Direct Tax Vista

Your weekly Direct Tax recap

Edn. 97 – 6th March 2024

By Vivek Jalan, Partner, Tax Connect Advisory Services LLP

1. Global Minimum Tax: Challenges arising from digitalisation: Release of Amount B report to simplify transfer pricing rules and conforming changes to the Commentary of the OECD Model Tax Convention

OECD/Inclusive Framework released its Final Report on Pillar One - Amount B. OECD expects that this approach will benefit Low-capacity jurisdictions (LCJs) which have limited resources and data availability. The report introduces two options for implementation for jurisdictions that opt into the simplified and streamlined approach from January 2025, describes the circumstances under which a distributor is within scope of Amount B (including cases where it also performs certain non-distribution activities, such as manufacturing), and sets out the activities that may exclude a distributor from the scope of the simplified and streamlined approach, such as the distribution of commodities or digital goods.

Specifically, India has recorded reservations/objections on several aspects, primarily concerning the incomplete nature of this guidance. The guidance applies to the wholesale distribution of tangible goods and excludes the distribution of digital goods, commodities and services. The report suggests that it is optional for jurisdictions to adopt this approach on or after 1 January 2025. Further, jurisdictions can allow resident entities to choose to apply Amount B or prescribe/mandate the use of this approach. Taxpayers seeking to apply this approach should consent for a minimum of 3 years unless they fall out-of-scope. The outcome determined under this approach is non-binding on the counter-party jurisdiction. In case the counter-party jurisdiction does not adopt this approach, MAP resolution for eliminating any double taxation shall be arrived without reference to the simplified approach. The OECD/IF proposes to conclude this work with any further additions and provide the LCJ List by 31 March 2024.

2. AOs instructed to initiate proceedings u/s 147 of I.T. Act, 1961 in e-Verification cases

Re-openings under E-Verification Scheme would start now. E-Verification Instruction No. 2 of 2024 provides a comprehensive guide for Assessing Officers to initiate proceedings under Section 147 of the Income Tax Act, 1961, for cases identified through the e-Verification Scheme, 2021. A Quick Reference Guide further aids officers in navigating the process seamlessly. Taxpayers may go through this guide for further understanding the systems at the AOs end at - https://vilgst.com/media/05032024104459-cbdtInst02QR.pdf

Implementing the e-Verification Scheme for AY 20-21, in accordance with the provisions of Section 135A of the Income-tax Act, 1961, High Risk Cases related to Assessment Year 2020-21 have been verified by the Prescribed Authority under the scheme and submitted a Preliminary Verification Report (PVR) estimating the Income Escapement. As per Clause 4(9) of the e-Verification Scheme-2021. CIT e-Verification has matched the Preliminary Verification Report with the latest Income Tax Return to prepare the Final Verification Report (FVR) wherein Value at Risk (VaR) has been arrived at. Based on Value at Risk, certain High Risk Cases have been identified for reopening under section 147 of the Act. These cases are made available to the Assessing Officer under clause (iv) of Explanation 1of section 148.

It is important to note that the Assessing Officer is not required to issue Notice under section 148A of the Act in these cases.

3. RBI streamlines process to standardise filing of supervisory returns by banks, NBFCs

As per FEMA Norms, Supervisory returns refer to all periodic/ ad-hoc data submitted to RBI in formats prescribed from time to time. Commercial banks have to file 36 returns, including on “Asset Liability and Off-Balance Sheet Exposures”, “asset quality”, “liquidity return”, “Interest Rate Sensitivity”, “Large Credits”, “Red Flagged Account/Fraud Borrowers”, “Defaulted Borrowers”, “Ownership and Control”, “Connected Exposure”, “financial conglomerates”, and “Stressed MSME Sub-ordinate

Debt Scheme". Select all India financial institutions have to file 10 returns; urban co-operative banks (20 returns) and NBFCs (12). The RBI on February 27, 2024 has issued a 'master direction for filing of supervisory returns' for banks, non-banking finance companies, and select all-India financial institutions, consolidating all the existing instructions on submission of data in order to provide clarity and reduce compliance burden. The RBI excluded regional rural banks and housing finance companies from the aforesaid norms.

