

Tax Edge

Monthly Tax & Regulatory Updates



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Indirect Taxation

Goods and Services Tax ('GST')

GST collection tops INR 94,000 Crore for July 2017 from 44 Lakh businesses

The maiden revenue collections to Government from GST is about Rs 94,700 crore from 44 lakhs business houses in July month, the first month of implementation of India's biggest tax reform. 72.5 lakh people have migrated into the GST regime but only 44 lakh have so far filed returns. It also indicates that the revenue figure can increase proportionately in coming months. Further, 11 lakhs business have not yet completed registration for Goods & Services Tax.

Waiver of penalty on non filing of GST returns

The Government, on the recommendations of the GST Council, has waived the penalty of Rs.200 per day (Rs 100 for Central GST & Rs 100 for State GST each) for taxpayers who have not filed the first GST returns within the deadline. However interest has been not waived off. Interest will be applicable to all taxpayers who have not discharged their complete GST liability for July by August 25.

Fringe benefits availed by employees liable to GST

GST will be applicable on any non-monetary fringe benefit which an employee gets from his employer. As per the FAQ issued by Central Board of Excise and Customs (CBEC), fringe benefits are transactions in furtherance of business, even if supplied without consideration, the same are deemed supply and are liable to tax if not exempted.

Please [Click Here](#) to read FAQ issued by CBEC

Indirect Taxation

Goods and Services Tax ('GST')

Revision of Due Dates of GST Transitional Return

Due date for filing of GSTR TRAN-1, return for claiming transitional input tax credit i.e. credit of taxes paid under pre GST regime has been extended to 31st-Oct-2017. Further, Government has provided that GST Tran-1 can be revised only for one time.

Please [Click Here](#) to read the order dated Sep 21, 2017.

Revision of Due Dates of GST Returns

Due to the difficulties being faced by taxpayers while filing GST returns, GST council in its 21st meeting held at Hyderabad on 9th Sept has recommended to further extend the due dates of GST returns as per below. Further, option for availing composition scheme for both new registrants and migrated persons has been extended till 30th Sept 2017 and shall be allowed to avail the benefits from 01- Oct- 2017.

Sl	Returns	Description	Tax Period	Revised Due Dates
1	GSTR-1 (For Turnover more than 100 Cr)	Return for Outward Supply	July, 2017	03- Oct-2017
2	GSTR-1 (For Turnover less than 100 Cr)	Return for Outward Supply	July, 2017	10- Oct-2017
3	GSTR-2	Return for Inward Supply	July, 2017	31- Oct-2017
4	GSTR-3	Monthly Return	July, 2017	10-Nov-2017
5	GSTR-4	Return for Composite dealers	July-Sept, 2017	18-Oct-2017 (No Change)
6	GSTR-6	Return for Input Service Distributors	July, 2017	13-Oct-2017

Please [click here](#) to read the notification dated Sep 11, 2017.

Indirect Taxation

Goods and Services Tax ('GST')

Exemption from registration to a Job-worker making inter-state taxable supplies of goods

Mandatory registrations for Job workers making inter-state taxable supply of goods has been exempted if following conditions are satisfied:

- Job worker service should be provided to a registered person
- Goods should be moved under the cover of an e-way bill, irrespective of the value of the consignment.
- Exemption will not be available to job work in relation to jewelry, goldsmiths' and silversmiths' wares which do not require e-way bill.

Please [Click Here](#) to read the clarification dated Sep 14, 2017.

Exemption from registration to a casual taxable person / person making inter-state taxable supplies of handicraft goods

Central Government has provided that the casual taxable persons as well as the persons making inter-State taxable supplies of handicraft goods as the category of persons exempted from obtaining registration if the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of Rs. 20 lakhs in a financial year (Rs. 10 lakhs for Special Category States other than J&K). However they have to obtain a Permanent Account Number and generate an E-way bill for movement of goods.

