

FAST FACTS BULLETIN

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Online Registration for all active TANs

Beneficial for
Deductors

The income tax department has asked all deductors to register their TAN on NSDL web site. Once registered, the deductors will be provided User ID and password for authenticated access.

Benefit of registration

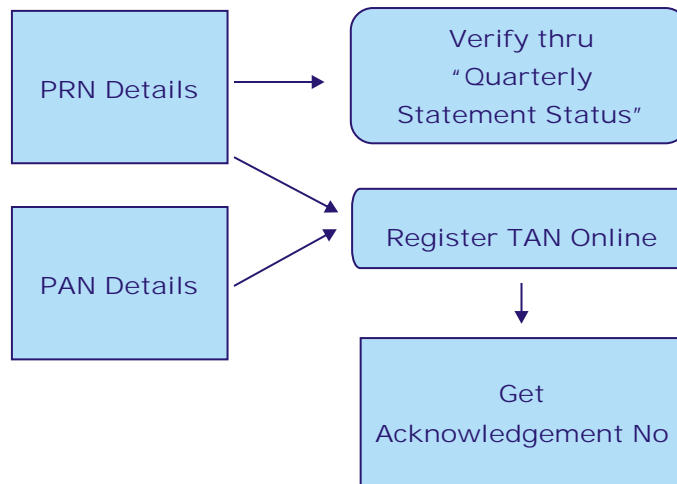
The access will result in the following benefits to the deductors:

- View of status of all statements filed;
- Download of consolidated quarterly e-TDS / TCS statement for preparation of correction statement; and
- other functionalities related to quarterly TDS /TCS statement.

Before registration

- Keep Provisional Receipt Number (PRN) of any eTDS Statement filed on or after 01-04-2008.
- Go to "Quarterly Statement Status". Enter TAN and PRN Number. Ensure that this statement is accepted by TIN. You will have to enter details of such statement during registration.
- Keep PAN details

Registration
Process



Form Details

Registration Form

TAN registration should be done online at the website of the Tax Information Network www.tin-nsdl.com. Deductors must register all active TANs.

Use the following link to register the TAN : <http://www.tin-nsdl.com/onlinetanintro.asp>. Online form will appear. The details to be filled in are explained below :

Details of Deductor

- Enter TAN and Company Name
- Enter PAN. Mention "PANNOTREQD", in case PAN is not available i.e. deductor is not required to have PAN as per the statute.

Form Details

- Select appropriate deductor category from the dropdown.
- For Govt deductors additional information is required to be filled in
 1. PAO Code and DDO Code are mandatory for deductor category "Central Government".
 2. If PAO Code is not available then mention value "PAOCDNOTAVBL".
 3. If DDO Code is not available then mention value "DDOCDNOTAVBL".
 4. For PAO/ DDO Registration number, mention registration number allotted, if any, by Central Record Keeping Agency (CRA) under New Pension Scheme (NPS).

Contact Details of Deductor

- Mention complete address and contact details of deductor.
- Provide valid email id and telephone no. / mobile no.
- Provide details of responsible person and designation.

Statement Details

- Mention details of any regular e-TDS / TCS quarterly statement accepted in TIN on or after April 01, 2008.

Generation of Acknowledgement

- After filling up the information, click "submit". On submission of details if system shows any errors, rectify and re-submit the form.
- A confirmation screen with all the data filled by the user will be displayed. The same can be either confirmed or edited.
- On confirmation, an acknowledgement number will be displayed.
- Print the acknowledgment and preserve the same for future use.
- For future correspondence mention the TAN registration number provided by TIN along with the TAN.
- You can re-generate the "Acknowledgement for TAN Registration" by registering again.

Comments

This is very useful facility and will make the task of deductor simpler.

- The biggest advantage is ability to retrieve eTDS Statement filed earlier. Several deductors do not keep backup of eTDS statement FVU files and when a correction is to be filed, they have no recourse.
- Another problem being faced by deductors is to keep track of original FVU and correction FVU. Many times several correction statements need to be filed e.g. when valid PAN become available. Hopefully, NSDL should be able to provide the updated FVU online for further creation of correction.
- At present, a deductor has to go to several links for information retrieval e.g. Challan Status Enquiry, quarterly statement status, eTDS online filing. With this new facility it is expected that all these services will be available in a single window. ■

Registration Ack. No

View details of paid refund in Annual Tax Statement

Form 26AS to give refund details

Taxpayers who have registered to view Form 26AS online can view details of paid refund in their Form 26AS from F.Y. 2009-10 onwards.

