SR through participatory budget: Janwani

ST CORRESPONDENT
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Pune: NGO's and corporates from the city have come forward to be a part of the participatory budget of the Pune Municipal Corporation (PMC). They were present during a meeting of Maharashtra Chamber of Commerce Industries and Agriculture-Corporate Social Responsibility (CSR) forum that was held to discuss participatory budgeting of Pune Municipal Corporation.

Speaking at the event, Kiran Kulkarni, Director of Janwani said Janwani has been involved in doing budget analysis of PMC for last several years. Kulkarni said Janwani has also been making ward briefs of 76 wards.

“As a part of the ward brief we give an estimate on number of schools, hospitals, taps and other amenities. Participating budget needs to be taught to employees working in various companies andCSR heads have a role to play here,” Kulkarni said. He said companies can use their technical expertise for making participatory budget more tech savvy.

KFIT Technologies has helped us to make e-forms in the past which helped to increase number of people presenting their views for the PMC budget,” Kulkarni said.

Naim Keruwala, Assistant Director, Governance, Janwani said in the participatory budget forms, companies should propose developmental works with budget of less than Rs 5 lakhs. “Works below Rs 5 lakhs can be approved by the ward office and do not need an approval from the PMC. Companies should hold workshops for creating awareness on participatory budget,” Keruwala said. He said 800 projects in Pune have been completed with help of citizens feedback through participatory budget during the last eight years.

Janwani is working closely with Rotary clubs, Federation of Senior Citizens of Maharashtra and National Society for Clean societies to make participatory budget more popular.

“The participatory budget needs to have more recommendations for women and weaker sections of the society. Street lighting which is essential for women's safety and roadside signage for visually challenged could also be done with help of the PMC budget,” Keruwala said. Both Kulkarni and Keruwala agreed that number of suggestions for people's participation is vital to the success of this initiative.
Budget a mixed bag for CSR

It is expected that companies would now try and align their CSR activities to areas where a tax relief may be available.

Further, we can also see some socially-relevant and tax-efficient spending from companies in the times to come.

Income Tax Act, only expenditure “incurred wholly and exclusively” for the purposes of the business is allowed as a deduction for computing taxable business income and, therefore, CSR expenditure, being an application of income, is not “incurred wholly and exclusively” for the purpose of carrying on business, and hence not allowable deduction.

While setting out the overall principle that CSR expenditure is not tax deductible, the government has also drawn a distinction between the specific deductions for expenditure permitted under sections 30 to 32 of the Income-Tax Act and deduction for any other expenditure that is claimed under the provisions of section 31(1) of the Income Tax Act. That’s the silver lining, as companies can still claim deductions under the provisions of sections 30 to 32 of the Income Tax Act, subject to fulfillment of conditions, if any, specified therein.

Therefore, if any expenditure qualifies as CSR spend under the Companies Act and also is eligible for specific deduction under the provisions of any of the sections 30 to 32, then such expenditure would be eligible for tax deduction, thereby meeting dual objectives for the company of complying with the CSR provisions as well as getting tax relief. In certain cases, the company could also potentially get a weighted deduction, thereby enhancing the quantum of tax relief.

Some of the specific deductions that can be availed by companies include expenditure on programmes for rural development, programmes for conservation of natural resources, agricultural extension projects or skill development projects, subject to meeting the conditions prescribed in respective sections of the Income-Tax Act. For instance, if a company undertakes a skill development programme that qualifies as CSR expenditure under the Companies Act and also meets the conditions laid down under the Income-Tax Act, then the company would get a weighted deduction for this expenditure. It should be noted that there are several areas of overlap between the CSR areas identified in schedule VII of the Companies Act and the areas where specific tax deductions are available under the Income-Tax Act. It is expected that companies would now try and align their CSR activities to areas where a tax relief may be available. It appears that we can see some socially-relevant and tax-efficient spending from companies in the months and years to come.

The author is partner and head, Accounting Advisory Services, EY India.
FinMin wants banks to be exempt from CSR spend

Letter to corporate affairs ministry cites slowing economy, capital challenges

MANGUIT SAHA
Mumbai, 22 July

Indian banks, particularly those owned by the government and facing an urgent need to raise capital, could get some relief.

