

# Tax Edge

## Monthly Tax & Regulatory Updates



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# ***Direct Tax Updates***

# Direct Tax

## Finance Act 2017: Finance Bill 2017 receives Presidential assent on 31 March 2017

Finance Bill 2017 receives assent of Hon'ble President Mr. Pranab Mukherjee on March 31, 2017. Some major amendments are given below.

### Taxability on money or property received by trust as a gift

The Finance Bill, 2017 proposed to insert new clause (x) to Sec 56(2) of the Act to provide that the receipt of the sum of money or the property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be taxable in the hands of the recipient under the head "Income From Other Sources".

The application of this clause has been restricted in The Finance Act, 2017 and this clause shall not apply in case of receipt of money or property received by trust from an individual wherein trust has been created or established solely for the benefit of the relative of the individual.

### Quoting of Aadhaar number

A new Sec 139AA has been inserted which requires compulsory quoting of Aadhaar number on return of income and on application of PAN. Where the applicant or the person applying for the PAN does not have Aadhaar number, mentioning of Enrolment number of Aadhaar application form will suffice.

Further, person having PAN as on 1st July 2017 is required to intimate the Aadhaar number on or before the date to be notified by the Central Government to the prescribed authority. On failure to do so, PAN will be deemed invalid as if person has not applied for the allotment of PAN. Further, penal provisions have also been introduced for non-compliance of the same.

### Modified language of Section 94B on interest claim on accrual basis

The Finance Bill, 2017 proposed a limit of 30% of EBITDA on the amount of interest that can be claimed by Indian company or a permanent establishment of a foreign company on the interest payments to its associated enterprise.

The language of the section has been amended by replacing the word '**pays interest**' with '**incur interest**'. The term used in the Finance Act, 2017 reads as 'incur any expenditure by way of interest or of similar nature'. Thus, by doing so it seems to have cleared the ambiguity and allowed the deduction of interest expense on accrual basis.

### Ceiling on amount of receipts in cash

The new section 269ST provides that the maximum amount a person may receive in cash from another person in a day or in respect of single transaction or in respect of transactions relating to one event or occasion from a person should not exceed Rs. 2 lakh. The limit has been revised from the proposed Rs. 3 lakh to Rs.2 Lakh.

# Direct Tax

## **CBDT notifies ITR (Income Tax Return) forms for Financial Year 2016-17 (Assessment Year 2017-18)**

The Central Board of Direct Taxes (CBDT) has amended Rule 12 of the Income Tax Rules to modify the manner of filing of the ITR forms, and also notified the ITR forms for various categories of taxpayers for financial year 2016-17. CBDT has reduced the existing number of ITR forms from 9 to 7.

Please [click here](#) to read Notification No. 21/2017 dated 30 March 2017



# Direct Tax

## Circulars/Notifications/Press Release

**Tax liability of a non-resident seafarer receiving remuneration in Non-Resident External (NRE) account maintained with an Indian Bank**

CBDT clarified vide Notification No. 13/2017, dated 11-4-2017 that salary accrued to a non-resident seafarer for services rendered outside India on a foreign ship is not to be included in the total income merely because the said salary has been credited in the NRE account maintained with an Indian bank by the seafarer.

Please [click here](#) to read Circular No. 13/2017, dated 11-4-2017

**No restriction on cash withdrawals above Rs 2 lakhs from banks and post offices**

Section 269ST of the Income-tax Act, 1961 restricts receipt of cash by any person in excess of Rs 2 lakh a single day, in respect of a single transaction or transactions relating to one event or occasion. Further, section 271DA of the Act imposes penalty of a sum equal to the amount of such receipt.

CBDT has clarified that the said cash transaction limit of Rs 2 lakh will not apply to withdrawals from banks, cooperative bank and post offices.

Please [click here](#) to read Notification No. 28/2017, dated 5-4-2017

**Clarification on applicability of provision of quoting Aadhaar number by non-resident**

Section 139AA of the Income-tax Act, 1961 as introduced by the Finance Act, 2017 begins with "Every person who is eligible to obtain Aadhaar number..."