- Refunds received during the selected A.Y. will be displayed in Form 26AS. For instance, refunds pertaining to A.Y. 2005-06 which are received in F.Y. 2009-10 (A.Y. 2010-11) will be displayed in Form 26AS for F.Y. 2009-10 (A.Y. 2010-11).
- The following details related to refund will be displayed:
 - A.Y. for which refund is paid
 - Mode of payment i.e. ECS, paper (refund cheque), etc.
 - Amount of refund
 - Date of payment ■

Exemption :
works contract -
Canals

Exemptions to Works contract in relation to canals

Notification No. 41/2009-ST dated 23.10.2009

- By virtue of this notification, an exemption is granted from service tax for the services provided in relation to execution of a works contract in respect of canals.
- However, the said exemption is only for the works contract in respect of canals other than those primarily used for the purposes of commerce or industry,
- Hence the exemption is not extended to the canals primarily used for the purpose of commerce or industry.

Leviability :
construction of
canals

Leviability of Service tax on construction of canals by Government agencies

Circular No. 116/10/2009 ST dated 15.09.2009

- First issue clarified in this circular relates to leviability of service tax on construction of canals for Government projects under the category of "Commercial or Industrial Construction Service".
- The essence of the definition is that the "commercial or industrial construction service" is chargeable to service tax if it is used, occupied or engaged either wholly or primarily for the furtherance of commerce or industry. As the canal system built by the Government or under Government projects, is not falling under commercial activity, the canal system built by the Government will not be chargeable to service tax.
- However, if the canal system is built by private agencies and is developed as a revenue generating measure, then such construction should be charged to service tax.
- Another issue discussed in this circular is about Government taking up construction activity of dams, buildings or infrastructure construction etc. through EPC (Engineering Procurement & Construction) mode.
- The said service is covered under the category of "Works Contract Service" as per section 65 (105) (zzzza) of Finance Act, 1994. The said section itself excludes works contract in respect of dams, road, airports, railways, transport terminals, bridges & tunnels executed through EPC mode. Hence works contract in respect of above works even if done through EPC mode are exempt from payment of service tax.

Renting of immovable Property Services

Circular No. 336/10/2009 TRU Dated 15/07/2009

Appeal against
Delhi High Court
Order

- This department circular dated July 15, 2009 has been made available in public domain on October 28, 2009.
- The circular /instruction from Joint Secretary (TRU) is about the recent judgement of the High Court of Delhi in the matter of Home Solutions Retail India Ltd and Others Vs Union of India, wherein it is held (Para 36 of the order) that, "Section 65(105)(zzzz) does not in terms entail that the renting out of immovable property for use in the course of furtherance of business of commerce would by itself constitute a taxable service and be exigible to service tax...."
- The letter further states that
 - "It is understood that, consequent to the said judgement of the Honourable High Court of Delhi, many assesseees have stopped paying service tax on the renting of immovable property for business or commerce.
 - In this regard, all the service tax formations are informed that the Department has filed an appeal against the said order of the Delhi High Court, and the dispute has not reached finality. Given the situation, service tax formations throughout the country, are instructed to take necessary action to safeguard revenue by either pursuing the tax payer to pay up the service tax due or resort to means under law to protect the revenue. ■

Law Updates : Income Tax

Business
Connection:
Withdrawal of
Circular

Withdrawal of Circular 23/ 1969 : Business Connection : Taxability of income
Circular No. 7/2009 dated 22-10-2009

