

# What's New

## News Flash



June 2017

### ***CBDT clarifies that remittance of Passenger Service Fees by an airline to the airport operator shall not be construed as rent for the purposes of tax withholding under section 194-I of the Income-tax Act, 1961***

#### **Background**

Airline operators collect Passenger Service Fees (PSF) from embarking passengers, which is remitted to the concerned airport operator/ authority. The PSF is a statutory charge, governed by the Indian Aircraft Rules, 1937.

In case of certain airline operators, the tax authorities contended that the payment of PSF to the airport operator/ authority attracted the withholding tax provisions of section 194-I of the Income-tax Act, 1961 (the Act), which require taxes to be withheld in respect of payments in the nature of rent.

The Mumbai Income-tax Appellate Tribunal<sup>1</sup> had held that PSF was not liable for tax withholding under section 194-I of the Act. The Bombay High Court<sup>2</sup>, based on the Supreme Court<sup>3</sup> ruling, has interpreted the provisions of section 194-I of the Act and held that the characterisation of payment as being in the nature of rent primarily requires the use of land or building and mere incidental/ minor/ insignificant use of the same while providing other facilities and services, would not fall within the ambit of rent as per section 194-I of the Act.

#### **Clarification by Central Board of Direct Taxes (CBDT)**

The CBDT, *vide* Circular no. 21/ 2017 dated 12 June, 2017, has recognised the view propounded by the Bombay High Court as being the final view on the matter and clarified that the provisions of section 194-I of the Act will not apply on PSF.

It has also been instructed that appeals may not be filed by the department on this ground and those already filed may be withdrawn/ not pressed.

#### **Key takeaways**

This Circular is a welcome step, clarifying the position on tax withholding in respect of PSF and will have a positive impact on reducing litigation and hardships faced by taxpayers in India.

<sup>1</sup> AC (TDS) v. Jet Airways (India) Limited [ITA No. 5264 (Mum) of 2012]

<sup>2</sup> CIT (TDS) v. Jet Airways (India) Limited [ITA No. 1181 of 2014]

<sup>3</sup> Japan Airlines Co. Limited v. CIT [CA No. 9875 of 2013 CA No. 9876-9881 of 2013 (SC)]

If your interest lies in a specific area or subject, do advise us so we can send you only the relevant alerts. For any additional information, please reach out to your PwC relationship manager or write in to [\*\*\*pwctrs.knowledgemanagement@in.pwc.com\*\*\*](mailto:pwctrs.knowledgemanagement@in.pwc.com)

With Best Regards  
PwC TRS Team

#### **About PwC**

At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 157 countries with more than 223,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at [www.pwc.com](http://www.pwc.com).

In India, PwC has offices in these cities: Ahmedabad, Bengaluru, Chennai, Delhi NCR, Hyderabad, Kolkata, Mumbai and Pune. For more information about PwC India's service offerings, visit [www.pwc.com/in](http://www.pwc.com/in)

PwC refers to the PwC International network and/or one or more of its member firms, each of which is a separate, independent and distinct legal entity. Please see [www.pwc.com/structure](http://www.pwc.com/structure) for further details.

©2017 PwC. All rights reserved

Follow us on [Facebook](#), [LinkedIn](#), [Twitter](#) and [YouTube](#).

© 2017 PricewaterhouseCoopers Private Limited. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers Private Limited (a limited liability company in India having Corporate Identity Number or CIN : U74140WB1983PTC036093), which is a member firm of PricewaterhouseCoopers International Limited (PwCIL), each member firm of which is a separate legal entity

---

***Our Tax & Regulatory Services*** **Direct Tax** **Indirect Tax** **Transfer Pricing** **Regulatory** **M & A**  
**Tax Controversy and Dispute Resolution** **Financial Services**

---

**NOTE** : If you wish to unsubscribe receiving communications, please send in a blank email as reply to this mail with subject line "Unsubscribe".

---