

Tax Edge

Monthly Tax & Regulatory Updates



Contents

01

**Indirect Tax:
Goods & Services Tax ('GST')**

02

Direct Tax Updates

03

**International Taxation / Transfer
Pricing**

04

Accounting Updates

05

Regulatory Updates

Indirect Tax: GST

Indirect Tax: GST

Central Goods and Service Tax Acts (CGST): Notifications

Relaxation in filing returns for July and August 2017

As per the notifications released, the due dates for filing returns under GST for the month of July and August got extended as per the table below.

Month	GSTR – 1	GSTR – 2 (auto-populated from GSTR – 1)	GSTR – 3
July 2017	1st – 5th Sept	6th – 10th Sept	11th – 15th Sept
August 2017	16th – 20th Sept	21st – 25th Sept	26th - 30th Sept

Please [Click Here](#) for the notification dated Aug 8, 2017

Extension in filing GST CMP – 03

GST CMP – 01 form is required by the provisionally registered assessee to file their intimation to the government that they are willing to pay tax under the composition scheme/levy. They shall furnish the details of stock, including the inward supply of goods received from unregistered persons, held by them on the day preceding the date from which they opt to pay tax under the said section, electronically, in FORM GST CMP-03, within a period of sixty days from the date on which the option for composition levy is exercised. This period of sixty days is now extended to ninety days.

Please [Click Here](#) for the notification dated Aug 17, 2017

Form prescribed by Central Government for Application/Form for grant of Unique Identity Number (UIN) to UN Bodies/ Embassies/ others

Vide notification no. 22/2017 central government has prescribed Form GST REG – 13 for application of UIN to UN bodies/Embassies/Others. The UIN shall be granted or rejected after due verification. These applicants shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.

Please [Click Here](#) for the notification dated Aug 17, 2017

Indirect Tax: GST

Timeline for applying for cancellation of registration extended

The Central Government vide notification no.17/2017 has extended the period for applying for cancellation of registration under GST. Earlier the person registered under earlier law and not required to register under GST law were required to apply for cancellation by July 30, but now after the grant of extended period application for cancellation of registration can be made on or before Sept 30, 2017.

Please [Click Here](#) for the Notification dated July 27, 2017

Adoption of rate of exchange as prescribed under Customs Act for valuation of import/exports under GST

For determination of transaction value of goods imported into or exported from India, the rate of exchange of currency, other than Indian currency, shall be the applicable rate of exchange as notified by the Board under section 14 of the Custom Act.

For determination of transaction value of the restored pilfered imported goods, the rate of exchange of currency, other than Indian currency, shall be the applicable rate of exchange determined as per the generally accepted accounting principles.

Please [Click Here](#) for the Notification dated July 27, 2017

CBEC issued clarification regarding availability of transitional Credit for GST

Vide press release dated Aug 17, 2017 it was clarified that the taxpayers who want to claim transitional input tax credit need to make full settlement of liability after adjusting the transitional input tax credit before Aug 20, and can submit Trans – 1 and Form 3B up to Aug 28, and after claiming the transitional input tax credit.

Please [Click Here](#) for the Press Release dated Aug 17, 2017

Revised GST rates

On Aug 22, 2017 Central Government issued notification revising the rates of CGST for no. of services and amended the notification No. 11/2017, dated June 28, 2017 issued earlier in this regard. As per the revised rate work contract in relation to specified projects and/or purpose shall be charged at 12% and for non-specified the GST rate shall be 18% with full input tax credit (ITC). Similarly, for transport of passengers by motor-cab (cost of fuel included), Services of GTA, Renting of motor-cab (cost of fuel included) etc. revised GST rates are issued with conditions on taking full ITC or no ITC.

Please [Click Here](#) for the Notification No. 20 dated Aug 22, 2017

Indirect Tax: GST

Amendment in provisions related to Reverse Charge Mechanism (RCM) for Goods Transport Agency (GTA)

As per the revised provisions for GTA under RCM, services provided by GTA shall be chargeable under RCM only if it has not paid GST. If GST is already paid by GTA then such services shall be covered in forward charge. GST rate in such cases shall be 12%.