As per the Aadhaar Act, 2016, only a resident individual is entitled to obtain Aadhaar. An individual who has resided in India for a period or periods amounting in all to 182 days or more in the twelve months immediately preceding the date of application for enrolment is treated as resident. Accordingly, the requirement to quote Aadhaar shall not apply to an individual who is not a resident as per the Aadhaar Act, 2016.

Please [click here](#) to read press release dated April 5, 2017

**New procedure for e-communication between the Income tax Department and assessee**

CBDT vide Notification No. 4/2017 clarified that all Income tax Department-related proceedings between the assessee and the department will be conducted online.

A new link or window called 'e-proceeding' is introduced on e-filing portal of income tax. The website has been linked to the internal online business application portal (ITBA) of the tax department so that the assessing officers can undertake the new regime. All the notices/questionnaire/letters/orders issued from ITBA modules by any Income Tax Authority will be visible to assessee after login under "E-Proceeding" Tab in the website of the Department. Thereupon, assessee will be able to submit his response along with attachments on the e-Filing website.

Please [click here](#) to read Notification No. 4/2017, dated 3-4-2017.

**Option form for taxation of income from patent by way of royalty**

CBDT has inserted new rule 5G in Income Tax Rules, 1962 so as to allow eligible assessee u/s 115BBF to exercise option for taxation of income by way of royalty in respect of a patent developed and registered in India. For this purpose, eligible assessee is required to furnish Form No. 3CFA duly verified, either electronically under digital signature; or electronically through electronic verification code.

Please [click here](#) to read Notification No.25 /2017 dated 31 March 2017

# Direct Tax

## Judicial Precedents

1

Income tax withheld abroad in respect of which no foreign tax credit is admissible, cannot be allowed u/s. 37(1) - Dy. Commissioner of a Income Tax Vs Elite core Technologies Private Limited (ITAT Ahmedabad) ITA No.508/Ahd/2016.

2

As retention money is not in the nature of income till the time contractual obligations are fully performed to the satisfaction of the customer by the assessee, therefore, retention money cannot be regarded as income even for the purpose of book profits u/s 115JB though it is credited in the profit and loss account.- Dy. Commissioner of Income Tax vs. McNally Bharat Engineering Co. Ltd., I.T.A No.100/Kol/2011

3

An amount received from a wholly-owned subsidiary (WOS) in consideration of transfer of shares of the WOS to a group of shareholders is not taxable as capital gains. – CIT v M/s Annamalaiar Mills (SC) Civil Appeal no.1864/2007

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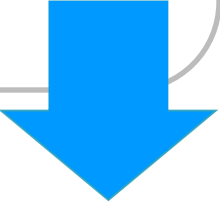
# *Indirect Tax Updates*



# Goods and Services Tax (GST)

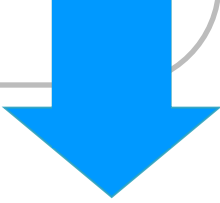
## **President's assent to GST Bills**

President has given assent to four key legislations on Goods and Services Tax (GST) namely the Central GST Bill, The Integrated GST Bill, the Union territory GST Bill and the GST (Compensation to states) Bill, paving the way for the roll out of one-nation-one-tax regime from July 1, 2017. Most of the States would pass State GST law by May 2017.



## **Status on GST Rules**

GST Council had approved revised rules for Registration, Return, Invoice, Payment and Refund. The four remaining rules viz. composition, valuation, transition, Input Tax credits are open for suggestions from stakeholders and are yet to be approved in next meeting. Draft rules on Assessment and Audit under GST and Electronic Way Bill (e-way bill) released by CBEC (Central Board of Excise & Customs)



## **Extended Date of Migration to GST**

The last date of migration of the existing registered dealer has been once again extended till 30th April 2017.

# Service Tax

01

## **Service Tax liability on services provided by a foreign shipping line to foreign charterer with respect to goods destined for India**

Notification No. 15/2017, dated 13-4-2017 clarifies that the importer of goods as defined in the Customs Act, 1962 is liable for paying service tax in cases of services of transportation of goods by sea provided by a foreign shipping line to a foreign charterer with respect to goods destined for India.

