NEWSLETTER

JUNE 2011

M. V. DAMANIA & Co.

INCOME TAX

Tax Planning for Salaried Employees

Income (Rs)	Tax Rate (%)	Maximum tax savings after 80C deductions (Rs.)	Savings Invested @8% p.a. for 20 years (Rs)	Savings Invested @15% p.a. for 20 years (Rs)
Upto 180,000	Nil	-	-	-
180,001-500,000	10	10,300	48,008	168,575
500,001-800,000	20	20,600	96,016	337,151
800,001 and above	30	30,900	144,024	505,726

As can be seen in the table above, making use of the available tax deductions can go a long way in helping individuals accumulate wealth. Consider the case of an individual in the highest tax bracket with a gross total income of Rs 900,000. If he chooses to ignore the tax sops available under Section 80C, his tax liability will amount to Rs 125,660. Conversely, if he chooses to makes eligible investments/contributions of Rs 100,000 under Section 80C, his tax liability will be Rs 94,760 i.e. a saving of Rs 30,900.

The amount saved in turn can be invested in various avenues like fixed deposits, mutual funds and equities, depending on his risk appetite.

Given that the tax-planning exercise can aid salaried individuals to both save on tax and accumulate wealth, they would do well to offer the exercise the importance that it deserves.

- Restructuring the salary and including certain components can go a long way in reducing the tax liability. Unlike eligible investments which lead to an additional cash outflow, restructuring the salary is a more 'efficient' means of claiming tax benefits. The following can form a part of one's salary structure:
- Food coupons like Sodexo and Ticket Restaurant; they are exempt from tax up to Rs. 50/- per meal.
- Medical expenses which are reimbursed by the employer are exempt up to Rs 15,000 per year.
- Individuals living in a rented accommodation should have House Rent Allowance (HRA) as part of their salary. HRA benefit can be availed even if we pay rent to

parents/wife, if house is in their name.

- Transport allowance is exempt upto Rs 800 per month.
- Leave Travel Allowance (LTA) can be claimed twice in a block of four years for domestic travel.

- Split up Salary: Employer may split up salary into basic salary with various allowances and perks enabling employee to avail exemption under various provisions. Employer in any case gets it as a deduction.
- Dearness Allowance/Commissions: Always ask your employer to include dearness allowance and dearness pay along with commissions earned in your salary. It will lower your tax liability on house rent allowance, gratuity and pension.
- While advance salary is taxable advance against salary is not taxable.
- Provision of free medical facilities should be preferred instead of fixed medical allowances which is taxable.
- Exemptions/reimbursements: Identify the reimbursements available from the company and take maximum advantage of the same. Normal expenses that one incurs could help save tax. Example: Telephone/fuel reimbursements, meal vouchers and company car. A person in lower tax slabs can reduce his tax liability to nil with exemptions alone!

Family Members

Go for a combined home loan: The principal repayment on a home loan is eligible for a deduction of up to Rs 100,000 pa and the interest paid is eligible for a deduction of up to Rs 150,000 per year. In cases where the home loan is for a substantial sum, to ensure that the tax benefit is optimally utilized, an individual can consider opting for a joint loan with his spouse or parent or sibling. This will ensure that both the co-owners can claim tax deductions in the proportion of their holding in the loan. The co-owner falling in the higher tax bracket should hold a higher proportion of home loan to ensure that the tax benefits are maximized.

Make Maximum Assessee in Family: Make your family members income tax assesses to avail basic exemption limit like 1,60,000 for male, 1,90,000 and 2,40,000 for senior citizens. This is the best option and first step of tax planning.

Divide your income: Normally, if you invest in your wife's or child's name, the income generated from such investments will be clubbed with your income and taxed accordingly. However, if you transfer money through a deed to a child who is over 18 years of age and invest in his name, then the income generated from such investment will not be clubbed with your income. Instead, that will be clubbed with the income of your child/wife and taxed accordingly.

Perquisites

Credit Cards: Often we have multiple credit cards and we use it often for EMI payment or purchases. We should ensure that the usage of one Credit Card should not increase Rs. 2Lacs per financial year. We can plan our usage in other Credit cards. Often it leads to IT notices based on the report submitted by Credit Card Agencies' AIR return and we will be dragged into tax scrutiny assessment process.