Please [Click Here](#) to read the clarification dated Sep 14, 2017.

Government has notified the TDS provision under GST

Central Government has notified the section for liability to deduct tax @ 1% on the payment made or credited to the supplier of taxable goods or services, where the total value of such supply, under a contract, exceeds two lakhs and fifty thousand rupees.

Government also increased the category of persons who shall be liable to deduct tax on payment made. Further, effective date from which tax is to be deducted will be notified subsequently.

Please [Click Here](#) to read the notified dated Sep 15, 2017.

Indirect Taxation

Goods and Services Tax ('GST')

Filing of Monthly Summary Return (Form GSTR 3B) made mandatory for the months of September to December 2017

Central Government has made it mandatory to file the GST monthly summary return i.e. Form GSTR 3B electronically through the common portal till the month of December as below -

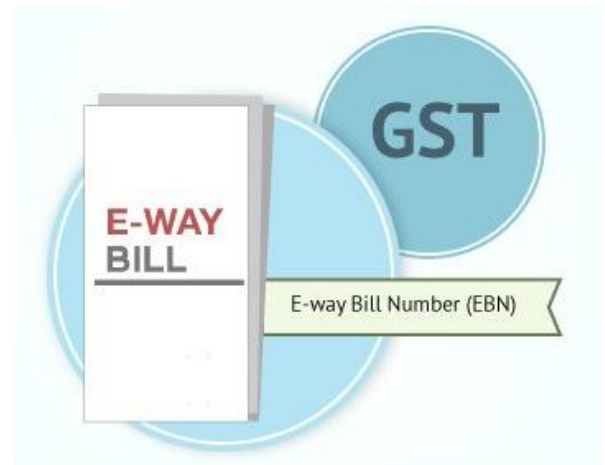
Month	Due Dates
August 2017	20-Sep-17
September 2017	20-Oct-17
October 2017	20-Nov-17
November 2017	20-Dec-17
December 2017	20-Jan-18

Please [Click Here](#) to read the notification dated Sep 15, 2017.

Procedure prescribed for generation of E-way bill

Central Government vide Notification no.27/2017-Central Tax, dated. 30-08-2017 has prescribed the detailed procedure to be followed for generation of E-way bill and information to be furnished prior to commencement of movement of goods. E-way bill is an electronic way bill for movement of goods which can be generated online through the GST portal.

Please [Click Here](#) to read the clarification dated Aug 30, 2017.



Direct Tax Updates

Direct Taxation

Extension of time for linking Aadhaar with PAN

As per section 139AA of the Income-tax Act, all taxpayers having Aadhaar Number or Enrolment Number are required to link it with PAN Number for filling the tax return. The Central Board of Direct Taxes (CBDT) relaxed the said provision vide its order dated 31.07.2017, wherein further time till 31 August 2017 was allowed to the taxpayers to link Aadhaar with PAN.

The Central Board of Direct Taxes (CBDT) has further extended the time for linking Aadhaar with PAN till 31 December 2017.

Please [Click Here](#) for the order dated August 31, 2017



Extension of due date for filling return of income and tax audit report from 30 September to 31 October 2017

The Central Board of Direct Taxes (CBDT), in respect of all assesseees covered under clause (a) of Explanation 2 to sub-section (1) of section 139 of the Act, has extended the 'due date' for filling of return of income as well as various reports of audit prescribed under the Income-tax act which are required to be filed by the said 'due date' from 30th September 2017 to 31st October, 2017.

Please [Click Here](#) for the order dated 31 Aug, 2017

Direct Taxation

Impact of Demonetization on Black Money, Widening of Tax Base and Direct Tax Collections

The Government launched a concerted drive against black money with Demonetization being an important step in that direction. Among the main objectives of Demonetization was the flushing out of black money and also conversion of the non-formal economy into a formal economy to expand the tax base. The Income Tax Department launched 'Operation Clean Money' (OCM) on 31st January, 2017 to analyze the data of the persons who deposited large sums of cash and whose returns of income were not in sync with such deposits.

