New Accounting Standards Give Cos Tax Jitters

Companies put aside funds for potential tax penalties as CFOs and experts say ICDS contradicts some I-T Act provisions

Indian companies are expecting litigations and increased tax demands this year due to confusion around computing their income under the new accounting standards the government has introduced.

According to chief financial officers and taxation experts, the income computation and accounting standards (ICDS) contradict with some provisions of the existent Income Tax Act, putting them in a catch-22 situation and prompting many to put aside some funds for potential tax penalties.

“There are lot of discussions with companies about how we must tackle some of the contradictions between ICDS and the Income-Tax Act,“ said Rajesh H Gandhi, part andhi, part ner, tax, at Deloitte Haskins & Sells. “Some of the examples (areas of contradictions) include taxation of interest income on time basis, revenue recognition of services under percentage completion method, taxation of retention money before it accrues, deduction for expenses incurred on fixed assets after startup phase, exchange fluctuation on loan taken for buying local assets and gainloss on commodity hedging,“ Gandhi said.

Although the government has clarified that wherever the ICDS contradicts the I-T Act the latter shall prevail, tax consultants say there is a potential risk that these contradictions could attract penalties and interests.

The whole confusion around the accounting standards begins when CFOs and tax experts ponder on what action they should take when the calculation of the tax is based on a court order and not the I-T Act.

In some cases even certain judi cial pronouncements or rulings contradict with the I-T Act, they say, and many CFOs and tax experts are “logically assuming“ certain eventualities in the absence of any guidelines from the Central Board of Direct Taxation (CBDT).

“While we expect more clarity to emerge from the CBDT, it is quite likely that wherever a Supreme Court judgment has interpreted the provisions of the Income Tax Act, it would prevail over ICDS but in cases where the judicial pronouncement is based on an interpretation of the boarder commercial or accounting principles, the requirements of the ICDS may prevail,“ said Sai Venkateshwaran, partner and head of accounting advisory services at KPMG.

Industry trackers expect that the tax department may come out with a clarification in the next couple of months.

“In order to determine whether the Act prevails, companies will have to consider the have to consider the impact of court rulings. This could lead to a fresh round of litigation on ICDS since interpreting court cases and determining whether the court cases should be given precedence over the ICDS may not be straight forward,“ said Gandhi of Deloitte Haskins.

The issue emerged after the gov ernment decided ernment decided to introduce ICDS beginning this year.

From April next year all Indian companies are mandatorily required to follow Ind-AS, an accounting standard close to the global level (IFRS). Now, some companies decided to follow Ind-AS from April 1, 2015. This prompted the ministry of finance to introduce the ICDS so as to bring consistency between companies following IndAS and those that are not.

Experts say that the confusion over tax computation could impact companies in the information technology, commodities, infrastructure and broking areas more than the others.

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