningful impact and remain relevant in the 21st century. As Professional Accountants, we have the skills, knowledge, and ethical foundation needed to drive meaningful change in how businesses operate and how they impact the world around them.

In conclusion, the accounting profession stands at the forefront of a global movement towards sustainability. As the expectations of stakeholders continue to evolve, the accounting profession must rise to the occasion, providing the expertise, assurance, and ethical leadership to support transition to a more sustainable and resilient global economy.

We celebrate "Teachers' Day to commemorate the birth anniversary of Dr. Sarvepalli Radhakrishnan, a philosopher and educator. Teachers' Day holds immense significance as it acknowledges the tireless efforts of teachers who have adapted to the new normal of online learning, hybrid classrooms, and innovative pedagogies. In the present era of technological advancements, teachers have evolved to become facilitators of knowledge, guiding students through the vast digital landscape. They play a vital role in shaping young minds, fostering critical thinking, and developing emotional intelligence.

As we celebrate Teachers' Day in 5th September, 2024, we honour the dedication, resilience, and passion of our educators who continue to inspire and empower future generations. Let us take a moment to express our gratitude and appreciation for their selfless contributions to shaping the minds of tomorrow."

Jai Hind, Jai ICAI !!

Thank you.
CA Rajendra Agrawal
Chairman
Sambalpur Branch of EIRC of ICAI

Editor's Note

"Positive thinking is designed to motivate ourselves and those around us. An optimistic mindset can help lift moods, lighten spirits, and open up a world of opportunities. From short inspiring sayings to uplifting quotes, these positive messages will help motivate you."

Dear Members,

As the editor of our newsletter, I am delighted to welcome you to another edition filled with articles, insights and inspiration. In this newsletter our vision is to give explanation on a particular section where our CA's put their effort to present themselves in the core area of their expertise.

August is a time of sun-soaked days and the anticipation of the upcoming fall. It is the time that reasonates with the spirit of Independence and progress.

August marks the celebration of our country's Independence Day, a reminder of the values of integrity, resilience, and dedication that are integral to our profession. These values are the morals upon which our profession has been built. As future torchbearers of this esteemed profession, it is imperative for us to embrace these ideals in our journey.

The CA course is not merely an academic pursuit; it is a transformative journey that shapes our professional identity. It equips us with the skills to navigate the complexities of the financial world, fosters critical thinking, and in stills a sense of responsibility and ethics. The discipline and dedication required to succeed in this course mirror the perseverance and commitment that our nation embodies.

Thank you for being part of our newsletter. Let us make our future now, and let us make our dreams tomorrow's reality.

Warms Regards,
CA Priya Gupta
Editor
Sambalpur Branch

Understanding Advance Tax and Self Assessment Tax in India

Understanding the intricacies of advance tax and self-assessment tax is crucial for both compliance and strategic financial planning. These components are pivotal in the Indian income tax system, ensuring the government receives tax revenues periodically throughout the financial year rather than at the end. This article will provide a comprehensive guide on advance tax and self-assessment tax, including the relevant sections of the Income Tax Act, notifications, rules, and practical insights.

What is Advance Tax?
Advance tax, often referred to as `pay as you earn` tax, is the income tax payable if your tax liability exceeds Rs. 10,000 in a financial year. The concept of advance tax is to pay tax in advance rather than waiting until the end of the financial year. This helps in the timely collection of revenue by the government and reduces the burden of lump-sum payment for taxpayers.

Exemption for Senior Citizens from Advance Tax
As per Section 207(2) of the Income Tax Act, the obligation to pay advance tax does not apply to certain senior citizens. Specifically, an individual resident in India is exempt from paying advance tax if they meet two criteria: (a) they do not have any income chargeable under the head "Profits and gains of business or profession", and (b) they are of the age of sixty years or more at any time during the previous year. This provision acknowledges the need to reduce the immediate financial burden on senior citizens and makes their tax compliance easier by exempting them from the advance tax payment requirements.

Legal Framework
Advance tax is governed by Sections 208 to 219 of the Income Tax Act, 1961. Key provisions include:

Section 207: Obligation to pay advance tax.

Section 208: Conditions for liability to pay advance tax.

Section 209: Computation of advance tax.

Section 210: Payment of advance tax by the taxpayer`s own estimate or by the Assessing Officer`s order.