Please [Click Here](#) for the Notification no. 22/2017 dated Aug 22, 2017

Addition to Reverse Charge Mechanism in case of house-keeping services through E-commerce operator

As per the notification services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration the tax on intra-State supplies shall be paid by the electronic commerce operator.

Please [Click Here](#) for the Notification no. 23/2017 dated Aug 22, 2017

Clarification regarding GST on Selling of space for advertisement in print media

Selling of space for advertisement in print media is leviable to GST @ 5%. If the advertisement agency works on principal to principal basis, that is, buys space from the newspaper and sells such space for advertisement to clients on its own account, that is, as a principal, it would be liable to pay GST @5% on the full amount charged by advertisement agency from the client.

On the other hand, if the advertisement agency sells space for advertisement as an agent of the newspaper on commission basis, it would be liable to pay GST@ 18% on the sale commission it receives from the Newspaper. ITC of GST paid on such sale commission would be available to Newspaper.

However, if the advertisement agency supplies any service other than selling of space for advertisement, such as designing or drafting the advertisement, and such supply is not a part of any composite supply, the same would be liable to tax @18%. If such supplies are part of any composite supply, the rate applicable for the principal supply shall apply.

Therefore, everything depends on the terms of the contract between the newspaper, advertisement agency and the client.

Please [Click Here](#) to read the clarification dated Aug 23, 2017

Clarification on issues related to furnishing of Bond/Letter of Undertaking for Exports

In order to put to rest variation in interpretation of Notification and Circulars issued regarding process of furnishing of Bond / Letter of Undertaking for exports, Central Government has clarified various issues such as Eligibility to export under LUT, Form for LUT, Time for acceptance of LUT/Bond, Purchases from manufacturer and form CT-1, Transactions with EOUs, Forward inward remittance in Indian Rupee, Requirement of Bank guarantee, Jurisdictional officer and Documents for LUT.

Please [Click Here](#) to read the clarification dated Aug 11, 2017

Direct Tax Updates

Direct Tax Updates

Notifications/Circulars

Amendment to MAT Audit Report Form No 29B for Ind AS related adjustments where financial statements of company are drawn up as per Ind-As

Central Board of Direct tax (CBDT) vide notification dated Aug 18, 2017 has released new Form No. 29B for reporting calculations of book profit for MAT provisions under section 115JB. In addition to the requirement to report on the accounting policies, accounting standards for preparing financials statement for the period where financial year of the company is not same as the previous year as required in old form, the new form incorporates two new parts Part B and Part C.

Part B of the form is applicable only where the financial statements of the company are drawn up in compliance with the Ind AS specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015 (Ind AS Rules) for the Previous Year (PY) or any part thereof.

Part C of the form is also applicable only where the financial statements of the company are drawn up in compliance with the Ind AS specified in Annexure to the Ind AS Rules for the PY or any part thereof. However, this part will be filled up for the year of convergence and each of the following four PYs only.

Please [Click Here](#) for the notification no. 80/2017 dated Aug 18, 2017

Bonds issued by Indian Railway Finance Corporation Limited notified as 'long term specified asset' for sec 54EC

CBDT has vide notification dated Aug 8, 2107 notified bond redeemable after three years and issued by the Indian Railway Finance Corporation Limited, as 'long-term specified asset' for the purposes of the Sec 54EC. Investment of up to Rs. 50 lakh in these bonds shall enable the assessee to claim exemption from long term capital gain subject to fulfillment of other condition specified under this section.

Please [Click Here](#) for the notification no. 79/2017 dated Aug 8, 2017

Direct Tax Updates

Judicial Precedents

The Citizens Cooperative Society Ltd vs. ACIT (Supreme Court) - S. 80P Test of Mutuality: An assessee cannot be treated as a co-operative society meant only for its members and providing credit facilities to its members if it is granting loans to its depositors which are not members in the real sense. Most of the business of the assessee was with this category of persons who have been giving deposits which are kept in Fixed Deposits with a motive to earn maximum returns. A portion of these deposits is utilized to advance gold loans, etc. to the members of the first category. It is found that the depositors and borrowers are quite distinct. In reality, such activity of the appellant is that of finance business and cannot be termed as co-operative society.

