CBDT manual aims to plug leakages in cross-border transfers

The Central Board of Direct Taxes (CBDT) is pushing for exchange of information among tax administrators globally to tap tax leakage in cross-border transactions, even as the government is struggling to contain the fiscal deficit by boosting tax collection and paring expenditure.

The foreign tax and the tax research division of CBDT has, for the first time, come up with draft guidelines in form of a manual on exchange of information to help tax authorities detect tax leakage in cross-border transactions with the support of foreign revenue agencies.

The government aims at collecting Rs.5.7 trillion from direct taxes in the current financial year. The gross direct tax collection in the nine months till December increased by 8.01% to Rs.4.28 trillion. Direct taxes include personal income tax, corporate tax, wealth tax, and securities transaction tax. CBDT is the apex body which administers direct tax collections in India.

The draft guidelines, called *Manual on Exchange of Information*, was circulated internally earlier this month. Based on the feedback, the final set of guidelines will be prepared and made available to public later this year.

Mint has reviewed a copy of the 84-page manual.

According to the manual, the income tax departments across India are not placing enough requests asking for information on transactions with the foreign revenue agencies as they are unaware of the provisions available in the tax treaties. “The investigating officers are not making many requests, primarily because they are not fully aware of the provisions. This is evident from the fact that the total numbers of requests received from field authorities (investigating officers) were 39, 46, 92 and 386 during the fiscal year 2008-09, 2009-2010, 2010-11 and 2011-12, respectively,” the manual said.

The manual has been brought in to provide guidelines for requesting information from treaty partners and sharing of information for inbound requests, said **Amit Maheshwari**, partner at tax consulting firm Ashok Maheshwary and Associates, Chartered Accountants.

According to the manual, relevant data like information relating to ownership of entities, copies of tax returns, banking information, accounting information, transfer pricing information, copies of contracts and agreements, invoices, etc. can be exchanged, which is available with the tax department as well as other authorities such as government organizations, trade registry, banks and financial institutions and employers.

“The government has given enough structure to seek details from its international treaty partners about banking, accounting, transfer pricing information and tax returns to cross-check the spend and plug the evasion of tax. However, the number of request made by the tax officers are far lower,” Maheshwari said.

Even under the automatic exchange of information, India has not been very successful in getting information from its tax treaty partners. While it has transmitted about two million pieces of information relating to fiscal years 2009-10, 2010-11 and 2011-12 to at least 50 of its treaty partners, it has received only over 40,000 pieces of information between January 2011 and December 2012, including pieces of information disseminated in January 2011, which were obtained during 2008-10, according to the manual. Under the automatic exchange of information, intelligence data is sent by the competent authority of India’s treaty partners to the Indian competent authority in compact disks.

Currently, India has double taxation avoidance agreements with 84 countries and has signed tax information exchange agreements with nine countries with low or no tax . It is also a party to Multilateral Convention on Mutual Administrative Assistance in Tax Matters, which has come into force in June 2012. This multilateral convention is in force in 16 countries.

(Livemint.com)