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e-Payment of taxes mandatory from 1st April 2008

CBDT has issued press release dated 23rd January, 2008 regarding mandatory e-payment of taxes from 1st April, 2008

e-Payments

- The scheme of electronic payment of taxes for income-tax payers was introduced in 2004 and it was optional
- With a view to expand the scope of electronic payment of taxes, it is proposed to make the scheme mandatory for the following categories of tax-payers:
 - o All corporate assesses;
 - o All other assesses covered under mandatory tax audit
- The scheme of mandatory electronic payment of taxes for income-tax payers is proposed to be made applicable from 1st April, 2008.
- Tax-payers can make electronic payment of taxes through
 - o the internet banking facility offered by the authorized banks.
 - o internet by way of credit or debit cards.

What is e-Payment

- e-Payment a facility provided to the taxpayers to make income tax payments through internet using net-banking facility.
- You must have a bank account with net-banking facility, and Your bank is amongst the banks that provide the e-tax payment facility.

Procedure for e-payment

- Log on to the NSDL-TIN website. Click on the icon 'Pay tax online'
- To pay taxes online the taxpayer will select the relevant challan :
 - ITNS 280: Income Tax
 - ITNS 281: TDS / TCS
 - ITNS 282: STT / Wealth Tax
 - ITNS 283: FBT / BCTT
- Enter the following details
 - o PAN for non-TDS payments and TAN for TDS payments
 - o Name and address of the taxpayer
 - o Assessment Year
 - o Major Head Code
 - o Minor Head Code
 - o Type of Payment

- If PAN/ TAN is valid the taxpayer will be allowed to fill up other challan details
- On submission of data entered a confirmation screen will be displayed. If the taxpayer confirms the data entered in the challan, it will be directed to the net-banking site of the bank.
- TIN system will direct you to the net-banking facility of your bank. You will have to log on to the net banking site of your bank using the login ID and password/PIN provided by the bank. The particulars entered by you at the TIN website will be displayed again. You will now be required to enter the amount of tax you intend to pay and also select your bank account number from where you intend to pay the tax. After verifying the correctness, you can proceed with confirming the payment.
- On successful payment a challan counterfoil will be displayed containing CIN, payment details and bank name through which e-payment has been made. This counterfoil is proof of payment being made.
- You can verify the status of the challan in the "Challan Status Inquiry" at NSDL-TIN website using CIN after a week after making the payment.

Benefit of e-Payment

- You are not required to personally visit the bank to make the payments. Payment can be made electronically at your convenience from any place where an internet facility is available e.g. your office, residence, etc.
- You get the Challan Identification Number (CIN) online, which is required by you when you file your tax return / eTDS Statement

Banks offering e-Payment Facility

Axis Bank	State Bank of India
Punjab National Bank	Indian Overseas Bank
Canara Bank	Indian Bank
Bank of India	Corporation Bank
SBBJ	State Bank of Travancore
State Bank of Indore	Vijaya Bank
HDFC Bank	Oriental Bank of Commerce
State Bank of Patiala	Bank of Baroda
IDBI Bank.	Union Bank of India

More banks may be added in future. ■

Since the amendment of section 194I w.e.f. 13.7.2006 the most common query nowadays is 'Should the TDS be deducted u/s 194C @2% or u/s 194I @10%?' Naturally, this dilemma arises due to the overlapping nature of the provisions appearing in these sections. The confusion has been created with the amendment of section 194I in 2006 whereby the rent on machinery, plant, furniture, equipment or fittings has also been brought in its purview. Earlier only the rent on land and building was liable to TDS u/s 194I.

The recent Circular no. 1/2008 dated 10th Jan 2008 issued by the I.T. Deptt. on the issue of applicability of sec.194I to cooling charges paid to cold storage owners is a welcome measure. The circular says that it has been represented to the deptt. that:

- Cold storage owners provide a composite service, which involves preservation of essential food items including perishable goods at various temperatures suitable for specific food items for required periods and that storage of goods is only incidental to the activity of preservation.
- The cooling of goods is controlled through mechanical process. The customer brings its packages for preservation for a required period and takes away its packages after paying cooling charges.
- The customer does not hire the building, plant/machinery etc. in any manner and does not become tenant.

