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S&V INSIGHT NEWSLETTER

CHARTERED ACCOUNTANTS

sarathyandvasu.com

INCOME TAX

TAX IMPLICATION ON PARTIAL/FULL WITHDRAWALS (PPF/EPF/NPS)

Taxation of withdrawals and maturity proceeds of Public Provident Fund (PPF)

Presently, this is one of the very good product for retirement due to its tax exemption at all the stages. The money invested gets you deduction under Section 80C. The interest accrued on the PPF account gets you exemption under Section 10.

In case you take a loan from the PPF account, the interest paid on such loan can be claimed against your business income if the funds are used for your business. However if the funds are used for your personal purposes, no tax benefits are available. The money withdrawn partly or fully before completion of its original tenure of 15 years are fully exempt in your hand. The maturity proceeds are also fully exempt under the income tax laws. The exemption in respect of interest is available during the currency of the original tenure of 15 years of PPF account and during extension period as well. Interest received on PPF account is also exempt in case the PPF account is not extended and the maturity proceeds are not withdrawn fully at one go and the balance earns interest.

Taxation for withdrawals from Employee provident Fund (EPF) account

The money withdrawn from your EPF for the permitted purposes like purchase of land, purchase/construction of house, repayment of home loan, education of children and marriage and medical treatment of family members is fully tax exempt in your hand. Even in case the money is withdrawn due to being jobless for certain period of time or for due to non receipt of salary would also be exempt provided the money is withdrawn after you have contributed to the EPF account for minimum of five years. It is not necessary that the contribution to the EPF account should have been made under the same employer. Even in case you have left an employer and have transferred the EPF balance to the EPF account under new employer, the money withdrawn would still be exempt provided the aggregate period of contribution under one or more employer taken together exceeds five years.

In case the balance in EPF account is withdrawn before five years the entire money received becomes taxable in the year in which the money is withdrawn. However in case the money is withdrawn before five years due to termination of the services of the employee due to his illness or closure of the business of the employer the money even if withdrawn before completion of five years would still be tax free. Likewise in respect of money withdrawn from EPF and transferred to NPS such withdrawals would be fully tax free.

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EDITORS NOTE

Dear Reader, this edition features TAX implications on PPF, Some valuable points to improve Corporate governance, etc., Awaiting your feedback.

CONTENTS

TAX DUE DATES - NOVEMBER 2018

30-11-18 - Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA (TDS on Immovable property) & under Section 194-IB (TDS on Certain Rent payment) in the Month of October, 18.

30-11-18 - Due date for filing Income tax return & Transfer Pricing Audit (Section 139)

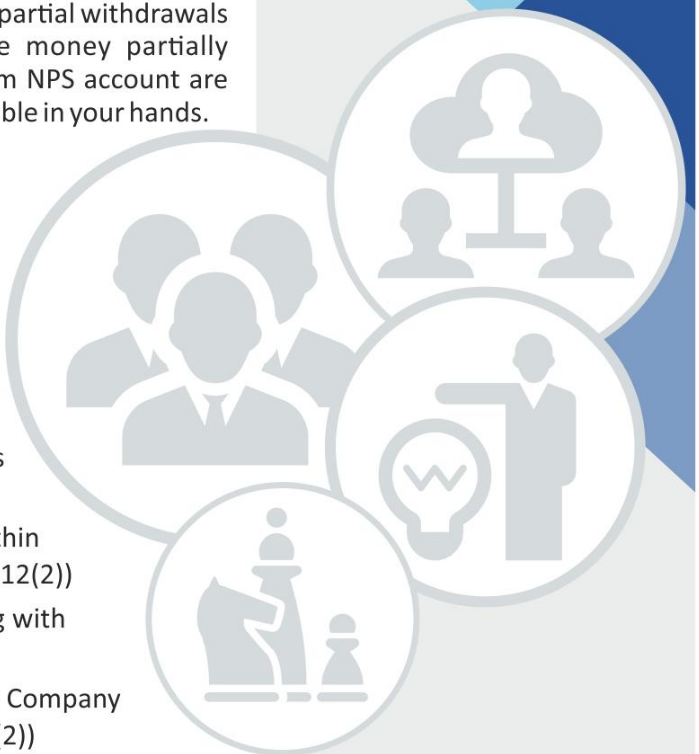
The payer of the money withdrawn from EPF account, in case the same is withdrawn five years, will deduct tax at source @ 10% in case the aggregate amount of such balance exceeds 50,000/-. The money withdrawn at the time of retirement is fully tax free in your hand. However in case you do not withdrawal the full balance at the time of your retirement, any interest credited to your EPF account after retirement/resignation will become taxable in your hand as per a recent ruling of an Income Tax Tribunal.

Taxation of NPS withdrawals

Money withdrawn from NPS account at the time of retirement or reaching the age of 60 years is exempt only upto 40% of the accumulate balance. The subscriber is under an obligation to buy annuity from an insurance company to the extent of 40% and for the balance 20% he has the option to either buy the annuity or withdraw it and pay tax on it. As the scheme allows you to withdraw the money in full if the accumulated corpus is less than 2 lakhs, you still have to pay tax on 60% of such withdrawals as only 40% of the accumulated balance is only exempt.