Please [click here](#) to read Notification No. 15/2017, dated 13th April, 2017

02

## **Point of taxation of services provided by a foreign shipping line to foreign charterer with respect to goods destined for India**

A new rule 8A has been inserted in Point of Taxation Rules, 2011 so as to specify that point of taxation in respect of services provided by a person located in non-taxable territory to a person in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, shall be the date of bill of lading of such goods in the vessel at the port of export.

Please [click here](#) to read Notification No. 14/2017-Service Tax, dated 13th April, 2017

03

## **Cenvat credit for service tax paid on services provided by a foreign shipping line to a foreign charterer with respect to goods destined for India**

CENVAT credit Rules, 2004 have been amended vide notification No. 10/2017-C.E (N.T) dated 13th April, 2017 so to allow the importer of the goods to take Cenvat credit on basis of the challan of payment of service tax by the said importer on the services provided by a foreign shipping line to a foreign charterer with respect to goods destined for India.

Please [click here](#) to read Notification No. 10/2017, 13-4-2017

# Judicial Precedents

In absence of machinery provisions, Sikkim High Court quashes levy of service tax on services of promotion and marketing of lottery. Amendments carried out by the Finance Act, 2016 are not capable of being implemented for imposition and levy of service tax - 2017-TIOL-589-HC-SIKKIM-ST



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# *Regulatory*

# Regulatory

## Company Law

### **Disclosure of dealings in specified bank notes during demonetization in Financial Statements and Auditors to report on such disclosures**



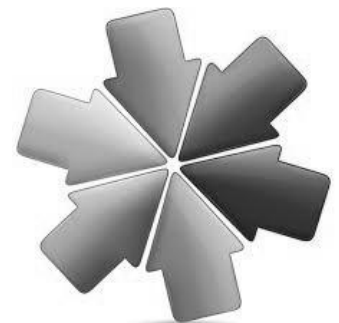
Ministry vides notification nos. 307(E) and 308(E) dated March 30, 2017 notified the Companies (Audit and Auditors) Amendment Rules, 2017 and Amendment to Schedule III to the Companies Act, 2013. Accordingly, every company is required to disclose the details of Specified Bank Notes held and transacted during the period from November 8, 2016 to December 30, 2016 in the specified format.

Further, auditors are required to report on whether these disclosures are in accordance with the books of account maintained by the company

Please [click here](#) to read Notification No. 307 (E) and dated March 30, 2017

### **Section 234 of Companies Act (Merger/ Amalgamation of company with foreign company) notified**

Government notifies section 234 of the Companies Act with effect from 13 April 2017 wherein a foreign company, may with the prior approval of the Reserve Bank of India, merge into a company registered under this Act or vice versa. The scheme for merger/amalgamation may provide for payment to shareholders in cash or in Depository Receipts or partly in cash and partly in Depository Receipts, with prior approval of Reserve Bank.



Please [click here](#) for the notification and [click here](#) for the section 234

# Regulatory

## Labor Laws

### **Singapore citizens working in India exempted from EPF contribution**

Singapore citizens working in India purely as temporary workers and are not holding the status of permanent residents in India are to be treated as “Excluded employees”.

Exemption has been granted to them from contributing to social security scheme in India.

This exemption has been granted under the Comprehensive Economic Cooperation Agreement between the Republic of India and the Republic of Singapore (CECA-2005).

## RBI

### **Investment by Foreign Portfolio Investors in Government Securities**

The limits for investment by Foreign Portfolio Investors (FPIs) in Central Government Securities and State Development Loans (SDLs) for the quarter April-June 2017 are proposed to be increased by Rs. 110 billion and Rs. 60 billion respectively

These limits were last increased in terms of Medium Term Framework (MTF) in September 2016

All other existing conditions, including the security-wise limits, investment of coupons being permitted outside the limits and investments being restricted to securities with a minimum residual maturity of three years, will continue to apply.

