

Tax Edge

Monthly Tax & Regulatory Updates



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Direct Tax Updates

Furnishing Statement of financial transactions (SFT) for Financial Year 2016-17 by 31st May 2017

To keep a watch on high value transactions undertaken by taxpayers, the Income-tax law has framed the concept of SFT or reportable account (previously called as 'Annual Information Return (AIR)). Section 285BA read with rule 114E of the Income tax Act requires certain entities to furnish the details of specified financial transactions or any reportable account registered/recorded/maintained by them during the year in Form 61A. Non furnishing of SFT results into penalty of Rs. 100 per day of default.

It is worthwhile to note that the scope of AIR reporting has been enlarged to cover various non-banking entities for FY 2016-17 onwards. Accordingly, all companies, and other taxpayers who are liable for tax audit, are suggested to confirm the applicability of this reporting on them for FY 2016-17 and take necessary action in time to avoid penalty for non-compliance beyond 31 May 2017

Please [Click Here](#) to read section 285BA of the Income tax Act.

Please [Click Here](#) to read rule 114E of Income tax Rules.

Income Tax department has simplified the linking of PAN with Aadhaar database

The Income Tax Department has made it easy for taxpayers to link their PAN with Aadhaar. Responding to grievances of taxpayers regarding difficulties in linking PAN with Aadhaar their names did not match in both systems. In case of minor mismatch in data, the verification will be done through One Time Password which will be sent to the mobile registered with Aadhaar.

Please [Click Here](#) for the press release dated May 11, 2017

Relaxation from mandatory quoting of Aadhaar for filing of return and Permanent Account Number (PAN) Applications

The provisions relating to mandatory quoting of Aadhaar for filing of return and PAN applications shall not apply to an individual who does not possess the Aadhaar number or the Enrolment ID and is:-

- residing in the States of Assam, Jammu and Kashmir and Meghalaya;
- a non-resident as per the Income-tax Act, 1961;
- of the age of eighty years or more at any time during the previous year;
- not a citizen of India.

This notification shall come into force with effect from July 1, 2017

Please [Click Here](#) to read Notification No.37/2017, dated May 11, 2017

Direct Tax Updates

Draft Income Computation and Disclosure Standards on Real Estate Transactions opens for public comments

On 29 September, 2016, the Ministry of Finance notified 10 Income Computation and Disclosure Standards¹ (ICDS) to be effective from Assessment Year (AY) 2017-18. The current set of ICDS does not apply to real estate transactions.

The Committee constituted by the Finance Minister suggested notification of ICDS in respect of Real Estate Transactions and submitted the draft of the same based on the Guidance Note issued on Real Estate Transactions issued by ICAI. The draft ICDS on Real Estate Transactions along with the significant changes suggested in ICDS vis-à-vis the Guidance Note issued by ICAI are uploaded on the Income-tax website at <http://www.incometaxindia.gov.in>. The draft ICDS is open for public comments till 26th May, 2017.

Please [Click Here](#) to read Press Release, dated May 11, 2017.

Form prescribed for domestic company for exercising option of paying tax at 25 percent on income under section 115BA

A new rule 21AD has been inserted in Income Tax Rules, 1962 so as to prescribe Form 10-IB for newly setup domestic companies engaged solely in the business of manufacture or production of article or thing to exercise option to pay tax at 25 percent on income for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2017 on fulfillment of certain conditions prescribed in section 115BA.

Please [Click Here](#) to read Notification No.36/2017, dated May 2, 2017 and [Click Here](#) to read sec 115BA

Draft rules for valuation of unquoted equity shares

The central Board of Direct Taxes (CBDT) has recently issued draft rules for determining the fair market value (FMV) of the unquoted equity shares for the purpose of section 56 (2)(x) and section 50CA of the Income-tax Act, 1961 (the Act) and it has invited comments from the public on the same. Now this rule is with CBDT for vetting.

New section 50CA was inserted in the Finance Act, 2017 to provide that where consideration for transfer of the unquoted equity share of a company is less than the FMV of such a share, the FMV shall be deemed to be the full value of consideration for the purposes of computing income under the head "capital gains". The section further provides that FMV should be determined in the manner as defined in the relevant rule.

