Need for rationalization of Direct Tax Provision for Salaried Taxpayers

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In India, presently around 40 to 50 million salaried taxpayers file their income tax return ('ITR'). As per the press release dated 01 August 2022, the Central Board of Direct Taxes (CBDT) has mentioned that the total ITRs filed till 31 July 2022 for Assessment Year ('AY') 22-23 is about 58.3 million which was due date for salaried taxpayers and other non-tax audit cases.

In the Budget Speech 2018-19, while allowing INR 40,000 as standard deduction, the Hon'ble Finance Minister noted that the average tax payment made by salaried individuals was INR 76,306 in AY 2016-17 as compared to non-salaried individuals amounting to INR 25,753. Hence, the average salaried individual is paying taxes 3 times more than a non-salaried individual.

Although salaried taxpayers are one of the key tax contributors to Government every year, however, in last 3 years tax budget, relief provided to them are equivalent to a drop in an ocean. Further, though inflation is increasing continuously, salary of these taxpayers are not increasing at such a rate. Hence, keeping this in mind, Government may give few benefits to them in Union Budget 2023:

- Increase personal income tax exemption limit of INR 2,50,000 (last increased in budget 2014 by INR 50,000)
- Increase deduction limit of INR 1,50,000 under section 80C of the Income-tax Act, 1961 ('the IT Act') (last increased in budget 2014 by INR 50,000)
- Increase deduction limit of INR 2,00,000 of interest on house property (last increased in budget 2014 by INR 50,000)
- Enhance Standard deduction of INR 50,000 (last increased in budget 2019 by INR 10,000)

If the Government can't increase exemption / deduction limit or provide additional tax benefits to salaried taxpayers in Union Budget 2023, then atleast a few tax provisions should be rationalized for them.

1. **Deduction of reimbursement for notice period payment**

Generally, as per the contract of service, employee may leave organization after serving 30 to 90 days' notice period (which may vary from organization to organization) or pay equivalent salary for that period. In most cases, hiring organization "buyout" the employee by reimbursing notice period payment (for the period not served by employee to its current organization). In such cases, the said reimbursed amount is included by hiring organization in the total income of employee and accordingly TDS is deducted on the same. However, practically, the same is not income in the hands of employee as same is mere reimbursement to him / her. Further, the current organization receiving amount for short notice period from employees is anyways offering the said income to tax for taxation purpose.

Same can be understood with example. Suppose an organization has policy of 60 days' notice period then employee may have to either serve 60 days in organization or pay 60 days equivalent salary. Suppose if the employee must join the hiring organization in 30 days, then he / she may serve for 30 days and have to pay the remaining 30 days equivalent salary. In such case hiring organization will buyout remaining 30 days and reimburse out of pocket expense to employee. However, the said reimbursement amount is included in the total income of employee. Hence, effectively the employee pays tax on 13 months salary instead of 12 months which is not the intent of the law.

Hence, it is suggested that the Government should clarify by inserting appropriate provision that such reimbursement of notice period payment is not taxable in the hands of employees as same is not income in the hands of the employee.

2. **Allowability of work from home ('WFH') expenses**

Post COVID pandemic, many Organizations have implemented partial or full time WFH culture. In such cases, employer provides / reimburses office set-up cost (like table, chairs, wi-fi, etc.) to employees so that they can work properly from home and tax the same as perquisites in the hands of employee.

Hence, it is suggested that the Government should clarify by inserting an appropriate provision that such expenses incurred for carrying out official work is not taxable in the hands of employees as perquisite.

3. **Deduction of "pre EMI interest" on house property**

As per explanation to proviso of section 24(b) of the IT Act, "Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital borrowed for the period prior to the previous year in which the property has been acquired or constructed, as reduced by any part thereof allowed as deduction under any other provision of the IT Act, shall be deducted under this clause in equal instalments for the said previous year and for each of the four immediately succeeding previous years." Hence, salaried taxpayer can claim pre EMI interest in 5 equal installments starting from the previous year in which the house property is acquired or constructed.

Now considering the home loan of INR 5 million for 30 years @ 7.90% p.a., salaried taxpayer needs to pay installment of INR 0.436 million per annum, which include interest of more than INR 0.2 million per annum in initial 20 years. Hence, in such a scenario, effectively they are not able to claim pre EMI interest at all which is not the intent of law.

Hence, it is suggested that the Government should remove such hardship and allow interest in the year of payment itself. Alternatively, the same should be allowed as an additional deduction in 5 equal installments starting from the previous year in which the house property is acquired or constructed and prescribe a separate interest limit for the same.

Since Union Budget 2023 will be the last complete budget before elections in 2024 (as the interim budget will be there next year in February 2024), hence we can expect this year few tax reliefs for salaried taxpayers.