

ALTERNATE DISPUTE RESOLUTION - INCOME TAX SETTLEMENT COMMISSION

Do you think you are safe from Tax Search/Investigation? Do you have assets outside India and have not yet declared them? Think Again

Advantage of approaching the Settlement Commission

- Less cumbersome and less time consuming
- Immunity from penalties which otherwise range between 100 % to 300% of the additional tax assessed by the assessing officer
- Immunity from prosecution under the tax laws

The Bill on Black Money Tabled in Lok Sabha

While, the Bill on curbing black money which imposes harsh penalties has been tabled in the Lok Sabha, there still exists time for filing an application in cases where assessments are pending in cases of foreign assets to be declared. The Bill also provides **an opportunity to declare** the assets by paying the taxes due and 100% penalty which will go upto 300% in an event it is detected by the Government machinery.

Why Alternate Dispute Resolution



Due to the ever-growing number of international transactions and the increasing complexity of transactions today, the number of cases where there are significant differences in opinion between tax examiners and taxpayers is increasing. Tax examiners base their decisions on the latest tax circulars but their interpretations of the circulars are not necessarily correct all the time. Disputes with the Tax Authorities seem almost a natural concomitant of business operations. In line with the Tax Authorities increased focus on collections, disputes are on the increase.

Alternative Dispute Resolution (“ADR”) - Settlement Commission

The Tax Code in India provides for an alternate dispute resolution referred to as ‘The Income Tax Settlement Commission’ (ITSC). Taking a dispute with the tax authorities to the court is a lengthy and expensive process, which most taxpayers wish to avoid. The ADR process is a less formal and adversarial procedure to resolve disputes. The process is based on the premise that it gives an opportunity to an assessee to come out clean.





How can we Help?

For each dispute we:

- provide a bespoke team of tax and dispute resolution specialists, ensuring that the client has the right mix of people at the right time;
- appoint a dedicated client relationship partner to manage the relationship; and
- ensure that each member of the team is, where appropriate, aware of all work being performed on the matter so that our service is seamless and cost-effective.

Contact us:

t: +91-98554-00428

e: aditya@ashwaniassociates.in
ashwani@ashwaniassociates.in

w: www.ashwaniassociates.in

Who can approach the Settlement Commission?

Any person for whom the assessment has not been completed and the tax arising out of the surrender is more than INR 5 million in case of a search or INR 1 million in any other case. Thus, following can approach the ITSC:

- where a search/survey has been conducted by the Income Tax Authorities;
- where during the course of an assessment the assessee feels that there are issues which may crystallise into a liability and thereby attract penal provisions
- where during the course of transfer pricing assessment, the assessee feels that the issues raised by the Transfer Pricing Officer can translate into potential tax liabilities and also attract penal provisions.
- where assessments have been reopened u/s 147 of the Act (w.e.f. October 1, 2014)
- where matter has been remanded back by ITAT to Assessing Officer or where an order u/s 263/264 of the Act has been made directing the Assessing Officer to make an assessment (w.e.f. October 1, 2014).

Thus whether it is an international transaction or a domestic transaction, an assessee can opt to approach the ITSC and we can assist clients throughout the process, including

- preparing the case and filing the application with the ITSC
- appearing before the ITSC for admitting the application; and
- negotiating dispute settlements with the ITSC. However, in order to arrive at such settlement requires involved negotiations and meeting specific requirements. We can advise clients on the applicability of this process to specific circumstances and assist in negotiations with the ITSC in relation to reaching an acceptable settlement.

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