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Pradhan Mantri Garib Kalyan Yojana, 2016 (the Scheme)

Date of Commencement – 17th December, 2016

Last Date (Closure Date) – 31st March, 2017

Who is eligible to make Declaration ?

Declaration under the Scheme can be made by any person in respect of undisclosed income in the form of cash or deposits in an account with bank or post office or specified entity.

Procedure

Declarations to be made in **Form 1** to Principal Commissioner / Commissioner notified under Section 199G(1) either electronically or in print form.

Option to revise the declaration is also provided in case of any omission or wrong statement contained in the original declaration.

The Principal Commissioner / Commissioner has to issue a certificate in **Form 2** to the declarant within 30 days from the end of the month in which a valid declaration is furnished.

Taxation

Tax @30% of the undisclosed income, surcharge @33% of tax and penalty @10% of such income is payable, totalling to 49.90%

Further, it is mandatory to deposit 25% of the undisclosed income in Pradhan Mantri Garib Kalyan Deposit Scheme, 2016. Such deposit is interest free and will have a lock-in period of four years.

Immunity

The income declared under the Scheme shall not be included in the total income of the declarant under the Income-tax Act for any assessment year.

The declarations made under the Scheme shall not be admissible as evidence under any Act (eg. Central Excise Act, Wealth-tax Act, Companies Act etc). However, no immunity will be available under Criminal Acts mentioned in Section 199- O of the Scheme.

Effect of Non declaration and Dept detecting undisclosed Income

Non-declaration of undisclosed cash or deposit in accounts under the Scheme will render such undisclosed income liable to tax, surcharge and cess totaling to 77.25% of such income, if declared in the return of income. In case the same is not shown in the return of income a further penalty @10% of tax shall also be levied followed by prosecution.

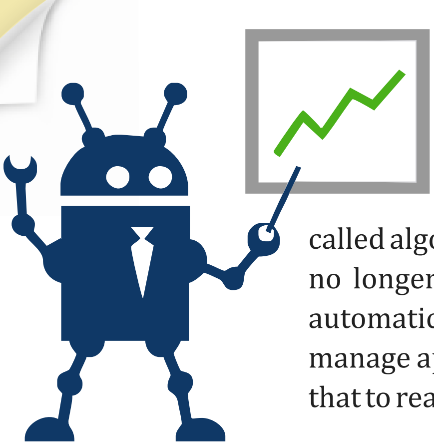
GST – Supply of Goods and Services

Introduction

Goods and Service Tax (GST) is about to make a sea change in the conceptual understanding of indirect taxation regime. Taxable event or incidence of tax in case of GST is based on 'Supply of Goods and Services' and therefore an attempt has been made in this article to discuss the concept of Supply of Goods and Services based on the Model GST Law published by Empowered Committee of State Financer Ministers.

Coverage of term 'Supply' - The inclusive definition of the term 'Supply' includes –

Sr No	Situation	Details / examples
01	All forms of supply of goods and/or services made or agreed to be made for a consideration by a person in the course or furtherance of business	Examples are - sale, transfer, barter, exchange, license, rental, lease or disposal
02	Importation of service	Considered as supply irrespective of – a) whether or not for a consideration and b) whether or not in the course or furtherance of business
03	Matters treated as supply without consideration	1. Permanent transfer/disposal of business assets. 2. Temporary application of business assets to a private or non-business use. 3. Services put to a private or non-business use. 4. Assets retained after deregistration. 5. Supply of goods and / or services by a taxable person to another taxable or nontaxable person in the course or furtherance of business. Provided that the supply of goods by a registered taxable person to a job-worker in terms of section 43A shall not be treated as supply of goods.



Do you Know ?

Robo-advisors are a class of financial adviser that provides financial advice or portfolio management online with minimal human intervention. They provide digital financial advice based on mathematical rules, so called algorithms. These algorithms are executed by software and thus financial advice no longer requires a human advisor but a software that utilizes its algorithms to automatically allocate, manage and optimize clients' assets. Presently, Robo-Advisors manage approximately USD 50 bn of funds and within the next 10 years, it is expected that to reach a staggering USD 5-7 trillion!