Section 211: Instalments of advance tax and due dates.

Who Needs to Pay Advance Tax?
Individuals, freelancers, businesses, and corporate entities whose estimated tax liability for the year exceeds Rs. 10,000 are required to pay advance tax. This includes income from various sources such as salary, business income, capital gains, interest income, and rental income.

Calculation of Advance Tax
The computation of advance tax involves estimating your total income for the financial year and calculating the tax liability after considering deductions, exemptions, and rebates. Here`s a step-by-step guide:

1. Estimate Total Income: Sum up all expected incomes for the financial year.
2. Calculate Gross Taxable Income: Apply the relevant income tax rates to your estimated income.
3. Subtract Deductions: Deduct eligible deductions under various sections like 80C, 80D, etc.
4. Determine Tax Liability: Calculate the total tax payable after considering deductions.
5. Compute Advance Tax: Ensure the advance tax liability exceeds Rs. 10,000. If it does, proceed with the payment.

Due Dates for Advance Tax Payment
The advance tax is payable in installments as per the following schedule for individuals and non-corporate taxpayers:

15th June: 15% of the estimated tax liability.

15th September: 45% of the estimated tax liability (cumulative).

15th December: 75% of the estimated tax liability (cumulative).

15th March: 100% of the estimated tax liability.

For corporate taxpayers, the same schedule applies.

Consequences of Non-Payment or Late Payment

Failure to pay advance tax or short payment can result in interest penalties under Sections 234B and 234C of the Income Tax Act.

Section 234B: Interest for default in payment of advance tax.

Section 234C: Interest for deferment of advance tax.

Interest is calculated at 1% per month or part of a month on the shortfall or unpaid amount.

Actions that can be taken by the Assessing Officer (AO) if a taxpayer fails to pay advance tax-

Issuance of Written Order and Notice of Demand (Sub-section 3):

The AO can issue a written order demanding advance tax payment if the taxpayer has been previously assessed by regular assessment for any previous year. Computation shall be in manner laid down in Section 209.

This order must be issued by the last day of February and accompanied by a notice of demand under Section 156.

The notice specifies the instalments for payment, ensuring clarity on the taxpayer`s obligations.

Amendment of Order (Sub-section 4):

If, subsequent to the initial issuance, the taxpayer files a return of income or undergoes regular assessment for a later previous year, the AO can make amendments to the order.

The amended order stipulates the revised advance tax payable, ensuring that the taxpayer`s obligations are accurately reflected based on updated information.

Adjustments based on Taxpayer`s Estimations (Sub-sections 5 and 6):

Taxpayers are provided with the opportunity to adjust their advance tax payments based on their own estimations of current income.

If a taxpayer believes their advance tax liability to be less than the amount specified in the AO`s order, they can send an intimation to the AO and pay the lower amount accordingly. Such intimation shall be sent by the assessee in accordance with rule 39 in Form 28A.

Conversely, if the taxpayer`s estimation indicates a higher advance tax liability, they must pay the increased amount before the due date of the last instalment specified in Section 211.

What is Self-Assessment Tax?
Self-assessment tax is the amount that a taxpayer pays on their assessed income after accounting for advance tax, TDS (Tax Deducted at Source), and other credits. It is payable before the filing of the income tax return under Section 140A of the Income Tax Act, 1961.

When to Pay Self-Assessment Tax?
Self-assessment tax is paid at the time of filing the income tax return if there is any tax due after considering the advance tax and TDS already paid. The taxpayer needs to calculate the final tax liability and pay the balance amount.

Legal Framework

Section 140A: Self-assessment tax is calculated and paid before filing the return of income. It requires the taxpayer to pay the due amount, including any interest and penalty.

Calculation of Self-Assessment Tax
The computation involves the following steps:

Determine Total Tax Liability: Calculate the total tax liability based on your total income for the financial year.

Adjust for TDS and Advance Tax: Subtract the amount of TDS and advance tax paid during the year.

Calculate Balance Tax: The remaining amount is the self-assessment tax that needs to be paid.

Add Interest and Penalty: If there is a delay in payment or filing, add interest under Sections 234A,234B, and 234C as applicable.

Payment and Filing
Self-assessment tax can be paid online through the Income Tax Department`s e-filing portal or offline through designated banks. After payment, the details must be included in the income tax return filed by the taxpayer.

