TAX CHAT - Updates

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Dear Madam / Sir,

Namaste!

Lets start with an anecdote:

एक व्यक्ति एक ऊंचे पेड़ से उतरता था। नीचे एक फकीर बैठा देखता था। अति ऊंचाई से उतरते देख वह चुप रहा। जब ऊंचाई खतरनाक ना रही फकीर उसे सावधान सावधान कहकर नसीहत देने लगा।

नीचे उतरते उस व्यक्ति ने फकीर से कहा जब ऊंचाई खतरनाक थी तुम चुपचाप रह निहारते रहे और जब खतरा टल सा गया है आप चेता रहे है।

फकीर बोला तब तुम खतरा देख सावधान थे, पर अब तुम खतरे से बेपरवाह हो, यही वास्तव में सावधान रहने कि घड़ी है।

अतः मैं तुम्हे सजग कर रहा हूं।

दोस्तो,

यही अब कोरोना कि कहानी है।

बीमारी से हम अभ्यस्त होते जा रहे है और यह अपना खेल बखूबी खेल रही है।
अब बीमारी हमें पहचानी पहचानी सी लगने लगी है यही असली संभल कर चलने का समय है।

हम सोचते है की हम तो बहुत सावधानी से रहते है, हमें कुछ नहीं होगा, ये हमारी सबसे बड़ी ग़लतफ़हमी हैं

So let's not be under any wrong belief and be more careful now and follow all prescribed precautions.

The Tax Department is playing its role actively. It has suo-moto extended certain dates of compliances under the Act and is also giving full make over to the Income tax portal with effect from 07th June, 2021. In this May 21 edition of Tax Chat we are attempting to summarize these updates along with other important circulars /

notifications/ instructions issued in this month. Also, considering the importance of the topic in current situation, we are reproducing an earlier article written by CA Rishabh Adukia on "**Will, The Most Important Document of Our Life**".

Trust you will find the same useful.
Happy Reading!
With Regards,
Team - S S Jhunjhunwala & Co

Contents:

Circulars, Notifications and Others:
(Compiled by: Ms Sonakshi Jhunjhunwala)

1. CBDT notifies threshold limits for Significant Economic Presence under Sec. 9: Notification No. 41 of /2021, dated 3rd May, 2021:

Section 9 of the Income-tax Act deals with the incomes which are deemed to accrue or arise in India. Section 9(1) creates a legal fiction to tax certain incomes by deeming them as accruing or arising in India. Section 9(1)(i) provides that income accruing or arising, whether directly or indirectly, through or from any business connection in India shall be deemed as income accrue or arise in India.

Modern technology has made it possible for many companies to do business in several countries without a physical presence in India. So the question arises as to how to tax these transactions carried out in India without a physical presence in India. OECD and G20 are working on a solution to tax such transactions. One of the methods spoken about is Significant Economic Presence (SEP).

The Concept of Business Connection is defined u/s 9 of the Income Tax Act, 1961 (the Act). The Finance Act, 2018 expanded the concept of Business Connection (as provided under section 9 of the Act) through introduction of the concept of SEP. The definition of business connection has been expanded such that a nonresident would be deemed to have a Business Connection in India if it has SEP in India.

Under explanation 2A to section 9 of the Income Tax Act, SEP is defined to mean:

(a) transaction in respect of any goods, services, or property carried out by a non-resident in India including the provision of download of data or software in India if the aggregate of payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed;

(b) systematic and continuous soliciting of business activities or engaging in interaction with such number of users, as may be prescribed.

Importantly the above-mentioned transactions or activities will constitute SEP in India irrespective of whether or not—

1) The agreement for such transactions or activities is entered in India; or

2) The non-resident has a residence or place of business in India; or

3) The non-resident renders services in India:

Now, the CBDT has inserted a new Rule 11UD to the Income-tax Rules, 1962 to prescribe the threshold limits for 'Significant Economic Presence'. Rule 11UD provides that for clause (a), the threshold limit shall be Rs. 2 crores. Whereas for clause (b), the threshold limit shall be 3 lakhs.