Please [click here](#) for the notification dated March 31, 2017

## SEBI

### **New website of SEBI launched**

New website of SEBI with enhanced user friendly features launched in April 2017

Salient features include better user experience across various devices like mobile and desktop, enhanced ‘Search’ function, better speed of loading web pages etc.

Please [click here](#) for the press release 22/2017 dated April 18, 2017

# Miscellaneous



## **Government approves setting up of Special Purpose Vehicle**

Government approves setting up of a Special Purpose Vehicle to be called Government e-Marketplace (GeM SPV) as the National Public Procurement Portal.

It is to be set up as Section 8 Company registered under the Companies Act, 2013 (not for Profit Company) for providing procurement of goods & services required by Central & State Government organizations

GeM SPV to provide an end-to-end online Marketplace for Central and State Government Ministries/ Departments, Central & State Public Sector Undertakings (CPSUs & SPSUs), Autonomous institutions and Local bodies, for procurement of common use goods & services in a transparent and efficient manner.

## **Deposits under income amnesty scheme can be made till 30 April 2017**

The government and the RBI on Wednesday gave time till 30 April for “commensurate deposits” by people who have declared their unaccounted income under the Pradhan Mantri Garib Kalyan Deposit Scheme (PMGKDS) that allowed parking money in non-interest bearing deposits for four years.

The scheme closed on 31 March. In a press release, the RBI said that It has now been decided by the government of India, in case of persons who had filed the declaration by depositing tax, surcharge and penalty under PMGKDS on or before March 31, to allow extension of time till April 30 for banks to upload details into RBI’s E-Kuber system and for depositors to make commensurate deposits, if not already done.

Please [click here](#) to read the press release dated 19th April 2017

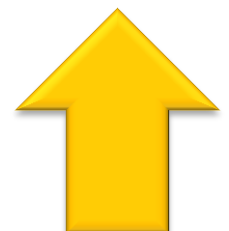


## **75% of listed companies appoint women directors**

Company law mandates that a certain class of companies have to appoint at least one women director on Board. As per press release by Government, around 75% of listed companies have appointed women directors. This shows an increasing trend in percentage.

## **India climbs to 8th spot on FDI confidence index**

India has climbed one spot to the eighth rank in the 2017 A.T. Kearney Foreign Direct Investment (FDI) Confidence Index making it one of the top two emerging markets along with China. As per the report “transparent and easy” business environment have made it an attractive destination for foreign companies. Governance and regulatory issues make up seven of the top 10 factors investors consider when deciding on an investment destination.



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# *Accounting and Audit Updates*



# Accounting and Audit Updates

## Implementation Guide issued by Auditing and Assurance Standards Board (AASB) of ICAI

As per Companies and Amendment to Schedule III to the Companies Act, 2013 and (Audit and Auditors) Amendment Rules, 2017, companies are mandated to disclose details of specified bank notes transacted during demonetization period and auditors are required to report on adequate disclosures of such specified bank notes.

In order to provide appropriate guidance on this new reporting obligation cast on statutory auditors of companies; the AASB of ICAI has issued an “Implementation Guide on Auditor’s Report under Rule 11(d) of Companies (Audit and Auditors) Amendment Rules, 2017 and Amendment to Schedule III to Companies Act, 2013“. The guidance note contains detailed guidance on various issues involved including FAQs, illustrative list of audit procedures and reporting scenarios, etc.

Please [click here](#) to read Implementation Guide issued by AASB



# About KrayMan

For any assistance, please write to us at:  
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Founded by ex-EY (Ernst & Young), BMW & Grant Thornton professionals KrayMan is an Accounting and Management Advisory Firm specializing in Assurance, Tax, Regulatory, Compliance & Outsourcing, Corporate Secretarial, Transaction Advisory and HR Advisory services. We cater to International & Domestic Clients.

We are a team of professionals comprising of Chartered Accountants, Company Secretaries, Cost and Management Accountants and MBAs who are truly committed in providing timely, professional and quality services to our Clients thereby building a long term relationship with them.

**We are members of prestigious Global Accounting and M&A Networks:** Cross Border Associates (CBA) – HQ, Germany and Prime Advisory Network (PAN) - HQ, London.

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