Like EPF the NPS rules have been recently modified to allow partial withdrawals for specified purposes. However unlike EPF where the money partially withdrawn is fully tax exempt, the partial withdrawals from NPS account are exempt upto 25% only and the balance 75% will become taxable in your hands.

Improving Corporate Governance



In furtherance of the Government's efforts to strike down on shell Companies and enhance corporate governance measures, following provisions have been introduced:

1. Directors to file declaration with ROC within 180 days of incorporation, that all subscribers to the MOA have paid the value of shares taken by them. (Section 10A(1)(a))
2. Company to file INC 22, verifying its Registered office within 30 days of incorporation.(Section 10A(1)(b) r/w Section 12(2))
3. Company not to commence business without complying with clauses 1. And 2. Above.
4. In case of default of the aforementioned provisions, the Company & every officer in default liable to penalty. (Section 10A(2))
5. In case of non- compliance of clause 1, ROC may initiate action for strike off. (Section 10A(3) r/w Section 248(1)(d)).
6. ROC may cause for physical verification of registered office of the Company, and in case of sufficient reasons that Company is not carrying on business, initiate action for strike off.(Section 12(9) r/w Section 248(1)(e))
7. In case any significant beneficial owner fails to disclose his interest in a Company, he or it shall be liable to fine not less than Rs. 1,00,000 but which may extend to Rs. 10,00,000 and/ or imprisonment upto 1 year. (Section 90(1) r/w 90(10))
8. Every director whose directorships exceed 20 shall be liable to disqualification. (Section 164(1)(i) r/w 165(1)).

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Charge Management

The Amendment has tightened the regulation of charges. Following amendments have fallen through:

1. Registration of creation/ modification of charges

Sr. No.	Particulars	Pre amendment	Post amendment (charges created before effective date)	Post amendment (charges created after effective date)
1.	Time limit (with normal fees)	30 days from creation	30 days from creation	30 days from creation
2.	Time limit (with additional fees)	Further 270 days	Further 270 days	Further 30 days
3.	Further extension of time	Delay to be condoned by CG No max. time limit	6 months from effective date (1st May 2019), with additional fees	Further 60 days with ad valorem fees

2. Punishment for contravention

Sr. No.	Particulars	Pre Amendment	Post Amendment
1.	Contravention of provisions relating to charge (registration, satisfaction etc.)	Company & every officer in default liable u/s 86 *	Company & every officer in default liable u/s 86(1) *
2.	Furnishing false/ incorrect information or suppressing material information relating registration of charge	NA	Any person committing the offence liable u/s 86(2)r/w Section 447 ^

*Company liable to fine of Rs. 1 lakh to Rs. 10 lakhs and every officer in default liable to fine of Rs. 25,000 to Rs. 1 lakh and/ or imprisonment upto 6 months.

Dividends, interest and rental income

Dividend from shares held in Indian companies and specified mutual funds are exempt from tax. However in case of a Resident and Ordinary residents, dividend income from investments outside India is taxable, subject to treaty benefits. Expenses incurred specifically for earning such taxable investment income are deductible.

From TY 2016-17, dividends received (except deemed dividend) by a resident taxpayer from domestic companies, where the aggregate dividend received exceeds INR 1 Million in the tax year shall be taxed at 10 per cent (plus applicable surcharge and education cess) on gross basis. It is proposed in Finance Bill, 2017 that interest would not be leviable on account of shortfall in advance tax payment on account of dividend taxable in excess of INR 1 million.

Interest income earned in respect of the investments made in India is subject to tax in India. Also, in case of Resident and Ordinarily residents, interest income from foreign investment is taxable, subject to treaty benefits. Rental income from a house property is taxable in the hands of its legal owner. The net rental income (i.e. gross rent less municipal taxes) is chargeable to tax after making the following deductions:

· Standard deduction – 30 per cent of the net rental income;
· Interest on loan taken for purchase of House property. – INR 200,000 / INR 30,000 / Amount of interest paid or payable during the tax year, depending on the facts and circumstances of each case.

No other deductions are permissible from the said rental income.
As proposed in the Finance Bill 2017, the maximum amount of loss which can be set off against other income is capped at INR 2,00,000. The balance loss can be carried forward of 8 subsequent tax years and set-off against house property income only.

Gains from stock option exercises.

Benefits from Employees Stock Option Plan (ESOP) are taxed as perquisite in the hands of employees. The taxability of a benefit arising out of ESOPs is triggered at the time of allotment of the specified securities. The perquisite value is determined as the Fair Market Value (FMV) on the date on which the "option" is exercised by the employee as reduced by the amount actually paid by, or recovered from the employee in respect of such ESOPs. FMV means the value determined in accordance with the method prescribed by the Central Board of Direct Taxes.

Further, if after exercising the options, the employee holds the shares for some time and sells the same subsequently, the difference between the sale consideration and the FMV considered for calculating the perquisite value would be subject to capital gains tax. Depending on the period of holding of the shares, capital gains would be considered either as short-term or long-term.

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