Deptt. has examined the matter and it is clarified that:

- The main function of the cold storage is to preserve perishable goods by means of a mechanical process, and storage of such goods is only incidental in nature.
- The customer is also not given any right to use any demarcated space/place or the machinery of cold store and thus does not become a tenant.
- Therefore the provisions of sec. 194I are not applicable to the cooling charges paid by the customers.
- However since the arrangement between the cold storage owners and the customers is of contractual nature, the provisions of section 194C will be applicable.

This is a very clear cut clarification issued by the Deptt. This will be a great relief to the cold storage owners as after this circular a TDS of only 2% instead of 10% will be deducted from their bills.

Other confusing cases of 194I v/s 194C

Car Rental

- If there is an arrangement with the taxi/car operator to do a particular assignment or job involving car then it will be treated as a contractual arrangement and therefore covered under section 194C. But if the car supplier only provides the car without specification of the job then TDS is to deducted u/s 194I.
- For example, if there is an agreement to carry the employee from one place to another i.e. let us say from home to factory and back, such agreement is giving a job to the car supplier company and the car company will get payment only when the work assigned to it was completed. If he supplies only the car, the company will not pay the amount because the

contract was for the work of transport of employees. This type of job is covered u/s 194C.

- However if the company hires the car without any assignment of job, the car supplier completes the job, the moment he sends the car. How that car is used is of no importance for him. He will get paid for car hire. This type of car hire will suffer TDS u/s 194I.

Hiring Audio Visual equipments

- Whether a particular payment made towards hire of audio visual equipment will be subject to TDS u/s 194C or 194I will depend upon the facts of the case.
- If the equipment is hired from the hotel for a particular event like conference or exhibition etc. being held in the hotel itself for few hours or days, then payment for such hiring will be covered u/s 194C being a contractual arrangement to provide the equipments for a particular purpose or event.
- However if the audio visual equipments are hired by the company for a particular period say one month, quarter or year to be used for different purposes whatever it deems fit, payment for such hire charges will be subject to TDS under section 194I as this will be treated as rent of the equipment. Here hiring charges for a 'period' becomes the key element for bringing it under the definition of rent.

Shifting of material

- In one case a contract was given for shifting of material in plant from one place to another by loaders, Trucks, Bulldozers, Dumpers and Tipplers etc. on rate contract basis i.e. Rs. /hour, Rs./trip or Rs./ton of material.
- The main condition of the contract were:
 - o That the party would deploy so & so number of equipments for a particular work.
 - o In some cases diesel is provided to party i.e. rate is excluding diesel.
 - o There is penalty clause in the contract for non-availability of the equipment.
- Despite above conditions in the contract, such type of contract will certainly come under section 194C only.
- Section 194I is definitely not applicable in this case because even if there is a written agreement for employing certain types of equipments and vehicles, the work is to be done by the contractor. This is not a simple case of taking machinery on rent. The stringent conditions have been put regarding use of specified machines, only to maintain quality of work.

Conclusion

From the discussion of above cases, following two broad criteria (but not conclusive) emerge. We have to check the facts of a case and analyse:

- a. If there is any kind of 'work contract', section 194C is applicable; if the payment is for the 'use for a certain period' of the things specified in section 194I then section 194I will be applicable.
- b. Section 194I is applicable when the possession of an asset in question is given to the hirer so that he may use it the way he wants. In case the possession is not given but retained by the person letting it on hire, provision of section 194C shall apply. ■

Tax Saving: Section 80C

Every individual is allowed a deduction of upto Rs. 1,00,000 from taxable income, in respect of investments made in specified schemes under section 80C. This article will explain various options available for claiming deduction under section 80C.

No further investments

The following 3 items entitle you to benefit of section 80C, and do not involve any additional cash outflow.

- Tuition fee paid for children
 - Principal part of home loan repayment
 - Interest accrued in National Savings Certificates
- It can be seen that above three do not need any additional outflow / investment decisions. So, one must take advantage of the same.

Riskfree v/s Risk investments

- One can go for risk free investments giving fixed return like PPF, NSC or risk investments linked to market return.
- The decision will depend on risk perception of individual, financial background, and career stage. ELSS and ULIP - two risk investment are explained in detail of the next page.

Interest accrued on NSC

If you have invested amount in National Saving Certificate in earlier years, the interest accrued on the same is considered as amount eligible for deduction under section 80C.

Tuition fee

If you have paid tuition fee for full time education of children, then such fees can be claimed as deduction under section 80C. Points to remember

- Only tuition fee is allowed
- Fees must be paid to any university, college, school or other educational institution situated within India
- Any payment towards any development fees or donation to the institution are excluded.