The finance ministry has written to the corporate affairs ministry, asking the latter to exempt banks from the corporate-social responsibility (CSR) spending mandated by the Companies Act.

The Act, which came into effect from the current financial year, mandates companies to spend at least two per cent of their average net profit for the immediately preceding three financial years on CSR activities.

The CSR provisions within the Act are applicable to companies that have annual turnover of ₹1,000 crore or more, or net worth of ₹500 crore or more, or net profit of ₹5 crore or more.

Almost all commercial banks have made profits of more than ₹5 crore in the past three financial years. The Act also requires companies to set up CSR committees comprising their board members, including at least one independent director.

Profitability growth of bank groups differed significantly last financial year. The new private banks were able to maintain a healthy growth rate of 19.7 per cent in their profit after tax during 2013-14, compared to a contraction of 30.7 per cent in the net profits of public-sector banks during the year.

According to the finance ministry, since the country is considered a bank-led economy and as the economy is not doing well, banks should be exempted from spending on CSR activities till the economic conditions improve.

All private-sector banks, both old- and new-generation ones, are incorporated under the Companies Act, and so are foreign banks’ branches.

Nationalised banks are incorporated under the Nationalised Bank Act. Though it is not clear if public-sector banks also need to spend on CSR activities — Reserve Bank of India laws allow them to make donations — the finance ministry wants all banks to be exempted from the stipulation for now. If the corporate affairs ministry agrees to the request, it will be a big relief for banks, particularly the public-sector ones.

The move comes at a time when the government is constrained in infusing capital into state-run banks. According to the government’s own estimates, public-sector banks will need ₹2.4 lakh crore of capital infusion over the next five years, mainly to meet the Basel-III norms and to fund their business growth. Banks’ capital positions are under pressure due to mounting non-performing assets (NPAs) and this is putting pressure on profitability. Also, from April 1 next year, banks will have to treat restructured assets as NPAs, for which provisioning requirement will go up sharply. At present, standard restructured assets require a provisioning of five per cent, while sub-standard assets need provisioning of 15-20 per cent, depending on whether a loan is secured or not.

FINANCE
- Local area banks hopeful on central bank move
Municipal body starts CSR cell for education

Pune Municipal Corporation (PMC) Education Board has started special Corporate Social Responsibility (CSR) cell. The cell will be run by the Shyamchi Aai Foundation with the aim to utilise the funds from different companies to improve the quality of education in corporation-run schools in the city.

Ravi Chaudhari, Chairman of Education Board, said, "As per government directives, companies have to keep some amount for development of the society. We have decided to approach companies and request them to use CSR for the development of the corporation-run schools to improve their education quality. They can give us funds to improve infrastructure, arrange special training programmes for teachers etc. This is the first corporation in the country that has started such a cell. Central Government Education Department appreciated the initiative."

The cell has began working from Sun Due Apartment on Prabhat Road. The Board runs 309 schools, out of which, 225 are Marathi medium, 34 are Urdu medium, two Kannada medium and 50 English medium schools. There is 3,500 people employed by the education board. Out of that, 2,500 are teaching staff and 1,000, non-teaching staff.
CII Guj to set up centre of excellence in CSR consulting

BS REPORTER
Ahmedabad, 2 March

In an attempt to create further awareness among its members on the New Companies Bill’s norms for corporate social responsibility (CSR), the Confederation of Indian Industry (CII)’s Gujarat chapter will be setting up a centre of excellence (CoE) for the same.

What’s more, to assist member companies in choosing non-government organisations (NGOs) to partner with for CSR activities, CII Gujarat intends to create a data bank of NGOs even as it might look to grade them.

“Till today, every firm had its own CSR initiative. But they would now need further guidance and consulting in this area. Also, CII Gujarat and its members would want to work in CSR for areas like education, creating skill and healthcare, among others. To facilitate our members, we will be identifying and suggesting good NGOs to partner with. We want to create a data bank of NGOs and might look for quality gradation of these NGOs to assist companies in choosing NGO partners. However, the decision will be that of the firm,” said Kunjal Patel, newly elected chairman of CII Gujarat chapter.

