

Circulars

Direct Taxes

1. Notification No. 119, Dated 12-5-2006

The Central Board of Direct taxes through Income-tax (4th Amendment) Rules, 2006 has made amendment in Serial No. 5 of Form 24Q (Quarterly Statement of deduction of tax under section 200(3) in respect of salary) relating to details of salaries paid and tax deducted thereon from the employees. Note (4) of serial No. 5 has been substituted and Note (5A) has been added. Further Annexure II and Annexure III in Form 24Q have been substituted by a new Annexure II.

2. Notification No. 128/2006, Dated 1-6-2006

The Central Board of Direct Taxes through the Income-tax (Fifth Amendment) Rules, 2006 has introduced Form –2F which is required to be filed by an assessee being an individual or HUF resident in India where

- (a) the total income does not include income chargeable to income-tax under the head Profits and gains of business or profession or capital gains or agricultural income;
- (b) no relief under section 89 in respect of arrears or advance of salary is claimed; and
- (c) he does not own more than one house property.

The above-mentioned persons have an option to furnish Form 2E-Naya Saral till 31.07.06 i.e for the A.Y. 2006-07. Further, the Form –2F is required to be filed without any attachments relating to TDS, self-assessment tax, advance tax etc.

3. Circular No. 5/2006, Dated 15-5-2006- Deduction under section 80HHC of the Income-tax Act, 1961

By virtue of provisions of Section 8 of General Clauses Act, 1897, read with Rule

18 of the Customs and Central Excise Duties Drawback Rules, 1995, which provides for repeals and savings of the 1971 Rules, the benefit of section 80HHC cannot be denied to an assessee claiming refund of the duty drawback under Duty Drawback Rules, 1995. However, the claim of deduction has to be allowed subject to fulfillment of all other conditions provided under section 80HHC. This clarification will apply to assessment years 1996-97 and subsequent assessment years.

Indirect Taxes

A. Central Excise

I. Notifications:

1. Following amendments have been made in CENVAT Credit Rules, 2004:

- (i) The explanation occurring at the end of rule 2(p) defining output service has been omitted vide Notification No. 8/2006 CE (N.T.) dated 19.04.2006. The explanation clarified that if a person liable for paying service tax does not provide any taxable service or does not manufacture final products, the service for which he is liable to pay service tax shall be deemed to be the output service.
- (ii) Rule 9(1) has been amended so as to include a challan evidencing payment of service tax by the person liable to pay service tax under sub-clause (vii) of rule 2(1)(d) of Service tax Rules, 1994 amongst the eligible documents for availing CENVAT credit. Sub-clause (vii) lays down that the person liable to pay service tax in case of sponsorship service provided to any body corporate or firm is the body corporate or firm, as the case may be, who receives such sponsorship service [With effect from 01.05.2006 vide Notification No. 10/2006 CE (NT) dated 25.04.2006].

II. Circulars/Instructions/Clarifications:

1. Clarification provided by Circular No. 827/4/2006-CX dated 12.04.2006 in respect of deduction of cost of transportation for the return journey has been revised. As per Rule 5 of the Valuation Rules, the actual cost of transportation from the place of removal up to the place of delivery is only to be excluded. The old clarification provided that if the assessee is recovering an amount from the buyer towards the cost of return fare of the empty vehicle from the place of delivery, this amount will not be available as a deduction. If, however, only the cost of transportation has been indicated in the invoice without any break-up for the forward and return journey, normally it should be accepted as the cost of transportation from the place of removal to the place of delivery.

The revised clarification now provides that unless it is specifically mentioned in the invoice that the transportation charges indicated therein do not include cost of transportation for the return journey of the empty truck/vehicle, the deduction of the said transportation charges will not be admissible.

2. Circular No. 828/5/2006-CX dated 20.04.2006 has prescribed a simplified procedure for sanction of refund of unutilised credit/rebate claims in cases of export.

B. Service Tax

I. Notifications:

1. The increased rate of 12% of service tax has come in to effect from 01.05.2006. The newly introduced 15 services and the amendments made in the existing services have also become effective from 01.05.2006 [Notification No. 15/2006 ST, dated 25.04.2006].
2. Notification No. 36/2004 ST, dated 31.12.2004 notifies taxable services for the purposes of section 68(2). Following amendments have been made in this notification:
 - (i) With effect from 19.04.2006, paragraph (B) of the said notification has been substituted with the following paragraph:

“any taxable service provided or to be provided from a country other than India and received in India, under section 66A of the Finance Act, 1994”. This amendment is in line with the newly inserted section 66A in the Finance Act, 1994 [Notification No. 9/2006 ST, dated 19.04.2006].
 - (ii) With effect from 01.05.2006, after subparagraph (v) in paragraph (A) of the said notification, the following subparagraph has been inserted:
 - (vi) in relation to sponsorship service provided to any body corporate or firm [Notification No. 16/2006 ST, dated 25.04.2006].
3. Following amendments have been made in Notification No. 1/2006 ST dated 01.03.2006 which grants partial exemptions from service tax to certain specified services:
 - (i) One more abatement of 70% from service tax in case of transport of goods by containers in rail has been granted with effect from 01.05.2006 [Notification No. 20/2006 ST, dated 25.04.2006].
 - (ii) Abatement extended to erection, commissioning or installation under a contract for supplying a plant, machinery or equipment and erection, commissioning or installation of such plant, machinery or equipment has been extended to structures as well. This amendment is in view of the modification made in the definition of erection, commissioning or installation service

by the Finance Act, 2006 [Notification No. 21/2006 ST, dated 23.05.2006].

4. Notification 8/2006-ST, dated 19.04.2006 has notified the rate of interest chargeable on amounts collected in excess of service tax assessed or determined under section 73A as 13% per annum. Section 73B provides for levy of such interest.
5. Notification No. 7/2006 ST dated 01.03.2006 exempting taxable services, provided or to be provided to any person, by Reserve Bank of India, from the whole of service tax leviable thereon has been superseded by Notification No. 22/2006 ST, dated 31.05.2006. This notification exempts the
 - (i) taxable services provided or to be provided to any person, by the Reserve Bank of India;
 - (ii) taxable services provided or to be provided by any person, to the Reserve Bank of India when the service tax for such services is liable to be paid by the Reserve Bank of India under sub-section (2) of section 68 of the said Finance Act read with rule 2 of the Service Tax Rules, 1994;
 - (iii) taxable services received in India from outside India by the Reserve Bank of India under section 66A of the Finance Act, 1994.
6. As Finance Act, 2006 has substituted the words "commercial concern" with the words "any person" in the definition of 17 specified taxable services, consequent amendments of similar nature have been made in the following notifications vide Notification No. 19/2006 ST, dated 25.04.2006 with effect from 01.05.2006:
 - (i) 13/2004 ST, dated 10.09.2004 granting exemption to banking company or a financial institution, providing service in relation to collection of duties or taxes levied by Government.
 - (ii) 14/2004 ST, dated 10.09.2004 providing exemption to specified services in relation to business auxiliary service.
 - (iii) 29/2004-ST, dated 22.09.2004 granting exemption for providing services of overdraft, cash credit or discounting of bills on value of interest or discount.
 - (iv) 16/2005-ST, dated 07.06.2005 granting exemption to commercial or industrial construction services provided for construction of port or other ports.
 - (v) 21/2005-ST, dated 07.06.2005 providing exemption to taxable service of production or processing of goods in the course of manufacture of gem & jewellery.
7. Notification No.11/2006-ST 19.04.2006 has notified the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006. These rules have come into force from 19.04.2006.
8. Notification No.12/ 2006-ST, dated 19.04.2006 has notified the Service Tax (Determination of Value) Rules, 2006. They have come into force from 19.04.2006.
9. Following amendments have been made in Service Tax Rules, 1994:
 - (i) Sub-clause (ii) of rule 2(1)(d) has been amended with effect from 01.05.2006 vide Notification No. 17/2006 ST, dated 25.04.2006. The amended sub-clause provides that in relation to general insurance business, the person liable to pay service tax shall be the insurer or re-insurer, as the case may be, providing such service.
 - (ii) Sub-clause (iv) of rule 2(1)(d) has been amended vide Notification No. 8/2006 ST, dated 19.04.2006. The amended

sub-clause provides that in relation to any taxable service provided or to be provided by any person from a country other than India and received by any person in India under section 66A of the Act, the person liable to pay service tax shall be the recipient of such service. This amendment has been made in view of the newly inserted section 66A by the Finance Act, 2006.

- (iii) A new sub-clause (vii) has been inserted in rule 2(1)(d) after sub-clause (vi) with effect from 01.05.2006 vide Notification No. 17/2006 ST, dated 25.04.2006. The new sub-clause provides that in relation to sponsorship service provided to any body corporate or firm, the person liable to pay service tax shall be the body corporate or firm, as the case may be, who receives such sponsorship service.
- (iv) With effect from 01.05.2006, the references to "commercial concern" in rule 4A wherever they occur have been substituted with "any other person" vide Notification No. 17/2006 ST, dated 25.04.2006.
- (v) Sub-rule 7 of rule 6 provides an option to the person liable for paying service tax in relation to the services provided by an air travel agent, of paying 0.5% of the basic fare in the case of domestic bookings and 1.0% of the basic fare in the case of international bookings towards the discharge of his service tax liability instead of paying service tax at the rate specified in section 66. However, with effect from 01.05.2006, Notification No.17/2006 ST, dated 25.04.2006 has amended the rates of optional service tax in case of domestic booking and international booking to 0.6% and 1.2% of basic fares respectively.
- (vi) Consequent to the introduction of new valuation rules for service tax, sub-rule (8) and (9) of rule 6 have been omitted

vide Notification No. 10/2006 ST, dated 19.04.2006. Sub-rule (8) and (9) provide for valuation for taxable service provided by a clearing and forwarding agent and an insurance agent.