Home loan repayments: principal

Repayment of home loans qualifies for deduction under section 80C

- The loan must be taken for construction or purchase of a residential home,
- The loan should have only been taken from bank, housing finance company like HDFC, National Housing Bank, LIC., an employer. But the employer can only be a university, college, a public company, a public sector company, local authority or Govt.
- So, if you have taken a loan from friends/relatives, this repayment will not qualify for a tax deduction. Also, no deduction if the employer is a private limited company.

Chart of Interest Accrual on NSC

Amount of interest (Rs.) accruing on the certificates of Rs. 100 denominations Purchased between

The year for which Int. accrues	01-03-2001 & 28-02-2002	01-03-2002 & 28-02-2003	01-03-2003 onward
First Year	9.72	9.20	8.16
Second Year	10.67	10.05	8.83
Third Year	11.71	10.97	9.55
Fourth Year	12.85	11.98	10.33
Fifth Year	14.10	13.09	11.17
Sixth Year	15.47	14.29	12.08

The chart below shows the amount to be considered as accrued interest based on the date of purchase. The example illustrates the calculation.

Example of Interest Calculation

NSC Purchased on	Year in 07-08	Interest on Rs. 100	Interest on Rs. 10,000
28/02/2002	Sixth	15.47	1547
27/02/2003	Fifth	13.09	1309
01/10/2003	Fourth	10.33	1033
15/04/2004	Third	9.55	955
01/06/2005	Second	8.33	833
17/08/2006	First	8.16	816

Safe investments

There are various safe investment avenues available. One must consider the lock-in period, the return on investments and taxability of such return before taking a decision. While making investment decision, one must consider the yield i.e. post tax net return. The table below gives yield presuming tax rate of 30.9%.

Instruments available	Duration (yrs)	Returns (%)	Taxability of Income	Yield (%)
National Savings Certificate	6	8.00	Interest taxable	5.53
Post Office Time Deposits	5	7.50	Interest taxable	5.18
Senior Citizen's Savings Scheme	5	9.00	Interest taxable	6.22
Bank Fixed Deposits (Tax Saver)	5	Around 8.50	Interest taxable	5.87
Life Insurance (Endowment)	10 and more	Around 6.00	Tax-free	6.00
Public Provident Fund	15	8.00	Tax-free	8.00
Employee Provident Fund	Till retirement	8.50	Tax-free	8.50

Risk Investments

If you are ready to take higher risks and aim for higher returns, you can go for ELSS or ULIP schemes.

ELSS - Equity-Linked Saving Scheme

An equity-linked saving scheme (ELSS) is a great investment option that offers the twin benefits of tax saving and capital gains. But it comes with a 3 year lock-in period and high risk.

Open Ended - Equity: Tax Planning - Three Year Return as on 01.02.08		
Top 5		
Fund	NAV	Returns(%)
Magnum Taxgain	59.91	55.08
Principal Tax Savings	110.92	45.87
Birla Sun Life Tax Relief 96	135.27	43.47
Principal Personal Tax Saver	177.79	43.20
Sundaram BNP Paribas Tax saver	39.32	42.44
Bottom 5		
Fund	NAV	Returns(%)
LICMF Tax Plan	32.59	24.76
Taurus Libra Taxshield	29.38	29.02
BoB ELSS 96	26.59	30.47
UTI Equity Tax Savings	40.35	31.09
Tata Tax Saving	53.29	32.45

Points to remember

- It is better to invest in an existing ELSS fund where the past performance is known rather than in a new fund offer.
- Investing directly with the fund will save you 2.25% entry load.
- You can also invest in ELSS through the systematic investment plan (SIP) route i.e. a fixed amount of investment every month. In such cases the lock in for the last SIP will be three years from the date of the last installment.
- You can remain invested even after the lock in period is over in case you do not need funds at that point of time as equities generate higher growth over longer period of time.

NAV & Return % source
www.valueresearchonline.com

ULIPS - Unit Link Insurance Plans

A ULIP is a life insurance policy which provides a combination of risk cover and investment.

The dynamics of the capital market have a direct bearing on the performance of the ULIPs. remember that in a unit linked policy, the investment risk is generally borne by the investor.

