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03-07-2022

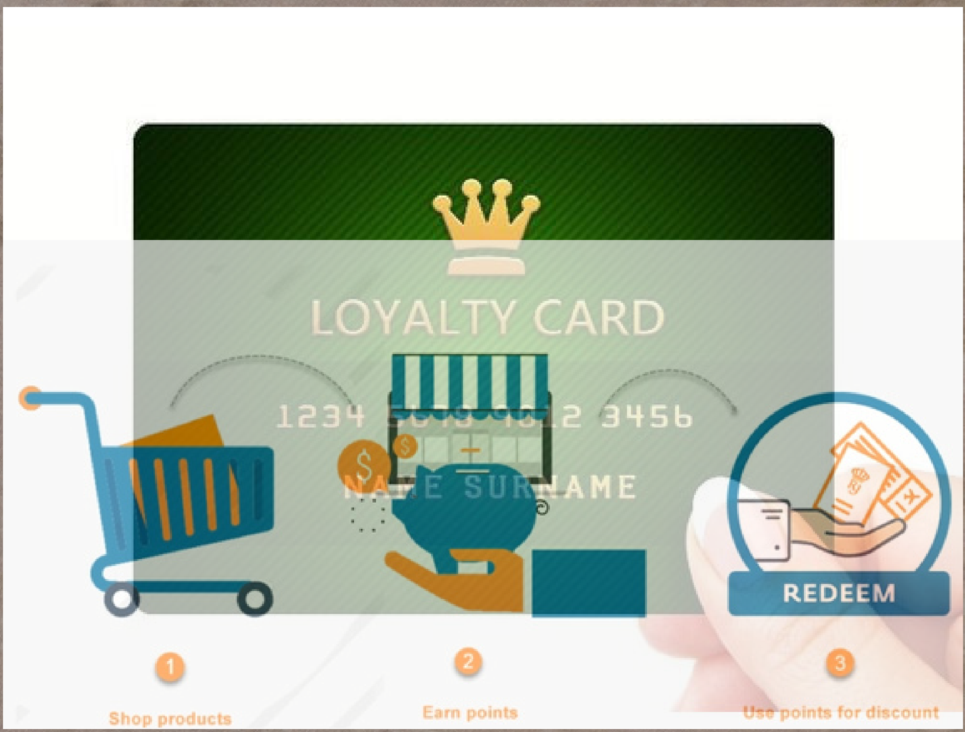
JUL 2022
ISSUE 62

TAXTIME

NEWSLETTER

DIRECT TAX NEWS

GIFT CARDS, REWARD POINTS NOT VIRTUAL DIGITAL ASSETS, SAYS CBDT



Gift cards, vouchers, mileage points, reward points, and loyalty cards will be excluded from the definition of virtual digital assets (VDAs), Central Board of Direct Taxes (CBDT) said in a notification issued late Thursday.

This will ensure that these products do not face the tax applicable on VDAs such as cryptocurrencies and non-fungible tokens (NFTs), introduced this budget.

CBDT said the exemption will include gift card or vouchers that may be used to obtain goods or services on a discount on goods, mileage points, reward points or loyalty card under an award, and reward, benefit, loyalty, incentive, rebate or promotional programme that may be used or redeemed to obtain goods or services or a discount on goods or services.

It will also include subscription to website or platform or application, the notification, which comes into effect Thursday, said.

The Centre had rolled out a new tax regime applicable for cryptocurrencies from April 1 this year. Income from transactions in crypto assets now attracts a 30% tax and 1% tax is deducted at source (TDS) on transactions in such asset classes above a certain threshold.

CBDT has also notified Form 26QF which is required to be filed by all virtual digital asset exchanges under Sec 194S.

INTERNATIONAL TAX NEWS

MAURITIUS REGULATOR CLARIFIES CAP GAINS BOOKED BY PE IN INDIA WON'T BE TAXED

Within two days after a ruling that had put a question mark on several investment structures, the Mauritius Revenue Authority (MRA) on Friday clarified its earlier stand to assure global investors who were worried over the tax impact on investments by tax haven entities in private equity (PE) funds in India.

MRA clarified that any income which is distributed by a foreign "fiscally transparent entity" will retain its initial character in Mauritius. Thus, capital gains booked by a PE Fund in India, where a Mauritius vehicle has invested, will remain capital gains when funds are distributed by the PE to the Mauritius entity.

A few days ago, MRA, which is the apex tax body in Mauritius, had in a private ruling said that such distributions would be be treated as 'income' (and not capital gains) --- and therefore taxable in Mauritius. The ruling which was posted in the MRA website had unsettled many international investors who put money in Indian PEs through a feeder vehicle in the tax haven.
According to an earlier private ruling by MRA, investment vehicles in Mauritius, used by global investors to enter India, will have to pay tax in Mauritius on 'capital gains' they receive from a PE or debt fund in India when the latter exits an investment. Till now, a Mauritius entity paid tax to the Mauritius government only on 'income flows', like dividends and interest distributed by funds in India --- but not on capital gains booked in India

DIRECT TAX NEWS

TDS ON CRYPTO, VDAS: CBDT ISSUES NEW CIRCULAR ON PEER TO PEER TRANSACTIONS

The Central Board of Direct Taxes (CBDT) given clarification regarding how the tax will be deducted (TDS) on peer-to-peer transactions related to buying/selling of Virtual Digital Assets (VDAs) and crypto under section 194S of the Income-tax Act, 1961. Peer-to-peer transactions are those transactions where buying and selling have taken place without the involvement of a third party (E.g., an exchange).

As per the latest circular issued on June 28, 2022, "According to section 194S of the Act, any person who is responsible for paying to any resident any sum by way of consideration for transfer of VDA is required to deduct tax. Thus, in a peer-to-peer (i.e., buyer to seller without going through an Exchange) transaction, the buyer (i.e., person paying the consideration) is required to deduct tax under section 194S of the Act."

