

TAXATION OF CO-OPERATIVE SOCIETIES

(BASIC PROVISIONS)

1) Definition – Meaning of Co-operative Society - Sec. 2 (19)

Co-operative society means a society registered under the Co-operative Societies Act, 1912, or under any other law for the time being in force in any State for the registration of co-operative societies.

A regional rural bank (to which provisions of the Regional Rural Banks Act, 1976, apply) is deemed as co-operative society – Circular No. 319, dated January 11, 1982.

2) Business Entity

A business can be formed under the organizational set up of a cooperative society just like it can be formed as a Company. There is a general belief that cooperative societies are exempted from the various compliances of direct or indirect taxation. In fact it is not so – rather to get the various tax reliefs, particularly for income tax, a cooperative society must set up a process for tax compliance, tax management and tax planning.

3) Principle of Mutuality and Tax Incidence

There are certain types of cooperatives, like housing cooperatives, who collect monthly subscription from the members and spend the same to meet the various joint expenses of the society to give service to members like maintenance, security etc. In this process even if any surplus is generated, it is not chargeable to tax as it is exempt based on the 'concept of Mutuality'. The cardinal requirement in case of mutual association is that 'All the contributors to the common fund must be entitled to participate in the surplus & all the participators to the surplus must be contributors to the common trade. In other words there should be complete identity between the contributors and the participators.'

Thus if the cooperative earns interest from bank or parking income from non-members or rental income by letting roof for mobile towers, hoardings etc then all these incomes are chargeable.

4) Taxable Income

It is determined as follows-

1. First ascertain income under different heads of income.
2. Income of other persons may be included in the income of the co-operative societies under section 60 and 61
3. Current and brought forward losses should be adjusted according to the provisions of sections 70 to 80
4. The total of income so computed under different heads is gross total income.
5. From the gross total income so computed, the following deductions are permissible under sections 80C to 80U

The resulting sum is net income

5) Deduction Allowable U/s. 80P

The following amounts are allowed as deduction under this section.

However, from the assessment year 2007-08 onwards, deduction under section 80 P is not available to a co-operative bank. A primary agricultural credit society, a primary co-operative agricultural and rural development bank will continue to get deduction under section 80P.

The whole of the amount of the profits attributable to any one or more of the following activities in the Case of a co-operative society engaged in:-

- (i) Carrying on the business of banking or providing credit facilities to its members, or
- (ii) A cottage industry, or
- (iii) The marketing of the agricultural produce grown by its members, or
- (iv) The purchase of the agricultural implements, seeds, live-stock or other articles intended for agricultural for the purpose of supplying them to its members, or
- (v) The processing, without the aid of power, of the agricultural produce of its members, or
- (vi) The collective disposal of the labour of its members, or
- (vii) Fishing or allied activities, that is to say, the catching, curing, processing, preserving storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members,

This apart, when a primary cooperative society is engaged in supplying milk, oil seeds, fruits or vegetables grown by its members to a federal cooperative or to the govt. or Local authority or a Govt. Company or a statutory corporation – the whole of the amounts of profits and gains of such business is deductible.

Further, full deduction is available in respect of any income by way of interest or dividends derived by the cooperative society from its investment with any other cooperative society and in respect of any income derived by the cooperative society from the letting of warehouses for storage, processing or facilitating the marketing of commodities.

6) Tax Liability

There is no threshold limit for taxability of income in case of a co-operative society. It has to follow a slab rate for computing tax liability income upto Rs. 10,000 – tax @ 10%, income from Rs. 10,001 to Rs. 20,000 – tax @ 20% and income Rs. 20,001 onwards – tax @ 30%. The education cess @ 2% and secondary High Education Cess @1% are applicable to Co-operative Society moreover surcharge on income tax is payable @ 12% (AY 2016-17) if income exceeds Rs. 1 Crore subject to Marginal Relief.

If a society has any taxable income, it has to file a return of income in Form ITR 5 by 30th September.

7) Other Points

- i) Cooperative society has to comply other income tax provisions including obtaining PAN & TAN.
- ii) All TDS provisions are applicable excepting few specifically not applicable to cooperative society for payments to other cooperative society. TDS Quarterly returns are applicable.
- iii) Advance Tax Payments.
- iv) Provisions of Section 115O for Tax on Distributed Profit and Dividends are not applicable.
- v) Provisions of maintenance of books of accounts and other documents prescribed under section 44AA are applicable.
- vi) Audit U/s. 44AB is applicable if the receipts from the business crosses prescribed limit.
- vii) Income Tax return is required to be filed within the due date prescribe U/s. 139.
- viii) Provisions for loss returns for carried forward are applicable.

- ix) Provisions for unabsorbed losses and depreciation are to be set off first are applicable.
- x) Other carried forward provisions are also applicable.
- xi) Provisions for E-filing and use of DSC are also applicable.
- xii) Provisions for alternate minimum tax (AMT) are applicable.
- xiii) Any income of cooperative society formed for promoting the interest of members of either the schedule cast or schedule tribes or both is exempted U/s. 10(27).
- xiv) Provisions Sec. 43B is applicable.
- xv) Provisions of wealth tax are not applicable.
- xvi) Imposition of interest penalty and prosecution are applicable for any violation under income tax act.
- xvii) A society is not disentitled from claiming exemption only because it also carries on the activities, income from which is not exempted.
- xviii) Registration under Central Excise, Service Tax, VAT and Import-Export is required since provisions of indirect taxes are applicable.

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