Charges, fees and deductions in a ULIP ULIPs offered by different insurers have varying charge structures. Broadly, the different types of fees and charges are given below. However it may be noted that insurers have the right to revise fees and charges over a period of time.

- **Premium Allocation Charge**
This is a percentage of the premium appropriated towards charges before allocating the units under the policy. This charge normally includes initial and renewal expenses apart from commission expenses.
- **Mortality Charges**
These are charges to provide for the cost of insurance coverage under the plan.
Mortality charges depend on number of factors such as age, amount of coverage, state of health etc
- **Fund Management Fees**
These are fees levied for management of the fund(s) and are deducted before arriving at the Net Asset Value (NAV).
- **Policy/ Administration Charges**
These are the fees for administration of the plan and levied by cancellation of units. This could be flat throughout the policy term or vary at a pre determined rate.

- **Surrender Charges**
A surrender charge may be deducted for premature partial or full encashment of units wherever applicable, as mentioned in the policy conditions.
- **Fund Switching Charge**
Generally a limited number of fund switches may be allowed each year without charge, with subsequent switches, subject to a charge.
- **Service Tax Deductions**
Before allotment of the units the applicable service tax is deducted from the risk portion of the premium.

What should one verify before signing the proposal?
One has to verify the approved sales brochure for

- all the charges deductible under the policy
- payment on premature surrender
- features and benefits
- limitations and exclusions
- lapsation and its consequences
- other disclosures
- Illustration projecting benefits payable in two scenarios of 6% and 10% returns as prescribed by the life insurance council.

Selecting ULIP Schemes

- The problem in selecting the ULIP is the cost structure of various schemes is not standardized.
- Premium allocation charges is charged every year and sometimes it is as high as 25% in the first year. It however reduces substantially in later years.
- ULIP schemes favour long term investors. ■

Changes in Rule 5 of the Service Tax Rules, 1994

Notification No. 45/2007 ST Dt 28-12-2007

Submission of List of Records to be maintained by assessee

- All the assesseees are liable to submit the following details to Jurisdictional Superintendent:
 - (i) all the records prepared or maintained by the assessee for accounting of transactions in regard to,
 - (a) providing of any service, whether taxable or exempted;
 - (b) receipt or procurement of input services and payment for such input services;
 - (c) receipt, purchase, manufacture, storage, sale, or delivery, as the case may be, in regard of inputs and capital goods;
 - (d) other activities, such as manufacture and sale of goods, if any.
 - (ii) all other financial records maintained by him in the normal course of business.
- The above details are to be submitted
 - o in case of assesseees who have already filed their service tax return - on or before 31st January 2008,
 - o in case of other assesseees - at the time of filing of their first Service tax return.

Authority to visit the premises and call for information

- Now the commissioner can authorise any officer to visit the registered premises of the assessee for the purpose of carrying out any scrutiny, verification and checks.
- Every assessee is now liable to furnish following details to the officer so authorised or to the audit party deputed by commissioner or CAG within 15 working days.
 - (i) the records as mentioned in sub-rule (2) of rule 5;
 - (ii) trial balance or its equivalent; and
 - (iii) the income-tax audit report, if any, under section 44AB of the IT Act, 1961.

Clarification or Confusion ?

Circular No.98/1/2008-ST Dt. 04-01-2008

CENVAT of Construction Services for renting of immovable property

The circular clarifies that

- Service tax paid on input services ;
- in the nature of construction service or works contract service ;
- that are used in construction of immovable property which is rented to leased;
- will not be entitled to CENVAT credit
- for those who provide renting of immovable property service

It may be noted that the service of renting of immovable property is leviable to service tax from 1st June 2007.

CBEC has clarified that construction services /works contract services are input service for the output namely renting of immovable property.

Immovable property is neither subjected to central excise duty nor to service tax, hence CENVAT credit cannot be taken.

However the definition of Input service under Cenvat Credit Rules, 2004 is defined under Rule 2(I) as,

"input service" means any service,-

- (i) used by a provider of taxable service for providing an output service; or
- (ii) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products from the place of removal, and includes services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises,.....

On careful reading of above definition along with the aforesaid circular any construction services which are used in relation to setting up of office or factory resulting into construction of immovable property also, are eligible for Cenvat Credit.

In my view CBEC has taken contradictory stance on the said issue.

Cenvat credit of excise duty on transfer of goods in a works contract.