Please [Click Here](#) to read the draft rules in detail

Direct Tax Updates

Lease rent from letting out buildings in Industrial Park/Special Economic Zone(SEZ) is business income

CBDT vide Circular No. 16/2017, dated 25-4-2017 has clarified that income from letting out buildings/developed space along with other amenities in industrial park/SEZ is to be charged to tax under 'Profits and Gains of Business'.

Please [Click Here](#) to read Circular No. 16/2017, dated April 25, 2017

Rules prescribed for method of valuation for determining accreted income under section 115TD

A new rule 17CB has been inserted in the Income tax Rules, 1962 so as to prescribe valuation method for determining accreted income of trust or institution under section 115TD. Sec 115TD deals with tax on accreted income of the trust or institution which is converted into any form other than trust/institution.

Accreted income means the excess of aggregate fair market value of total assets over total liabilities of trust or institution. The rules prescribe exclusions to be made while determining fair market value of total assets and total liabilities, define certain expressions for the purpose of rule, etc.

Please [Click Here](#) to read Notification No.32/2017, dated April 21, 2017 and [Click Here](#) for Sec 115TD

Judicial Precedents

The Hon'ble Supreme Court in Godrej & Boyce Manufacturing Company Limited Vs DCIT & Anr. In Appeal Number : Civil Appeal No. 7020 of 2011 held that (a) Section 14A of the Act would apply to dividend income on which tax is payable under Section 115-O of the Act; (b) Section 14A of Income Tax Act, 1961 cannot be invoked in the absence of proof that expenditure has actually been incurred in earning the dividend income; (c) If the AO has accepted for earlier years that no expenditure for earning dividend income has been incurred, he cannot take a contrary stand for later years if the facts and circumstances have not changed.

The Hon'ble Supreme Court in Raj Dadarkar & Associates Vs. ACIT, Civil Appeal No. 6455-6460 of 2017, Date of Judgment: 09.05.2017 held that by simply showing a particular object in the object clause of the business can't be considered as determinative factor to conclude that the rental income is to be treated as income from business and not income from house property.

Interest on loans taken for setting up industry / unit is allowable - Commissioner of Income Tax Vs Shri. Rama Multi Tech Ltd. (SC) Civil Appeal Nos. 4072- 4073/2007.

The Hon'ble Supreme Court puts an end to Section 40a(ia) controversy regarding applicability of section 40(a)(ia) on the amounts already paid and are not payable. The Supreme Court makes it crystal clear that payable includes the paid also and therefore, the provisions are applicable in all cases whether the TDS paid or payable. – M/s Palam Gas Service Vs CIT (Supreme Court of India) Civil Appeal No. 5512 of 2017.

International Taxation

International Taxation

CBDT signs 2 more Unilateral Advance Pricing Agreements with Indian taxpayers

CBDT entered into two Unilateral Advance Pricing Agreements (APAs) on 27th April, 2017, with Indian taxpayers. The 2 APAs signed pertain to Information Technology and Banking & Finance sectors of the economy. The international transactions covered in these agreements include Software Development services, IT enabled services and KPO services. With these, the total number of APAs entered into by the CBDT has reached 154. This includes 11 bilateral APAs and 143 unilateral APAs.

Please [Click Here](#) to read Press Release dated April 28, 2017

Clarification for removal of Cyprus from list of notified jurisdictional areas under section 94A

The central Government having regard to lack of effective exchange of information with any country or territory outside India, specify by notification in the Official Gazette such country or territory as a notified jurisdictional area in relation to transactions entered into by assessee.

Cyprus was specified as a "notified jurisdictional area" (NJA) under section 94A of the Income-tax Act, 1961 vide Notification N0.86/2013 dated 01.11.2013. The said Notification was subsequently rescinded vide Notification Nos. 114 and 119 dated 14.12.2016 and 16.12.2016 with effect from the date of issue of the notification.

For removal of doubts, CBDT has clarified that Notification No. 86/2013 has been rescinded with effect from the date of issue of the said notification, thereby, removing Cyprus as a notified jurisdictional area with retrospective effect from 01 .11.2013.

Please [Click Here](#) to read Circular No. 15/2017, dated April 21, 2017.