Other important aspects:

1) Levy of taxes under the provisions of SEP and Equalisation Levy has been made mutually exclusive and cannot apply simultaneously due to Section 10(50) of the Act.

2) The taxpayer has the right to opt for either the Income Tax provisions or Double Taxation Avoidance Agreement (DTAA) whichever is more beneficial.

2. NRs having income from transfer of capital asset referred to Sec. 47(viiab) exempt from obtaining PAN: CBDT: Notification No.42 of 2021, dated 4th May, 2021:

Section 139A of the Income-tax Act contains the provision regarding the requirement to obtain and quote PAN. Section 206AA provides that if a deductee fails to furnish his PAN to the deductor, tax is required to be deducted at a higher rate. However, these sections empower the CBDT to make rules providing the class or classes of person to whom these sections shall not apply.

In exercise of such power CBDT inserted a new sub-rule Rule 114AAB vide Notification No. 58/2020, dated 10th August, 2020, wherein a non-resident investing in certain Category I or Category II AIFs were exempted from the application of provisions of these sections. Now, CBDT has amended Rule to further extend such exemption to non-residents investing in certain Category-III AIFs.

The board has notified that a non-resident, being an investor who operates in accordance with the SEBI, circular IMD/HO/FPIC/CIR/P/2017/003 dated 4th January, 2017, shall not be required to obtain and quote PAN on compliance of specified conditions.

3. CBDT notifies 4 more pension funds for Sec. 10(23FE) exemption: Notification Nos. 43, 44, 45, 46 of 2021, dated 4th May, 2021:

The CBDT has notified following pensions funds for the purpose of Section 10(23FE) exemption:

- Caisse de dépôt et placement du Québec,
- CDPQ Infrastructures Asia III Inc,
- Ivanhoe Logistics India Inc,
- CDPQ Fixed Income XI Inc.,

for the purpose of exemption under section 10(23FE).

Investments made by the above pension funds during the period 22nd April, 2021 to 31st March 2024 shall be eligible for the exemption complying with the specified conditions.

4. CBDT amends Rule 2B to provide exemption for cash allowance in lieu of LTC: Notification No. 50 of 2021, dated 5th May, 2021:

Where an employee receives Leave Travel Concession (LTC) from its employer for going on vacation in India, the amount so received shall be exempt from tax under Section 10(5), subject to certain conditions. However, due to the COVID-19 pandemic and the nationwide lockdown, employees had not been able to avail of Leave Travel Concession (LTC) in the current block of 2018-21.

Thus, to provide relief to such employees, the Finance Act, 2021 amended Section 10(5) to provide an exemption in respect of cash allowance received in lieu of LTC. The CBDT was empowered to prescribe the conditions subject to which such exemption can be claimed.

In exercise of such power, the CBDT has amended Rule 2B to provide that where the employee avails any cash allowance from his employer in lieu of any travel concession or assistance for the assessment year beginning on 01-04-2021, he shall be eligible to claim an exemption for an amount equals to lower of the following:

i) Rs. 36,000 per person for the individual and the member of his family; or

ii) 1/3rd of expenditure incurred by an individual or a member of his family.

However, the exemption can be claimed subject to fulfillment of the following conditions:

a) Such employee or his family members has incurred expenditure during the period commencing from 12-10-2020 and ending on 31-03-2021 on goods or services, which are liable to GST at an aggregate rate of 12% or above, and goods are purchased, or services are procured from GST registered vendors or service providers;

b) Such Employee exercises an option to claim an exemption for the deemed LTC fare in lieu of the applicable LTC in respect of one unutilized journey during the block of four calendar years commencing from the calendar year 2018;

c) The payment in respect of such expenditure is made by him or any member of his family to a registered person during the period commencing from 12-10-2020 and ending on 31-03-2021;

d) The payment in respect of such expenditure is made by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or other electronic mode specified under rule 6ABBA; and

e) The individual obtains a tax invoice in respect of such expenditure from the registered person referred.

5. 269ST Relaxation of cash payments of more than 2 lakhs in hospital: Notification No. 56: Dated 7th May, 2021 and corrigendum to Sec. 269ST notification to correct word 'payee' with 'payer': Notification No. 59 of 2021, dated 10th May, 2021:

Section 269ST of the Act restricts a person from receiving an amount of Rs. 2 lakh or more otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or other prescribed electronic modes. Any contravention of this provision attracts penalty under Section 271DA.

