

TAXTIME

NEWSLETTER

DIRECT TAX NEWS

CBDT CHIEF: CHANGES TO I-T LAW HAVE HUGE REVENUE IMPLICATIONS



THE AMENDMENTS made in the Income Tax Act to disallow cess and surcharge as deductions retrospectively from assessment year 2005-06 will have “huge” revenue implications, two senior finance ministry officials said. The officials told The Indian Express that the retrospective nature is because the tax department wanted to insert the clarification from the date of the introduction of the cess in the Act, they said. Health and education cess is levied at 4 per cent of the tax amount.

“Revenue implication will be huge. It’s not a question of litigation. The intent has to be clear. If you are convinced that it is not an expenditure that is why it has been brought in. This was the conviction that cess could never have been allowed as an expenditure. For good legal reasons,” Central Board of Direct Taxes (CBDT) Chairman JB Mohapatra told The Indian Express.

Making a retrospective amendment to the Income-tax Act from 2005-06, the Budget clarified that cess and surcharge will not be allowed to be claimed as deductions in the form of expenditure. Citing court rulings, the tax department said the retrospective amendment is being done to correct the anomaly of cess and surcharge not being seen as a part of tax.

Officials noted that even though the amendment has been worded as retrospective, its mainly aimed at clarifying the legislative intent, and will impact a handful of taxpayers and companies who are in dispute with the tax department.

TAX ON CRYPTO TRADE WILL NOT BESTOW LEGALITY ON IT, SAYS CBDT CHIEF

The Budget announcement of taxing 'virtual digital assets' or crypto currencies will help the income-tax department measure the “depth” of this trade in the country, know the investors and the nature of their investments and it does not “attach any legality” to these transactions, Central Board of Direct Taxes chairman J B Mohapatra said. The head of the I-T department establishment in the country said that this is “the right time” for the taxman to enter this arena, about which Finance Minister Nirmala Sitharaman has said that the government was undertaking a stakeholders' consultation to frame a national policy and regulator in the coming days. Stating that there has been a “phenomenal increase” in transactions in virtual digital assets, Sitharaman announced in her February 1 Budget speech that any income from transfer of any virtual digital asset shall be taxed at the rate of 30 per cent along with some other direct tax measures like application of tax deduction at source provisions.

The Budget has proposed a 1 per cent TDS on payments towards virtual currencies beyond Rs 10,000 in a year and taxation of such gifts in the hands of the recipient. The threshold limit for TDS would be Rs 50,000 a year for specified persons, which include individuals/HUFs who are required to get their accounts audited under the I-T Act.

Also, no deduction in respect of any expenditure or allowance shall be allowed

TAXPAYERS FROM FRANCE, SWISS COMPANIES CANNOT CLAIM LOW TAX BENEFIT BY CITING TAX TREATIES WITH OTHER OECD MEMBERS



Indian arms of companies from France, Netherlands would now not be eligible for low tax rate of 5% while remitting dividends to their overseas parents. India's apex direct taxes body Thursday said taxpayers from these countries cannot apply the benefits available under tax treaties with entered into by India with Columbia, Slovenia making use of the most favoured nation clause. Countries including France, Switzerland, Netherlands, recently, affirmed that withholding tax in India should not exceed the rate prescribed under the treaties with Columbia, Slovenia etc, which is at lower rate of 5%, against the regular tax rate of 15%.

The Central Board of Direct Taxes, in a circular, said that Lithuania and Columbia became members of OECD after signing the tax treaty with India and therefore these treaties could not be applied to all countries.

It said unilateral decrees, issued by these countries (France, Switzerland and Netherlands), stating that they could avail low tax applicable due to MFN was a merely a reflection of the understanding of the respective countries and did not affirm India's position in this matter.

INDIANS NEED TO PAY GST ON COMMISSION PAID FOR CRYPTO TRADE DONE ON EXCHANGES ABROAD



Vivek Johri, Chairman, Central Board of Indirect Taxes and Custom, says that when a person does a transaction on an exchange located abroad, he will have to pay GST in India on reverse charge basis. In an interview with BusinessLine, he also highlighted changes in the Customs Act through the Budget which will facilitate ease of doing business. Excerpts:

How does the new taxation regime for virtual digital assets help CBIC?
One obvious benefit is going to be that we will be able to exchange information with each other about asserting the tax base, because operators who are liable to pay Income Tax or the purchasers or those who transact in crypto, will also be liable to pay GST on some of those transaction.

There is some confusion regarding applicability of GST on services provided by crypto exchanges. What do you have to say?
Our interpretation is that there is clarity in the law and the commission paid to the operator or an exchange, which is providing a platform for transaction in digital currency, is in a view of service he provides to the users of that platform and, therefore, it is the supply of service which is chargeable to GST

What happens when an Indian resident transacts on crypto exchanges located abroad?
In case of exchanges that are located abroad, the provision is that the place of supply of service would be India because the recipient of service is in India and, therefore, he will be liable to pay GST on reverse charge basis.

TODAY'S QUOTE

"Stay committed to your decisions, but stay flexible in your approach."

- Tony Robbins

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