

Norms to curb tax evasion by Indian multinationals soon

Place of effective management guidelines to affect pharma, energy, and manufacturing

In an attempt to tighten loopholes to deter tax evasion by Indian multinational companies, the government is set to come out with guidelines on place of effective management (POEM) in the coming few days. This will consider companies with effective control in India a resident liable to pay tax in the country. The norms will affect companies in sectors like pharma, energy, manufacturing, software.

Meanwhile, companies have started restructuring operations to ensure that key decision- making is done outside the country and decision makers are out of the country at the time of decision-making to ensure compliance with POEM.

“The POEM guidelines are almost ready. They should be out in the coming few days. We are aware of industry concerns.

All new things have some complications, but the guidelines will offer sufficient clarity to companies regarding compliance. We have incorporated suggestions from industry. This is an effort to plug tax evasion methods,” said a government official.

In the 2015- 16 Budget, the government had announced POEM, where it modified the condition of residence of companies by including the concept of effective management as a measure to deal with cases of creation of shell companies outside India that are controlled and managed from the country.

The guidelines would be a set of principles for assesses and tax officials for determining the tax residence of a company in India.

“Companies have started putting line of authority empowered in a manner so they don’t create needless risk of POEM,” said Gokul Chaudhri, leader, Direct Tax, BMR & Associates LLP. “ In the past few months, companies have been extremely careful with their outbound planning. Once the guidelines are out, they will do a check and adhere to them,” he added.

Sunil Shah, partner, Deloitte Haskins & Sells, said in the past few months companies have been ensuring that decision- making takes place outside India. “ Also, to ensure compliance with POEM, companies are ensuring that decision- makers are outside India when decisionmaking takes place,” he said.

With the guidelines being issued eight months down the financial year, tax consultants argue that the government should make it applicable from April 1 next year, giving companies enough time to adjust.

ED scanner on HSBC black money list

The Enforcement Directorate (ED) has begun a preliminary investigation against Indians whose names figured in the Swiss HSBC bank black money list.

The agency has begun obtaining from various court registries details of the Income Tax department's prosecution charge sheets filed against over 140 entities till now.

The ED and the Special Investigation Team (SIT) on black money had wanted these cases to be shared by the tax department and its apex policymaking body the Central Board of Direct Taxes with them. But, the request had been continuously turned down citing strict treaty obligations riding the exchange of data from the authorities of foreign shores by India. Sources privy to the development say the agency,

(Business Standard)