K Raveendranathan Nair vs. CIT (Supreme Court) - S. 260A: Right of appeal is not a matter of procedure. It is a substantive right. This right gets vested in the litigants at the commencement of the litigation and such a vested right cannot be taken away or cannot be impaired or imperiled or made more stringent or onerous by any subsequent legislation unless the subsequent legislation said so either expressly or by necessary intendment.

CIT vs. Hindustan Petroleum Corporation Ltd (Supreme Court) - S. 80-IA: Difference between 'manufacturing' and 'production' explained. The word 'production' has a wider connotation in comparison to 'manufacture'. Any activity which brings a commercially new product into existence constitutes production. The process of bottling of LPG renders it capable of being marketed as a domestic kitchen fuel and, thereby, makes it a viable commercial product.

***International
Taxation / Transfer
Pricing***

International Taxation

Notification for notifying certain countries and specified territories for eligible investment fund under sec 9A(3)(b)

New section 9A was introduced in Finance Act, 2016 to exclude certain activities from business connection in India. As per the section, fund management activity carried out through eligible fund manager acting on behalf of fund established in certain countries and specified territories shall not constitute business connection in India. Vide this notification CBDT has notified certain countries and specified territories with which if fund is established or incorporated shall qualify for eligible investment fund.

Please [Click Here](#) for the notification no. 78/2017 dated Aug 3, 2017

Indian Advance Pricing Agreement regime moves forward with signing of nine APAs by CBDT)

The Central Board of Direct Taxes (CBDT) entered into nine Unilateral Advance Pricing Agreements (UAPAs) with Indian taxpayers in the month of July, 2017. Some of the UAPAs signed had rollback provisions also.

The APA Scheme endeavors to provide certainty to taxpayers in the domain of transfer pricing by specifying the methods of pricing and determining the Arm's Length Price of international transactions in advance for a maximum period of five future years. Further, the taxpayer has the option to rollback the APA for four preceding years, as a result of which, a total of nine years of tax certainty is provided.

Please [Click Here](#) for the press release dated July 31, 2017

The Platform for Collaboration on Tax issued a discussion draft on the taxation of offshore indirect transfers of local assets

The Platform for Collaboration on Tax is a joint effort of the Organisation for Economic Co-operation and Development (OECD), United Nations (UN), International Monetary Fund (IMF) and World Bank Group (WBG). The purpose of the provisions in the draft is to help developing countries tackle the complexities of taxing Offshore Indirect Transfer (OIT) of assets which generally gets escaped from the tax net of source country. The draft analysis alternative options and recommends taxing the local asset owning entity deeming that it disposes the assets at market value and reacquires them at same value. It also provides recommendations for the tax treatment of OITs.

The draft has invited comments on various aspects by Sept 25, 2017

Please [Click Here](#) for the draft

Accounting Updates

Accounting Updates

Release of Educational Material on Ind AS 16 by ICAI

Indian Accounting Standard (Ind AS) 16, Property, Plant and Equipment prescribe the accounting treatment for property, plant and equipment so that users of the financial statements can discern information about an entity's investment in its property, plant and equipment and the changes in such investment.

Institute of Chartered Accountant of India has released an educational material on this standard in order to provide guidance on the accounting for the expenditures incurred on PPE and its disclosures. It contains summary of Ind AS 16 discussing the key requirements of the Standard and the Frequently Asked Questions (FAQs) for smooth implementation of the standard.



