



Global Business Tax Alert Sharp Insights

CBDT issues modified circular¹ clarifying no TDS with respect to component of GST on services

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¹ Circular No. 23/2017 dated 19 July, 2017

Background

- The CBDT vide a circular No. 1/2014 dated 13 January, 2014 had clarified that where in terms of any agreement/contract between a payer and a payee, the service tax component is included in the total amount payable to a resident with regard to a taxable transaction and such service tax has been indicated separately, then tax shall be deducted at source under Chapter XVII-B of the Income-tax Act, 1961 ('the Act') on the total amount paid/payable without including such service tax component.
- With GST being introduced, various representations were made to the CBDT seeking clarification regarding the withholding tax on the GST component on service remuneration.
- From its introduction from 1 July, 2017, GST has subsumed service tax within its ambit. The CBDT has now issued a circular harmonizing the contents of the earlier circular, taking into consideration the new system of taxation of services under the GST regime.

Circular

- The CBDT has clarified that in terms of any agreement/contract between the payer and the payee, the component of GST on services included in the total amount payable to a resident has been indicated separately. Tax shall be deducted at source under Chapter XVII-B of the Act, without including GST on services.
- GST for the above purposes shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Service Tax.
- It has been also clarified that where in an agreement/contract entered into between parties prior to 1 July, 2017, reference has been made to the term service tax, it shall be regarded as GST on services with effect from 1 July, 2017, till the period such an agreement/contract expires.

Conclusion

The CBDT clarification through the above circular is timely and welcome. In line with the introduction of a new tax regime for indirect taxes on services, the CBDT has extended its rationale for excluding taxes from the purview of tax deduction at source for payments to residents.

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