The CBDT exercises its powers u/s 269ST (iii) of the act notified that the provisions of section 269ST shall not apply to Hospitals, Dispensaries, Nursing Homes, Covid Care Centres, or similar other medical facilities providing Covid treatment to patients.

The exemption is applicable for payment received in cash from 01.04.2021 to 31.05.2021, on obtaining the PAN or AADHAAR of the patient and the payee and the relationship between the patient and the payee by such entities.

The notification inadvertently used the wording 'payee' instead of 'payer'. Thus, the board has issued a corrigendum to correct the word "payee" with "payer" in the context of furnishing PAN or AADHAAR and furnishing of the relationship between the patient and the payee.

6. US Proposal to require country-by-country reporting of pre-tax profits, taxes paid: Dated 12th May, 2021:

The Financial Services Committee of the U.S. House of Representatives reported out (approved) H.R. 3007, the "Disclosure of Tax Havens and Offshoring Act"—a bill that would require public companies to disclose certain financial information on a country-by-country (CbC) basis, including "total income tax paid on a cash basis to all tax jurisdictions."

The bill would amend the Securities Act of 1934 to require CbC reporting and also to require companies to disclose a number of specific tax-related items for each of its subsidiaries, as well as on a consolidated basis, such as total accrued tax expenses, stated capital, and total accumulated earnings. The proposed effective date for the CbC measures would be one year from the date on which the Securities and Exchange Commission adopts a final rule implementing the CbC provision.

7. ATO publishes Draft-Guideline clarifying tax-compliance approach and associated risks for intangible arrangements: dated 19th May, 2021:

Australian Taxation Office (ATO) publishes Draft Guideline clarifying tax compliances for intangible arrangements (PCG 2021/D4) on 19th May, 2021; Draft sets out to outline the compliance approach to international arrangements connected with the development, enhancement, maintenance, protection and exploitation (DEMPE) of intangible assets and/or involving a migration of intangible assets;

8. Department to launch new e-filing portal on 7th June, 2021- existing portal won't available from 1st to 6th June: D.O. F. No. Pr. DGIT(S)/486-2020-21, dated 19th May, 2021 and Press Release dated 20th May, 2021:

The Income-tax Department is going to launch its new e-filing portal www.incometax.gov.in on 7th June, 2021. The new e-filing portal (www.incometax.gov.in) is aimed at providing taxpayer convenience and a modern, seamless experience to taxpayers:

- New taxpayer friendly portal integrated with immediate processing of Income Tax Returns(ITRs) to issue quick refunds to taxpayers;

- All interactions and uploads or pending actions will be displayed on a single dashboard for follow-up action by taxpayer;

- Free of cost ITR preparation software available online and offline with interactive questions to help taxpayers fill ITR even without any tax knowledge, with pre-filling, for minimizing data entry effort;

- New call center for taxpayer assistance for immediate answers to taxpayer queries with FAQs, Tutorials, Videos and chatbot/live agent;

- All key portal functions on desktop will be available on Mobile App which will be enabled subsequently for full anytime access on mobile network;

- New online tax payment system on new portal will be enabled subsequently with multiple new payment options using netbanking, UPI, Credit Card and RTGS/NEFT from any account of taxpayer in any bank, for easy payment of taxes.

In preparation for this launch and for migration activities, the existing portal of the Department at www.incometaxindiaefiling.gov.in would not be available to taxpayers as well as other external stakeholders for a brief period of 6 days i.e. from 1st June, 2021 to 6th June, 2021.

In order to avoid any inconvenience to taxpayers, the Department will not fix any compliance dates during this period. Further, directions have been issued to fix hearing of cases or compliances only from 10th June, 2021 onwards, to give taxpayers time to respond on the new system. If, any hearing or compliance which requires submissions online has been scheduled during this period, the same will be preponed or adjourned and the work items would be rescheduled after this period.

