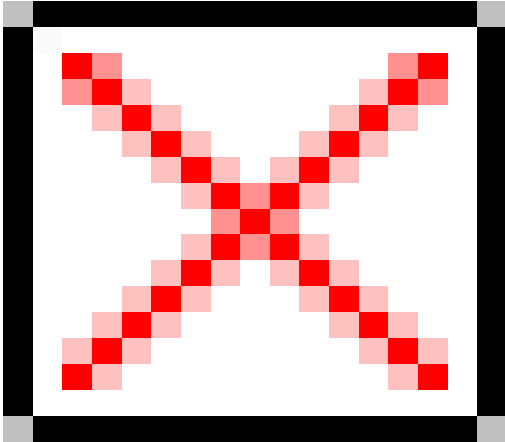


Credit Card - Service Tax on interest portion? - Payable - Board confirms



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AS per Rule 6(2)(iv) of the 'Service Tax (Determination of Value) Rules, 2006',

the value of any taxable service, does not include interest on delayed payment of any consideration for the provision of services or sale of property, whether moveable or immovable.

A netizen, who is a credit card holder opted for converting his outstanding amount to EMIs in response to the scheme offered by the Bank. After noticing that the Bank had collected Service Tax also on the interest portion of the EMIs, he approached the Bank, as according to his understanding Service Tax is applicable only on the processing fee/conversion fee but not on the **interest** part, because in respect of loans, interest charged is not taxable.

The Bank replied:

We have now been directed by the tax authorities, to be in line with the industry practice of levying service tax on the interest portion of the EMI amount on a credit card and hence, effective Nov, 16 statement, service tax would be applicable on all the interest portion of the ongoing EMIs as well.

Our netizen wanted to get a clarification from the TRU. He lodged a complaint with the CBEC and got the following reply with the remark "**Case closed**"

Issue is covered by education guide issued in July, 2012 as under:

In case of a credit card, issuing entity allows the facility of payment of the purchases made by the card holder within a specified period failing which some charges are levied. In the case of credit cards the credit extended is not for the delayed payment of consideration for the provision of services. The services in the case of the credit card are by way of levy of issuing charges or the commission charged from merchants etc. The interest in this case is not for the consideration for the use of the card. Thus the benefit under the valuation rules will not be available to credit card companies. The question is whether such credit extended will amount to loans or advances. Loans and advances are meant to signify amounts contractually negotiated as such (loan or advance) and not merely failure to pay an amount at the due date. The exorbitant charges have also no relationship with the prevailing interest for the same class of creditworthiness and are in the nature of consideration for the services rendered for using the convenience of using the services by way of a credit card and hence taxable.

Though it is very difficult to understand the meaning of the above clarification, leave alone the point of law, on repeated reading of the above, it can be inferred:

++ Interest on credit card outstanding balance / EMI is includable in the value for computing Service Tax.

++ The credit facility extended by the card issuing banks cannot be equated with "**loans and advances**" to exclude interest component from Service value.

But, it still remains a puzzle as to why the outstanding amount in credit card account cannot be treated as "**loan/advance**". What happens if a card holder obtains a personal loan from the same bank and repays the entire credit card balance? In such a case, the interest charged on personal loan is not taxable. But if you continue the same loan in the form of credit card outstanding amount, the interest becomes taxable. What an anomaly! And in some cases, part of the credit card overdues are paid with a loan from the bank and partly by an EMI allowed on the card. Then is service tax payable for the EMI interest and tax payable on the loan part?

When the whole nation is trying hard to go cashless, and even when the PoS machines are exempted, levy of Service Tax on interest charges collected by Credit card issuing banks is unreasonable, unfair and archaic. More so, when by notification 52/2016-ST dated 8 December 2016 exemption is granted to services provided by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.

The Board should take this matter seriously and examine afresh instead of merely reproducing the contents of the Education Guide. And even if they think it is taxable, the Finance Minister should exempt it.

Credit Card Dues are personal loans - RBI

EVEN

if the CBEC does not change its clarification or the Ministry does not exempt the service, there is no way service tax can be levied on interest and the RBI has clarified that credit card dues are personal loans on which interest is charged.

RBI's Master Circular [DBR.No.FSD.BC.18/24.01.009/2015-16](#), dated 01.07.2015 clarified the position as:

5. Interest rates and other charges:

5.1 Banks are advised to be guided by the instructions on interest rate on advances issued by RBI and as amended from time to time, while determining the interest rate on

credit card dues, the latter being in the nature of non-priority sector personal loans

. Banks should also prescribe a ceiling rate of interest, including processing and other charges, in respect of credit cards. In case banks/NBFCs charge interest rates which vary based on the payment/default history of the cardholder, there should be transparency in levying of such differential interest rates. In other words, the fact that higher interest rates are being charged to the cardholder on account of his payment/default history should be made known to the cardholder. For this purpose, the banks should publicise through their website and other means, the interest rates charged to various categories of customers. Banks/NBFCs should upfront indicate to the credit card holder, the methodology of calculation of finance charges with illustrative examples, particularly in situations where a part of the amount outstanding is only paid by the customer.

The manner in which the outstanding unpaid amount will be included for calculation of interest should also be specifically shown with prominence in all monthly statements. Even where the minimum amount indicated to keep the card valid has been paid, it should be indicated in bold letters that the interest will be charged on the amount due after the due date of payment. These aspects may be shown in the Welcome Kit in addition to being shown in the monthly statement. A legend/notice to the effect that "

Making only the minimum payment every month would result in the repayment stretching over years with consequent interest payment on your outstanding balance

" should be prominently displayed in all the monthly statements so as to caution the customers about the pitfalls in paying only the minimum amount due.