Speaking about the new initiatives to be taken up by CII Gujarat in 2014, Patel said that the centre of excellence will be set up in Ahmedabad for offering consulting services to members on CSR norms. Apart from a centre of excellence, CII Gujarat is also planning to set up a skill development centre in Bhavnagar for the foundry industry.

“CII Gujarat shall work on the skill development initiatives to strengthen the schemes and policies and it is working with industries to innovate and replicate the best skill development models. CII shall also work with local colleges by offering add on course in foundry leading to local employment in Bhavnagar. CII is also planning to initiate a Skill Development Center in Bhavnagar, apart from initiating a Centre of Excellence for consulting and advising industries on effective CSR projects,” said Patel, who is also vice chairman and managing director of Voltamp Transformers Ltd.

The newly elected office bearers including CII Gujarat vice chairman Devanshu Gandhi, managing director of Vadilal Industries Ltd, have set the theme for 2014-15 for CII Gujarat as ‘Inclusive Gujarat - Growth Unlimited’.

As part of the theme, Patel said the Gujarat chapter would work towards industrial innovation and socio-infrastructure, networking for global partnership, competency building through higher education and specialised consulting services, and leveraging the expertise of Centers of Excellence for growth of MSMEs, among others.
Hazy CSR tax laws make companies jittery

Companies Act silent on tax treatment

SUDipto De

Starting April 1, the corporate social responsibility landscape for India Inc is in for a change. And the clock has started ticking for corporate India to rejig its CSR activities, and bring them in line with the new guidelines.

Even as CSR practitioners and corporate lawyers read between the lines of the notified rules under section 135, and the schedule VII of the Companies Act 2013, tax experts point out that the new guidelines could spring a surprise or two on the taxation front for these companies. The ball is now in the court of the Ministry of Finance — in effect, the Central Board of Direct Taxes — to align the existing income tax regulations with the new CSR guidelines. The crux of the issue, say tax experts and corporate lawyers, is whether the CSR spend — now mandated by law — is to be treated as a business expenditure.

The Companies Act 1956 — or even the 2013 Act — does not talk about tax treatment of CSR expenses — something that falls under the exclusive domain of the Income Tax law. Moreover, under the old Companies Act of 1956 there was no mention of CSR or equivalent requirement on companies.

Such a spend could typically be incurred through a donation route. Under Section 80G of Income Tax Act, 1961, donations to tax registered “not-for-profit” organisations are eligible for deduction — 50 per cent or 100 per cent — depending on which category they fall under. Tax experts point out that there have been instances where income tax authorities have disputed allowing CSR expenses as business expenditure. Tax authorities claim that under section 37 of the Income Tax law, CSR is not business expenditure. Only business-related expenses can be treated as tax deductible, they contend.

“Possible disallowance of CSR expenses would have the effect of increase in taxable income and the overall tax liability of the corporate,” says Nabin Balodia, partner, tax and regulatory services, KPMG.

However, some corporate lawyers claim that in the past, based on specific facts, courts have taken the view that CSR expenditure should be allowable as a deduction for income tax purpose.

Thus, without a clear-cut guidance from tax authorities in relation to the new CSR guidelines, corporates could clearly be heading towards unchartered territory when it comes to tax implications of their CSR spend.

With a legislative mandate to incur the expenditure, there is now a stronger case for allowing tax deduction, says Ritika Loganayya Gupta, associate director, Tax & Regulatory Services, EY. Clarity on tax deduction would not only help avoid the haze

THE CHANGING LANDSCAPE

Key changes in the notified CSR rules in Companies Act 2013
- CSR expenditure to be in line with the amended Schedule VII of the Companies Act 2013
- Net profit calculations exclude dividends from other Indian companies and profits generated outside India
- Indian branches and project offices of foreign companies covered under CSR provisions
- Private companies exempted from requirement of having independent directors in CSR committees
- CSR Policy which includes the list of CSR projects, modalities of execution and monitoring process to be displayed on company website
- Political contribution excluded from CSR expenditure

