Indore Branch of Central India Regional Council
of The Institute of Chartered Accountants of India

NEWSLETTER

Feb. 2020

Hon'ble **SHRI JUSTICE DIPAK MISRA,**

Former Chief Justice of India.

Interacting with members on Two Days National Conference

Chairman's Communiqué

A Big Thank You

As I begin to pen down this message, I recall how magnificent this incumbency had been. As the Chairman of a reputed Branch of our Institute, I got tremendous opportunities of developing a stronger connection with my colleagues as well as the students. The year 2019-20 was dedicated to academic empowerment and overall development of members.

Throughout our tenure, we, the Managing Committee members, were committed to climbing a step higher.
During our tenure, we conducted ample knowledgeful symposiums and undertook several initiatives for the well being of students, members and nation as a whole. Seven National Conferences, Pilot project of assisting young CAs in availing subsidy from government for new office set up, Live Virtual Classes, Traffic Management Volunteering, CA Week Celebration, IBC Awareness program, Academic CSR in Universities, Implementation of Model curriculum of ICAI in DAVV, launching of E-Library for CAs, are a few to mention.

This year shall be written in golden words of Indore branch's history as we witnessed various milestones being achieved!

Cheers to all of us and a heartfelt thanks to all of you for being an indispensable part of our journey.

With this, I take your leave and congratulate all the new Office Bearers!
Looking forward to another great year!
With Best Regards

CA. Pankaj shah
Chairman

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COMPARISON OF NEW VS OLD TAX REGIME AND DECODING WHICH ONE IS FOR YOU

-CA. Mohit Jain

Decoding the tax system in general can be daunting. Now with two tax regime choices offered, the old and the new, the taxpayers could be in a fix to understand which one is better for them. Since there is no one fit approach for all taxpayers, this article explains the two tax regimes with a comparative analysis to help you decide which one works for you.

In order to provide significant relief to taxpayers and to “simplify” income tax law, budget 2020 introduced a new Direct Tax regime, to remove the dependency of citizens on tax consultants and do their taxes on their own. The new tax regime comes with reduced tax slabs for individual and HUF taxpayers with a condition to forego certain tax deductions or exemptions. However, tax payer opting for new tax regime are still eligible to claim deduction u/s 80CCD(2) (employers contribution in notified pension scheme) and 80JJAA (for new employment).

From the financial year 2020-2021, every individual and HUF has the option either to continue with existing tax rate where exemptions and deductions can be claimed or to opt out for new tax regime where the rates are lower but there are no exemptions or deduction. Although this option must be exercised at the time of filling of return but for the purpose of payment of advance tax or TDS on salary this option has to be ascertained at the start of financial year. If you fail to inform your employer at the beginning of the financial year that you want to switch to the new tax regime, then your employer can deduct TDS considering that you are covered under old tax regime.

Old tax regime vs. new tax regime : Which is better?

There cannot be a straight answer to this question as it depends on each taxpayer's situation and financial position. Looking at the reduction in tax rates new system looks better but due to non-availability of various deductions or exemptions, it is advisable to do comparative evaluation and analysis under both the regimes before you opt for the new regime or decide to continue with the old one.

The Income-tax rates under the old tax regime and the new tax regime are as under:

Total Income (Rs)	Old Regime	New Regime
Up to 2.5 lakh	Nil	Nil
2.5 to 5 lakh	5%	5%
5 to 7.5 lakh	20%	10%
7.5 to 10 lakh	20%	15%
10 to 12.5 lakh	30%	20%
12.5 to 15 lakh	30%	25%
Above 15 lakh	30%	30%

(Above rates are subject to surcharge and cess, as applicable)

List of benefits forgone under new tax regime

When you look at the above tax slabs, of course, the new tax regime comes out as a winner. The tax charged under the new regime is lower in most categories. For example, for a person earning between ₹5,00,000 – ₹7,50,000, in the new tax regime, the tax percentage has been reduced from 20% to 10%

But here's the catch.