Medical Reimbursements v/s Allowances: As we all have to visit the doctor at some point of time, save tax by claiming medical reimbursements up to Rs.15,000/- p.a. But don't take any medical allowance, since it is completely taxable

Telephone Facility v/s Allowance: Does your company provide you with a telephone facility in your home? Then it not taxed. However be warned against taking telephone allowance, since it is totally taxable and will increase your taxable income.

Car Facility: Opt for the car facility, since the value of the perk is much lower than the actual expenditure incurred on the car.

Exempt Perks: Perks in respect of free residential telephone, providing use of computer/laptop, newspapers and periodicals, gift of movable assets (other than computer, electronic items, car) by employer after using for 10 yrs or more are not taxable.

<u>Perks v/s Allowances:</u> Since the term salary includes basic salary, bonus, commission, fees and all other taxable allowances for the purpose of valuation of perks in respect of rent free house, it would be advantageous if an employee goes in for perks rather than for taxable allowances. This will reduce valuation of rent free house.

<u>Relief u/s 89</u> can be claimed in the case of sum received from unrecognized PF so far as it is attributable to employers contribution and interest thereon. Although gratuity received during the employment is not exempt from tax u/s 10(10), relief u/s 89 can be claimed. However, relief should be claimed only when it is beneficial.

<u>Deductions Under VI A</u>

<u>Section 80C</u> allows a maximum limit of Rs 1 lakh across investments ranging from

* Public Provident Fund
* National Saving Certificate
* Accrued interest on National Saving Certificate
* Life Insurance Premium
* Tuition fees paid for children's education (maximum 2 children)
* Principal component of home loan repayment
* Equity Linked Savings Schemes (ELSS)
* 5-Year fixed deposits with banks and Post Office

<u>Provident Fund:</u> If your current employer is participating in an authorized provident fund and you change your employer within 5 years of joining the firm, ensure your new employer is also a member of the authorized provident fund. It will let you transfer the corpus in your provident fund to the new company without paying any tax. Further, insist your employer to fix the contribution to your provident fund as 12% of your salary, as it is the highest limit for tax exemption

<u>PPF (Public Provident Fund):</u> It is one of the safest tax saving investments available. Both interest and capital withdrawals from the fund are tax free. However its drawback is the lock-in period of 15 years.

<u>NSC (National Savings Certificate), Post office (CTD) accounts:</u> These are government savings schemes available at post office, with a lock-in period of 5 years.

<u>Bank deposits:</u> These are special tax saving FDs offered by banks with a lock-in period of 5 years.

<u>ELSS (Equity Linked Savings Scheme):</u> These are tax savings instruments offered by mutual funds, with a lock-in period of 3 years

All these instruments carry different degrees of risks. While PPF, NSC, Post office accounts, insurance (except ULIPs) and FDs are safer, they offer lower returns and are not very liquid, due to their long lock-in period. On the other hand, ELSS (Equity Linked Savings Scheme) has a short lock-in period but is more risky, while ULIPs carry the risk of ELSS but without the liquidity benefit.

- <u>Shuffle and switch strategy:</u> Shuffling is a popular strategy used by ELSS investors which have a mandatory lock-in of 3 years. If you have been investing Rs 50,000 for the past few years and don't have cash to invest this year, you can easily redeem investments made 3 years ago and re-invest that amount this year to claim the benefits.
- You will not have to pay any long term capital gains if the transaction is through a recognized stock exchange, since you will be redeeming after more than a year. Thus you can enjoy tax benefits without making any fresh investments. Only risk is that the NAV can go up or down in the shuffle process and you may end up making a small profit or loss.
- For salaried individuals whose gross total income exceeds Rs 500,000 pa, deductions under Section 80C may not be sufficient to reduce the overall tax liability. In such cases they can consider the following:
- <u>Home loan:</u> Individuals intending to buy a house should consider opting for a home loan. Interest payments of up to Rs 150,000 pa are eligible for deduction under Section 24.
- <u>Medical insurance</u>: An individual who pays medical insurance premium for self or spouse/dependent children is

allowed a deduction of upto Rs 15,000 pa under section 80D.An additional deduction of up to Rs 15,000 pa is allowed for premium payment made for parents. In case the parents are senior citizens, then the maximum deduction allowed is Rs 20,000 per year.