Key amendments in Schedule VII to Companies Act 2013
1. Eradicating extreme hunger, poverty and malnutrition, promoting preventive healthcare and sanitation and making available safe drinking water
2. Promotion of education, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled and livelihood enhancement projects
3. Promoting gender equality and empowering women, setting up homes and hostels for women and orphans, setting up old age homes, day care centres, and other such facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups
4. Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water
5. Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art, setting up of public libraries, promotion and development of traditional arts and handicrafts
6. Measures for the benefit of armed forces veterans, war widows and their dependents
7. Training to promote rural sports, nationally recognised sports, and para-olympic sports and Olympic sports
8. Contribution to the Prime Minister’s National Relief Fund or any other fund set up by the central government or the state governments for socio-economic development and relief and welfare of the scheduled castes, the scheduled tribes, other backward classes, minorities and women
9. Contributions or funds provided to technology incubators located within academic institutions which are approved by the central government
10. Rural development projects

Tax deductions under Income Tax Act 1961 (Section 80G)
I. Following donation allowed subject to a maximum of 10% of the Adjusted Gross Total Income:
A. Donations to government for promoting family planning, etc., 100% allowed
B. Eligible for 50% deduction:
   • Donations to government for other charitable purpose
   • Donations for housing accommodation/ improvement of cities, towns or villages etc.
II. Eligible for 100% deduction w/o maximum limit:
   • Donation to PM’s National Relief Fund
   • Donation to State Government Fund for Medical Relief to the Poor
   • National Illness Assistance Fund
   • Chief Minister’s or Lt. Governor’s Relief Fund

Clarity on tax deduction would encourage companies to focus on the CSR spend without worrying about tax liability.
CSR still has some grey areas

A more flexible interpretation of what activities come under corporate social responsibility would be welcome.

The much-awaited corporate social responsibility rules have been notified by the Ministry of Corporate Affairs and they are many, but unfortunately not all, of industry’s concerns. For instance, exempting overseas branch profits from the calculation of net profit is an equitable step.

Similarly, the clarification on excluding independent directors in the formation of CSR committees for private and unlisted public companies is a huge relief for companies that are not required to appoint such directors under the law.

There are numerous companies in India which already have CSR initiatives in crucial sectors of the economy such as health, education, environment and so on.

However, when the rules come into force on April 1, 2014, around 8,000 companies in India will fall under the ambit of the CSR provision. This mandate will translate into an estimated CSR spending of $9.35 to $2.44 billion annually.

Therefore, the implementation aspect of the CSR provision is very significant; if implemented in the right spirit, CSR will facilitate the desired improvement in human development.

India is one of the first countries in the world to have legislated this provision; it is a positive step paving the way for the corporate sector to play a larger and more conscious role in shaping communities and participating in the social side of the economy. The areas covered under the Revised Schedule VII such as healthcare, education, gender equality, environmental sustainability and rural development are critical for inclusive growth.

Rewriting business

CSR is increasingly being viewed as an important part of business operations. The growing importance of CSR has rewritten the relationship of business not just with shareholders but also with its stakeholders, including employers, supply chain partners, government, creditors, customers and communities.

However, as a concept it will evolve over a period of time. In order for it to be able to make a genuine social impact, it is important to integrate it with the model of “shared value”.

An increasing number of companies in India and abroad are making this concept an integral part of their strategy and the benefits accruing from this integration are manifold.

On the one hand, it enhances the competitiveness of a company while simultaneously advancing economic and social well-being. In communities, therefore, increasing the long-term sustainability of the company. On the other hand, it enhances the possibility of cooperation between business, society and government.

Corporate social responsibility in the form of shared value creation is key to establishing a symbiotic link between corporations and communities and in taking forward the India growth story.

But for that, CSR should be embedded in the corporate culture which, in turn, requires inspiration from the leadership and commitment across the organisation. Going forward, we hope the concept of “shared value” in the CSR Rules is captured.