The new tax regime does not allow the taxpayer to benefit from certain deductions and exemptions. Here's a look at some of the major deductions or exemptions that shall not be available for someone who has opted for new tax regime:Opportunity loss to **Salaried Person:**– Standard deduction maximum deduction Rs. 50,000/-– Professional Tax paid by maximum Rs. 2,500/-– Leave travel allowances– House rent allowances depending upon salary structure and rent paid– Special Allowances provided u/s 10(14) except:

a) Transport allowance granted to a handicapped employee
b) Conveyance allowance
c) Any allowance granted to meet the cost of travel on tour or on transfer
d) Daily allowance– Perquisites Opportunity loss to **Business or Profession**– Exemption to SEZ u/s. 10AA– Deductions u/s. 32AD, 33AB, 33ABA, 35(1)(ii),35(1)(iia), 35(1)(iii), 35(2AA), 35AD and 35CCC– Additional depreciation u/s. 32(iia)– Carried forward or unabsorbed depreciation of earlier years Opportunity loss to **All the Taxpayers**– Interest paid on home loan on self-occupied house Maximum deduction Rs. 2,00,000– All deductions provided under Chapter VIA (except 80CCD(2) and 80JJAA)
   a) 80-C: LIP, tuition fees, PPF, EPF, tax saving FDR, Repayment of home loan, mutual funds (ELSS), NSC etc. Maximum deduction Rs. 1,50,000
   b) 80-D: Mediclaim insurance premium maximum deduction Rs. 25,000 to 1,00,000
   c) 80-G: Donation
   d) 80-DD: Dependent who is differently-abled maximum deduction Rs. 75,000 to 1,25,000
   e) 80-DDB: Expense for specified medical treatment
   f) 80-E: Interest on education loan\
   g) 80-TTA: Interest on saving bank accounts

   However, there are certain tax deductions and exemptions which are still available under new tax regime also:

   Benefit still available under new regime:

- Interest received on post office saving account u/s 10(15)(i) Maxi Rs. 3,500
- Gratuity received from employer Maximum Rs. 20 Lacs
- Amount received from LIP on maturity u/s 10(10D)
- Employer contribution in NPS or EPF upto 12% of salary & Interest on EPF upto 9.5% P.A.
- Interest and maturity amount of PPF or Sukanya Smriddhi Yojna
- Commutation of Pension

Comparative tax position for taxpayers: Old regime v. New regime

To make this comparison more meaningful, let's take three case scenarios of three people with different situations when it comes to their expenses and investments.

Example-I:

Mr. Mehul is a salaried person and earns Rs. 7,50,000 per annum. He lives in a rented house and receives HRA from the company. Company deducts PF of Rs. 10,000 from his salary.

Example-II:

Mr. Nirmal is a salaried individual with a salary of Rs. 9,50,000. He owns a house and he paid interest on home loan Rs. 82,500/-. His contribution to PF is Rs. 20,000 and he paid tuition fees for his child's education of Rs. 70,000. He also repaid home loan of Rs. 10,000.

Example-III:

Mr. Amit is a salaried individual with a salary of Rs. 14,00,000. He has a home loan, on which he pays an interest of Rs. 1,22,500. His contribution to PF is Rs. 30,000. He also paid tuition fees of Rs. 90,000 and his repayment towards home loan is Rs. 30,000. He holds a medical insurance policy towards which he paid Rs. 20,000 on account of insurance premium.