Service tax is leviable on

- gross amount charged for the works contract
- less value of the transfer of property in goods involved in the execution of the works contract which is leviable to VAT / sales tax [Rule 2A of the Service Tax (Determination of Value) Rules, 2006].

CBEC has clarified that for excise duty paid on goods (inputs), subject to levy of VAT / sales tax under works contract service, assessee is not eligible to take any credit of inputs.

Classification of category of service in case of running contracts as on 1st June 2007.

- Service tax is levied in relation to specified works contract from 1st June 2007.
- The condition for availing the composition rate of service tax under the said category was that this option was to be availed before payment of service tax.
- The issue which came up with the introduction of these new service was whether contracts entered into prior to 1st June 2007 and service tax already paid on the same under Commissioning or Installation Service or Construction of commercial or residential complex can they change there category of service under Works Contract (which may be more appropriate) and start paying service tax under the said category.

Technologies are advancing, so as the problems with the advanced technology. In the scenario of e-Mails when the communication goes through within seconds, the junk and spam mails are the unfortunate fact of technology.

If you struggle to find important emails hiding in the jungle of junk in your inbox, you are not alone. In 2007, 72% of all email traffic was spam.

What is a SPAM email?

A SPAM Email is an unsolicited commercial email, in other words, an email trying to sell you something which you haven't requested. E-mail spam, also known as bulk e-mail or junk e-mail is a subset of spam that involves sending nearly identical messages to numerous recipients by e-mail.

Spam is more than just a menace it makes your inbox a gateway for viruses, phishing attacks and identity theft.

Where do spammers get addresses from?

Some of them are

- Dictionary attacks Some spammers use software to randomly generate email addresses for popular email providers, commonly called dictionary attacks the software will guess the first part of an email address:
guessed@emailprovider.com
- Purchasing third party lists Buying email addresses from third parties.
- Email Harvesters Some spammers use special software called email harvesters which scan web pages for email addresses. Common targets for email harvesters are message boards and chat rooms.
- Some email appear from trusted sites This is called email spoofing, in these cases the spammer's *apparent* email address will be a trusted domain name, the only way to really see where the email has come from is by viewing the full header information of the SPAM email.

Junk Mail trends

The various spam mails are

- Image Spam Includes Newsletter spams
- Attachment Spam Includes PDFs, zip files, etc... Shows no sign of decline in near future
- Pump and Dump Stock Scam Spam One of the top

scam categories, which continues to evolve even after reporting

- New Social Engineering Includes spam related to big events like Beijing Olympics, Saddam Hussein's execution

Simple Tips to avoid excess junk mail

Some of them are

1. Don't advertise your email address or circulate it on the World Wide Web, i.e. give email address to trusted sites.
2. Have separate personal and business email addresses.
3. Choose an email address that is difficult to guess. This would avoid dictionary attacks. Have special characters such as underscores or numbers in email address.
4. To avoid your email being picked up by email harvesters software when including your email address on a webpage (for example when you use a message board) try to obscure it, for example, use johnATyourprovider.com instead of using the @ symbol.
5. Check privacy policy and marketing opt-outs carefully before giving out your mail address
6. Use junk mail filters with your email account

New Year Treat

This year introduced internet users to new dangers, like 'Peacomm Trojan' (kind of virus), where opening a particular email had your computer download a malware. Your computer then becomes part of a bot network. A bot-herder (spammer) can control these PC's remotely and command them to send more spam.

Next on the list of spammers are social engineering sites.

It is therefore, strongly advised to the internet users; be against giving out their email addresses on websites. Once you are on a spam mailing list, there is nothing you can do, except change your email address to avoid more spam.

For any queries and additional information please mail us at info@mondialconsultants.com ■

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In this context it is clarified by CBEC that "Classification of a taxable service is determined based on the nature of service provided whereas liability to pay service tax is related to receipt of consideration. It is legally unsustainable that a single composite contract be classified under two separate category of service depending upon time of receipt of consideration.

A service provider who paid service tax prior to 01.06.07 for the taxable service, namely, erection, commissioning or installation service, commercial or industrial construction service or construction of

complex service, as the case may be, is not entitled to change the classification of the single composite service for the purpose of payment of service tax on or after 01.06.07 and hence, is not entitled to avail the Composition Scheme"

In my view, this circular in other words clarifies that same service provided during same period by the same service provider to same client, but under different contract out of which one contract was entered into before 1st June 2007 and another was entered on or after 1st June 2007 can be classified under two different categories. ■



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