Being non-intrusive

The underlying intent of the new Companies Act is to promote self-regulation, non-intrusion and accountability. However, the rules have limited CSR expenditure to the activities listed under Schedule VII.

Even though the list is wide, it covers a lot of sectors that have been neglected so far, industry expects that the implementation of the CSR provision will allow boards reasonable flexibility to decide their own CSR activities. Such flexibility will certainly facilitate greater participation and engagement of the private sector.

Industry has been a responsible proponent of CSR, called by whatever name, for decades. However, it should be seen in the context of building deeper trust in society through a structured approach; it should also help institutionalise the practice as opposed to discretionary participation.

The Minister for Corporate Affairs Sachin Pilot has, on various occasions, assured industry that all steps will be taken by his Ministry to ensure that CSR expenditure does not impose itself as a kind of tax.

Industry views this with great optimism and hopes that the Ministry will find it fit to ensure CSR spend remains tax-deductible, more so since this spend is a part and parcel of doing responsible business.

India Inc. anxiously awaits clarity and certainty on this matter.

While most concerns on CSR provisions have been attended to, there remain practical concerns on flexibility within legitimate boundaries, and how the monitoring and interpretation of companies’ efforts will take place.

The government, as till date, has been receptive to legitimate concerns but will need to ensure a conducive environment so that companies can genuinely adapt to the new requirements.

The writer is the president of FICCI.

Illustration: MyPhotoHunterStock.com

A. Donations to government for promoting family planning, etc., 100% allowed
B. Eligible for 50% deduction:
   * Donations to government for other charitable purpose
   * Donation for housing accommodation/improvement of cities, towns or villages, etc.
ASSOCHAM CSR Excellence Awards 2013-14
Recognizing exemplary contribution for achieving social transformation

"Our responsibility towards society is changing. Instead of looking at cost structures and then finding the market, look at the market and then innovate on your cost-structures. If you are able to do this, it will be true Corporate Social Responsibility."

"The new Companies Act will not only make corporates to transition towards a more structured CSR approach but simultaneously align business objectives with broader development goals. It will also bring about collaborations among multiple stakeholders - the State, private enterprises, academia and non-governmental organisations, which could be critical to achieve sustainable, equitable and replicable solutions for environmental and social challenges."

ASSOCHAM CSR Excellence Awards 2013-14 (February 25, 2014, New Delhi)

GMR Hyderabad International Airport Ltd. - Winner (Large Corporate)
Ambuja Cement Ltd. - Runner-up (Large Corporate)
Indus Health Plus Pvt Ltd. - Winner (SME)

Summit - cum - Excellence Awards
CREATING SOCIAL VALUE & IMPACT THROUGH INNOVATION
February 2014


Supporting Partner

Sh. Dhiansendra Kumar, Chairman, Committee on National Competency Policy, addressing the Summit

CSR Appreciation Certificate Awardees

The passing of the Companies Act 2013 and recent notification of CSR Rules by the Government will help define a structured holistic approach to achieve the goal of sustainable development. As India's apex knowledge chamber, ASSOCHAM played a stellar role in the passage of the Companies Act 2013.

ASSOCHAM'S 6th Global CSR Summit and Excellence Awards on 'Creating Social Value & Impact Through Innovation' focussed on crucial developmental issues and showcased exemplary leadership in creating positive social impact. Recipients of the ASSOCHAM CSR Excellence Awards were recognized for their unique social transformation models which blend the rapid growth of CSR agenda with socio-economic priorities of India. The Summit witnessed an overwhelming participation from leading NGOs, policy makers, industry stakeholders and thought leaders.

ADVERTORIAL
Top cost to spend ₹10,000 cr for CSR

Nitin Shrivastava
Mumbai, March 5

The country's top listed companies belonging to S&P BSE 500 index would have to shell out nearly ₹10,054 crore on corporate social responsibility (CSR) activities in the coming fiscal.

Going by the recently notified CSR norms that come into effect starting next month, 441 of the BSE 500 companies would be required to mandatorily contribute 2% of their average total net profit for last three fiscal towards CSR activities in the fiscal 2015.

