

Recent Trend of Income Tax Notice received by Individual Taxpayers

Background

Individual Taxpayers in general and salaried employees in particulars are receiving notices from the Income Tax Department seeking evidence / information on exemptions / deductions claimed in the Income Tax Return filed by them for past Assessment Years exercising the power vested under sub section (6) of section 133 of the Income Tax Act, 1961. These notices are issued where the Income Tax Department has observed inconsistency between the Return filed by the employer vice a vice Income Tax Return filed by the respective employee. These notices are also issued wherein inconsistencies are observed between the information available with them from other sources and the details disclosed in the Income Tax Return of the Individual Taxpayers. Inconsistencies are predominantly observed by them wherein the taxpayer has claimed exemptions / deductions or certain income has not been disclosed in the Income Tax Return which are mismatched with the information available with them.

Government Tax Reform and E-Initiative

As an integral part of the Direct Tax reforms, Government of India has taken

multifarious measures and initiatives to increase the direct tax base which has started visible in past few years. E – Initiatives in the form of systematization of PAN, e – filing of TDS & Income Tax Return, e – filing of Annual Information return, Centralized processing of these returns at CPC and TRACES has been initiated by the Government to increase the tax base and collection of direct tax. These E–initiatives has significantly caused growth in collection of personal tax in last few years.

Provisions of The Income Tax Act, 1961

As per section 192(1) of the Act, any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax on the amount payable at the average rate of income-tax computed on the basis of the rates in force for the financial year in which the payment is made, on the estimated income of the assessee under the head of Salary income for that financial year. The section also provides that a person responsible for paying any income chargeable under the head "Salaries" shall furnish to the person to whom such payment is made a statement giving correct and complete particulars of

perquisites or profits in lieu of salary provided to him and the value thereof. For the purpose of estimating income of the assessee or computing tax deductions, section 192(2D) provides that person responsible for paying (DDOs) shall obtain from the assessee evidence or proof or particulars of claims such as House rent Allowance (where aggregate annual rent exceeds one lakh rupees); Deduction of interest under the head "Income from house property" and deduction under Chapter VI-A as per the prescribed form 12BB laid down by Rule 26C of the Rules. Further, as per section 192 (2D) read with the rule 26C, it is mandatory for the DDOs to obtain details/evidence in respect of claim of exemption for leave travel concession or assistance before allowing the said exemption. The relevant form for furnishing details by employee is Form 12BB.

Filing of Income Tax Return by Taxpayer

Consequently, employees are advised by the employer to furnish Form 12BB at the beginning of the Financial year furnishing therein the details of various investments / expenses that are eligible for tax exemption / deductions as the case may be to determine estimated Income Tax liability and collect the tax

over the financial year. However, before the yearend employees are advised to submit proof of investments / expenses in order to enable DDO to determine the Income Tax liability accurately and collect the same from salary. Certificate of Income Tax Deducted in Form 16 (Part A and Part B) along with Form 12BA is issued to the employee based on the salary actually disbursed during the financial year and Income Tax deducted from such salary taking cognizance of the proof of investments / expenses furnished by the employee. In addition to Form 16, Form 16A and Form 16B are also referred by the Individual tax payer for filing of Income Tax Return. Nevertheless, if an employee has failed to furnish proof of any investment / expense to the employer and the same was not considered while determining income tax liability such investment / expense may be claimed as exemption / deduction by the tax payer while filing the Return of Income. While claiming exemption / deduction, individuals should ensure that such deductions or exemptions claimed by them are in accordance with the receipts, invoices etc. maintained by them. Under such cases, the taxpayer must keep possession of these proofs with himself to be produced when sought by the Income Tax Authority.

Duty of Tax Payer receiving Notice

In case a taxpayer receives a notice seeking evidence / information on exemptions / deductions claimed in the Income Tax Return which are inconsistent, it is foremost important for such taxpayer to take action immediately i.e. understand the details of discrepancies or issues that have been identified, collect relevant information / documents that could explain the

inconsistencies listed in the notice, if choose to file self response draft response explaining & providing necessary evidence if any, keep copies of communications along with documentary evidences, Consult with a professional dealing with such matter if necessary. It is the sole responsibility of the tax payer in non audit cases for compliances of the provisions of the Income Tax Act.