Analysis:

	Example-I		Example-II		Example-III	
Particulars	Old	New	Old	New	Old	New
A. Salary Income	7,50,000	7,50,000	9,50,000	9,50,000	14,00,000	14,00,000
B.Less:-						
Standard deduction	50,000	-NIL-	50,000	-NIL-	50,000	-NIL-
Professional Tax	2,500	-NIL-	2,500	-NIL-	2,500	-NIL-
HRA	47,500	-NIL-	-NIL-	-NIL-	-NIL-	-NIL-
LTA	-NIL-	-NIL-	15,000	-NIL-	25,000	-NIL-
C. Salary Taxable **(A-B)**	6,50,000	7,50,000	8,82,500	9,50,000	13,22,500	14,00,000
D. Less:-						
Home loan Interest	-NIL-	-NIL-	82,500	-NIL-	1,22,500	-NIL-
E. Less:- Deductions						
80-C PF Contribution	10,000	-NIL-	20000	-NIL-	30,000	-NIL-
80-C School Tuition Fess	-NIL-	-NIL-	70,000	-NIL-	90,000	-NIL-
80-C Home Loan Repayment	-NIL-	-NIL-	10,000	-NIL-	30,000	-NIL-
80-D Medical Insurance	-NIL-	-NIL-	10,000	-NIL-	20,000	-NIL-
Taxable Income (C-(D+E))	6,40,000	7,50,000	6,90,000	9,50,000	10,30,000	14,00,000
Tax Liability	42,120	39,000	52,520	70,900	1,26,360	1,69,000
Tax Benefit		3,120	17,680		42,640	

From the above examples it is very clear that a taxpayer having no investments or savings should go for new tax regime because of lower taxation rates. However, if a taxpayer is having home loan and other investments old tax regime would be beneficial for him.

Once you have made the choice, can you again switch from the selected tax regime to the other one later?

The taxpayers having income from salary, house property, capital gain or other sources may select tax regime year on year basis. However, if taxpayer has income from business profession and they opt for new tax regime, they can switch back to old tax regime but only once in lifetime and they will not be able to opt for new tax regime again unless their business income ceases to exist.

Conclusion

Both taxation regimes have their own pros and cons. The old taxation regime inculcates habit of investing in a taxpayer. New taxation regime is better for those taxpayers who have started their career and they have less income and less investments resulting in lesser deductions and exemptions. Therefore, one has to wisely consider his/her exemptions, deductions claimed, his/her investing patterns and the tax planning involved before opting for new or the old tax regime.

Everyone will have their own set of deductions and exemptions so one needs to assess comparatively both the regimes to see what works best for them. Hence, it is recommended to consult professionals before taking any stand.

GST Interest to be Paid on GROSS or NET GST Liability ?

- CA. Sonal Gattani

Many of the registered persons are receiving notices to pay interest on GROSS liability for delay in filing of GSTR 3B return in case of failure to pay so the department may initiate recovery proceedings under sec 79, because of which there is as huge confusion among the registered tax payers regarding calculation of interest.

Before understanding the legal issues involved and suggesting let us understand what does GROSS & NET liability mean.

Suppose, a registered person has sold goods on which tax is amounting to Rs.1000/- & his Input Tax credit is Rs.900/-

Then,

Gross Liability in this example is Rs.1000/- total outward tax liability Net liability in this is Rs.100/-(1000-900) the amount required to be paid in cash.

Now let us understand the Legal Provisions & understand why there is a confusion on calculation of interest.

As per Sec 50(1) of the Act

"Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council."

– this sec mandate that the interest has to be paid if there is as delay in paying of tax.

On 22/12/2018 the Press Release of 31st GST Council meet recommended that

"Amendment of section 50 of the CGST Act to provide that interest should be charged only on the net tax liability of the taxpayer, after taking into account the admissible input tax credit, i.e. interest would be leviable only on the amount payable through the electronic cash ledger.

The above recommendations of the Council will be made *effective only after the necessary amendments in the GST Acts are carried out."*

– This shows that the GST Council is of the view that interest has to be collected on NET liability as but till date the law is not clear as no circular/notification has been issued.

On 04.02.2019 a **Standing Order No. 01/2019** issued by the Office of the Principal Commissioner of Central Tax (Hyderabad GST Commissionerate) stating that the interest has to paid on account of delay in filing of GSTR 3B Returns on the cash & the ITC Component of the tax paid after due date i.e that the interest has to be paid on Gross Liability.