Similarly in case of composite contracts or works contract, bifurcation of such contract as to whether it constitutes 'supply of Goods' or 'supply of services' will be determined as follows –

Transactions which will be regarded as **Supply of goods**	Transactions which will be regarded as **Supply of services**
■ Any transfer of the title in goods ■ Any transfer of title in goods under an agreement which stipulates that property in goods will pass at a future date upon payment of full consideration as agreed ■ Transfer or disposal of assets of business with or without consideration ■ Sale of any goods, forming part of the business assets of a taxable person, by any other person having power to do so to recover any debt owed by the taxable person, the goods shall be deemed to be supplied by the taxable person ■ supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.	■ Any transfer of goods or of right in goods or of undivided share in goods without the transfer of title ■ Any lease, tenancy, easement, licence to occupy land ■ Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly ■ Usage or making available Goods of business to another person for any purpose other than business ■ Renting of immovable property ■ Construction of a complex, building, civil structure intended for sale to a buyer, wholly or partly, where the consideration has been received before issuance of completion certificate ■ temporary transfer or permitting the use or enjoyment of any intellectual property right ■ development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software ■ Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act ■ works contract including transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract ■ transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration

Conclusion

There are far reaching implications of the term 'supply of goods and services. Further the liability to pay GST (CGST, SGST or IGST – as the case may be) shall arise based on time and value of supply by the taxable person incl reverse charge, if applicable.

Note on *Start Ups in India*

Following is the summary of Tax benefits available for Start ups -

What is an eligible start up?

1. An "eligible start-up" must have either of the following constitution – A company or A limited liability Partnership. Although proprietorship is not allowed here, a one person company is allowed.
2. And such start up must be engaged in eligible business
3. Further, it must fulfil the following conditions—
   - It must be incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2019;
   - The total turnover of its business does not exceed twenty-five crore rupees in any of the previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021; and
   - Most importantly - It holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government.'.

What is eligible business?

An "eligible business" means a business which involves innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property.

How much Income tax benefit is available to such start ups ?

1. An eligible start up is entitled to tax deduction of 100% of its profits and gains derived from such business for three consecutive assessment years out of five years beginning from the year in which the eligible start-up is incorporated.
2. Further, any investment in eligible start up companies shares by resident by way o premium is not taxable in the hands of such company u/s 56 (viib) of The Income Tax Act.

What are the additional conditions for becoming entitled to tax benefits as above ?

Additional conditions to be satisfied by such start up are as follows –

- It should not be formed by splitting up, or the reconstruction, of a business already in existence.
  - o However, this condition shall not apply in respect of a start-up which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business
- It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

What is the process of recognition as start up

The process of recognition as a 'startup' shall be through mobile app/portal of the Department of Industrial Policy and Promotion.

Link is http://startupindia.gov.in/index.php

Startups will be required to submit a simple application with any of following documents:

a) a recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any Incubator established in a postgraduate college in India; or

b) a letter of support by any incubator which is funded (in relation to the project) from Government of India or any State Government as part of any specified scheme to promote innovation; or

c) a recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any Incubator recognized by Government of India; or

d) a letter of funding of not less than 20 per cent in equity by any Incubation Fund/Angel Fund/Private Equity Fund/Accelerator/Angel Network duly registered with Securities and Exchange Board of India that endorses innovative nature of the business. Department of Industrial Policy and Promotion may include any such fund in a negative list for such reasons as it may deem fit; or

e) a letter of funding by Government of India or any State Government as part of any specified scheme to promote innovation; or

f) a patent filed and published in the Journal by the Indian Patent Office in areas affiliated with the nature of business being promoted.

How general public can also contribute towards start ups ?

New section 54EE has been introduced in the Income Tax Act, 1961 whereby assessee has option to invest long term capital gain in fund set up by govt for the purpose of start ups.

