

Clarifications issued by CBDT on ICDS notified under the Income tax Act, 1961

March 27, 2017

In brief

The Central Government had notified¹ ten Income Computation and Disclosure Standards (ICDS) to be applicable with effect from assessment year (AY) 2016-17 for the purpose of computation of income under the head “Profits and gains of business or profession” (PGBP) and “Income from other sources” (IFOS). Post receipt of concerns of various stakeholders the Government had deferred the applicability of ICDS by one year and re-notified² the amended ICDS to be applicable w.e.f AY 2017-18. Now, the Board has issued various clarifications on the amended ICDS by issuance of a circular³ dated 23 March, 2017.

In detail

This is the summary of frequently asked questions (FAQs) released by the Central Board of Direct Taxes (CBDT) addressing the queries raised by the stakeholders.

S. No.	FAQs	Answers/ Clarifications
1.	What is the interplay between ICDS-I and maintenance of books of accounts?	ICDS is not meant for maintenance of books of accounts or preparing financial statements. The accounting policies mentioned in ICDS-I shall be applicable for computing income under the heads “PGBP” or “IFOS.”
2.	Whether inconsistent judicial precedents shall prevail over ICDS?	The ICDS have been notified after due deliberation and after examining judicial view for bringing certainty on the issues covered by it. Since certainty is now provided by notifying ICDS, the provisions of ICDS shall be applicable to the transactional issues dealt therein in relation to AY 2017-18 and subsequent AYs.

¹ Notification no. S.O. 892 (E) dated 31 March, 2015

² Notification no. 87 dated 29 September, 2016

³ Circular no. 10/ 2017 dated 23 March, 2017

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3.	Does ICDS apply to non-corporate taxpayers that are not required to maintain books of account and/ or those are covered by presumptive scheme of taxation?	ICDS shall also apply to persons computing income under the relevant presumptive taxation scheme, as ICDS are applicable to specified persons having income chargeable under the head "PGBP" or "IFOS."
4.	If there is a conflict between ICDS and other specific provisions of the Income-tax rules, 1962 (the Rules), which provisions shall prevail?	The provisions of Rules, which deal with specific circumstances, shall prevail.
5.	How will ICDS apply to companies that adopted Ind-AS?	ICDS shall apply irrespective of the accounting standards adopted by companies i.e., either Accounting Standards (ASs) or Ind-AS.
6.	Whether ICDS shall apply to computation of Minimum Alternate Tax (MAT) under section 115JB of the Act or Alternate Minimum Tax (AMT) under section 115JC of the Income-tax Act, 1961 (the Act)?	ICDS shall not apply for computation of MAT. However, ICDS shall apply to AMT, as AMT is computed on adjusted total income, which is derived by making specified adjustment to total income computed as per normal provisions of the Act.
7.	Whether the provisions of ICDS shall apply to banks, non-banking financial institutions, insurance companies, power sector, etc.?	The general provisions of ICDS shall apply to all persons, unless there are sector specific provisions contained in the ICDS or the Act.
8.	Whether similar principles as contained in ICDS-I related to Marked to Market (MTM) loss or an expected loss applies to recognition of MTM gain or expected incomes?	The principle as contained in ICDS-I relating to MTM losses or an expected loss shall apply <i>mutatis mutandis</i> to MTM gains or an expected profit.
9.	ICDS-I provides that an accounting policy shall not be changed without "reasonable cause." The term "reasonable cause" is not defined.	Under the Act, "reasonable cause" is an existing concept and has evolved well over a period conferring desired flexibility to the taxpayer in deserving cases.
10.	Which ICDS would govern derivative instruments?	ICDS-VI provides guidance on accounting for derivative contracts, such as forward contracts and other similar contracts. For derivatives not within the scope of ICDS-VI, provisions of ICDS-I would apply.
11.	Whether the recognition of retention money, the receipt of which is contingent on the satisfaction of certain performance criterion is to be recognised as revenue on billing?	Retention money, being part of the overall contract revenue, shall be recognised as revenue subject to reasonable certainty of its ultimate collection condition contained in para 9 of ICDS-III on construction contracts.
12.	Whether ICDS-III and ICDS-IV should be applied by real estate developers and BOT operators. In addition, whether ICDS is applicable for leases?	At present there is no specific ICDS notified for real estate developers, BOT projects and leases. Therefore, the relevant provisions of the Act and ICDS shall apply to these transactions as may be applicable.
13.	The condition of reasonable certainty of ultimate collection is not laid down for taxation of interest, royalty and dividend. Is the taxpayer obliged to account for such income even when the collection thereof is uncertain?	As a principle, interest accrues on time basis and royalty accrues on the basis of contractual terms. Subsequent non-recovery in either cases can be claimed as deduction in view of section 36 (1) (vii) of the Act.