- The CBDT had issued Circular No. 23 (hereinafter called "the Circular") on 23rd July 1969 regarding taxability of income accruing or arising through, or from, business connection in India to a non-resident, under section 9 of the Income-tax Act, 1961.
- It is noticed that interpretation of the Circular by some of the taxpayers to claim relief is not in accordance with the provisions of section 9 of the Income-tax Act, 1961 or the intention behind the issuance of the Circular.
- Accordingly, the Central Board of Direct Taxes withdraws Circular No 23 dated 23rd July, 1969 with immediate effect.
- Even when the Circular was in force, the Income-tax Department has argued in appeals, references and petitions that-
 - o the Circular does not actually apply to a particular case, or
 - o that the Circular can not be interpreted to allow relief to the taxpayer which is not in accordance with the provisions of section 9 of the Income-tax Act or with the intention behind the issue of the Circular.
- It is clarified that the withdrawal of the Circular will in no way prejudice the aforesaid arguments which the Income-tax Department has taken, or may take, in any appeal, reference or petition.
- The Central Board of Direct Taxes also withdraws Circulars No. 163 dated 29th May, 1975 and No. 786 dated 7th February, 2000 which provided clarification in respect of certain provisions of Circular No 23 dated 23rd July, 1969.

Comments

For foreign companies any income arising from or through its business connection in India. is taxable in India. There are no clear-cut rules to define a business connection. The circular No 23 had been successfully interpreted, to put the income generated for a foreign company by a business process outsourcing unit in India outside the ambit of taxation in India.

The said Circular has been relied in several important judgements including Morgan Stanley 292 ITR 416 (SC), SET Satellite (Singapore) 11 DTR 313 (Bom) / 173 TM 475, Gulf Oil (Great Britain) Ltd. 108 ITR 874 (Bom.) and Amadeus Global 113 TTJ 767 (Del.).

Now, with the withdrawal of that circular, a captive BPO or a BPO that has a substantial part of its work coming from a single foreign client, runs the risk of being classified as a business connection

Beware of fake IT Refund emails

Press Release No. BSC/BY - 348/09 dated 06.10.2009

Last month several tax payers were pleased to receive emails from income tax department informing them about the tax refund. The email went onto ask them to give their bank, debit / credit card and other personal details. What transpired later was that these were all fake mails , sent for the purpose of getting credit card info.

... cont. on pg 5



Terminology

Tweets

Twitter is a free social networking service that enables users to send and receive messages. These messages are called "Tweets"

Tweets are text based posts of up to 140 characters. Tweets are hosted by the author and delivered to the authors's subscribers. Twitter is sometimes described as "SMS of the Internet"

Lately in news for

Shashi Tharoor's regular tweets and the controversial tweet on traveling by cattle class.

Taxability of gifts in kind

The email very convincingly mentioned

'Please submit the tax refund form and allow us three-five business days in order to process it. The refund can be delayed for variety of reasons,

The mails were sent from the following Ids
<lhxkpw@accounts.net> or <cvhfvs@accounts.net>

Income tax department later issued a Press Release No.402/92/2006-MC (23 of 2009) on October 6, 2009 clarifying that it has not sent any such email.

'Information has been received from several quarters that people are receiving electronic mails informing them of their income-tax refunds and seeking their credit card details.'

'Taxpayers are cautioned that they should not respond to such mails. and if they do so it would be at their risk and responsibility,' a ministry statement said.

Gift in kind to be taxable from October 2009

Press Release No. 402/92/2006-MC (21 of 2009), dated 30-09-2009

The Income Tax Act 1961 (the Act) has been amended with effect from 1st October 2009 to provide that any gift-in-kind, being an immovable property or any other property, the value of which exceeds Rs.50,000 (rupees fifty thousand), will become taxable in the hands of the donee, being an individual or a Hindu Undivided Family (HUF), as income from other sources under clause (vii) of sub-section 2 of section 56 of the Act.

Therefore, any such person who receives a gift of any such property on or after 1st October 2009 must pay the income tax due on the value of the gift and disclose the taxable value of such property in the return of income for assessment year 2010-11 and subsequent years.

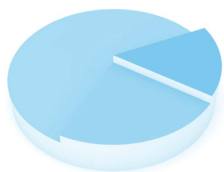
The following types of gifts will, however, not be subject to tax, i.e. gifts

- (a) from a person who is a relative;
- (b) on the occasion of marriage of the individual;
- (c) under a will or by way of inheritance;
- (d) in contemplation of death of the donor;
- (e) from any local authority as defined in the Explanation to section 10(20) of the Act; (f) from any fund or trust established under section 10(23C) of the Act; (g) from any trust or institution registered under section 12AA of the Act.

