

Overview of Income Computation and Disclosure Standards (ICDS)

Seminar on ICDS – WIRC

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Journey so far..

Jan
1996

Central Board of Direct Taxes ('CBDT') notified 2 Accounting Standards ('AS') under section 145(2) of the Income-tax Act, 1961 ('Act') [existing tax AS]

Dec
2010

CBDT constituted Accounting Standards Committee to suggest harmonization of ICAI AS with provisions of the Act and suggest AS to be notified under the Act

Oct
2012

- Final report of Committee and 14 draft AS published
- Comments were invited from public on Draft AS

Jul
2014

- Finance Bill (No 2) 2014 amended section 145 (2) and (3)
- ICDS substituted for AS

Jan
2015

- CBDT issued drafts of 12 ICDS
- Draft ICDS kept open for comments and suggestions

CBDT vide Notification No: 32/2015 dated 31 March 2015 notified 10 ICDS w. e. f. 1 April 2015

ICDS - Objectives and principles

- **Terms of reference** of the Accounting Standard Committee
 - To study the harmonization of Accounting Standards issued by ICAI with the direct tax laws in India, and suggest Accounting Standards which need to be adopted under section 145(2) along with the relevant modifications;
 - To suggest method for determination of tax base (book profit) for the purpose of Minimum Alternate Tax ('MAT') in case of companies migrating to IFRS in the initial year of adoption and thereafter; and
 - To suggest appropriate amendments to the Act in view of transition to Ind-AS regime
- **Principles adhered to** by the Accounting Standard Committee
 - Reduction of litigation;
 - Minimization of alternatives; and
 - Certainty to issues.

List of ICDS

I	Accounting policies
II	Valuation of inventories
III	Construction contracts
IV	Revenue recognition
V	Tangible fixed assets
VI	Changes in foreign exchange rates
VII	Government grants
VIII	Securities
IX	Borrowing costs
X	Provisions, contingent liabilities and contingent assets

ICDS not notified are: Event Occurring after the Previous Year; Prior Period items; Leases and Intangible assets

Salient features of ICDS

- To **supersede the existing tax AS**
 - Tax AS I relating to disclosure of accounting policies
 - Tax AS II relating to disclosure of prior period and extraordinary items and changes in accounting policies
- Applicable to **all taxpayers following accrual system of accounting**
- Applicable only for computation of income under the heads of –
 - “**profits and gains of business / profession**”; and
 - “**income from other sources**”
- Not for the purpose of **maintenance of books** of accounts
- Conflict between provisions of the Act and ICDS – Provisions of **the Act to prevail**

Some key questions (1)

Applicability and operation

- Income Computation and **Disclosure** Standard – Where is the disclosure required?
 - Income tax return
 - Form 3CD
 - Any other manner of disclosure
- No ICDS notified for A.Y. 2015-16 (Notified ICDS to apply from A.Y. 2016-17). **Impact thereof?**
- Computation under MAT provisions

Some key questions (2)

Impact on the Act

- Preamble – in case of conflict, Act prevails
 - ICDS intended to be in harmony with the provisions of the Act
 - Conflict with judicial decisions. **Impact?**
- Force of ICDS as a notification
 - Whether binding on the taxpayer?

Some key questions (3)

Is ICDS mandatory?

- If not followed – income can be recomputed u/s 145(3)
- Section 145(3) - Three limbs to trigger best judgment assessment:
 - AO not satisfied about the correctness or completeness of accounts; or
 - Method of accounting (cash or mercantile) not regularly followed; or
 - **Income not computed in accordance with ICDS**
- Is best judgment assessment mandatory if only one standard not followed?
- Is best judgment assessment only to the extent of ICDS or all the aspects?

Some key questions (4)

Prospective or retrospective?

- Prospective
 - Effective from assessment year 2016-17 and subsequent years and therefore prospective
- Impact on ongoing transactions
 - Transitional provisions provided
- A delegated legislation cannot apply retrospectively in absence of express powers
 - ITO v. M.C. Poonose (75 ITR 174)(SC)

Objective of ICDS

- True and fair view for tax purposes to differ from true and fair view for accounting purposes
- Is it merely to cover timing difference? Is it worth the efforts?
- Reduce litigation or furtherance thereto?

Expert committee constituted by CBDT

- It was brought to the notice of the CBDT by the stakeholders that certain provisions of ICDS may need further clarification/ guidance for proper implementation
- These implementation issues raised by the stakeholders have been referred to an expert committee comprising of departmental officers and professionals
- Stake holders and general public were requested to bring out issues/points which in their opinion would require further clarification/guidance for proper implementation of the provisions of the ICDS
- Issues/points were required to be submitted by 15th December, 2015
- No specific time line given to the committee to submit recommendations

A much needed and welcome move

Thank You