Due Dates

Income Tax	Profession Tax	Service Tax	Vat
7th January, 7th February, 7th March - Payment of Monthly TDS **31st January -** Filing of TDS return for Third Quarter **15th March -** Payment of Advance Income Tax **31st March -** Last date of belated Income Tax return filing for FY 2015-16	**31st January, 28th February -** Filing of Monthly Profession Tax Returns **31st March -** Filing of Monthly / Annual Profession Tax Return	**6th January, 6th February -** Payment of Monthly Service Tax **31st March -** Payment of Monthly / Quarterly Service Tax	**15th January-** Vat Audit Report for FY 2015-16 **21st January, 21st February, 21st March -** Monthly payment of Vat and filing of return

Overseas Investment by Resident Indians

Following is the brief extract of provisions of FEMA (Foreign Exchange Management Act) as regards Overseas Investment by Resident Indians

General permission for Investment abroad

General permission for Investment has been granted to persons (individual) resident in India for purchase / acquisition of securities as under:

- Out of funds held in the RFC account;
- As bonus shares on existing holding of foreign currency shares;
- When not permanently resident in India, from the foreign currency resources outside India.

Similarly, General permission is also available to sell the shares so purchased or acquired.

Provision for remittances

A resident Indian can remit, up to the limit prescribed by the Reserve Bank from time to time, per financial year under the Liberalised Remittance Scheme (LRS), for permitted current and capital account transactions including purchase of securities and also setting up / acquisition of JV / WOS overseas.

Acquisition / sell of Foreign Securities without prior approval

Resident individuals can acquire / sell foreign securities without prior approval in the following cases :

- As a gift from a person resident outside India;
- By way of ESOPs issued by a company incorporated outside India under Cashless Employees Stock Option Scheme which does not involve any remittance from India;
- By way of ESOPs issued to an employee or a director of Indian office or branch of a foreign company or of a subsidiary in India of a foreign company or of an Indian company irrespective of the percentage of the direct or indirect equity stake in the Indian company;
- As inheritance from a person whether resident in or outside India;
- By purchase of foreign securities out of funds held in the Resident Foreign Currency Account maintained in accordance with the Foreign Exchange Management (Foreign Currency Account) Regulations, 2000; and
- By way of bonus / rights shares on the foreign securities already held by them.

Resident individuals are allowed under General Permission to acquire shares of a foreign entity in part / full consideration of professional services rendered to the foreign entity or in lieu of Director's remuneration.

The limit of acquiring such shares in terms of value shall be within the overall ceiling prescribed for the resident individuals under the Liberalized Remittance Scheme (LRS) in force at the time of acquisition.

A resident individual may acquire foreign securities by way of rights shares issued by a company incorporated outside India provided the existing shares were held in accordance with the provisions of FEMA.

HUF Taxation

Benefits and features

Introduction

HUF – Hindu Undivided Family is a separate person under Income Tax Act, 1961. HUF consists of a common ancestor and his lineal male descendents along with their wives and daughters. The joint family being the result of birth, possession of joint property is only an adjunct of the Joint Family and is not necessary for its constitution. Following are the basic characteristics of HUF.

Basic features of HUF

- HUF has its origin in Hindu law.
- HUF can be created provided there is at least one male member.
- However, there can not be single member HUF. As family signifies 'group', only one co-parcener or member cannot form an HUF.
- But once formed, an HUF shall continue even in the hands of females after the death of sole male member.
- Although, HUF usually has assets which come as a gift, a will, or ancestral property, it is not mandatory to have it. So an HUF can exist even without ancestral Joint Family Property.
- The head of the HUF (generally senior most male member) - the one who manages the affairs of the family is called as Karta.
- HUF members consists of co-parceners and other members. While all the members have right of maintenance, it is only Co-parceners who have the right to demand partition.
- Hindus, Buddhists, Jains and Sikhs can form HUFs.

Formation of HUF

HUF being separate person under Income Tax Act, it need to have PAN and shall open bank account. For taking PAN card, declaration by Karta specifying the name of HUF, date of its formation, details of members on date of application is required to be submitted as evidence. Date of formation of HUF, many a times is taken as marriage date of Karta.