- Donations: U/s 80G, donations for approved charitable institutions registered under section 11 shall be allowed as deduction 50% the donated amount or 100%of the donated amount to the notified institutions.
- U/s 80E amount paid as interest on loan taken for higher education of himself spouse or children.
- 80GG: Salaried individuals can claim rent paid by them for residential accommodation, if HRA doesn't form part of their salary. This deduction is available under Section 80GG.

During the last few months of a financial year we see people making last moment impulse decisions to invest in tax saving instruments and in the process they may end up buying products which are not right for them. Tax planning should be done a few months in advance as it gives you sufficient time to understand and evaluate different options that are specific to your financial situation.

To conclude, as an employee if you want to maximize your take home pay without effecting disallowances in the hands of your employer, better start tax planning.

AN INDIVIDUAL HAVING INCOME NOT EXCEEDING RS. 5 LACS FROM SALARIES/OTHER SOURCES FOR A.Y. 2011-12 IS NOT REQUIRED TO FILE RETURN U/S 139(1)

No Income tax return is required to filed by Salaried employees if their total Income is less than rupees Five Lakh and they are satisfying few conditions. Income Tax department has issued notification no 36/2011 in this regard .This exemption is available only to specific category of employees .Following conditions are to be satisfied to claim exemption from return Filing .

Who is eligible to claim this exemption?

- This exemption is available to Individual assessee only (He may be resident or not)
- Exemption is available for Assessment year 2011-12.
- Total Income (after deduction 80C to 80U) of Individual must be up to Five Lakh Rupees only.
- Income must be earned from Salary and/or Saving Bank Interest up to Rs. 10,000/-. Pension is also covered under salary head.
- Individual must have reported his PAN to his employer.
- He has Earned salary only from one employer during the year.
- He has reported his income from saving Bank Interest to his employer for TDS deduction purposes.
- Employer has deducted the tax on his Full income ie. Salary plus interest, if any and TDS has been deposited in Govt account by the employer.
- No refund is due to the assessee.
- Individual has received Form 16 from the employer, which mentions PAN, Income detail and Tax deducted and deposit detail.

If all the above conditions are satisfied then you can be exempted to file Income tax return for financial year 2010-11.

Source:

http://www.simpletaxindia.org/2011/06/income-tax-return-5-lakh-salary.html

http://www.rediff.com/money/2009/feb/05tax-planning-tips-for-salaried-people.htm

http://dev.jivainfotech.com/jivamagazine/hot-topic/tax-saving-tips/

http://ssnairmysore.blogspot.com/2010_03_01_archive.html

Compiled by: Ankit Jain

INTERNATIONAL TAX

Symantec Software Solutions Pvt. Ltd. ITAT Mumbai

Facts: The Company is engaged in the business of providing technical, marketing, pre-sales, after sales support services to Veritas group products in India. During the year, the Company provided marketing support and consultancy services to its Associated Enterprise (AE). The Company benchmarked the international transaction using Transaction Net Margin Method (TNMM) by using margins of 12 selected comparable Companies' financials for last three years and declared margin of 9.17%. The Transfer Pricing Officer (TPO) updated the margins of the same 12 selected comparables but used the financial year only for latest single year and arrived at margin of 29.55%. Aggrieved by the order, the Company filed its objection before the Dispute Resolution Panel (DRP) who also confirmed the order passed by the Assessing officer.

Ruling of the Tribunal:
The Tribunal touched upon many significant issues which are regularly faced by the taxpayers:

- **Use of information not available at the time of TP study:**

The Company objected to the use of financial information of the comparables at the time of assessment by the TPO. Such information was not available while conducting the TP study.
The Tribunal rejected the claim of the Company and held that the financial information very much existed even though the Company had no access to such information while conducting the TP study. The Tribunal further held that the use of latest information is relevant and Section 92CA(3) empowers the TPO to consider all such information as he may require on any specific point to determine the Arms' Length Price (ALP). Thus Tribunal ruled that there is nothing wrong in using the updated data when the correctness and relevance of the same is not objected.