Relative is defined in the Act as

- (i) spouse;
- (ii) brother or sister;
- (iii) brother or sister of the spouse;
- (iv) brother or sister of either of the parents;
- (v) any lineal ascendant or descendant;
- (vi) spouse of any of the relative at clauses (ii) to (v); of the individual.

Earlier cash gifts exceeding Rs.25,000 were subject to tax with effect from 1st April 2004. Later the Act was amended with effect from 1st April 2006 to tax all cash gifts having aggregate value exceeding Rs.50,000. Cash gifts also enjoy exemptions as is available for gifts in-kind. ■



Statistics

Top Advance Tax Payers: April to September 2009

Rank	Name	Amount (in Cr)	Category
1	Lalit Modi	8.00	Cricketer
2	Jagan Mohan Reddy	6.60	Politician
3	Akshay Kumar	4.50	Bollywood
4	Shah Rukh Khan	3.50	Bollywood
5	Hrithik Roshan	3.00	Bollywood
6	Aamir Khan	3.50	Bollywood
7	Salman Khan	2.50	Bollywood
8	M S Dhoni	2.00	Cricketer
9	Sachin Tendulkar	1.50	Cricketer

Source : Times of India - 31st October 2009

Information Technology Amendment Act 2008

The Information Technology (Amendment) Act, 2008 has come into force with effect from 27/10/2009. Information Technology Act was enacted in the year 2000.

Background

A rapid increase in the use of computer and Internet has given rise to new forms of crimes like, sending offensive emails and multimedia messages, child pornography, cyber terrorism, publishing sexually explicit materials in electronic form, video voyeurism, breach of confidentiality and leakage of data by intermediary, E-commerce frauds like cheating by personation - commonly known as phishing, identity theft, frauds on online auction sites, etc. So, penal provisions were required to be included in the Information Technology Act, 2000

With the advent of these rules this has become a comprehensive Act. Lawyers will now have to learn and use technology.

The original Act had effectively just one criminal Section 66 for cyber crime and it was widely worded, but vague. The new Act covers a range of crimes that attracts punishment from a three-year jail term to a life sentence

Amendments

- The amended act is aimed at tightening procedures and safeguards to monitor and intercept data to prevent cybercrimes.
- It also deals with the appointment of Indian Computer Emergency Response Team, which deals with computer security and situations arising from cyber attacks.

Some sections in the amended act are explained below :

- Section 66F is the cyber terrorism and life sentence section. It applies in cases where wi-fi is misused to send terror mail. Any electronic activity that goes against the nation falls under this section.
- Section 67B deals with Online child pornography and child abuse. This would attract a prison term of 5 years for the first offence.
- Section 69A gives Procedure and Safeguards for Blocking for Access of Information by Public
- Section 69 states Procedure and Safeguards for Interception, Monitoring and Decryption of Information
- Section 69B states Procedure and safeguard for Monitoring and Collecting Traffic Data or Information
- Section 70B Notification for appointment of the Indian Computer Emergency Response Team

Relief for Network Service Providers

- Section 79 of IT Act 2000, held network service providers responsible for offensive content or communication using their services. But in IT (Amended) Act 2008, section 79 removes the liability of intermediaries in these kind of situations unless it is proven that they were in connivance with the offender or did not act quickly to remove the offensive material

Blanket powers to the Govt

- The amendment especially Section 69A has given blanket powers to the government.
- This section mentions "block public access of any information generated, transmitted, received, stored or hosted in a computer resource" in the interest of sovereignty or integrity of India; defence of India; security of the state; friendly relations with foreign states; public order; and to prevent incitement to the commission of any cognisable offence relating to the above."
- These orders will be carried out by government-appointed officers, not below the rank of joint secretary.
- This section has drawn lot of criticism from all quarters.



Need for amendment in law

Important Amendments

Relief for network service providers

Cause of concern

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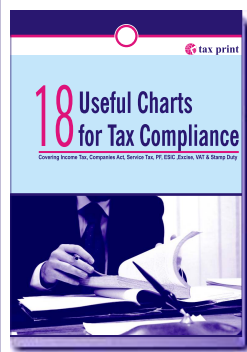
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- Interest payable under Income Tax Act
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