Consequences of Non-Payment
Non-payment or short payment of self-assessment tax can result in penalties and interest under various sections of the Income Tax Act:

Section 234A: Interest for default in furnishing return of income.

Section 234B: Interest for default in payment of advance tax.

Section 234C: Interest for deferment of advance tax.

Practical Insights and Recommendations

Regular Monitoring: Taxpayers should regularly monitor their income and tax liability to ensure timely and accurate payment of advance tax.

Professional Assistance: Consulting a tax professional can help in accurate estimation and compliance with advance tax and self-assessment tax requirements.

Utilize Technology: Use online calculators and tools provided by the Income Tax Department to compute and pay taxes efficiently.

Stay Updated: Keep abreast of changes in tax laws, notifications, and circulars issued by the CBDT.

Conclusion
Advance tax and self-assessment tax are integral components of the Indian tax system, ensuring timely revenue collection and reducing the year-end tax burden on taxpayers. Understanding these concepts, complying with the due dates, and accurately calculating the tax liability are essential for maintaining good tax discipline and avoiding penalties. With improved reporting mechanisms and technology, taxpayers can ensure compliance and contribute to a transparent and efficient tax system.

CA. Yogesh Agrawal

Comprehensive Analysis on ESOP Taxation in India

Introduction
Employee Stock Option Plans (ESOPs) are popular mechanisms through which companies attract, retain, and incentivize employees. However, the taxation of ESOPs can be complex, particularly in the Indian context where specific provisions under the Income Tax Act, 1961, govern their treatment.

Legal Framework Under Indian tax law, ESOPs are considered as perquisites (additional benefits) to the employees and are taxable under the head `Salary`. The provisions governing the taxation of ESOPs are primarily encapsulated in Section 17 of the Income Tax Act. Specifically, subsection 17(2)(vi) elaborates on perquisites, including the benefits arising from ESOPs. Section 17 and ESOPs

Subsection 17(2)(vi): This subsection includes within perquisites the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly by the employer, free of cost or at a concessional rate to the employee.

Taxation Event: The taxation of ESOPs occurs at two stages:

1) **At the time of exercise**: When the employee exercises the option and shares are allotted, the difference between the exercise price and the fair market value (FMV) of the shares is taxed as a perquisite.
2) **At the time of sale:** Any gain arising from the sale of shares, over and above the FMV considered at the exercise stage, is taxed under the head `Capital Gains`.

Taxation of Unlisted ESOPs For ESOPs pertaining to companies not listed on any recognized stock exchange in India, the determination of FMV is critical and typically requires a valuation by a registered valuer. The lack of market liquidity and public trading data can complicate this assessment.

Fair Market Value Calculation The fair market value (FMV) of ESOPs is crucial in determining the tax liability at the time of exercise:

1) **Listed Companies:** For shares listed on any recognized stock exchange in India, the FMV is determined based on the average of the opening and closing prices of the shares on the date of exercise. If there is no trading on that day, the last day's trading price is considered.

2) **Unlisted Companies:** For companies not listed on any recognized stock exchange in India, the FMV must be determined by a merchant banker or an accountant as per the prescribed guidelines. This valuation determines the perquisite value to be taxed under the head of salary.

Treatment of Foreign Listed Companies For Indian tax purposes, shares listed on a foreign exchange not recognized in India are treated as unlisted. Therefore, their FMV is determined in the same manner as that of unlisted companies, necessitating a formal valuation. Judicial Interpretation: Sanjay Baweja vs. DCIT [2024]

Background of the Case The case of Sanjay Baweja vs. Deputy Commissioner of Income Tax [2024], decided by the Delhi High Court, highlights the complexities surrounding the taxation of ESOPs, especially when compensatory payments are involved separate from the traditional exercise of options.

Facts of the Case
Petitioner: Sanjay Baweja, an ex-employee of Flipkart Internet Private Limited, part of the Flipkart group.

ESOP Grant: Under an ESOP plan by Flipkart Pvt. Ltd., Singapore, Baweja was granted stock options.

Compensation: Following the disinvestment of a subsidiary, the value of the underlying stock options fell. As compensation, the company decided to pay the option holders, including Baweja, a one-time payment for the loss in value of their options.