The new Companies Act incorporates a provision of CSR under Clause 138 which states companies having a net worth of ₹500 crore or more, a turnover of ₹1,000 crore or more, a net profit of ₹5 crore or more during any fiscal needs to undertake corporate social responsibilities in such a manner that the company would spend at least 2% of its average net profits of the previous three years on specified CSR activities. The Companies Act also states that while computing the net profits, the income-tax and super-tax payable by the company under the Income-tax Act, 1961 shall not be deducted. This means that companies would have to allocate 2% of the three year average profit before tax (PBT).

The expected total average profit before tax (for fiscal 2012 to 2014) for 441 firms that meet the criteria comes out to ₹3,027 lakhs crore with just top 20 firms likely to contribute nearly half to total profit before tax.

Though the CSR spend was not mandated till now, all the top 10 most profitable firms have been involved in some form towards contributing to social welfare programmes. Firms such as ONGC and Reliance Industries, which are likely to end up with standalone PBT of ₹32,010 crore and ₹27,267 crore, respectively, in fiscal 2014, have been the top spenders on welfare activities in fiscal 2013 and are likely to again shell out the most.

Tata Steel, which was the third-largest spender in fiscal 2013 with contribution of ₹170.59 crore, would be required to mandatorily spend around ₹176 crore considering the expected average PBT of ₹6,840 crore (on standalone basis).
Shades of grey in CSR

Tax treatment of CSR spends is still unclear & confusion persists on the appointment of independent directors

The most talked about provision of the Companies Act, 2013, relating to corporate social responsibility (CSR), has finally got notified. That the CSR provision has been notified before other provisions of the Act shows the government's urgency in bringing it to effect before April 11, 2014.

The Act mandates a disclosure requirement that, other than the CSR spend per se, the 2013 Act follows a 'comply or explain' approach. As per the provisions of section 135, a company with a turnover of `10,000 crore or more or a net-worth of `5,000 crore or more or a net profit of `5 crore or more in any financial year shall constitute a CSR committee and is required to spend at least 2% of its average net profits of the past three years on CSR activities. Further, the 2013 Act provides that if, for any reason, a company is unable to spend 2% of their average net profit on CSR, they are required to explain the reason for not doing the same.

Under section 467 of the Act, the government has invoked the power to amend schedule VII, significantly. A clause X in the earlier schedule VII, which empowered the government to prescribe 'any other matters', has been removed.

Schedule VII states that certain new activities could be classified as CSR activities—protection of national heritage, art and culture, including restoration of buildings and sites for historical importance and works of art, setting up of public libraries, promotion and development of traditional arts and handicrafts, measures for the benefit of the armed forces veterans, war widows and their dependants, rural development projects, training to promote sports, funds to technology incubators, etc. The scope of certain existing activities has been enhanced—the scope of promoting education also includes special education. Further, the schedule elaborates on certain activities. For example, environment sustainability, which includes ecological balance, maintaining quality of air, water and soil, conservation of national resources, etc.

Activities aimed to help only the company's employees or families of the company's employees won't be considered as CSR activities and political contribution/funding won't be considered as CSR expenditure.

The definition of CSR, as prescribed in rule 2(h), seems to be an 'inclusive' definition, although at several other places it clearly states that those CSR activities falling under schedule VII will only qualify as CSR expenditure by a company. This will create ambiguity. If someone takes up a project, other than that permitted in schedule VII but in line with the policy approved by the CSR committee of board of directors, its spend won't be considered as part of the 2% CSR expenditure, even if it is well within the inclusive definition of CSR per se. This restricts the choice of the company, with existing CSR schemes/programmes because it'll have to reconsider and realign their activities with the newly amended schedule VII.

There has been concern around the appointment of an independent director by private companies to comply with the provisions of section 135 with respect to constitution of CSR committee. The notification clarified that an unlisted public company or a private company covered under sub-section (1) of section 135, which is not required to appoint an independent director pursuant to sub-section (4) of section 149, shall have its CSR committee without such director. Private companies have also been permitted to have only a two-member CSR committee if their board of directors comprises only two directors. This is a welcome change as private companies aren't required to have an independent director. Though this is great relief to private companies, the legal question is, can rule making power under section 462 relax the provision of section 135 of the Companies Act, 2013? It would have been better, if the Ministry of Corporate Affairs would have invoked its power under section 462 to exempt certain class of companies from compliance of certain provisions of the 2013 Act.