The Department has also intimated external entities including Banks, MCA, GSTN, DPIIT, CBIC, GeM, DGFT who avail services of PAN verification etc. about the non-availability of the services and to request them to make arrangements to ensure that their customers/stakeholders are apprised, so that any relevant activity can be completed prior to or after the blackout period.

Taxpayers are encouraged to complete all their urgent tasks involving any submission, upload or downloads before 1st June, 2021 to avoid any difficulty during the blackout period.

The Department requests the patience of all taxpayers and other stakeholders during the switch over to the new e-filing portal and the subsequent initial period while they get familiarized with the new system. This is another initiative by CBDT towards providing ease of compliance to its taxpayers and other stakeholders.

9. Extensions of time limits of certain compliances: Circular No 9 of 2021, dated 20th May, 2021:

The Central Board of Direct Taxes (CBDT) in exercise of powers u/s 119 of the Income Tax Act, 1961 (the Act) provides relaxation in following compliances:

Sr. No	Particulars	Section / Rules/ Form	Original due date	Extended due date
1	Statement of Financial transaction (SFT)	R - 114 E	31st May, 2021	30th June, 2021
2	Statement of Reportable Account	R- 114 G	31st May, 2021	30th June, 2021
3	Return of TDS for last Quarter of Financial Year 2020-21	R – 31A	31st May, 2021	30th June, 2021
4	Furnishing of TDS certificate to employees	Form 16	15th June, 2021	15th Jul, 2021
5	TDS / TCS book adjustment statement for the month of May 2021	Form 24 G: R-30 & 37CA	15th June, 2021	30th June, 2021
6	Statement of Deduction of tax from contribution paid by trustees of an approved superannuation fund	R-33	31st May, 2021	30th June, 2021
7	Statement of Income paid or credited by investment fund to unit holder	Form no 64 D R-12CB	15th June, 2021	30th June, 2021
8	Statement of Income paid or credited by investment fund to unit holder	Form no 64C R-12CB	30th June, 2021	15th July, 2021
9	Furnishing of Return of Income – non audit cases	139(1)	31st July, 2021	30th September, 2021
10	Furnishing of Report of Audit	44AB rws 139(1)	30th September, 2021	31st October, 2021
11	Furnishing of Report of Accountant – transfer pricing report	92E rws 139(1)	31st October, 2021	30th November, 2021
12	Furnishing of Return of Income – audit cases	139(1)	31st October, 2021	30th November, 2021

13	Furnishing of Return of Income – audit cases	139(1)	30th November, 2021	31st December, 2021
14	Furnishing of belated / revised Return of Income	139 (4) and (5)	31st December, 2021	31st January, 2022

Clarification:

1) Interest u/s 234 A of the Act will continue where the self-assessment tax liability exceeds Rs. 1,00,000/-.

   For this purposes, in case of an Individual Taxpayer, the tax resident of India, the tax paid by him as self-assessment tax, before the original due date will be deemed to be the advance tax.

2) For all the compliances, extension has not been allowed and couple of such immediate compliances are stated hereinbelow:

Sr. No	Particulars	due date
1	Filing of belated / revised Return of income for AY 2020-21	31st May, 2021
2	Return of TCS for last quarter of Financial year 2020-21 relevant to AY 2021-22	15th May 2021
3	Application for Registration / Re-registration u/s 12A / 12AA / 12AB and 80G of the Act	30th June 2021
4	Filing of Form 15G – 15H	30th June 2021

10. CBDT notifies online procedure for withdrawing application pending before ITSC: Notification No. 5 of 2021, dated 24th May, 2021:

The Finance Act, 2021 has discontinued the Income-tax Settlement Commission w.e.f., 01-02-2021. It has also been provided to constitute an Interim board for settlement of cases pending with the settlement commission.

The assessee (who had filed an application with the settlement commission) has the option to withdraw such application within 3 months from the date of commencement of the Finance Act, 2021. If not withdrawn, the application will be deemed to be received by the Interim Board on the date on which the application was allotted by the Board.

The Central Board of Direct Taxes (CBDT) vide Notification No. 40/2021, dated 30-04-2021 has notified a new Rule 44DA & Form no. 34BB to allow an assessee to choose option to withdraw his pending application.