- 10. Rule 3 of Export of Services Rules, 2005 has been amended vide Notification No. 13/2006 ST, dated 19.04.2006.
- 11. Notification No. 22/2005 ST, dated 07.06.2005 and Notification No. 25/2005 ST, dated 07.06.2005 have been rescinded vide Notification No.14/2006ST, dated 19.04.2006. Notification No.22/2005 ST, dated 07.06.2005 exempted the taxable services specified in sub-clauses (h), (i), (j), (zn), (zr), (zza), (zzg), (zzi) and (ztl) of clause (105) of section 65 of the Finance Act provided by a non-resident person outside India and consumed outside India, in the course of sailing of a ship subject to certain conditions. Notification No. 25/2005 ST, dated 07.06.2005 exempted any taxable service provided to an individual by a service provider, where the said taxable services are received and consumed outside India, by such individual, not in the course or furtherance of commerce or industry or any other business.
- 12. In the Service Tax (Registration of Special Category of Persons) Rules, 2005, in rule 3, in sub-rule (3), for the words, brackets and figures "sub-rules (2) to (7)", the words, brackets and figures "sub-rules (2) to (8)" have been substituted with effect from 01.05.2006. [Notification No. 18/2006 ST dated 25.04.2006].

RBI

- 1. Circular No. RPCD. No. RRB. BC. 82 /03.05.33/2005-06 dated May 17, 2006 - Marketing of Mutual Fund Units

RBI has allowed all Regional Rural Banks (RRBs) to undertake marketing of units of Mutual Funds, as agents subject to the following terms and conditions:

- (i) The bank should only act as an agent of the customers, forwarding applications of the investors for purchase/sale of MF units to the Mutual Fund/Registrar/Transfer Agents.
- (ii) The purchase of MF units should be at the risk of customers and without the bank guaranteeing any assured return.
- (iii) The bank should not acquire such units of Mutual Fund from the secondary market.
- (iv) The bank should not buy back units of Mutual Funds from their customers.
- (v) The bank holding custody of MF units on behalf of their customers should ensure that its own investment and investments belonging to their customers are kept distinct from each other.
- (vi) Retailing of units of Mutual Funds may be confined to some select branches of the bank to ensure better control.

in specific sectors, i.e., personal loans, loans and advances qualifying as capital market exposures, residential housing loans beyond Rs.20 lakh and commercial real estate loans. [Circular No. DBOD.No.BP.BC. 85/21.04.048/2005-2006 dated May 29, 2006].

3. Circular No. DBOD.BP.BC No. 86/21.04.018/2005-06 dated May 29, 2006 - Disclosure in Balance Sheets.

To facilitate easy reading of the financial statements and to make the information on all Provisions and Contingencies available at one place, it has been decided by the RBI that all Commercial Banks (excluding RRBs) may disclose the following information in the 'Notes on Account' information. This information should be shown in addition to the existing disclosure requirements as per the master circular DBOD.No.BP.BC.59/21.04.018/2005-06 dated January 30, 2006.

| Break up of 'Provisions and Contingencies' shown under the head Expenditure in Profit and Loss Account | Current Year | Previous Year |
|---|---------------------|----------------------|
| Provisions for depreciation on Investment | | |
| Provision towards NPA | | |
| Provision towards Standard Asset | | |
| Provision made towards Income tax | | |
| Other Provision and Contingencies (with details) | | |

- (vii) The bank should comply with the extant KYC/AML guidelines in respect of the applicants.
 - (viii) The RRBs should put in place adequate and effective control mechanisms in consultation with their sponsor banks.
2. In order to ensure that asset quality is maintained in the light of high credit growth, RBI has decided to increase the general provisioning requirement for all Scheduled Commercial Banks (Excluding RRBs) from the present level of 0.40 per cent to 1.0 per cent. This requirement would be applicable on standard advances

4. To ensure transparency in banking services Reserve Bank of India has advised all Commercial Banks (including RRBs) to display and update the details of various service charges given as Annex I of the circular on their website. RBI has advised that the formats could be modified depending on products offered but all service charges should be covered. All Commercial Banks are also advised to display the charges relating to certain services as given in Annex II of the circular in their offices/branches [Circular No. RPCD.BOS./81/13.33.01/2005-06 dated May 16, 2006]. □