Thus, the circular has clarified that the buyer of the VDA is required to deduct tax at the time of paying money to the seller of the VDA, even if no third party is involved.

INCOME TAX DEPT NOTIFIES TAX FILING DISCLOSURE NORMS FOR TDS ON CRYPTO ASSETS FROM JULY 1

The Income Tax Department has notified the disclosure norms for Tax Deducted at Source (TDS) for virtual digital assets (VDAs). From July 1, a TDS of 1% will be levied on any transactions exceeding Rs 10,000 in a year on crypto assets under the newly introduced Section 194S of the I-T Act.
IT Department's Central Board of Direct Taxes (CBDT) on June 21 notified of the changes in rules pertaining to filings of TDS returns in Form 26QE and Form 16E.
CBDT clarified that TDS collected under Section 194S shall be deposited within 30 days of the month in which the deduction is made. This will reflect in challah-cum-statement Form 26QE, it added.
The forms under Section 194S would require detailed disclosures and taxpayers should be armed the right documentation and the information required to be furnished for compliance with rules
The new forms such as 26QE require detailed information for payments on transfer of VDAs such as the date of transfer of VDA to amount paid/ credited either in cash or kind or in exchange of another VDA. This will help the tax department to trace the VDA transactions, said an expert

TURF AUTHORITIES OF INDIA HAILS DECISION TO ALLOW GOM TO TAKE A RELOOK AT GST ON HORSE RACING

The Turf Authorities of India has welcomed the GST Council's decision to allow the GoM to re-examine issues related to levying GST on horse racing.

"We are happy to note that the GST Council has deferred its decision on imposing GST on the value of bets placed at 28 per cent. We look forward to the GoM considering how horse racing is different from other gaming," said Zavaray S Poonawalla, Chairman, GST reform cell of the Turf Authorities of India.

"This gives us a window of 15 days to present to the GoM that unlike gaming for commercial gain, which is undertaken by other service providers, all race clubs in India are set up as not-for-profit clubs. The licensed horse race clubs have been in existence for over 200 years in India and in the span of their operations, the tax imposed on betting has been on the commission made by the race courses and not on the value of bets. The proposed GST would be against this centuries old norm, international norms and even the State's betting and entertainment tax, which the GST regime subsumed," he said.

"All over the world, payouts/prize money on horse racing is not taxed. This should definitely be applicable to the horse racing industry in India too," Poonawalla said.

The clubs which are all non-profit, support the jockeys, the horses, equestrian breeding and training, besides providing employment to thousands across India. Unlike commercial gaming, all revenue made by the clubs is completely ploughed back into these welfare measures. The GoM needs to be cognisant of the fact that horse racing and equestrian breeding will suffer irreversible damage, if the proposed GST on value of bets is imposed.
Besides the loss of revenue to the Centre, it would have a cascading effect on India's environment, considering that the turf clubs provide much needed green spaces in the crowded cities. It will also kill an essential part of animal husbandry and the joy equestrian sport brings to amateur riders and the laurels it brings to the country.
The sport generates lakhs of jobs in the agriculture sector, pharmaceutical industry, and labour industry etc. No value can be attributed to the above in terms of money and the GoM needs to consider the same while taking its decision, which should not be made with only a monetary outlook, Poonawalla said in a release.

EXPORT DUTY ON FUEL, IMPORT DUTY ON GOLD HIKED; WINDFALL TAX ON CRUDE IMPOSED

The government on Friday hiked import duty on gold, slapped export tax on petrol, diesel and jet fuel (ATF) shipped out by firms like Reliance and Nayara Energy, and simultaneously imposed a windfall tax on crude oil. Finance Minister Nirmala Sitharaman said the exercise was a reflection of “extraordinary times which need extraordinary measures”.
While the move on gold will result in prices going up, the higher export duty on diesel and jet fuel aims to boost domestic supply. The government also maintained that it will review the new taxation on crude and petro-products every fortnight based on international prices and take a call accordingly.

A notification by the Finance Ministry said the basic custom duty on gold will now be 12.5 per cent as against 7.5 per cent. Though surcharge at the rate of 10 per cent of basic custom duty has been removed, the 2.5 per cent agriculture infrastructure development cess (AIDC) will continue. Effectively, import duty will now be 15 per cent as against 10.75 per cent.
“India does not produce much gold. In fact, the production is almost zilch. So, you are importing by paying foreign exchange. So, you would want to see whether you can at least try to discourage the extent to which people are importing,” Sitharaman said.

A note from the Finance Ministry said there has been a sudden surge in gold imports. In May, a total of 107 tonnes of gold was imported and in June, too, the imports have been significant. The surge is putting pressure on the current account deficit with the resultant impact being the weakening of rupee.
Special additional excise duty/cess has been imposed on the export of petrol (₹6/litre) and diesel (₹13/litre). The move aims to facilitate domestic supplies. The Centre has also imposed a special additional excise duty of ₹6 per litre on exports of ATF.

Sitharaman said while it is a good thing that India has become a refining hub and the government would like that to continue, it is also true that some private pump outlets are now not supplying for domestic consumption. Further, she said India buys crude from different places at cost-effective ways while also making sure the excise duty is cut so that the burden is not passed on to the ordinary citizen.
“Earning profits is good but these are extraordinary times. We need that at least some of it is for our own citizens and that is why we have taken this twin-pronged approach. It is not to discourage exports. It is not to discourage India remaining a refining hub. It is certainly not against profit earnings. But extraordinary times do require some such steps,” she said.

TODAY'S QUOTE

When I let go of what I am, I become what I might be

-Lao Tzu

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