

Not all NRIs have to quote Aadhaar in returns

H.P. Ranina/dubai

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An Indian visitor withdraws money from his bank account with an Aadhaar or Unique Identification (UID) card in Amritsar. (AFP)

Non-residents who have been in India for at least 182 days between June 30, 2016, and July 1, 2017, will need to quote an Aadhaar number for filing the tax return

Q: Some confusion has been created in the Indian media about obtaining an Aadhaar number which has to be mandatory for filing the income-tax return. I have taxable income in India and, therefore, I will need to file a tax return. Do I have to obtain an Aadhaar number before that?

- T.R. Swaminathan, Dubai

A: Non-residents who have been in India for at least 182 days between June 30, 2016, and July 1, 2017, will need to have an Aadhaar number for filing the tax return. This new provision is effective from July 1, 2017. Therefore, if you file the tax return for the assessment year 2017-18, relevant to the financial year 2016-17 during which you have earned taxable income in India, prior to July 1, 2017, you do not need to quote an Aadhaar number.

2017, the new provision will not apply.

The Income-tax Department has clarified that this provision will not apply to expatriates and non-resident Indians if they have been in India for less than 182 days before July 1, 2017. Therefore, if you have been in India for less than 182 days prior to July 1, 2017, you can file your tax return without quoting the Aadhaar number.

Q: My wife is working in India and stays with her mother. My wife is entitled to house rent allowance from her company. However, I am told that the HRA will be exempt in the hands of my wife only if she actually pays rent. Can my wife pay to her mother in order to claim the HRA exemption?

- R.C. Datta, Bahrain

A: In order to claim the exemption, it is necessary that there should be a duly registered leave and licence agreement between the landlord and the tenant. Therefore, payment of rent to a parent would not make your wife eligible to claim exemption under section 13-A of the Income-tax Act. Courts have laid down certain guidelines for claiming the exemption. The rent has to be paid to a landlord whose permanent account number has to be intimated to the company which allows exemption of the HRA while paying monthly salary to an employee.

In short, it is the responsibility of the company paying the salary, including the HRA, to deduct the correct amount of tax at source. For this purpose, the company has to be satisfied that the employee has actually paid rent under a valid tenancy or leave and licence agreement to the landlord who is the owner of the property. Since your wife will be paying rent to her mother, the conditions for granting the exemption will not be satisfied.

Q: My company sends goods to India for transshipment to South East Asian countries. I want to know whether service tax is payable. There is also some controversy as far as customs duty is concerned.

- D.T. Prasad, Doha

A: There is no controversy as far as customs duty is concerned. Goods landing at Indian ports which are destined for another country are allowed to be transshipped through Indian territory without payment of customs duty. This is subject to the condition that the details are mentioned in the import manifest or the import report for transshipment to any place outside India.

The service tax department issued a circular on February 16, 2017, that service tax will not be levied on transportation of goods by a vessel from a place outside India to the customs station in India. This will be subject to the condition that the goods are to be transshipped to another country. Therefore, if your company is sending goods to India for transshipment to South East Asian countries, neither customs duty nor service tax will be payable.

The writer is a practising lawyer specialising in tax and exchange management laws of India. Views expressed are his own and do not reflect the newspaper's policy.