- **Use of multiple year data:**

The Company objected to the use of single year data by the TPO instead of three years as taken by the Company.
The Tribunal rejected the claim of the Company stating that it is not mandatory to use multiple years' financial data of comparable companies. The earlier years' data can be used only when the data of those years reveal certain facts that influence the determination of ALP. As the Company has not made out any case that considering the current year financial data of the comparables will not present true and fair financial results, there is no error or illegality in using the current or single year data.

Airtech Pvt. Ltd. vs. DCIT Delhi Tribunal

- **Ignoring the functional and risk level adjustments:**

The Company contended that the operating margins of the comparable companies assuming higher risks cannot be compared with the operating margins of the captive companies working for their parent companies taking practically no risk unless an adjustment is made for the difference in the functional and risk profiles. The Company objected that the TPO did not make any adjustments for difference in functions and risk profile of the comparable Companies.

The Tribunal again rejecting the claim of the Company ruled that the taxpayer itself did not make any such adjustment while preparing the TP study report. The Company has not come out with specific quantifiable information to the satisfaction of the TPO on how such differences have influenced the result of the comparables. The Tribunal further observed that there are no such perfect comparables in terms of functions and risks and therefore the legislators have provided for a margin of + or 5% while determining the ALP. Accordingly the tribunal held that the functional and risks adjustments are not buy way of general rule.

- **Applicability of +/- 5% variation from arithmetic mean of ALP before the amendment:**

The Tribunal ruled this issue in favour of the Company and stated that the amendment in the second proviso to Section 92C(iii) is prospective from the day it became effective ie. 1.10.2009. Hence the taxpayer can avail the benefit of 5% under the old proviso to Section 92C.

Takeaways:

- The TPO can use the single year updated data in which the transaction was entered into even if the same was not available to the taxpayer while preparing the TP study.
- The taxpayer needs to quantify the effects of functional/risk adjustments between the comparable companies to the satisfaction of the TPO. Such adjustment would not be granted as a general rule of standard.

Airtech Pvt. Ltd. vs. DCIT Delhi Tribunal (*cont.*)

The Transfer Pricing documents have to be maintained annually.

Facts: The Company did not kept its transfer pricing documents contemporaneously on annual basis. It contended that its terms and conditions with its UK subsidiary remained same and there were no significant changes in the same. It also stated that the Transfer Pricing Officer and the UK authorities have accepted their arms' length nature of transactions in the earlier years.

Delhi Tribunal observed that the Company failed to produce any agreement with its subsidiary to prove that such arrangement subsisted over the years and were subject to of binding nature between them. The Tribunal also remarked that the market dynamics are changing rapidly and periodically and therefore the margins that were accepted for earlier years cannot be considered as future margins and hence transfer pricing documents have to be maintained by the assessee annually.

Compiled by: Malay Damania

TRANSITION TO IND AS

A.Comparison of Ind AS references with Indian GAAP

Sr No	Topic	Current Guidance	Guidance under Ind AS
1	Presentation of Financial Statements	Schedule VI of the Companies Act	Revised Schedule VI of the Companies Act, Ind AS 1 and Ind AS 27
2	Business combinations	AS 14, AS 21, AS 10	Ind AS 103, Ind AS 10
3	Common control transactions	AS 14	Ind AS 103
4	Foreign currency translation	AS 11	Ind AS 21
5	Property, plant and equipment	AS 6, AS 10, AS 16	Ind AS 16, Ind AS 23
6	Intangible assets	AS 26	Ind AS 38
7	Investment property	AS 10, AS 13	Ind AS 40
8	Investments in associates	AS 23	Ind AS 28
9	Interests in joint ventures	AS 27	Ind AS 31
10	Financial instruments	AS 11, AS 13,AS 30, AS 31, AS 32 (voluntary)	Ind AS 32, Ind AS 39, Ind AS 107
11	Inventories	AS 2	Ind AS 2
12	Provisions, contingent liabilities and contingent assets	AS 29, AS 4	Ind AS 37
13	Impairment	AS 28	Ind AS 36
14	Revenue recognition	AS 9, AS 7	Ind AS 18, Ind AS 11
15	Government grants	AS 12	Ind AS 20
16	Employee benefits	AS 15	Ind AS 19
17	Share based payments	Guidance Note issued by ICAI and guidelines issued by Securities and Exchange Board of India (SEBI)	Ind AS 102
18	Income taxes	AS 22	Ind AS 12

cont.