PSBs must submit half-yearly and quarterly reviews of accounts within 21 days from the date of receipt of the statutory central auditor (SCA) report. Earlier, banks could submit the reviews whenever it was provided by the SCA. The RBI also mandated lenders to submit interest rate sensitivity returns within 15 days for all months, as against previously mandated quarterly returns within 21 days.

This Circular creates a single document for ensuring compliance related to submission of all supervisory data. A summary of all changes made are also included in the Master Direction for ease of reference.

SEs should ensure that resources and IT infrastructure is adequate to meet a broad range of on-demand, ad hoc reporting requests, including requests during stress / crises situation and to meet supervisory queries.

4. ITR-7 notified

The CBDT has notified ITR-7 [For persons including companies required to furnish return under sections 139(4A) or 139(4B) or 139(4C) or 139(4D) only] under section 139 of Income tax Act 1961 for AY 2024-25 vide Notification No. 24/2024-Income Tax Dated: 1st March, 2024. There are minor changes.

So, much before the closure of the FY the ITRs have been notified and hence taxpayers should start closing their accounts soon after the end of year so that the ITRs can be filed on time.

5. Delayed return processing and refund for AY 21-22 addressed

Incase you are a taxpayer who electronically filed your income tax returns for AY 2021-22 with valid refund claims and are encountering processing delays due to technical issues or reasons beyond your control, contact your concerned Pr. CCIT/CCIT office for information on the specific procedures and timelines for processing your case. The CBDT has issued an order dated 1st March' 24 providing relief to taxpayers who faced delays in processing their income tax returns for the assessment year (AY) 2021-22 (financial year 2020-21).

This order benefits taxpayers who faced delays in receiving their income tax refunds for AY 2021-22 due to reasons beyond their control. They can now claim their legitimate refunds, even though the original processing deadline has passed.

However, there are three exceptions to whom the relaxation does not apply to i.e. Cases where returns are selected for scrutiny, returns where tax is payable or likely to be payable after processing and returns unprocessed due to any reason attributable to the taxpayer.

6. Customers get more protection under streamlined Bharat Bill Payment System

Bharat Bill Payment System is an integrated bill payment platform which enables payment or collection of bills through multiple channels—mobile apps, mobile banking, physical agents, and bank branches—using various payment modes, like UPI, internet banking, cards, cash, and prepaid payment instruments. The transactions facilitated through this platform will require the bill to be fetched before payment initiation. In case of transactions involving payments for prepaid services, the customer relationship with the biller will be validated through the platform.

The RBI issued the revised regulatory framework of the Bharat Bill Payment directions to streamline the bill payments process, enable greater participation, and enhance customer protection. Termed as the Reserve Bank of India (Bharat Bill Payment System) Directions, 2024, these guidelines will come into effect from April 01, 2024. The directions state that NBBL is the entity authorised as the Payment System Provider for Bharat Bill Payment System (BBPS). It states that Bharat Bill Pay Central Unit (BBPCU) will provide guaranteed settlement of all transactions routed through NBBL.

Billing parties will be onboarded by the Biller Operating Unit (BOU) at BBPS. BOUs will also monitor compliance and due diligence for merchant onboarding. The customer operating unit (COU) will be responsible for the digital and physical interface provided to customers. COU will be responsible for ensuring that customers have access to all billers on BBPS. Non-Bharat Bill Payment Operating Units have been directed to open escrow accounts in scheduled commercial banks that are dedicated to BBPS transactions.

(*The author is a CA, LL.M & LL.B and Partner at Tax Connect Advisory Services LLP. The views expressed are personal. The author is The Lead - Indirect Tax Core Group of CII-ER and The Chairman of The Fiscal Affairs Committee of The Bengal Chamber of Commerce. He has Authored more than 15 books on varied aspects of Direct and Indirect Taxation. E-mail - vivek.jalan@taxconnect.co.in*)