Regulatory

RBI Regulations

Consolidated FDI Policy 2017 released

The Government of India (Department of Industrial Policy & Promotion) has issued the Consolidated FDI Policy on 28 August 2017. Key changes include the following:

Special provisions relating to FDI in Start-ups:

The Consolidated FDI Policy lists start-ups as a separate section and enlists the provisions wherein start-ups can issue equity or debt to foreign venture capital investor against receipt of foreign remittance. Further, start-ups can issue convertible notes subject to certain conditions. However, a start-up engaged in a sector under Government approval route may issue convertible notes only with prior approval from the Government.

Proposals involving total foreign equity inflow of more than INR50 billion:

Currently, proposals for sectors under the Government approval route and involving foreign equity inflow > INR50 billion were considered by the Cabinet Committee on Economic Affairs. It has now been clarified that if an entity under the Government approval route receives additional foreign investment up to a cumulative amount of INR50 billion, then fresh approval of the Government/competent ministry is not required when the additional foreign investment is into the same entity within an approved foreign equity percentage/or into a wholly owned subsidiary.

Sourcing norms for products having state-of-the-art and cutting-edge technology:

In case of products having 'state-of-the-art' & 'cutting-edge technology' and where local sourcing is not possible, the requirement of sourcing at least 30% of the value of goods from India is relaxed for the initial 3 years. What exactly constitutes 'state-of-the-art' and 'cutting-edge technology' is not defined creating difficulty. It has been decided that a committee under the chairmanship of Secretary, DIPP, will examine the claim and determine the products getting qualified under "state-of-the-art" and "cutting edge" technology. Proposals to be decided on the basis of their recommendations.

Intimation in respect of downstream investments:

In Intimation for downstream investments will now be required to be made to RBI and the Foreign Investment Facilitation Portal (instead of DIPP and / or Foreign Investment Promotion Board)

Definition of 'FDI-linked performance conditions':

Currently, foreign investment is permitted under the automatic route in limited liability partnership (LLPs) operating in sectors where 100% FDI is allowed through the automatic route and there are no FDI-linked performance conditions. It has now been clarified that 'FDI-linked performance conditions' would mean 'sector-specific conditions.'

Sale through single vendor:

Currently, an e-commerce entity is not permitted to sell more than 25% of sales value affected through marketplace from a single vendor or their group companies. It has been clarified that 25% of the sale value will be calculated on a financial year basis.

Conversion of LLP into company

Conversion of an LLP that has foreign investment into a company would be permitted under the automatic route.

Company Law

Company (Incorporation) Second Amendment Rules, 2017 notified

Company (Incorporation) Second Amendment Rules, 2017 regarding shifting of registered office of the company, were notified by the Government on 27 July 2017.

In case of shifting of registered office within the same state from jurisdiction of one Registrar of Companies to other Registrar of Companies, the requirement of publishing notice in the newspapers and serving individual notice to on each debenture holder, depositor and creditor, have been done away with. List of 5 documents to be filed with the application have been prescribed.

Rules pertaining to shifting of Registered Office from one State or Union Territory to another State have also been changed.

Form INC-23 (Application for shifting of registered office) and Form INC-26 (Advertisement to be published in the newspaper for change of registered office from one state to another) have been modified.

Please [Click Here](#) for the Notification dated July 27, 2017

Revised Secretarial Standards for Board and General Meetings published

- Secretarial Standards on Meetings of the Board of Directors (SS-1) and General Meetings (SS-2) were first made effective from 1 July , 2015. However, because of several amendments/ exemptions and other relaxations notified by the Government to promote ease of doing business, the Secretarial Standards were revised by the Institute of Company Secretaries of India (ICSI) recently.
- The revised SS-1 and SS-2 shall be applicable to all the companies (except the exempted class of companies) w.e.f. 1st October, 2017. Accordingly, all Board and General Meetings in respect of which Notices are issued on or after 1st October, 2017 need to comply with the revised SS-1 and SS-2.
- The existing SS-1 and SS-2 will be applicable to the Board Meetings and General Meetings held on or before 30th September, 2017.

<https://www.icsi.edu/ssb/Home.aspx>

SEBI

SEBI signs a bilateral Memorandum of Understanding with The European Securities and Markets Authority

Press Release dated 20 July 2017 stated that The Securities and Exchange Board of India (SEBI) have entered into a Memorandum of Understanding (MoU) with The European Securities and Markets Authority (ESMA) under the European Markets Infrastructure Regulation (EMIR).