Now the board has notified the procedure for furnishing and uploading of Form no. 34BB. The assessee has to follow steps for exercising option to withdraw pending application.

a) Assessee shall provide basic details in format available at https://tinyurl.com/Form34bb. The details shall be provided by June 15, 2021.

b) Based on the detail furnished, a system generated letter shall be generated through ITBA system of the assessee on his e-filing account.

c) The assessee should be a registered user on the E-filing Portal of the Department to proceed further.

d) Assessee, to whom intimation to upload Form No. 34BB is generated, shall upload scanned printout of Form No. 34BB on the e-Filing portal of the Department www.incometax.gov.in.

e) Scanned printout of the Form should be in pdf format with a scan clarity of 300 DPI. Date of upload of signed printout of the Form shall be the date on which such application is withdrawn.

f) Online submission of Form No. 34BB would be treated as submission to the Assessing Officer as per sub-section (1) of section 245M of the Act.

11. CBDT notifies rule for computation of FMV of Capital Assets for section 50B: Notification No. 68 of 2021, dated 24th May, 2021:

The Finance Act, 2021, has amended Section 50B of the Act to provide that in case of slump sale, the Fair Market Value (FMV) of undertaking or division transferred shall be deemed as the full value of the consideration received or accruing as a result of the transfer of such capital asset. The CBDT was empowered to prescribe how the FMV of such undertaking or division is to be determined.

In exercise of such power, CBDT has inserted a new Rule 11UAE. Rule 11UAE provides that the higher of the following on the date of slump sale shall be deemed to be its FMV:

(a) Fair Market Value of the capital assets transferred by way of slump sale; or

(b) Fair Market Value of the consideration received or accruing due to transfer by way of slump sale.

Determination of FMV of capital assets transferred

FMV of the capital assets transferred by way of slump sale shall be computed as per the following formula:

FMV of capital assets = A+B+C+D – L

Where,

A = Book value of all assets (other than jewellery, artistic work, shares, securities, and immovable property) appears in the books of account of the undertaking or the division transferred by way of slump sale. However, the following shall be reduced from such book value of assets if it relates to such undertaking or the division:

(a) Income-tax paid as reduced by the amount of Income-tax refund claimed; and

(b) Amount shown as asset, including the unamortised amount of deferred expenditure, which does not represent the value of any asset;

B = The price which the jewellery and artistic work would fetch if sold in the open market, based on the valuation report obtained from a registered valuer;

C = Fair Market Value of shares and securities determined in accordance with Rule 11UA;

D = The value adopted or assessed or assessable by any authority of the Government for payment of stamp duty in respect of the immovable property;

L = Book value of liabilities as appearing in the books of accounts of the undertaking or the division transferred by way of slump sale. However, the following shall be reduced from such book value if it relates to such undertaking or division:

(a) Paid-up capital in respect of equity shares;

(b) Amount set aside for payment of dividend on preference shares and equity shares if such dividends have not been declared (before the date of transfer) at a general body meeting of the company;

(c) Reserves and surplus (even if the resulting figure is negative) other than those set apart towards depreciation;

(d) Excess provision for tax (including deferred tax liability)

(e) Provisions for unascertained liabilities;

(f) Contingent Liabilities other than arrears of dividends payable in respect of cumulative preference shares

Determination of FMV of Consideration received or accrued

FMV of the consideration received or accruing as a result of a transfer by way of slump sale determined in accordance with the formula-:

FMV of consideration = A+B+C+D

Where,

A = Monetary consideration received or accruing as a result of the transfer;

B = FMV of the property referred to in Rule 11UA(1), i.e., property other than immovable property, determined in the manner provided therein;

C = The price which property, other than immovable property, which is not covered in point B above, would fetch if sold in the open market based on the valuation report obtained from a registered valuer, in respect of the property;

D = The value adopted or assessed or assessable by any government's authority for payment of stamp duty in respect of the immovable property.