HUF Taxation

HUF is a separate person under Income Tax Act. As such, HUF as tax entity has following features –

- Basic exemption limit of Income Tax (currently Rs 250,000) is allowed to HUF
- Its residential status is determined based on physical presence in India of Karta of HUF.
- HUF can own properties, run business, earn Investment and other income, which is taxed separately from its members.

- Deductions under section 80 and other exemptions shall be available to the HUF.
- It is liable to file Income Tax return and is required to get its accounts audited if the turnover of the business exceeds prescribed threshold.

However, the following incomes are not taxed as income of HUF

- If a member transfers his self-acquired property to the HUF without receiving proper sale consideration, income from such property is not taxable in hands of the HUF. It will continue to be taxed in the hands of the member.
- Personal income of the members cannot be treated as income of HUF.
- "Stridhan" is absolute property of a woman, hence income from it is not taxable as income of HUF.
- Income from individual property of daughter is not taxable in hands of HUF even if such property is vested into HUF by daughter.

Partition of HUF

“Partition” Means a process of separation of assets/ members. The rights/entitlements of the members on partition of HUF are governed by Hindu Law. The tax laws do not have any otherwise provision. The members of an HUF can live separately and such an act would not automatically amount to partition of the HUF.

Income Tax, however contains the provisions for taxation of HUF after partition. Partial partition of an HUF has been derecognised by the provisions of Income Tax, while for total partition, a finding of such partition by the assessing officer is necessary.

Tax planning through HUF

Following are the popular methods used in reducing the tax incidence of HUF

- Increase the number of assessable units through the device of partition of the HUF.
- Creating separate taxable units of HUF through will in favour of HUF or gift to HUF.
- Executing family settlement / arrangement.
- Payment of remuneration to the Karta and also to other members.
- Providing loans to the members of the HUF
- Gift to members.

LIFE

The one who has a Mind (Mana) and Body (Ushya) is Manushya (Human). Mind is the one which presides over the Emotions and Intellect to create expressions required for a game of life. It is the regulatory mechanism of Humans. So managing Mind is managing Life.
So Please mind your mind !!!

How much Gold and Jewellery one can hold?

Q 1. Whether there is any limit on the holding of Gold Jewellery ?

There is no limit on holding of gold jewellery or ornaments by anybody provided it is acquired from explained sources of income including inheritance.

Q 2. Whether Income Tax Act has introduced any new provision regarding chargeability of tax on jewellery ?

No. Section 115BBE of the Income-tax Act, 1961 (the Act) has increased rate of Income Tax from 30% to 60% plus surcharge of 25% and cess. This section only provides rate of tax to be charged in case of unexplained investment in assets. Tax rate under Section 115BBE has been increased only for unexplained income.

Q 3. If there is no new tax, then why the limits of holding have been prescribed about Gold and Jewellery ?

Old provisions of the Income Tax Act have only been emphasised again. Vide circular dated 11.5.1994, instructions have been issued in the matter of search and seizure of gold jewellery. Jewellery and ornaments to the extent of 500 gms. for married lady, 250 gms. for unmarried lady and 100 gms. for male member will not be seized, even if prima facie, it does not seem to be matching with the income record of the assessee.

Q 4. Whether Gold and Jewellery can still be purchased and/or held, which may be more than the limits prescribed ?

Yes. It is clarified that the jewellery/gold purchased out of disclosed income or out of exempted income like agricultural income or out of reasonable household savings or legally inherited which has been acquired out of explained sources is neither chargeable to tax under the existing provisions nor under the amended provisions.

Brief Facts about MUTUAL FUNDS

Introduction and History

A mutual fund is the trust that pools the savings of a number of investors who share a common financial goal.

The mutual fund industry in India started in 1963 with the formation of Unit Trust of India (UTI) at the initiative of the Reserve Bank of India (RBI) and the Government of India. The objective then was to attract small investors and introduce them to market investments. Unit Trust of India (UTI) was established in 1963 by an Act of Parliament.

