



Global Business Tax Alert Sharp Insights

CBDT clarification on cases where returns filed by FII/FPIs not to be treated as defective

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Income tax returns filed by FIIs/FPIs, have in recent times, been considered as 'defective' in cases where the details of Profit and Loss Account and Balance Sheet have not been furnished in the return form.

The CBDT, vide a Press Release dated 10 December 2015 has clarified regarding notices issued by the tax department for such tax returns. The Press Release states that tax returns filed by FIIs/FPIs will not be treated as defective where the taxpayer:

- i. is registered with the Securities and Exchange Board of India
- ii. has no Permanent Establishment/ Place of Business in India
- iii. has provided basic information required under section 139(9)(f) of the Income-tax Act, if there is business income

The tax return form for AY 2015-16 requires the disclosure of the SEBI registration number. However, for earlier years, where the tax department had issued notices for filing of defective returns, the SEBI registration number details shall have to be submitted on the e-filing portal of the Income-tax Department by way of a response to the notice.

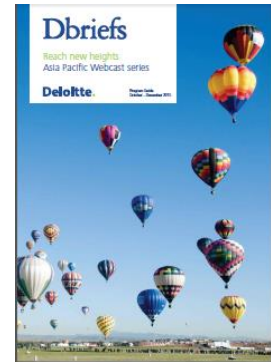
The Press Release is a welcome move providing significant clarity in relation to considering the tax returns filed by FIIs/FPIs as valid. This is further to the CBDT's earlier Press Release dated 24 September 2015 towards non applicability of Minimum Alternate Tax (MAT) on foreign companies in certain cases. However, it may be noted that the current Press Release does not makes any reference to foreign companies, other than FII/FPIs.

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