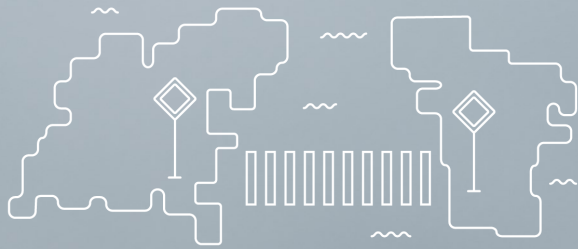


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**Newsflash: Foreign companies having turnover of Rs. 50 crore or less kept outside the scope of POEM**

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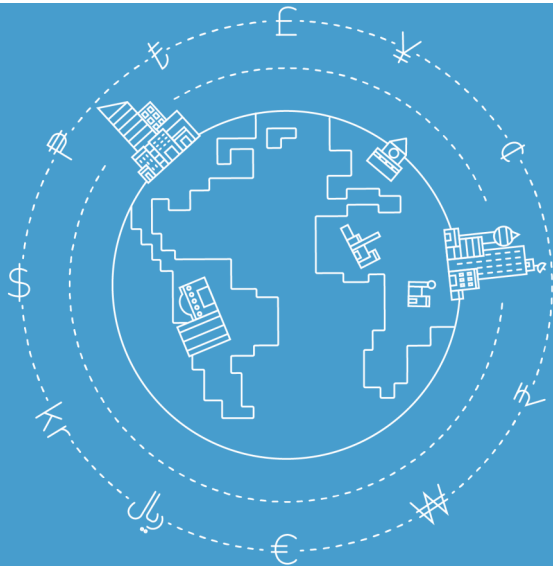


## Background

- 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 23<sup>rd</sup> 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.



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This newsflash is general in nature. In this newsflash, 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 newsflash 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 newsflash.

24 February 2017