Judicial Precedent

The Honbl'e Supreme Court in Formula One World Championship Ltd. v. Commissioner of Income-tax, (IT)3, Delhi, (2017) 390 ITR 199 held that a UK based company holding commercial rights in respect of the motor racing World Championship (Championship) had a fixed place permanent establishment (PE) in India in the form of a motor racing circuit from which different races were conducted. Accordingly, payments made by the owner of the circuit to the non resident company for acquiring the right to host, stage and promote a motor racing event in India were in the future of nature of business income of the non resident company and liable to be taxed in India.

Indirect Tax Updates

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Goods and Services Tax (GST) Updates

The Goods and Services Tax (GST) Council, at its fourteenth meeting on 18th May 2017 held in Srinagar, has approved the rate structure on majority of the goods and services. The Government classified 1211 items under 98 categories of goods in various tax slabs i.e. 5%, 12%, 18% and 28% and has kept a large number of items under 18% tax slab.

Please [Click Here](#) for complete GST rate Schedule.

GST Council has finalized seven Rules on Registration, Invoice, Payment, Refund, Input Tax Credit, Valuation and Composition. It has issued draft rules for accounts and records, appeals and revision, and advance ruling, assessment audit, e-way bill and Transition rule. These rules are expected to be finalized in next GST council meeting to be held on June 3, 2017

Migration to GST restarts from 1 June 2017

The GST Migration window is going to reopen again from 1st June 2017 for 15 days to enable existing tax payers to migrate to GST.

Service Tax

No service tax liability on life insurance services under Pradhan Mantri Vaya Vandana Yojana

Notification No. 17/2017, dated 4-5-2017 has inserted a new entry 26A (f) in mega exemption notification so as to exempt life insurance services under Pradhan Mantri Vaya Vandana Yojana.

Please [Click Here](#) to read Notification No. 17/2017, dated May 4, 2017

DVAT

Extension of due date for filing of online return for Quarter-4 of Financial Year 2016-17

Vide Circular No. 5 of 2017-18, dated:15-05-2017, the Government has extended the last date of filing of online/hard copy of fourth quarter return for the year 2016-17, in Form DVAT-16 ,DVAT-17 and DVAT-48 along with required annexure/enclosures to 30.05.2017.

Please [Click Here](#) to read Circular No. 5 of 2017-18, dated May 15, 2017

Judicial Precedents

Refund of unutilized Cenvat Credit on input services could not be denied to assessee in absence of a statutory provision stating that registration of the premises is mandatory for availing input service tax credit. - Commissioner of Service Tax-III Vs Customs, Excise & Service Tax Appellate Tribunal (Madras High Court) C.M.A. No. 860 of 2017.

Training & coaching services provided to students by trust for consideration is liable to service tax irrespective of the fact that trust is carrying out its activity with or without profit motive - Chanakya Mandal Vs Union of India (Bombay High Court) Writ Petition No. 4235 Of 2011 With Civil Application No. 2587 Of 2013.

Mere wrongful claim of input tax credit would not be a sufficient cause to cancel the registration of dealer under section 17 of UP VAT Act- Sevak Enterprises Vs Commissioner, Commercial Tax (Allahabad High Court) Sales/ Trade Tax Revision No.- 146 of 2017.



Accounting and Audit Updates

Accounting and Audit Updates

Exposure Draft on improvements to IFRS-8 (Operating Segments) and IAS-34 (Interim Financial Reporting)

International Accounting Standards Board (IASB) has released an exposure draft for making improvements in IFRS 8- Operating Segments and IAS 34- Interim Financial Reporting. Some of the improvements proposed are highlighted herein below:

- a. Improvement in IFRS-8:** The IASB proposes to amend IFRS 8 to -(i) emphasize that the chief operating decision maker is a function that makes operating decisions and decisions about allocating resources to, and assessing the performance of, the operating segments of an entity; (ii) explain the role of non-executive members when identifying an entity's chief operating decision maker;(iii) require an explanation in the notes to the financial statements when segments identified by an entity differ between the financial statements and other parts of its annual reporting package; (iv) clarify that the explanations of reconciling items shall be given with sufficient detail to enable users of financial statements to understand the nature of the reconciling items.
- b. Improvement in IAS-34:** The Board proposes that after a change in the composition of an entity's reportable segments, in the first interim report, the entity shall present restated segment information for all interim periods both of the current financial year and of prior financial years, unless the information is not available and the cost to develop it would be excessive.

The exposure draft is open for comments till July 31, 2017.

Please [Click Here](#) to read exposure draft.