The MoU establishes cooperation arrangements, including the exchange of information regarding Central Counterparties (CCPs) which are established and authorised or recognised in India by SEBI, and which have applied for EU recognition under EMIR.

EMIR provides for signing of a cooperation arrangement between ESMA and the relevant non-EU authorities, whose legal and supervisory framework for CCPs have been deemed equivalent to EMIR by the European Commission. Signing of MoU is one of the conditions for recognition of third country CCPs by ESMA under EMIR.

Please [Click Here](#) for the Press Release



SEBI

SEBI constitutes 'Committee on Financial and Regulatory Technologies (CFRT)'

Application of technology in financial markets is changing the way financial markets traditionally have functioned. Technology is affecting financial markets through various channels like technology driven financial market platforms for fund raising (such as peer to peer lending, crowd funding), online access to investment products (e-KYC, online mart investment products, Robo-advisory, and online portfolio management), post-trade market for securities (through new database technologies such as blockchain and other distributed ledger technology), product and process innovation (such as algorithmic trading, algorithmic driven synthetic investment products, virtual currencies, digital payment gateways), etc.

In order to reap the opportunities provided by FinTech as also to deal with relevant risk and challenges, SEBI has setup a committee constituting experts from various areas such as digital payments, e-brokerage, financing / investment platform, Products/Process Reengineering, Data analytics, ecommerce etc.

The Committee would examine, deliberate and advise SEBI on an ongoing basis on the following:

1. Recent and medium term trends (within next 5 years) in FinTech developments in securities market worldwide
2. Opportunities and challenges from new FinTech solutions and its impact on Indian Securities Market.
3. FinTech solutions for further widening and deepening of Indian securities market.
4. Approach and framework for regulatory sandbox in Indian market conditions to facilitate adoption of FinTech and promote financial innovations
5. Preparing Indian securities market and regulatory framework to adopt to new FinTech solutions while promoting market integrity, market development, consumer protection and managing change, business models and market disruptions
6. Assessing technological solutions for regulatory functions of SEBI viz. information management and data mining, risk management including cyber security, intermediary supervision, consumer protection, etc. through application of new technological solutions like application of distributed ledger technology, big data, data analytics, artificial intelligence, machine Learning etc.
7. Technology capacity building by Indian securities market in general and SEBI in particular.

Please [Click Here](#) for the Press Release

SEBI

Online Registration Mechanism for Securities Market Intermediaries

In its continuous endeavour to improve ease of doing business by adopting technological solutions in its interface with market participants, SEBI has operationalized SEBI Intermediary Portal (<https://siportal.sebi.gov.in>) for the intermediaries to submit their applications online in paperless manner.

The Intermediary Portal provides for online application for registration, processing of application, grant of final registration, application for surrender / cancellation, etc.

The SEBI online dedicated portal for registration is operational for all intermediaries which includes Stock Brokers, Sub-brokers, Depository Participants, Mutual Funds, Merchant Bankers, Underwriters, Registrar to an Issue and Share Transfer Agents, Debenture Trustees, Bankers to an Issue, Credit Rating Agencies, Investment Advisors, Research Analysts, Portfolio Managers, Venture Capital Funds, Real Estate Investment Trusts (REITs), Infrastructure Investment Trusts (InvITs), Alternative investment Funds (AIFs), Custodians and Collective Investment Schemes (CIS).

Please [Click Here](#) for the Press Release

Employee Provident Fund Organisation

Department uploads User Manual for International Worker's Portal

Department had launched online system for generation of Certificate of Coverage vide Circular dated 31 July 2017. Physical application for the same was discontinued.

Accordingly, draft User Manual for International Worker's Portal has been uploaded on the website.

Please [Click Here](#) for the circular dated July 31, 2017

About KrayMan

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KrayMan is an Accounting and 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, Lawyers 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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