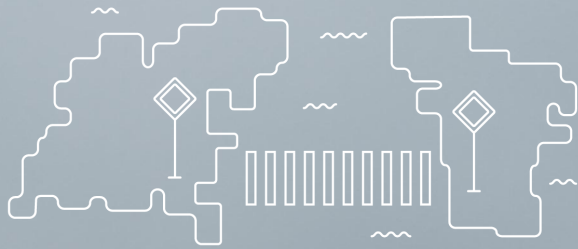


Seamless tax solutions
from territory to territory



www.rsmindia.in

Newsflash: Foreign companies having turnover of Rs. 50 crore or less kept outside the scope of POEM

THE POWER OF BEING UNDERSTOOD

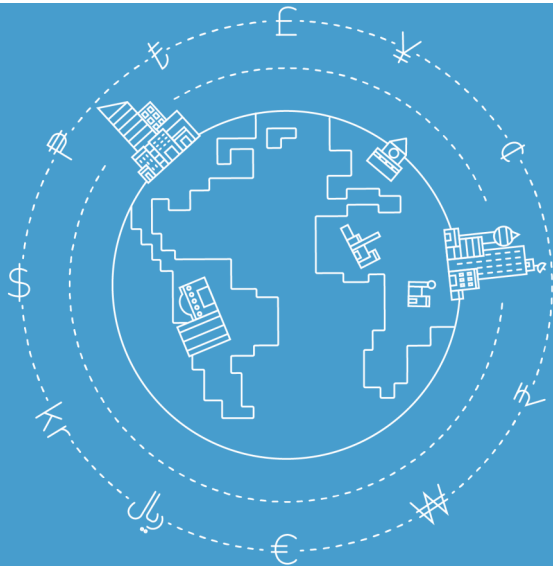


Background

- The concept of Place of Effective Management (POEM) for deciding the Residential Status of a company incorporated outside India i.e. foreign company was introduced by the Finance Act, 2015. It is effective from 01.04.2016 and accordingly shall apply from financial year 2016-17 onwards. The POEM concept is one of substance over form.
- In this regard, the Final Guidelines on POEM was issued by the CBDT vide Circular no.6 of 2017 dated 24 January 2017. It, among other things, provided for Active Business outside India (ABOI) test, in order to not to cover foreign companies which are engaged in active business.
- As a further relief to foreign companies, the Ministry of Finance vide Press Release dated 24 January 2017 announced that the POEM guidelines shall not applicable to companies having turnover or gross receipts of Rs.50 crore or less in a financial year. However, the Final Guidelines on POEM was silent on this issue.

CBDT Circular - 8 of 2017 dated 23rd February 2017

- In order to remove any doubt, recently the CBDT through its circular dated 23rd February 2017 clarifies this aspect.
- It provides that Residency test based on POEM criteria shall not be applicable to a foreign company having turnover or gross receipts of Rs. 50 crore or less in a financial year.



For further information please contact:

RSM Astute Consulting Pvt. Ltd.

13th Floor, Bakhtawar, 229, Nariman Point, Mumbai - 400 021.

T: (91-22) 6108 5555 / 6121 4444

F: (91-22) 6108 5556 / 2287 5771

E: emails@rsmindia.in

W: www.rsmindia.in

Offices: Mumbai, New Delhi - NCR, Chennai, Kolkata, Bengaluru (Bangalore), Surat, Hyderabad, Ahmedabad, Pune, Gandhidham and Jaipur.



facebook.com/RSMInIndia



twitter.com/RSM_India



linkedin.com/company/rsm-india

RSM Astute Consulting Pvt. Ltd. (Including its affiliates) is a member of the RSM network and trades as RSM. RSM is the trading name used by the members of the RSM network.

Each member of the RSM network is an independent accounting and consulting firm each of which practices in its own right. The RSM network is not itself a separate legal entity of any description in any jurisdiction.

The RSM network is administered by RSM International Limited, a company registered in England and Wales (company number 4040598) whose registered office is at 50 Cannon Street, London EC4N 6JJ .

The brand and trademark RSM and other intellectual property rights used by members of the network are owned by RSM International Association, an association governed by article 60 et seq of the Civil Code of Switzerland whose seat is in Zug.

This newflash is general in nature. In this newflash, we have summarized Circular no. 8 of 2017 dated 23 February 2017 in relation to the applicability of POEM. It may be noted that nothing contained in this newflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said notification and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newflash.

24 February 2017