

News Weekly

February 2012

Volume I Issue2

Inside This Issue

Highlights of the Week
Recent case laws
Tax Deduction Rates

Team Ksa

CA Kamal Piyush
CA Navin Kumar Malik
CA Arun Kanodia
CA Vijay Kumar Gupta
CA Rajesh Kalani
CA Rasmi Ranjan Jati
CA Kuldeep Gupta
CS Anil Kumar Arora
CS Sanjana Dua

Services Offered

Audit and Assurance
Accounting Services
Income Tax
Service Tax
Value Added Tax
Corporate Governance
Services For Non-Resident
Consultancy

Highlights of the Week

TDS credit to be allowed if difference between TDS claim and TDS in AS-26 does not exceed Rs 100,000/- .

CBDT permitted to Issue TDS certificate with digital signature.

New facility for Downloading TDS Certificate in form 16A from TIN website

Procedure for down load online TDS certificate in Form No 16A from NSDL Website

Return of income- exception to specified persons from requirements of furnishes a return of income under section 139(1) for assessment year 2012-2013

Recent Circulars on SEBI/FEMA

Guidelines in Respect of Buy Back of Securities

Amendments to Equity Listing Agreement

Release of Foreign Exchange for Imports- Future Liberalisation

Establishment of project office in India by Foreign Entities

Export of goods and service- receipt of advance payment for export of goods

TDS rate for the financial year 2011-2012.

Delhi: K-8, Ground Floor, Jangpura Extension, New Delhi-110014

Ph.: +91 11 24323155, Mobile: 9811061238, Fax: +91 11 24323156

Gurgaon: B-502, Suncity Heights, Suncity, Sector-54, Gurgaon-122001, Ph: +91 124 4241192

Surat: 206, Center Point, Ring Road, Surat-395002, Ph: +91 261 2462268, +91 261 2707175

Email: kamalpiyush@ksaindia.in, ksaindia.in@gmail.com, Website: www.ksaindia.in

INCOME TAX.

TDS CREDIT FOR THE ASSESSMENT YEAR 2011-2012

The issue of processing of returns for the Asst. Year 2011-12 and giving credit for TDS has been considered by the Board. In order to clear backlog of returns, the following decisions have been taken:

In All returns (ITR-1 to ITR-6), where the difference between the TDS claim and matching TDS amount reported in AS-26 data does not exceed Rs. 1 Lacs, the TDS claim may be accepted without verification

Where there is zero TDS matching, TDS credit shall be allowed only after due verification. However, in case of returns of ITR-1 and ITR-2, credit may be allowed in full, even if there is zero matching, if the total TDS claimed is Rs.5,000/- or lower.

Where there are TDS claims with invalid TAN, TDS credit for such claims are not to be allowed In all other cases, TDS credit shall be allowed after due verification.

ISSUE OF TDS CERTIFICATE WITH DIGITAL SIGNATURE

CBDT has recently vide [Circular No. 3/2011 dated 13 May 2011](#) permitted issue of certificate for tax deducted at source (TDS certificate) with digital signature for TDS from income other than salary income (non-salary TDS) in Form 16A

NEW FACILITY TO DOWNLOAD TDS CERTIFICATE IN FORM 16A FROM TIN WEBSITE

The Tax Authority will introduce a new facility in TIN to enable deductors to download Form 16A from TIN website (TIN-generated Form 16A) based on the TDS data reported in quarterly TDS returns filed by them. This certificate will bear a unique TDS certificate number.

SECURITY EXCHANGE BOARD OF INDIA GUIDELINES IN RESPECT OF BUY BACK OF SECURITIES

[Circular No. CIR/CFD/DCR/2/2012 Dated February 09, 2012](#). This guidelines in respect of the disclosure to be made in the Letter of Offer in respect of Buy-back of Securities in terms of SEBI (Buy Back of Securities) Regulations, 1998 and certain changes in the format of Standard Letter of Offer issued vide circular (MIRSD/DPS-2/MB/Cir-02/8859/04 DATED MAY 07, 2004. The revised format of standard of Letter of offer is available on SEBI website at www.sebi.gov.in under the category "Legal Framework".

AMENDMENTS TO EQUITY LISTING AGREEMENT

Amendment to Clause 40A:

In addition to Existing methods which listed company can adopt to achieve minimum public shareholding, the listed company may also achieve the minimum level of public shareholding through Institutional Placement Programme in terms of Chapter VIII-A of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009

Further, sale of shares by promoters through stock exchange shall be now carried out in terms of SEBI circular CIR/MRD/DP/05/2012 dated February 01, 2012

Amendment to clause 43 and 43A:

In order to enhance disclosure requirements, listed entities have been mandated to disclose utilization of funds raised upon conversion/exercise of warrants issued along with public or right issue of specified securities. [SEBI Circular No. CIR/CFD/DIL/1/2012 dated February 08, 2012](#)

FOREIGN EXCHANGE MANAGEMENT ACT

RELEASE OF FOREIGN EXCHANGE FOR IMPORTS- FURTHER LIBERALISATION.

HOW TO DOWN LOAD ONLINE TDS CERTIFICATE IN FORM NO.16A FROM NSDL WEBSITE.

