COVID-19 PANADEMIC: What it means from income-tax perspective

The magnitude of this pandemic warrants setting-up quarantine centres in India. The Government may consider announcing some tax sops for taxpayers who (i) set up, operate and maintain such quarantine centres or (ii) are desirous of contributing their CSR funds to help the community at large to come out of this pandemic.

The COVID-19 pandemic has produced a ‘black swan’ set of events. With countries banning international travel, stock markets crashing every day and lockdown across the globe, there is an unticked box of income-tax which is also impacted by COVID-19. Set out below are some key Indian income-tax aspects which can get impacted due to this unfortunate outbreak.

The Income-tax provisions stipulates ‘period of stay’ test to determine residential status of individual taxpayers. Ordinarily, any individual who stays for a period of 182 / 60 days (subject to other conditions) or more in a previous year (1 April to 31 March) is a resident in India. Notably, a resident’s global income is taxable in India.

In the current global scenario, most of the countries have restricted international travel pursuant to which people may have to undertake an involuntary stay in India. Consequently, an individual may cross the threshold of 182 / 60 days for FY 2019-20 thus, qualify as an Indian tax resident. In this regard, it is worth noting that there has been a court judgment which held that period of involuntary stay be excluded while considering period of stay which may be relevant given the current circumstances. But, nonetheless, the NRIs / Frequent Flyers should keep a close check on their day count in India for FY 2019-20 because it will be interesting to see how the tax authorities and courts actually interpret this provision of Indian income-tax law in light of the unfortunate COVID-19 outbreak. Similarly, even offshore entities having directors in India would need to evaluate the impact of POEM (Place of Effective Management) based tax residency rule under Indian income-tax law.

Further, even Indian Project Offices should revisit the taxable presence aspect (commonly referred to as the ‘PE risk’) on account of local presence of their personnel in India, especially if their work force has been demobilised – this is because in such a scenario, it is possible that the local presence may not exceed the threshold number of days prescribed for constituting a taxable presence in India and hence, there may not be a PE risk for such Indian Project Offices.

Further, the magnitude of this pandemic warrants setting-up quarantine centres in India. The Government may consider announcing some tax sops (tax deductions) for taxpayers who;

(i) set up, operate and maintain such quarantine centres or

(ii) are desirous of contributing their CSR funds to help the community at large to come out of this pandemic.

Indeed, these are challenging times. This is a situation that nobody has ever experienced before, so everyone is learning on the go and can only deal with it together. We are sure the Government of India will take necessary steps and provide required support to trade and businesses to soften the pain and stand by the people and businesses community of India.

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