Regulatory

Regulatory

Company Law

Clarification regarding applicability of Section 16(1)(a) of the Companies Act 2013 with reference to cases under corresponding provisions of Companies Act, 1956

Sec 16 of the companies Act, 2013 deals with applications for rectification of name of company. Stakeholders has sought clarification from Ministry of Corporate Affairs in respect reconsideration of applications which were earlier rejected by them under Companies Act, 1956 on ground of being time-barred as prescribed period of 12 months had been completed and current section does not specify any time limitation.

Ministry clarified that rejected applications cannot be applied as fresh under Companies Act, 2013 as extinguished limitation cannot be considered to be revived in the absence of any time limit in the current law.

Please [Click Here](#) for the clarification dated May 16, 2017



Regulatory

Labor Laws

Introduction of real time system in EPFO default management

EPFO introduces the ECR 2.0 for online collection of remittances through multi-banking. Real time monitoring of the remittance position of the establishments has been made possible after introduction of the Unified Portal system for remittance of contributions.

Salient features:

1. SMS alert shall be sent on 16th/17th of every month to those employers who have made at least one contribution during the last 3 months but failed to contribute during the month. SMS shall inform the due date for payment to avoid damages and interest for late payment;
2. Thereafter an e-mail communication shall be sent between 20th to 25th of every month to all those balance establishments who had remitted any contributions during the last 3 months but have not remitted any contribution during the month;
3. Simultaneously, the list of all such balance establishments who have failed to remit their contributions by the relevant month, shall be prepared and supplied to all the field offices in the protected view in MIS Portal.

Please [Click Here](#) for circular No. 35 dated 25 April 2017

Regulatory

RBI

Cabinet approves phasing out Foreign Investment Promotion Board

The Union Cabinet chaired by the Prime Minister Shri Narendra Modi has given its approval to the phasing out of Foreign Investment Promotion Board (FIPB). The proposal entails abolishing the FIPB and allowing administrative Ministries/Departments to process applications for FDI requiring government approval.

Please [Click Here](#) to read the Notification dated 24 May 2017



SEBI

Mutual Funds to disclose executive remuneration

SEBI, vide its circular dated 28 April 2017, modified the earlier circular regarding 'Disclosure of Executive Remuneration'.

Mutual Funds/Asset Management Companies are required to make disclosures pertaining to a financial year on the website under a separate head – 'Remuneration'.

The details to be disclosed have been prescribed by SEBI and include name, designation and remuneration of Chief Executive Officer (CEO), Chief Investment Officer (CIO) and Chief Operations Officer (COO) or their corresponding equivalent by whatever name called and top ten employees.

Please [Click Here](#) to read the circular dated April 28, 2017.



Regulatory

FTP (Foreign Trade Policy)



Amendment in utilization of Duty Credit Scrip for payment of Customs Duty

The Government made amendment in Foreign Trade Policy (FTP) 2015-2020 for utilization of Duty Credit Scrip for payment of Customs Duty in case of Export Obligation defaults for Authorizations under the FTP Policy.

Such amendment clarifies that utilization of Duty Credit Scrip for payment of Customs Duty in case of Export Obligation defaults for Authorizations under previous Policies also.

Please [Click Here](#) to read the notification dated April 21, 2017

Maternity Benefit (Amendment) Act, 2017

Clarification issued on newly introduced Maternity Benefit (Amendment) Act, 2017

The Act was notified with effect from 1 April 2017.

Ministry further clarified that the benefits of the Act shall be extended to the women who are already under maternity leave at the time of enforcement of the Act.

It is the responsibility of employers to extend the benefit of enhanced Maternity leave to those women workers who were already on leave on 1 April 2017

Please [Click Here](#) to read the Notification dated May 8, 2017



Miscellaneous

Introduction of digital filing: A step towards paperless Supreme Court

On May 10 2017, PM Modi uploaded the Integrated Case Management Information System (ICMIS) on the website of Supreme Court.

This marks the beginning of paperless Supreme Court. Now filing a case online and tracking its progress at the Supreme Court is made possible.

Its functions include the option of e-filing cases, checking listing dates, case status, online service of notice/summons, office reports and overall tracking of progress of a case filed with the apex court registry.

Aims to streamline the filing process for both the advocates and the registry, bringing in transparency, provide easy access to the information and reduce time in filing of pleadings.



About KrayMan

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