Contentions of the Petitioner

Baweja contended that the one-time payment was not a perquisite related to employment but a capital receipt, thus not taxable under the head "Salaries."

He argued that the payment was compensation for the diminution in the value of options, not linked to the exercise or sale of the granted options.

Contentions of the Revenue

The Revenue argued that the payment constituted a perquisite under Section 17(2)(vi) of the Act, as it was indirectly linked to the employment and the ESOPs granted to him.

It was further contended that all compensations or benefits arising from employment should be taxed under the head "Salaries."

High Court`s Judgment

The court noted that the compensatory payment was not made due to the exercise of the stock options or as a direct employment benefit.

It differentiated this payment from regular perquisites, stating that the nature of the payment was a capital receipt rather than a revenue receipt.

As such, the court concluded that the payment was not taxable as a salary perquisite.

Analysis of the Decision

This ruling underscores the importance of the nature and purpose of payments in determining their tax treatment.

This ruling is significant as it elucidates the tax implications of one-time voluntary payments (OTVP)associated with ESOPs. The court determined that payments not resulting from the exercise of stock options or stemming from any contractual commitments should not be categorized as perquisites under Section 17(2)(vi) of the Income Tax Act.

The court`s decision hinged on the fact that the payment was not directly tied to the services rendered by the employee but was a compensation for external factors affecting the stock value.

By differentiating OTVP from benefits linked to employment, the Delhi High Court emphasized that not every payment from employers falls under the taxable salary provisions. This distinction underlines the importance of assessing the nature of the payment rather than its form. It also encourages better structuring of compensation packages and more accurate tax planning for both companies and employees involved with stock options.

Conclusion

The Delhi High Court's decision in Sanjay Baweja vs. DCIT [2024] provides a nuanced perspective on the taxation of ESOPs and associated compensatory payments. This case highlights the judicial approach towards differentiating between payments that are core to the employment contract and those that are compensatory, arising from broader corporate actions. This differentiation is vital for taxpayers and corporations in understanding the tax implications of various forms of employee compensation under Income Tax law.

CA. Komal Agrawal

Understanding The Concept Of Casual Taxable Person Under GST

Introduction

Goods and Services Tax (GST) in India is a comprehensive, multi-stage, destination-based tax that is levied on every value addition. Among the various classifications of taxpayers under GST, one unique category is that of the Casual taxable person (CTP). This article delves into the concept of a Casual taxable person, its necessity, registration process, specific provisions under the CGST Act and Rules, and other related aspects.

Concept of Casual Taxable Person and Its Necessity

A Casual taxable person (CTP) is defined under Section 2(20) of the CGST Act, 2017. A CTP is someone who occasionally undertakes transactions involving the supply of goods or services or both in a Taxable territory where they have no fixed Place of business. This includes individuals or businesses that come to an event, exhibition, or a trade fair in another state or location for a limited period to make supplies.

Why is it Needed?

The concept of a CTP is crucial for several reasons:

1) **Tax Compliance**: Ensures that individuals or entities making occasional supplies in a territory comply with GST laws.
2) **Revenue Assurance:** Helps the government in capturing and ensuring tax on supplies that are made on an occasional basis.
3) **Level Playing Field:** Provides a level playing field by bringing all suppliers under the tax net, even if they do not have a permanent establishment in the Taxable territory.

Registration Process for a Casual taxable person

Application Procedure

According to Section 25 of the CGST Act and Rule 8 of the CGST Rules, 2017, the registration process for a CTP involves the following steps:

1) Advance Application: A CTP must apply for registration at least five days before commencing business.
2) Form Submission: The application must be made electronically in Form GST REG-01.
3) Temporary Registration: The CTP is granted a temporary registration, which can be tracked through the GST portal.

Time Duration and Extension

A CTP`s registration is valid for a period specified in the application or 90 days from the effective date of registration, whichever is earlier. As per proviso to Section 27(1) of the CGST Act, the period can be extended by another 90 days upon request, subject to the approval of the Proper officer.

Specific Provisions under the CGST Act and Rules
Section 25 and Rule 8

Section 25(1) of the CGST Act: Mandates that every person liable to be registered under the Act shall apply for registration in every such State in which they are so liable within thirty days from the date on which they become liable to registration. However in case of Casual taxable person taxpayer is required to apply for registration at least 5 days prior to the commencement of business:

Rule 8 of the CGST Rules, 2017: Details the procedure for submitting an application for registration.

