



GES Alert

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Clarification on
“Schedule AL” of the
new income tax return
forms for financial year
2015 - 2016

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In this issue

Background
Key Changes
Comments
Do you know about Dbriefs?
Contacts

Background

- The Government had recently notified the new Income Tax Return (ITR) forms for the Financial Year (FY) 2015-2016 wherein certain key changes were made in the reporting requirements. Please refer to our earlier Alert dated 12 April 2016 for the same.
- These Forms had introduced the “Asset and Liability” (AL) Schedule in ITR 1 Sahaj, ITR 2A and ITR 2 wherein individuals / HUFs having total income in excess of INR 5 million in a FY are mandatorily required to report their asset and liabilities at the year end. However the instructions to the Forms did not provide any guidance with respect to reporting of Indian / foreign assets in the AL schedule particularly for Non-resident (NR) / Not Ordinarily Resident (NOR) individuals.
- Government has now issued revised instructions for ITR 1, ITR 2 and ITR 2A clarifying the assets and liabilities to be reported under the AL schedule for NR / NOR

Key Changes

With the new instructions, the Government has now provided the following clarifications:

Sr. No.	Particulars
1	Individuals / HUFs having income exceeding INR 5 million qualifying as NR / NOR will need to report details of assets located in India only i.e. overseas assets will not be required to be reported.
2	The amount to be reported in respect of assets can either be: (i) Cost price of the asset; or (ii) Value of such asset reported in the latest wealth-tax return ¹ filed by the individual / HUF as increased by the cost of improvement, if any, incurred after the relevant valuation date (i.e. 31 March of the relevant FY).
3	The amount to be reported in respect of assets acquired by the individual / HUF under a gift, will, succession, inheritance, devolution, distribution of assets under

¹ Wealth Tax Act has been abolished by the Government with effect from 1 April 2015

total / partial partition of HUF, etc.²:

- (i) Cost at which the previous owner³ had acquired it, as increased by the cost of any improvement of the asset if any incurred by the previous owner or by the person acquiring the asset
- (ii) Where the cost at which the asset was acquired by the previous owner is not ascertainable and no wealth-tax return was filed in respect of such asset, the value of such asset may be estimated as specified in the instructions.⁴

Comments

- The revised instructions to the tax return forms clarify that NR / NORs need to report only Indian assets under the AL Schedule. This is a major relief for the expatriates working in India qualifying as NR / NOR, outbound assignees from India qualifying as NR / NOR as well for NRI's based outside India having nominal Indian income, since all such tax payers will need to report only Indian assets and not foreign assets.
- Given that the above relief is provided only for NR / NORs, it appears that Resident and Ordinarily Resident (ROR) individuals may need to report their foreign assets and foreign liabilities under the AL Schedule (as specified). As RORs are also required to report foreign assets in the Foreign Asset (FA) schedule, there could be some duplication in reporting certain foreign assets in the tax return forms i.e. both under the AL and the FA schedule. Though it is not mandatory for foreign citizens on Employment, Business or Student visas to report their foreign asset under the FA schedule (subject to conditions), they will now have to report such assets under the AL schedule in the absence of such relief for the AL schedule.
- While capital assets are required to be reported under the FA schedule, certain personal assets such as vehicle, yachts, boats and aircraft along with corresponding liabilities need to be reported under the AL schedule.

² Assets acquired under any mode as specified under section 49(1) of the Income Tax Act, 1961 ("Act").

³ Previous owner for an asset means a person who has owned the asset by any mode other than under a gift, will, succession, inheritance, devolution, distribution of assets under total / partial partition of HUF or any mode specified under section 49(1) of the Act.

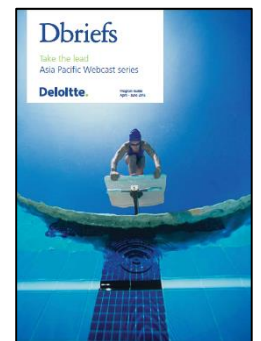
⁴ The circle rate or bullion rate on the date of acquisition by the individual, as increased by cost of improvement, if any, or 31st March 2016

- The instructions to the AL schedule provides for valuation norms for assets acquired by the individuals under a gift, will, etc. where the cost to the previous owner is not ascertainable. However such assets (if covered under the FA schedule) would only need to be reported at cost to the tax payer.
- As the revised instructions only provide a limited relaxation, the reporting requirements in the 2015-16 tax returns continue to be very onerous.

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