12. CBDT clarifies on time-limits extension pursuant to SC order: Circular No. 10 of 2021, dated 25th May, 2021:

CBDT issues Circular to clarify on extension of time limits notified by Circular No. 8/2021 dated 30th April, 2021 that includes filing of appeal before CIT (A). It notes that SC's suo motu order dated 27th April, 2021 directed that periods of limitation for all judicial/quasi-judicial proceedings were extended until further orders. It is clarified that where different relaxations are available to the taxpayers, the more beneficial relaxation can be opted for calculating the period of limitation

13. Bahrain: FAQs on country-by-country reporting:

Bahrain—as a member of the Organisation for Economic Cooperation and Development (OECD) base erosion and profit shifting (BEPS) Inclusive Framework—committed to align its standards with those of the international tax framework and to implement the BEPS minimum standards. One of the minimum standards is CbC reporting (BEPS Action 13) that requires multinational enterprise (MNE) groups to file a CbC report, setting out financial information for each tax jurisdiction where the group has a presence. The objective of CbC reporting is for tax authorities around the world to assess risks related to transfer pricing and profit shifting of MNE groups.

Bahrain in January 2021 ratified the Multilateral Competent Authority Agreement (MCAA) on the automatic exchange of CbC reports, and a resolution for the exchange of CbC reports was issued in February 2021.

FCRA relaxations:

The validity of Foreign Contribution Regulation Act (FCRA) certificates which have expired or are expiring during the period between September 29 last year and September 30 this year has been extended upto 30th September, 2021 by the Ministry of Home Affairs (F No II/ 21022/36(58)/2021-FCRA-II).

Further, The MHA as per a public notice, has permitted existing Foreign Contribution (Regulation) Act (FCRA) account holders to open their “FCRA Account” in the New Delhi Main Branch (NDMB) of the State Bank of India (SBI), 11 Sansad Marg, New Delhi – 110001 up to 30th June, 2021. After that date they shall not be eligible to receive foreign contribution in any account other than the “FCRA Account” opened in the NDMB.

ARTICLE:

Will, The Most Important Document of Our Life

(by: CA RishabhAdukia)

Human life is capable to create his/her own destiny. He/She creates his/her own path of success. We work hard to create a comfortable life for ourselves and our loved ones. Every individual acquires some wealth during his/her life time. Even an average individual has some balance left in his/her savings account which he/she wishes to pass on to his/her next generation.

As humans we work hard in creating assets and wealth. However death is the most certain event of any human's life. It is this certainty that one needs to spare sometime at this movement to realize what will happen to your loved ones after one's death. One must plan for smooth transition of the wealth that he/she has created to be passed on to his/her future generations. Thus "Will" becomes an important document every individual should make.

What is a Will?

In simple terms, a Will is the wish of the person making it, with respect to the property that he/she has acquired during his/her life time. It brings out the wish of the writer as to whom and how his/her property will be distributed.

Need to write a Will

Although a very important document, very few individuals write up a Will. The reason for not writing a Will could be that one does not accept the mortality. The other could be that it's too early to write a Will or it could be that Will is only for rich men and women who have lot of properties and wealth. But the reality is that a Will is essential for every individual who has some wealth that he/she can leave behind to his/her successors.

Any day and every day is a right time for making a Will. It can be written as soon as one owns a property specially an immoveable property. The purpose may partly be achieved by making nominations but it is not a full proof solution.

More over a Will is an evolving document which means it can be changed whenever one wishes to make changes. One may add a property or gain more shares or may want to allocate some fixed amount for a specific use in his/her Will. One may change a Will when there are person is addition in family like when One gets married or when a child is born. This makes it possible for an individual to write a Will at the very earliest stages of life and not postpone it to the later stages of life. The most important reason to write a Will is that it gives the Person complete control on how his/her assets would be distributed after his/her death. Here the Person may distribute his/her assets proportionately or disproportionately. The Person may decide to give away his/her entire property to only one heir leaving out the rest or may even decide to distribute to any institute or organisation for the general benefit of society. It will be completely as wished by the Person.

It is also an important document to decide succession in business**.** It reduces substantially chances of disputes among successors and beneficiaries. Be it a Mahabharat of mythology or a court room drama among legal heirs of contemporary business men, the core issue is division of family business and assets. This document to substantial extent resolves the issue if the proper and detailed methodology of transmission of business and assets is given in the Will.

What happens if there is no Will?