On 18/04/2019 the position was upheld in the order of Honourable High Court of Telangana in the Case o**f M/s. Megha Engineering & Infra Ltd. V/s. The Commissioner of Central Tax**

In the 16 pages judgement the court has explained that why the interest has to be charged on Gross Amount.

In Sec 100 of The Finance Act (No.2) 2019 in Act there was a proviso added to sec 50(1) of CGSTAct,2017.

"Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.".

The sad part is the amendment has still not been effective.

But the High Court of Telangana on 07/08/2019 has granted interim stay order in the case of Raghava Constructions V/s. Union of India ordering that the amendment to sec 50 of the Central GST Act,2017 would be retrospective. Therefore, the interest has to paid on net liability basis from 01/07/2017.

But on a Letter Circulated on the social media Dt. 10/02/2020 of the CBIC which ordered Principal Chief Commissioner / Chief Commissioner to recover Rs.45886/- Crores remains unpaid on account of delayed payment of tax & has ordered to issue notices on Gross Basis.

This has been **further clarified by the Tweet of CBIC** India the official Twitter handle of CBIC on 12.41 am dt.15/02/2020 stating

"*The GST laws, as of now, permit interest calculation on delayed GST payment on the basis of gross tax liability. This position has been upheld in the Telangana High Court's decision dated 18.04.2019 In spite of this position of law and Telangana High Court's order, the Central Government and several State Governments, on the recommendations of GST Council, amended their respective CGST/SGST Acts to charge interest on delayed GST payment on the basis of net tax liability Such amendment will be made prospectively. The States of Telangana and West Bengal are in the process of amending their State GST Acts. After the process of amendment is complete, the changed provisions can be put in operation for the entire country.*"

That means the interest has to be collected on Gross Basis.

Hence in my opinion the Interest has to be charged on the Net Liability because

1. The latest interim order of Telangana High Court in the case of **Raghava Construction on 17/08/2019** was in Favour the Registered person i.e interest on Net Liability.
2. Even the Delhi, Karnataka & Gujarat High Courts is of the same view & have granted interim order stating that the interest is to be paid on net liability.
3. Sec 50 states that the interest has to be paid on the tax remaining unpaid, even if you are thinking about the judgement in the case of M/s. Megha Engineering & Infra Ltd. V/s. The Commissioner of Central Tax, the reading the court understood that the court is of a view that as the return is not filing hence the input tax credit is in Air , but we can take help of the opening credit as is not in air but in our electronic credit ledger can be used and hence pay on Net.
4. The Finance Minister, she has pointed out in her budget speech of 2020 that the Harassment of Tax Payer will not be tolerated, asking a taxpayer to pay on gross is not less than harassing him which can never be the intention of the law maker.
5. No Circular / Standing order / any tweet is binding on the registered person.

From the above I am of the view that the interest has to be paid on NET even while replying to the notice kindly check the due dates as in many cases I have seen that the department has ignored the extension notification and has calculated interest on Gross Liability from 20th of the month.




Registered with the Registrar of Newspaper for India under No. MPBIL 01231/12/1/2008-TC

Printed & Published by CA.Harsh Firoda, Chairman on behalf of the Indore Branch of Central India Regional Council of The Institute of Chartered Accountants of India, Plot No. 19-B, CA. Street Scheme No. 78, Part-II, Indore (M.P.) and Printed at Profiles, 639, Sneh Nagar, Indore - 452 001 Ph.: 94250 64293, 0731 - 4061632 and published from Indore.

Printed Book-Post
ICAI, Indore News Letter

To,

If undelivered please return to :
INDORE BRANCH OF CIRC OF ICAI
19-B, CA. Street, Scheme No. 78, Part-II,
Indore (M.P.) Tel. : 0731-2570052-53, 4298198
Mail : indore@icai.org. www.indore-icai.org