A company may also collaborate with other companies for undertaking CSR activities; however, reporting of such activities in the board report has to be done by the individual company. A company may decide to undertake CSR activities through a registered trust or a registered society or a company established under section 8 of the Companies Act, or a private company established under section 8 of the Companies Act, or a private company. They should have an established track record of three years, if they are third-party NGOs not established by company or its groups who are spending on CSR activities.

All foreign companies having a branch or a project office in India will also be covered under the CSR provision if they fall under any of the criteria under section 135. CSR activities have to be carried out in India itself to be qualified as CSR spend. Foreign companies having a branch or project office in India including Indian subsidiaries of foreign companies where FDI has come are required to undertake CSR activities. They also need to take approvals under the Foreign Contribution Regulation Act 2010 (FCRA). This will trigger an amendment in the Foreign Exchange Management (FEMA) regulations as a foreign branch can undertake only eight activities and CSR isn't part of those activities. Also worth noting is that FDI isn't permitted in case of a trust or a society.

The notified CSR rules are silent over the tax treatment, while the draft rules stated that it will be as per CBDT norms. Whether the CSR spend will be considered as an allowable business expenditure for tax purposes or not is still unclear.

HARINDERJIT SINGH

The notified CSR rules are silent over the tax treatment, while the draft rules stated that it will be as per CBDT norms. Whether the CSR spend will be considered as an allowable business expenditure for tax purposes or not is still unclear.

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However, such trust, society or company should have an established track record of three years, if they are third-party NGOs not established by company or its groups who are spending on CSR activities.

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The notified CSR rules are silent over the tax treatment, while the draft rules stated that it will be as per CBDT norms. It means that it is still unclear whether the CSR spend will be considered as an allowable business expenditure for tax treatment or not.

The concept of CSR is recognised in the world over. Integrating social, environmental and ethical responsibility into business governance ensures a company's long-term success, competitiveness and sustainability. This approach also reaffirms the view that businesses are an integral part of the society and have a critical and active role to play in the sustenance and improvement of healthy ecosystems, in fostering social inclusiveness and equity, and in upholding the essentials of ethical practices and good governance. This also makes good business sense as companies with effective CSR have the image of socially-responsible companies. They achieve sustainable growth in their operations in the long run and their products and services are preferred by the customers.

CSR has taken on many guises and names over the years with some companies pursuing CSR more vigorously and more broadly than others. With the initiative taken over by the ministry to mandate disclosure on CSR activities, Indian companies would need to evaluate the way forward.

With inputs from Gajendra P Singh, associate director, Price Waterhouse

The author is partner, Price Waterhouse
India Inc says no provision in I-T law or specific guidance from the Central Board of Direct Taxes

K R Srinivas
New Delhi, February 28

Corporate India wants the income-tax law to be clarified upfront so that their corporate social responsibility (CSR) spend is eligible for tax deduction from April 1, 2014, when the new CSR framework comes into force.

There is no explicit provision in the income-tax law or specific guidance from the Central Board of Direct Taxes (CBDT) on tax treatment of CSR spends by corporates, Siddharth Birla, President of FICCI, told Business Line.

All eyes are now on the Finance Ministry and CBDT to provide clarity on tax treatment of CSR contributions. "The income tax law needs to be clarified upfront to prevent the taxman from treating CSR spends as an appropriation of profits and not as a charge to profits, the taxman could disallow corporate claims of such spend as deductible expenditure. This would add to the tax bill of corporates making such CSR spends," he pointed out.

While the Ministry has come up with framework, the tax treatment of CSR contribution is still not clear, say experts.

