

News Update



We stand where we were; ICDS on leases unnotified

Shruti Agarwal
shruti@vinodkothari.com

April 4th, 2015

Check at:
<http://india-financing.com/staff-publications.html>
for more write ups.

Copyright:

This write up is the property of Vinod Kothari & Company and no part of it can be copied, reproduced or distributed in any manner.

Disclaimer:

This write up is intended to initiate academic debate on a pertinent question. It is not intended to be a professional advice and should not be relied upon for real life facts.



News Update

Central Board of Direct Taxes (CBDT) notified the Income Computation and Disclosure Standards (ICDS) vide Notification No.32/2015, F. No. 134/48/2010-TPL, dated 31st March, 2015.¹ As against the 12 standards proposed in the previous draft², the CBDT has notified 10 ICDS which includes standards on accounting policies, valuation of inventories, construction contracts, revenue recognition, tangible fixed assets, effects of changes in foreign exchange rates, government grants, securities, borrowing costs, and provisions, contingent liabilities and contingent assets. The much awaited ICDS on leases and intangible assets however, are yet to be notified.

The basic intent behind streamlining the ICDS framework was to collate the salient features of Ind AS (IFRS converged standards) alongwith the suitable modifications for tax purposes so as to resolve the different accounting treatments posed on various transactions.

In case of leases, there has been a constant dichotomy³ with regard to who should be claiming depreciation as per accounting standards and as per the tax provisions.

Leases and taxes have always been closely connected such that the judiciary has to take a call either by way of rulings or circulars to settle the differences arising on various issues.

Amongst the other significant discrepancies, treatment of depreciation allowance in case of finance lease by the income tax authorities was a major issue sought to be taken care of by the Finance Ministry.

Over the years there have been several rulings discussing lessee's claim on depreciation of assets in case of financial leases. While the rulings of Asea Brown Boveri have expressly stated that the lessee will be claiming depreciation on assets in case of financial leases, the recent Supreme Court ruling in the matter of ICDS vs Commissioner of Income Tax, Mysore and Another has opined otherwise.⁴

Admist all this, ICDS draft notified by CBDT clarified that it will be the lessee entitled to claim depreciation in financial lease and following this suitable amendments were required to be made in the Act. This notification ushered an end to the prior controversies and concluded the way back argumentative issue.

¹ http://www.incometaxindia.gov.in/communications/notification/notification33_2015.pdf

² <http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/347/Draft-ICDS-8-1-2015.pdf>

³ http://www.indiafinancing.com/Depreciation_dichotomy_between_Accounting_Standard_and_Tax_Laws_on_Financial_Lease_Transaction.pdf

⁴ https://www.indiafinancing.com/Lessor_entitlement_to_Depreciation_in_Financial%20leases_Kabhi_Haan_Ka_bhi_Naa.pdf



News Update

The Finance Minister, Mr. Arun Jaitley in the Budget of July, 2014 had expressed his intent to notify these standards; it was most likely that standards will be notified soon. The transitional provisions in ICDS on leases were to apply to all lease transactions undertaken on or after April 1st, 2015 and the lease transactions undertaken on or before March 31st, 2015 shall continue to be governed by the provisions of the Act. Apprehending the same, leasing companies had begun to adopt similar practices keeping in mind the draft ICDS released in January, 2015.

With the notification on ICDS, ambiguity with respect to claiming depreciation allowance under financial lease was put to rests, but unfortunately, the CBDT missed out on the standard on leases in the notified group of tax computation standards. The industry stakeholders continues to be baffled on the question as to who, lessor or lessee, will be eligible to claim depreciation under the income tax laws. Further, the contradictory treatment of depreciation in accounting parlance and taxation still survives. Whether the CBDT has changed its stand on allowing depreciation to the lessee in case of finance lease or some renovation are yet to be done to the existing draft of standard on leases is still an unanswered question until otherwise notified.

View our other articles on related topics [here](#)