In order to enable to generate the TDS Certificate through TIN website, you will be required to following steps:

1. The deductor has to register their TAN with NSDL website. Click on the "Online TAN Registration" available in the home page of www.tin-nsdl.com and follow the due procedures mentioned therein
2. Upon registration the deductor would be allotted a Reference Number. Note down this number.
3. The deductor will also receive an email from NSDL informing the Reference Number, User Name, Password...etc
4. After confirmation of registration formalities, again visit the website www.tin-nsdl.com and Login to TAN Account
5. Provide the User Name, Password and TAN Number
6. Provide the details as asked for by the website for every quarter. You will receive by email a text file from NSDL
7. Now the said text file needs to be converted into a PDF file / TDS certificate (Form 16A). Requisite conversion software provided in the website itself.
8. Once converted, the TDS certificates will be saved in the computer automatically at the defined path.
9. Take print out of the certificates and check the same for 100% accuracy
10. If found in order, affix seal and signature and issue the certificate to the deductees by either using digital signature or manual signature.

Based on suggestion received from various state holders, the said limit has been reviewed and it has been decided as a measure of liberalization to raise the above limit for foreign exchange remittance towards imports without any documentation formalities, from USD 500 or its equivalent to USD 5000 or its equivalent, with immediate effect.

It is clarified that the ADs need not obtain any document, including Form-1, except a simple letter from the applicant containing the basic information viz., the name and the address of the applicant, name and address of the beneficiary, amount to be remitted and the purpose of remittance, the amount does not exceed USD 5000 or its equivalent and the payment is made by a cheque drawn or by demand draft. Details available in [A.P.\(DIR Series\) Circular No.82, dated February 21, 2012](#)

ESTABLISHMENT OF PROJECT OFFICE IN INDIA BY FOREIGN ENTITIES-FEMA

Foreign Exchange Management (Established in India of Branch or Office or other Place of Business) Regulation, 2000, as amended, no person, *being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, Iran, China,* shall established in India, a branch office or a liaison office or a project office or any other place of business by whatever name called, without the prior permission of the Reserve Bank. [A.P.\(DIR Series\) Circular No. 76 dated February 09, 2012](#)

EXPORT OF GOODS AND SERVICE- RECEIPT OF ADVANCE PAYMENT FOR EXPORT OF GOODS

Notification No. FEMA 23/RB-2000, dated 3rd May , 2000 , as amended from time to time, in terms of which prior approval of the RBI is required to be obtained by an exporter for receipt of advance where the export agreement provides for shipment of goods extending beyond the period of one year from the date of receipt of advance payment

RETURN OF INCOME- EXCEPTION TO SPECIFIED PERSONS FROM REQUIREMENTS OF FURNISHES A RETURN OF INCOME UNDER SECTION 139(1) FOR ASS. YEAR 2012-2013

Vide Notification No.9/2012 dated 17-02-2012

In exercise of powers 139(IC)of Income Tax Act, The central Government hereby exempts the following class of income under Section 139(1) for the assessment year 2012-2013:-

An Individual whose total Income for the relevant assessment year does not exceeds five lakh rupees (Rs. 500,000/-) and consists of only income chargeable to Income Tax under following head-

- A. "Salaries"
- B. "Income From Other Sources" by of Interest from a saving account in a bank, not exceeding of Rs. 10,000/- .

Condition For Exemption:

The Individual

- ☞ has reported to his employer his PAN
- ☞ has reported to his employer, the income from other sources
- ☞ has discharge the tax liability by deducting TDS
- ☞ received Form 16 from his employer.
- ☞ no claim refund of taxes
- ☞ received Salary from one employer

With view to liberalization the procedure, it has been decided to permit AD Category-I banks allow exporters to receive advance payment for exports of goods which would take more than one year to manufacture and ship and where the "exporter agreement" provides for shipment of goods extending beyond the period one year from the date of receipt of advance payment subject to the following conditions.

- ☞ The KYC and due diligence exercise has been done by the AD Category- I bank for overseas buyer.
- ☞ Compliance with the Anti Money Laundering standards has been ensured;
- ☞ Progress Payment, if any should be received directly from the overseas buyes strictly in terms of the contract.
- ☞ The AD category bank should ensure that advance received by the exporter should be utilized to execute export and not for any other purpose.
- ☞ There should be no instance of refund exceeding 10% of advance payment received in the last three years.
- ☞ The document covering the shipment should be routed through the same authorised dealer bank.

Other points are available in [A.P.\(DIR Series\) Circular No.81, dated February 21, 2012](#)

RATE OF TDS EFFECTIVE FROM APRIL 01, 2011 TO MARCH 31, 2012

Section	DESCRIPTION	THRESHOLD	TDS Rate if case	
			Others	Individual
194A	Interest other than Interest on Security	Rs.5,000.00	10%	10%
194C	Contract	Rs.30,000.00(Single Transaction) or Rs. 75,000.00 in case of aggregate payment.	2%	1%
	Transportation Charges		Nil (PAN Valid)	
194H	Commission/ Brokerage	Rs. 5,000.00	10%	10%
194I	Rent for use of any Land and Building	Rs.180,000.00	10%	10%
	Machinery or Plant or Equipment	Rs. 180,000.00	2%	2%
194J	Professional and Technical Service	Rs. 30,000.00	10%	10%
For all of above case TDS will be deducted @20% if PAN not given or have no Valid PAN.				