1987 marked the entry of non-UTI, public sector mutual funds set up by public sector banks and Life Insurance Corporation of India (LIC) and General Insurance Corporation of India (GIC). The 1993 SEBI (Mutual Fund) Regulations were substituted by a more comprehensive and revised Mutual Fund Regulations in 1996. The industry now functions under the SEBI (Mutual Fund) Regulations 1996.

Structure of Mutual Fund (Parties in Mutual Fund)

- **Sponsor:** A Sponsor establishes the Mutual Fund, along with any individual/body corporate. The Sponsor''s liability is restricted to his contribution. Sponsor must contribute a minimum 40% to the net worth of AMC.
- **Trustees:** Refers to Board of Trustees who hold property of the Mutual Fund, for the benefit of the unitholders.
- **Asset Managing Company (AMC):** Can be a company registered under the Companies Act 1956 approved by SEBI. The AMC is entrusted with the task of the managing the various schemes and operations of the AMC. The AMC should have minimum Net Worth of Rs 5 crores. At least 50% of the Board of the AMC should be independent directors, i.e. not connected with the Sponsoring organization. No person can be a Director on more than one AMC.
- Custodian: Person holding a certificate to carry on business of custodian of securities under SEBI.
- Unitholders – Investor who makes contribution to the Mutual Fund

Types of Mutual Funds

Bifurcation of Mutual fund based on Constitution -

1. **Open-Ended -** This scheme allows investors to buy or sell units at any point in time. This does not have a fixed maturity date.
2. **Closed-Ended -** In India, this type of scheme has a stipulated maturity period and investors can invest only during the initial launch period known as the NFO (New Fund Offer) period.
3. **Interval -** Operating as a combination of open and closed ended schemes, it allows investors to trade units at pre-defined intervals.

Bifurcation of Mutual fund based on Mode of Investment -

1. **Debt / Income -** In a debt/income scheme, a major part of the investable fund are channelized towards debentures, government securities, and other debt instruments. Although capital appreciation is low (compared to the equity mutual funds), this is a relatively low risk-low return investment avenue which is ideal for investors seeing a steady income.

2. **Money Market / Liquid -** This is ideal for investors looking to utilize their surplus funds in short term instruments while awaiting better options. These schemes invest in short-term debt instruments and seek to provide reasonable returns for the investors.

3. **Equity / Growth -** Equities are a popular mutual fund category amongst retail investors. Although it could be a high-risk investment in the short term, investors can expect capital appreciation in the long run. If you are at your prime earning stage and looking for long-term benefits, growth schemes could be an ideal investment.

4. **Balanced -** This scheme allows investors to enjoy growth and income at regular intervals. Funds are invested in both equities and fixed income securities; the proportion is pre-determined and disclosed in the scheme related offer document. These are ideal for the cautiously aggressive investors.

Tax implications of Mutual Funds

Dividend Income – Dividend received by all categories of assessee – whether from Equity Oriented Mutual Funds (where investment in Equity is not less than 65%) or Debt oriented Mutual Funds is tax exempt. However the Mutual Fund company is required to pay Dividend Distribution Tax (DDT) before making payment of dividend.

Capital Gain – Transfer of Mutual Fund attracts attract Capital Gain. It shall be taxed as follows –

Particulars	Individual / HUF	Domestic Co
Equity Oriented Scheme (LTCG – units held for more than 12 months, STCG – units held for 12 months or less)		
Long Term Capital Gain	Nil	Nil
Short Term Capital Gain	15%	15%
Other than Equity Oriented Scheme (LTCG – units held for more than 36 months, STCG – units held for 36 months or less)		
Long Term Capital Gain	20% after Indexation	20% after Indexation
Short Term Capital Gain	10% - 30% (as per Income bracket)	30% (except for few)

Further, Investment in Equity Linked Saving schemes (ELSS) is available for deduction u/s 80C of The Income Tax Act, 1961

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