Deposit of Tax Before Registration

According to Section 27(2) of the CGST Act, a CTP must deposit an amount equivalent to the estimated tax liability for the period for which registration is sought, in advance. This deposit acts as a security and ensures compliance. Where extension of time limit is sought by the Casual taxable person he shall be required to again deposit an amount equivalent to the estimated tax liability at the time of making an application for extension of time in accordance with proviso to Section 27(2).

Refund of Advance Tax

In cases where the registration is not granted or the amount deposited is not fully utilized, the CTP has following alternatives:
Refund Process: The unutilized amount of tax deposited by the CTP into it’s Electronic cash ledger can be claimed as a refund under Section 54 of the CGST Act.

Transfer of amount via PMT-09: Instead of claiming a refund, the taxpayer can opt to transfer the unutilized amount to another GSTIN under the same PAN, which can be a more efficient use of funds.

PMT-09 is a challan for transferring any amount of tax, interest, penalty, fee, or any other amount available in the Electronic cash ledger to the correct tax head. It allows taxpayers to shift their balances from one head to another within the same GSTIN or across different GSTINs under the same PAN.

Steps to Transfer Unutilized Amount

1) Login to GST Portal: Access the GST portal and log in with your credentials.
2) Navigate to Services: Go to `Services` > `Ledger` > `Electronic cash ledger`.
3) File Form PMT-09: Select `File GST PMT-09 for transfer of amount` option.
4) Enter Details: Input the details of the amount to be transferred, including the major and minor heads of tax (e.g., IGST,

CGST, SGST) and the GSTIN to which the amount should be transferred.
5) Submit Form: After filling in the required details, submit the form.

Conditions and Restrictions- The transfer can only be made to GSTINs registered under the same PAN.

Notifications and Circulars
Following circulars provide additional clarity and guidelines for CTPs:
Circular No. 10/10/2017-GST:
Subject: Clarification on issues wherein the goods are moved within the State or from the State of registration to another State for supply on approval basis –Reg.
Various communications have been received particularly from the suppliers of jewellery etc. who are registered in one State but may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval. In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a Casual taxable person, the supplier is not able to register as a Casual taxable person. It has also been represented that such goods are also carried within the same State for the purposes of supply.

Clarifications Provided:

Goods taken for supply on approval
basis can be moved from the Place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods.

All such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state upplies and attract integrated tax in terms of Section 5 of the Integrated Goods and Services Tax Act, 2017.

Circular No. 71/45/2018-GST: Clarifies the issues related to registration, deposit of tax, and refunds for CTPs.

Conclusion
The concept of a Casual taxable person under GST is designed to ensure that even those without a fixed Place of business but who occasionally supply goods or services are brought into the tax net. The registration process, along with the advance deposit of tax, ensures compliance and revenue collection. Understanding these provisions is crucial for businesses and individuals who plan to undertake occasional transactions indifferent taxable territories. The CGST Act and Rules, supplemented by notifications and circulars, provide a comprehensive framework for managing the tax obligations of Casual taxable persons.

Glimpses of Events, Celebrations and competition of August 2024

Joint Seminar with University (Vikash Bargarh)

CSR Activity on 02nd August 2024 at Utkal Balasharam

Joint Seminar with Sambalpur Unversity (NAC Burla College) on 05.08.24 by CA Naveen Kumar Tiwari

Career Counselling Program on 06.08.24 at SDMT School, Titlagarh by CA Ashok Agrawal

Independence Day Celebration

Inter-School Speech Competition on 15.08.24

Seminar on Ethical Values

Seminar on Audit Trail & Tax Audit on 18.08.24

Seminar on Code of Ethics & Audit Trail.

Important Links and Announcements and Notifications of ICAI

Advanced Integrated Course on Information Technology and Soft Skills (Advanced ICITSS) - Adv. Information Technology Test - Computer Based Mode (CBT) - August and September 2024 - (01-08-2024)

Extension of Last Date for Online Empanelment of Members to act as Observers for September/November 2024 Examinations up to 20th August 2024 - (12-08-2024)

Audit Quality Maturity Model version 2.0 (AQMM v 2.0) - (22-08-2024)