"The tax treatment of CSR contribution is still not clear, as nothing is specifically provided in this regard, so whether or not CSR contribution will be deductible as a business expenditure is still debatable," Lalit Kumar, Partner, Sagar Associates, a law firm, said. Asem Chawla, Partner, MLC Legal, said the lack of clarity on tax treatment of CSR spend is another illustration where there is a complete lack of understanding of what the rules are.

Do not provide a complete guidance to corporate India. There have been so many previous instances where a company has been left in disarray with regard to treatment under two equally applicable statutes.

Dolph D Souza, Senior Partner, S R Batliboi & Co, also said the rules do not provide any clarity on tax deduction for CSR spend, which essentially has to come from the CBDT.

Qualifying expenditure

According to the rules, the qualifying expenditure does not include any spend incurred in the normal course of business.

Under Section 37(1) of the income-tax law, expenditure is deductible only if incurred for the purposes of business.

Therefore, there is an inherent conflict in what the rules require the company to spend, and the deduction allowed under the income-tax law, according to D'Souza.

Last chance to get I-T refunds

OUR BUREAU
New Delhi, February 28

If you have filed your income tax return electronically for the assessment year 2009-10, 2010-11 and 2011-12 and claimed refund, but are yet to send ITR-V forms to Bangalore, there’s good news for you.

The authorities have decided to extend the last date for sending this form till March 31.

Digital signature

ITR-V is generated after one files the return electronically. If the person does not have digital signature, then he will have to get the printout of ITR-V, sign and send it to Central Processing Centre in Bangalore.

Filing of return is completed only when tax authorities acknowledge the receipt of ITR-V form. The Income Tax Department has also said that the taxpayer may ascertain whether his ITR-V has been received at the CPC, Bangalore, or not by logging on the website http://incometaxefiling.gov.in/efilingServices/ITR-VReceiptStatus.html by entering PAN number and assessment year or e-filing acknowledgement number.

Alternatively, the status of ITR-V can be ascertained at the above website under 'Click to view Return Forms' after logging in with registered e-filing account.

In case ITR-V has not been received, the status will not be displayed on the website.
NOTICE BOARD

UPDATE: (IDBI Bank)

Donates Rs. 1 Crore to the Adyar Cancer Institute

M. S. Raghavan, Chairman and Managing Director, IDBI Bank and Mythili Balasubramanian, Chief General Manager, IDBI Bank handing over a cheque of Rs. 1 crore to Dr. V. Shanta - Chairperson of Adyar Cancer Institute, Chennai for a new floor at their existing premises for Day Care (Chemotherapy) patients.

UPDATE: (Women’s Day)

SBI celebrates International Women’s Day

Mumbai, March 8, 2014: State Bank of India (SBI), as a public institution, has always endeavored to fulfill its developmental role for every Indian and in sync with the bank’s philosophy, has recognized the role of women in nation building. On the occasion of International Women’s Day, State Bank of India conducted various activities for an entire week. Starting from March 3, the range of activities included a session with dermatologist, a session on “gender diversity at workplace”, eye check up camp, bone density and dental checkups. On March 8, as a part of the celebration, SBI has felicitated Dr. Rani Bang for her contribution in improving healthcare in the Tribal areas of Gadchiroli. Dr. Renu Luthra (Pro Vice Chancellor Galgotia University) delivered a talk on work life balance for career women. A cultural programme was also arranged by SBI staff members. Each of the Local Head Offices of State Bank of India covering entire country honoured five eminent women in their respective fields of excellence as a part of International Women’s Day Celebrations.

State Bank of India -
Donates PET CT scanner to Tata Medical Center, Kolkata

As a part of Corporate Social Responsibility activity, State Bank of India donated a PET CT Scanner to Tata Medical Center, Kolkata. The Scanner has been inaugurated by Bank’s Chairman Arundhati Bhattacharya at a function held at Tata Medical Centre on 7th March 2014. Dr Y R Ramanan, Deputy Director, Tata Medical Center and Bank's Kolkata Circle Chief General Manager, Sunil Silvastava were also present on the occasion. The machine will be beneficial to the underprivileged sections of the society as Tata Medical Center will charge reasonable cost with no profit no loss basis or at highly subsidized rates for diagnosis of cancer.