

F.No.279/Misc./140/2015-ITJ
Government of India
Ministry of Finance
Central Board of Direct Taxes

New Delhi, Dated 22nd November, 2016

Subject: Admissibility of expenditure incurred by a Firm on Keyman Insurance Policy in the case of a Partner- Reg.

The issue relating to admissibility of expenditure incurred by a firm on Keyman Insurance Policy premium in the case of a partner has been a contentious one.

2. CBDT Circular no. 762/1998 dated 18.02.1998 clarifies that the premium paid on the Keyman Insurance Policy is allowable as business expenditure. However, in case of such expenditure incurred on a partner of a firm, the general approach of the assessing officers was to treat the expenditure as not incurred for the purpose of business and disallow the same.

3. High Courts have upheld the admissibility of the expenditure incurred by the firm in the case of the partners¹. Taking into account the Explanation to Clause (10D) of Section 10 of the Income-tax Act, 1961 and the CBDT Circular no. 762 dated 18.02.1998, Courts have held that a Keyman Insurance Policy is not confined to a policy taken for an employee but also extends to an insurance policy taken with respect to the life of another person who is connected in any manner whatsoever with the business of the subscriber (assessee).

4. The High Court of Punjab and Haryana in the case of M/s. Ramesh Steels, ITA No. 437 of 2015, vide judgement dated 2.2.2016 (NJRS citation 2016 –LL-0505-68), reiterating the above view held that, *“the said policy when obtained to secure the life of a partner to safeguard the firm against a disruption of the business is equally for the benefit of the partnership business which may be effected as a result of premature death of a partner. Thus, the premium on the Keyman Insurance Policy of partner of the firm is wholly and exclusively for the purpose of business and is allowable as business expenditure”*.


5. The above view has been accepted by CBDT and the judgment has not been further contested.

¹ **High Court of Bombay** –*CIT vs. B.N. Exports*, ITA No. 2714 of 2009 dated 31.03.2010- NJRS citation 2010-LL-0331-10, *CIT vs. Aggarwal Enterprises*, ITA No. 1701 of 2012 dated 07.01.2015 –NJRS citation 2015-LL-0107-4.

High Court of Gujarat- *CIT vs. Gem Arts*, ITA No. 1739 of 2009 dated 13.03.2012-NJRS citation 2012-LL-0313

High Court of Punjab & Haryana- *CIT vs. Laj Exports*, ITA No. 251 of 2012 dated 08.11.2013-NJRS citation 2013-LL-1108-72


6. In view of this, it is a settled position that in case of a firm, premium paid by the firm on the Keyman Insurance Policy of a partner, to safeguard the firm against a disruption of the business, is an admissible expenditure under section 37 of the Act.
7. Accordingly, henceforth, on this settled issue, appeals may not be filed by the department and those already filed, may be withdrawn/ not pressed upon.
8. The above may be brought to the notice of all concerned.


(K. Vamsi Krishna)
ACIT (OSD)(ITJ),
CBDT, New Delhi

22/11/16

Copy to:

1. The Chairman, Members and officers of the CBDT of the rank of Under Secretary and above.
2. OSD to Revenue Secretary.
3. All Pr. Chief Commissioners of Income-Tax & All Directors General of Income-Tax with a request to bring to the attention of all officers.
4. The Pr. Director General of Income-Tax, NADT, Nagpur.
5. The Pr. DGIT (Systems), ARA Centre, Jhandewalan Extension, New Delhi.
6. The Pr. DGIT (Vigilance), New Delhi.
7. The ADG (PR, PP & OL), Mayur Bhawan, New Delhi for printing in the quarterly tax bulletin and for circulation as per usual mailing list.
8. The Comptroller and Auditor General of India.
9. The ADG-4 (Systems) for uploading on ITD website.
10. Data Base Cell for uploading on irsofficersonline.
11. Guard file.


(K. Vamsi Krishna)
ACIT (OSD)(ITJ),
CBDT, New Delhi.

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