TRANSITION TO IND AS *(cont.)*

A.Comparison of Ind AS references with Indian GAAP *(cont)*

Sr No	Topic	Current Guidance	Guidance under Ind AS
19	Leases	AS 19	Ind AS 17
20	Accounting policies, changes in accounting estimates, errors and events occurring after the balance sheet date	AS 1, AS 5	Ind AS 8, Ind AS 10
21	Earnings per share	AS 20	Ind AS 33
22	Operating segments	AS 17	Ind AS 108
23	Non-current assets held for sale and discontinued operations	AS 24	Ind AS 105
24	Related party disclosures	AS 18	Ind AS 24
25	Service concession arrangements	No specific guidance	Ind AS 11
26	First time adoption of Ind AS	Not applicable	Ind AS 101
27	Insurance contracts	Circulars and notifications issued by IRDA	Ind AS 104
28	Consolidation	AS 21	Ind AS 27

B. Key Changes/ Differences- Current Accounting Standards /accounting Guidelines Vis a Vis Ind AS

Sr No	Particulars	Current Accounting Standards	Ind AS
1	Consolidated Financial Statements (CFS)	Mandatory only for Listed Companies	Mandatory if the company is having subsidiaryInd AS 103, Ind AS 10
2	Cash Flow Statement	Not Mandatory for Small and Medium Seized entities (SME) as defined in Accounting standard Rules	Mandatory for all companies
3	Comprehensive income/ Other Comprehensive Income	No such concept	Ind AS introduces the concept of comprehensive income, which requires all changes in equity (other than those attributable to transactions with owners) to be presented as part of the profit and loss account as a separate component titled 'Other comprehensive income'.
4	Presentation format	Schedule VI and other regulatory guidelines	Guideline for minimum line items provided but there is no specific format.
	Assets and Liabilities Disclosure	As part of net current assets/ loan funds (Schedule VI)	Current and non-current or in the order of liquidity wherever appropriate.
		No such requirements	Due within 12 months and others needs to be shown separately
5	Minority interest Disclosure	As a separate line item alongwith Equity and Liability.	Referred as Non-controlling interest and should be disclosed as part of equity.
6	Disclosure of Judgements and Estimates/Assumptions used in preparation of financial statements	No specific requirements	Mandatory to disclose
7	Extraordinary Items	Extraordinary items are required to be disclosed separately in the profit and loss account in a manner that their impact on current profit or loss can be recognised.	Ind AS specifically prohibits presentation of any item of income or expense as an 'extraordinary' item.
8	Capital Management	Currently, there are no disclosure requirements with regards to capital management.	Ind AS requires disclosures that would enable users of the financial statements to evaluate the company's objectives, policies and processes for managing capital.
9	Statement of Compliances	No Such Requirement except comment of Auditor's in Report for compliances with Accounting Standard u/s 211 (3C) of the Companies Act.	Ind AS requires the company to make an explicit and unreserved statement of compliance with applicable Ind AS in the notes to accounts.

C. Key Changes / Differences (IFRS vis a vis Ind AS)

Sr No	Particulars	IFRS	Ind AS
1	Profit and Loss Account	Presented as one (statement comprehensive income) or as two statements (as profit and loss account and a statement of other comprehensive income)	Mandatory if the company is having subsidiaryInd AS 103, Ind AS 10
2	Statement of Equity	As separate statement	As part of Balance sheet
3	Presentation of expense in Profit and Loss Statement	As classification by nature or function	As classification by nature only
4	Presentation Of dividend and Interest Expenses/ Income	In the case of companies other than financial companies, IFRS gives an option to classify the interest and dividend paid and interest and dividend received, as item of operating cash flows.	Ind AS does not provide such an option and requires these items to be classified as items of financing activity and investing activity respectively.

Compiled by Bharat Jain

OTHER USEFUL INFORMATION

Some Important Information

- India has recently signed a Tax Information Exchange Agreement (TIEA) with five countries namely Bermuda, Isle of Man, British Virgin Island, Bahamas and Cayman Island for effective exchange of information in order to curb tax evasions and fiscal frauds. TIEA is based on International standards of transparency and exchange of information.
- The C.B.D.T. has notified cost inflation index for the financial year 2011-12 as 785.

Compiled by Malay Damania