In absence of a Will, the property of the deceased is passed on to his/her heirs as per the Hindu Succession Act 1956 or the Muslim succession Act or the Indian succession Act 1925 depending upon the religion followed by the deceased. The Hindu Succession Act 1956 which is applicable to Hindus, Buddhists, Jains and Sikhs divided the property into different classes as mentioned in the schedule appended to the act. Section 10, 11 and 12 of the Hindu Succession Act 1956, speak about the way property is distributed between the heirs in different classes. The effect is that without a Will, you will have no power over who inherits your assets. For e.g. if Suppose you wanted your minor daughter to have Rs 1 crore for higher studies. Not leaving a Will means this amount may be distributed among, say, five legal heirs, and she will end up with only Rs 20 lakh. A Will enables a person to decide which asset goes to which heir and in what proportion.

How to write a Will?

A Will can be drafted wholly on your own or through a lawyer / consultant. The Will needs to be written on a plain paper giving following particulars:

- Personal details of the Person making the Will, such as, full name, address, place, date and also family background.

- Declaration stating this as the Last WILL and Testament.

- Executor who has to execute this Will after the death of the Person – name, address and relationship.

- Details of all the assets held by the Person – Wherever located on the globe – In India / outside India:

    i) Immoveable property with full details of location.

    ii) Moveable assets including bank account, demat account, PPF, insurance policy, etc.

    iii) Details of Bank Locker/s.

    iv) Details of business assets including and more importantly shareholding and ownership of various entities. This is very relevant for succession planning of the business.

    v) Jewellery, etc.

- Residuary assets – assets acquired and/or accumulated in future.

- Details of liabilities, if any and mode of discharge of the same. Also, in case of future liability, mode of discharge of the same.

- Details of beneficiaries who has to receive assets and properties under this Will.

- Wish list. This is very important.

- What if the beneficiary is no more during the life the Person?

- Name, address and details of guardian in case the Person have minor children. This has become important because of nuclear family concept prevailing now a day in our society.

- Declaration for being of sound mind and that the Person is not making the Will under any undue pressure. If a person is very old, it is better to attach a doctor's certificate certifying his/her mental health and sanity.

- Two independent witnesses. The Will should be signed and witnessed by two independent persons.

Registering a Will

A Will may be either registered or unregistered. A registered Will is one where the Will is registered at the sub-registrar or the registrar's office of the district court under whose jurisdiction a major part of property lies.

Often soundness of mind, forged signatures and coercion are the grounds on which a Will is challenged in the courts of law. With registration of Will by a personal visit to the registrar, the authenticity of Will is established. Hence this possibility of contesting the Will on these grounds is minimized.

Points to remember while writing a Will

Although a Will is a simple document, writing it in the most precise manner is the key. Following are the points to be kept in mind while writing a Will:

1. Be specific and detailed

The Will should set out all the details regarding the movable and immovable properties of the writer of the Will. Give out every detail of the property with descriptions. Give name of the person whom you want to inherit a particular property, name address and your relationship with him/her. One has to clearly state which property / asset will go to whom – whether singly or jointly (if jointly, in what proportion).

Mention every bank account, with the number, bank name and address. Also mention where you have safe deposit lockers, their key numbers, nominees as to who can operate the locker after the demise of the primary locker holder.

Similarly, for investments and insurance, list the scheme name, number, financial institution, and insurer, along with the addresses. For more than one property, distinguish each one clearly by listing dates of purchase, addresses and taxes paid.

2. Appointing the right executor

An Executor is a legal representative of the person who has made a Will. The executor is responsible to distribute the assets of the deceased person in accordance with the wishes of the deceased as enumerated in the Will. Therefore, it is important as who whom do you appoint as the executor of the will. It is prudent to appoint someone younger as executor of the Will. An executor can be your relative, friend or even a third party executor. A legal heir (or beneficiary under the Will) can also be an Executor. One has to be very careful in selecting the executor as he/she should not be become obstacle in transmission the assets from the person to his/her legal heirs.