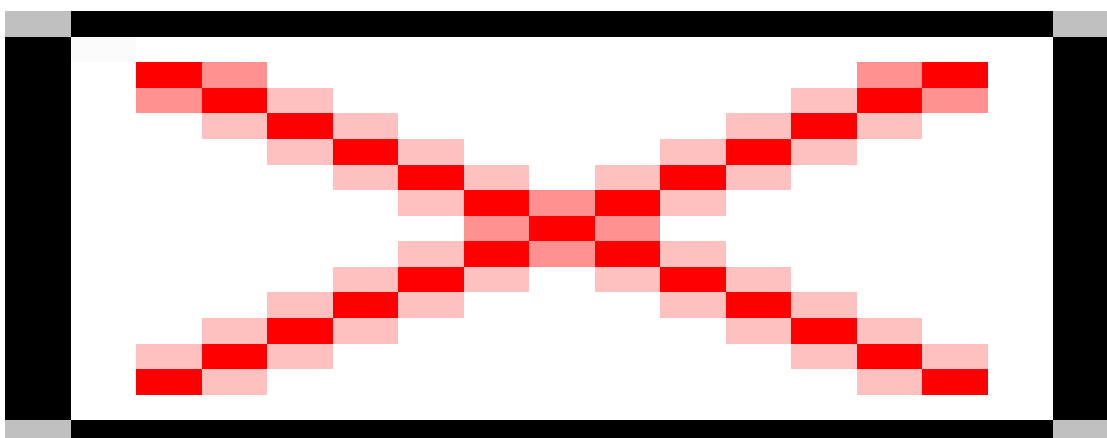
Certainly, the Reserve Bank of India should be considered a better repository of knowledge about credit card and interest on dues than the CBEC.

There are No Grey Areas in Taxation Law - Jaitley in NACEN

FINANCE

Minister Arun Jaitley addressed the new recruits of the 68th batch of IRS at the National Academy of Customs, Excise and Narcotics (NACEN), Faridabad. Interestingly when everybody has forgotten about the proposed mega campus of NACEN at Hindupur in Andhra Pradesh, the FM mentioned it in detail in his address. The FM also said,

"We have lived through the last seven decades with an impression that if avoidance could be done of government revenue, there was nothing immoral or improper about it. That was considered to be commercial smartness."



After the meeting, the FM tweeted, **"I have read several inaccurate versions of my speech delivered today at NACEN in the Media."**

But an important observation he made was totally ignored by the media. He told the probationers,

"You are a service that has been trusted with a very unusual job. You investigate and then you pass quasi judicial orders. Ordinarily in the world of jurisprudence these are separate functions. Somebody has to investigate and somebody else has to adjudicate. Whether that is fair or not but the fact that here you don the cap of an investigator and an adjudicator, actually mean that your own standards of fairness will also have to be very high because a citizen, as I said, must pay what he is supposed to pay but at the same time must not be subjected to any unlawful extraction of what he is not supposed to pay. And therefore the level of fairness that you are able to follow will also determine what is the quality of the orders that you pass."

He could have said this as well to the senior officers of the department. At least, the Board should circulate this among all the adjudicators of the department. Maybe they don't teach these things in NACEN.

Mr Jaitley further told the probationers,

There are no grey areas in taxation law. It is either white or black. Either a tax is payable or a tax is not payable. And therefore to discover grey areas in fiscal laws is not possible. You interpret the law as it is without adding or subtracting a word. That is the primary responsibility of the tax person. And I think one of the objectives behind the establishment of these academies is not merely a formal training period which a person must undergo before entering service.

Always remember credibility and fairness along with efficiency and hard work are always the guiding factors in your career.

Major Changes in Customs and Central Excise Tariff from 1st January 2017

THE

Finance Act 2016 by Sections 141 and 146 amended several entries in the Customs and Central Excise Tariffs to be effective from 1.1.2017.

The CBEC informs:

The amendments notified in Section 141 and 146 of the Finance Act 2016 regarding the changes from the WCO Harmonized System Nomenclature 2012 version to the 2017 version are to be implemented w.e.f. 00:00 hours on 01-01-2017. It includes 233 sets of amendments, divided as follows: agricultural sector 85; chemical sector 45; wood sector 13; textile sector 15; base metal sector 6; machinery sector 25; transport sector 18; other sectors 26.

Importers, Exporters and Custom House Agents are therefore requested to ensure that the classification of goods is in accordance with HSN 2017 while filing the Customs declarations for the goods to be imported or exported from 01-01-2017.

Customs RES software providers are also requested to equip their RES packages in line with the HSN 2017 version for smooth implementation w.e.f. 00:00 hrs on 01-01-2017.

The Cochin Customs has set up a Control Room operational from 31st December, 2016 to 03rd January, 2017 to guide and clarify any queries on the part of the trade, in this regard. The Commissionerate has issued a Trade Notice with the phone numbers of the officers who can be contacted for clarifications. This facility is available even during holidays and after office hours.

DDT to adieu this weekend

DDT

completes 3000th edition tomorrow. It is just unbelievable. I really don't know how I could write a daily column on taxes for 3000 days, but now time has come to say 'good bye'. There will be no DDT after this week.

Until Tomorrow with the **3000th DDT**

Have a nice day.

Mail your comments to vijaywrite@tiol.in