

TRU Flash Alert

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Decisions of Revenue Tribunal regarding various tax issues

Depreciation on UPS Batteries

The appellant claimed depreciation on UPS batteries at 50% under the provisions of Clause 3 (3) of Schedule 2 to Section 19 of the Income Tax Act, 2058.

The appellant considered the UPS batteries as Power Generating Unit. However, the tribunal considered it as Power Saving Unit. Hence, disallowed the additional depreciation.

[Source: 2074-75 Decision number: 371 "Shiva Shakti Packaging Pvt Ltd Vs. Large Taxpayer Office"]

Director's Remuneration

Director's remuneration to the extent disclosed in Notes to Account of the audited financials shall only be allowed as expense even if the actual expense as per books of account is higher. Even though the withholding tax was deducted on actual expenses incurred, the tribunal deferred otherwise.

[Source: 2074-75 Decision number: 371 "Shiva Shakti Packaging Pvt Ltd Vs. Large Taxpayer Office"]

Business Promotion expenses

All alcohol expenses incurred during business promotion cannot be considered as business expenses and hence disallowed under section 21 (1) Cha of the Income Tax Act, 2058.

[Source: 2074-75 Decision number: 373 "Siddhartha Bank Ltd Vs. Large Taxpayer Office"]

Undistributed bonus to be considered as taxable income

Bonus allocated as per Section 5 of the Bonus Act, 2030 and remaining unpaid within the time stipulated as per Section 9 of the Bonus Act shall be considered as income for the purpose of computation of income tax. Time frame allowed is 8 months as per Section 9(2) and approval can be taken for extension up to 3 months under Section 9(3).

[Source: 2074-75 Decision number: 373 "Siddhartha Bank Ltd Vs. Large Taxpayer Office"]

Conflict in income tax rate between Cooperative act 2074 and Income Tax Act 2058

Cooperative Act, 2074 had been enacted with effect from 1 Kartik 2074 in order to regulate the cooperatives in the country. Various concessions had been granted in the new Cooperative Act.

As per Schedule 1 to Section 4 of the Income Tax Act 2058, tax @ 20% shall be levied for cooperatives other than those exempt under Section 11. But as per Section 141 of the Cooperative Act 2074, tax @10%, 7% and 5% shall be applicable for cooperative operating in Metropolitan, Sub-metropolitan and Municipality, respectively. Cooperative operating in rural municipality shall be exempt from tax as per the Cooperative Act.

To clarify the above ambiguity, IRD had issued circular no. 54 dated 25 Poush 2074. As per the circular, Section 142 will prevail on the matter and cooperative needs to pay tax as per Income Tax Act 2058. As per Section 142, notwithstanding the provisions made under the current law, no other Acts except this Act shall be made capable to make changes, amendment and other tax related provisions other than the provisions relating to imposition, assessment, reduction, increment, exemption, or remission of tax to be made by amending this Act itself by annual Finance Acts.

Contact

124 Lal Colony Marg, Lal Durbar (Near Jai Nepal Hall),
Kathmandu, Nepal
Phone: +977 1 4410927 | 4420026
Fax: +977 1 4413307
Email: trunco@ntc.net.np

PKF T R Upadhya & Co., 124 Lal Colony Marg, Lal Durbar, Kathmandu, Nepal www.pkf.trunco.com.np

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