

28 June 2011

EY Tax Alert

Central Govt issues notification exempting specified persons from filing a return of income



Executive summary

This Tax Alert summarizes a recent Notification No. 36/2011 [F. No. 142/09/2011 (TPL)] (Notification) dated 23 June 2011 issued by the Central Government (CG) prescribing the class of taxpayers and the conditions subject to which such class is exempted from furnishing return of income for tax year 2010-11. In terms of the Notification, small taxpayers i.e., individuals whose total taxable income does not exceed INR500,000 and consists of only income chargeable to income tax under the heads 'Salaries' and 'Income from other sources' by way of interest, not exceeding INR10,000, from a savings bank account are exempted from furnishing return of income for tax year 2010-11, subject to fulfillment of conditions laid down in the Notification.

Background

The Indian Tax Laws (ITL) cast an obligation on an individual taxpayer to furnish a return of his income if his total income during the tax year exceeds the maximum amount not chargeable to tax (threshold limit)^[1]. The obligation exists even if the whole of the tax payable on the total income has been deducted at source. The ITL further provides that for the limited

^[1]For tax year 2010-11, these are as follows:
Resident taxpayers aged 65 years or more - INR2,40,000
Resident women taxpayers below 65 years - INR1,90,000
Other taxpayers - INR1,60,000

purpose of determining obligation to furnish return, the total income shall be reckoned prior to certain specified income-linked/payment-linked tax deductions.

With a view to reduce the compliance burden on small taxpayers, particularly salaried taxpayers whose entire tax liability is discharged by the employer through tax withholding and whose complete details are reported by the employer as part of the withholding compliance, the Finance Act 2011 inserted a further provision effective from 1 June 2011 authorizing the CG to exempt any class or classes of persons from the requirement of furnishing return. The CG can provide the exemption by issuing a notification and can also prescribe conditions for such exemption.

The CG has issued the Notification in exercise of such powers. The Notification is applicable from tax year 2010-11 and lays down: (i) The class of persons who are eligible for exemption from the obligation of furnishing return. (ii) The conditions subject to which the exemption will be available.

Class of persons eligible for exemption from furnishing return

Only individuals who satisfy the following conditions are eligible for exemption from furnishing return:

- i) Total income does not exceed INR500,000.
- ii) Total income consists only of incomes under the following heads:

- (A) 'Salaries'
- (B) 'Income from other sources' by way of interest, not exceeding INR10,000, from a savings bank account

Conditions subject to which exemption from furnishing return is available

The individual who falls under the above referred class of persons should also fulfill the following conditions to avail exemption from furnishing return:

- (i) He should report his Permanent Account Number (PAN) to his employer.
- (ii) He should report the interest income from savings bank account to his employer and the employer should withhold tax on such interest.
- (iii) He should receive tax withholding certificate (in Form 16) from his employer which mentions the PAN, details of income and taxes withheld and paid to the CG.
- (iv) He has discharged his total tax liability for the tax year through withholding and deposit by the employer. In other words, there should be no further tax payable by the employee by way of self-assessment or otherwise.
- (v) He has no refund claim for the relevant tax year i.e., the taxes withheld by the employer do not exceed the tax payable on the total income.
- (vi) He has received salary from only one employer for the tax year.

Exemption restricted to voluntary furnishing of return

The exemption under the Notification is restricted to voluntary filing of return and does not apply to return to be furnished in response to notice issued by the Tax Authority for regular assessment or reassessment or assessment pursuant to search/survey proceedings. In other words, if the taxpayer who qualifies under the Notification receives notice from the Tax Authority for furnishing of return, he cannot rely on the Notification to claim exemption from responding to such notice.

Comments

The Notification provides a welcome relief from the compliance of furnishing return of income for small taxpayers. However, such taxpayers need to carefully examine compliance of exemption conditions in their cases before deciding not to file return. Certain issues like presence of house property loss or capital loss, voluntary foregoing of refund to claim this exemption, receipt of non-chargeable salary income from other employer during the year etc., require clarification from the Tax Authority. If a taxpayer has doubt on compliance of a particular condition, given the potential adverse consequences for failure to file return, it is advisable for a taxpayer to file return instead of running the risk of erroneously availing the exemption.

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