

Social Sector Hotline

March 20, 2007

COMPANIES TO DRAW UP CHARITY LISTS FOR TAX DEPARTMENT

According to data compiled by the central government for the 2005-06 fiscal, Indian companies have donated approximately INR 2,200 million to charity. This figure is all set to rise in the coming year. However, their generosity has come under the scanner of the revenue authorities, which are seeking to restrict the currently available tax break for donations made to trusts and charities under Section 80G of the Income Tax Act, 1961 ("ITA"), if provided to "ostensible" entities. Companies that make donations to public charities are eligible for the S. 80G tax benefits and there is a suspicion that many charitable trusts may have been set up by companies with the sole purpose of siphoning off funds to avoid tax.

Currently under S. 80G, donors, including companies, who or which donate to public charitable entities which are non-government organizations ("NGOs") can claim a tax deduction of 50% on such donations, which are capped at 10% of the gross total income reduced by all other deductions, such as contributions to PPF, insurance premia, pension schemes, etc. The deduction is increased to 100%, without any percentage cap on the gross total income, on donations made to certain trusts and funds set up by the government and other specified charitable organisations.

Though S. 80G has not been touched in the recently announced Budget, the Central Board of Direct Taxes ("CBDT"), in a move to check the misuse of the provision, has now made it mandatory for all companies to provide details of the charities to which they have made donations as a "drop down entry" in their e-returns. Earlier, companies were only required to compute the total amount of returns as claimed in the e-returns. While some companies have, in the past, voluntarily provided donation receipts when claiming the exemption, perhaps to avoid any enquiry by the revenue authorities, the new provision now makes it mandatory for all companies making donations to do so.

Media reports indicate that there is an expectation that donations by companies will rise to INR 3,000 million in the coming year, which would deny the exchequer INR 509 million through the tax break. This recent mandate is in line with the other measures introduced by the CBDT to curb any misuse of tax exemption provisions.

- Nithya Reddy & Rina Kamath

Sources:

- Charity begins at I-T Dept: Companies to furnish list of donees, The Economic Times, Mumbai edition, March 14, 2007
- Taxhounds chase charity black sheep, The Economic Times, March 8, 2007

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Handbook on New Labour Codes

April 29, 2024

Compendium of Research Papers

April 11, 2024

Third-Party Funding for Dispute Resolution in India

April 02, 2024

Research Articles

Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

Emerging Legal Issues with use of Generative AI

October 27, 2023

Audio

Third-Party Funding: India & the World

April 27, 2024

IBC allows automatic release of ED attachments: Bombay HC reaffirms

April 15, 2024

The Midnight Clause

February 29, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Q&A 2024 Protocol to the Mauritius India Tax Treaty

April 22, 2024

Boost to India's Space Potential: India Liberalizes Foreign Direct