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14.	Is ICDS applicable to revenues that are liable to tax on gross basis for non-residents under section 115A of the Act?	Yes
15.	What shall be the treatment of expense incurred after the conduct of test runs and experimental production but before commencement of commercial production?	It shall be treated as capital expenditure as per para 8 of ICDS -V.
16.	What is the taxability of opening balance as on 1 April, 2016 of Foreign Currency Translation Reserve (FCTR) relating to non-integral foreign operation, if any, recognised as per AS 11?	It shall be recognised in the previous year relevant for assessment year 2017-18 to the extent not recognised in the income computation in the past.
17.	For subsidy received prior to 01 April, 2016 but not recognised in the books pending satisfaction of related conditions and achieving reasonable certainty of receipt, how shall the same be recognised under ICDS on or after 01 April, 2016?	Government grants received on or after 01 April, 2016 and for which recognition criteria is also satisfied thereafter, the same shall be recognised as per the provisions of ICDS-VII. However, if the subsidy is already received prior to 01 April, 2016, ICDS-VII shall not apply and it shall continue to be recognised as per the law prevailing prior to that date.
18.	Whether the taxpayer shall be permitted to claim deduction of interest on security offered to tax on accrual basis but not received while computing the capital gain?	Yes
19.	How the securities held as stock in trade shall be valued "category wise" under ICDS-VIII?	For the measurement of securities held as stock in trade, the securities are to be first aggregated category wise. The aggregate cost and net realisable value (NRV) of each category of security is compared and the lower of the two is to be taken as carrying value as per ICDS-VIII.
20.	Whether borrowing costs to be capitalised under ICDS-IX should exclude portion of borrowing costs that is disallowed under specific provisions such as 14A, 43B, 40(a) and 40A(2)(b)?	Borrowing costs shall exclude those borrowing costs that are otherwise not allowable under the specific provisions of the Act.
21.	Whether bill discounting charges and other similar charges would fall under the definition of borrowing cost?	Yes, as the definition of "borrowing cost" is an inclusive definition.
22.	How to allocate borrowing costs relating to general borrowing to different qualifying assets?	On asset-by-asset basis.
23.	What is the impact of Para 20 of ICDS-X containing transitional provisions?	Para 20 of ICDS-X provides that provisions or assets and related income shall be recognised for the year commencing on or after 01 April, 2016 in accordance with this ICDS after taking into account amount recognised, if any, for the same in any previous year ending on or before March 2016.

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24.	Whether provisions for employee benefits such as provident fund, gratuity etc., are excluded from the scope of ICDS-X?	Provisions for employee benefits that are otherwise covered by AS 15 shall continue to be governed by specific provisions of the Act and are not dealt with by ICDS-X.
25.	Where is the taxpayer required to make disclosures specified in ICDS?	Disclosures shall be made in the tax audit report in Form 3CD. However, there shall not be any separate disclosure requirement for persons that are not liable to tax audit.

PricewaterhouseCoopers comments

The aforesaid circular has addressed various issues on the applicability of the ICDS. The

ICDS shall be applied for the first time by the taxpayers while filing the income tax returns for the AY 2017-18. Thus, the said clarifications are a welcome step.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

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