3. Appointing guardian for minors

Where you intend to pass on your property to your minor children, you must appoint a guardian for them in your Will. The guardian shall act as care taker of the assets till he/she becomes an adult. If no guardian has been appointed, and the owner's signature is required to sell, finance or conduct other business transactions, then in the absence of the guardian, the court typically gets involved to protect the child's interests. Anybody whom you trust can be appointed as the guardian of the minor children. A parent can easily nominate the other parent as a guardian in case he/she passes away. Grandparents or other close relatives can also be appointed as guardians.

4. Updating the Will

As mentioned earlier Will can be written at any time. Considering the uncertainty of life, the earlier a Will is written the better. Having said that the Will cannot remain stagnant. With changes in life, the Will also should undergo a change. An addition in the family because of marriage or birth of child, the Will should be altered. Also one accumulates wealth throughout life. Any addition to property or investments should be included in the Will as soon as they are acquired or are made.

Nomination

Nominee is usually a custodian, a care taker till the estate is finally distributed. Technically, he is not the owner of the property unless he is also a beneficiary of that property as per Will. Some legal disputes have arisen on this aspect.

It is always advisable to have nomination done and the nomination be done in favor of the person who is the beneficiary of that asset as per Will.

Conclusion

Immortality of life is neither possible or is essential, therefore preparing for a transition is the wisest thing to do. One can shower his /her wealth along with the blessings on loved ones by making their life easier and peaceful after death by writing a fair and just Will without ambiguity.

So, have nomination, make Will and synchronize the two.

(The author Rishabh Adukia is a Chartered Accountant and qualified professional advising on wealth management to individuals, millennial's, emerging HNIs including others and can be reached on adukia.rishabh@gmail.com)

Action Points under Income Tax Act, 1961

For the Month of June 2021:

15th June	First installment of advance tax for the A.Y. 2022-23 for all the taxpayers
30th June	Applications for renewal of Registration by Charitable Trusts u/s 12A and 80G
30th June	Filing of Form 15 G / 15 H
30th June (as extended)	Quarterly statement of TDS deposited for the quarter ending March 31, 2021
30th June (as extended)	furnishing of statement of financial transaction (SFT) u/s 285BA in respect of FY 2020-21
30th June (as extended)	TDS / TCS book adjustment statement for the month of May 2021

....STORY TO REMEMBER....

Play the battle Drums

A king had many elephants, but an elephant was very powerful, very obedient, sensible and skillful in fighting skills. In many wars, he was sent on the battlefield and he used to return only after getting victory to the king. Therefore, he was the most loved elephant of the king. Time went by and there came a time when the elephant started getting old. Now he was not able to perform as before. Therefore, now the kings did not even send him to the battlefield but still remain a part of his team.

One day the elephant went to the lake to drink water, but his feet got stuck in the mud there and then went on sinking. He tried a lot, but he could not remove himself from the mud. People came to know from the sound of his screams that the elephant was in trouble. The news of the trapping of the elephant also reached the king. All the people, including the king, gathered around the elephant and made various efforts to get him out. But after trying for a long time, there was no way out.

At that time, Gautama Buddha was passing on the road. Gautam Buddha first inspected the site of the incident and then suggested to the king that the battle drums should be played around the lake. The listeners felt bizarre how the trapped elephant would come out by playing the drums. As soon as the drums of war started ringing, so did the change in the gesture of that troubled elephant.

At first, the elephant slowly stood up and then came out of the mud on his own, shocking everyone. Gautama Buddha made it clear to everyone that:

Moral:

There was no lack of physical ability of the elephant, only the need to infuse enthusiasm within it - to maintain enthusiasm in life, it is necessary that humans maintain purposeful thinking and do not let despair dominate ...in today's tough times; we all need to enthuse ourselves & people around us with Hope & enthusiasm by playing if need be the battle drums that we will again Celebrate Abundance of Joy & Happiness tomorrow !!

This Tax Chat is prepared only for information of our clients and colleagues in the office. In this Tax Chat an attempt has been made to summarize various changes / development in Direct Tax Law during previous months.

The information is of a general nature and is not intended to address specific facts and circumstances. Specific guidance may be obtained before acting on the same.

If you need full text of circular, notification, press release, etc., we will be happy to provide the same on hearing from you. We have compiled the information from Taxmann and Taxsutra websites and mails.

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