Vide Press Release dated 31 Aug 2017, the CBDT has declared the impact of Demonetization on black money, widening of tax base and Direct Tax Collections.

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

TDS on Interest on deposits made under the Capital Gain Accounts Scheme, 1988 where the depositor has deceased

The Principal Director General of Income-tax (systems) has specified that in case of deposits made under Capital Gain Accounts Scheme, 1988 where the depositor has deceased –

- TDS on the interest income accrued for and up to the period of death of depositor is required to be deducted and reported against the PAN of the depositor, and
- TDS on the interest income accrued for the period after the death of depositor is required to be deducted and reported against the PAN of the legal heir.

Unless a declaration is filed under Rule 37BA(2) of the Income-tax Rules.

Please [Click Here](#) for the notification 8/2017 dated Sep 13, 2017.

Judicial Precedents

CIT vs. Sinhgad Technical Education Society (Supreme Court)

Assessment of income of any other person [153C] – *The seized incriminating material have to pertain to the AY in question and have co-relation, document-wise, with the AY. This requirement u/s 153C is essential and becomes a jurisdictional fact. It is an essential condition precedent that any money, bullion or jewelry or other valuable articles or thing or books of accounts or documents seized or requisitioned should belong to a person other than the person referred to in section 153A.*

Adivappa vs. Bhimappa (Supreme Court)

HUF Law - *It is a settled principle of Hindu law that there lies a legal presumption that every Hindu family is joint in food, worship and estate and in the absence of any proof of division, such legal presumption continues to operate in the family. The burden lies upon the member who after admitting the existence of jointness in the family properties asserts his claim that some properties out of entire lot of ancestral properties are his self-acquired property.*

CIT vs. S. V. Gopala Rao (Supreme Court)

Circular u/s 119 - *The CBDT has no jurisdiction to issue a Circular to amend the legislative provisions set out in the Act. Such action is ultra vires and liable to be quashed.*

CIT vs. Travancore Cochin Udyoga Mandal (Supreme Court)

Business Expenditure [Section 37] - *In order to decide whether disputed lease rent is deductible in the year of fixation or in the year the dispute attains finality, the nature of fixation of rent, its payment, recovery etc. and whether it is statutory or contractual, have bearing. The Tribunal being the last adjudicatory authority in hierarchy on facts would be in a better position to decide the issue after taking into account the documents filed by the parties in support of their respective contentions. The Tribunal is required to bring the facts on record.*

Maharaja Amrinder Singh vs. CWT (Supreme Court)

Substantial question of law - *The High Court cannot proceed to hear a second appeal without formulating the substantial question of law involved in the appeal and if it does so it acts illegally and in abnegation or abdication of the duty case on Court. The existence of substantial question of law is the sine qua non for the exercise of the jurisdiction*

International Taxation

International Taxation

Procedure for filling statement of income from a country or specified territory outside India and Foreign Tax Credit

Foreign Tax Credit - An assessee, being a resident in India is allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India. For this purpose, statement in Form 67 is required to be furnished on or before due date of filing the income-tax return. The Principal Director General on Income-Tax (Systems) has prescribed the procedure for filling the statement of income and claiming the foreign tax credit.

- Online filling of form 67: all assessees who are required to file return of income electronically, are required to prepare and submit Form 67 along with the return of income.
- Preparation & submission of form 67: Form 67 will be available to all the assessees login on the income-tax portal. Digital Signature Certificate or Electronic Verification Code is mandatory to submit Form 67

Please [Click Here](#) for the Notification no. 9 dated Sep 19, 2017

Indian Advance Pricing Agreement (APA) regime moves forward with signing of four APAs by CBDT

The Central Board of Direct Taxes (CBDT) has entered into 4 more Advance Pricing Agreements (APAs) during August, 2017. Out of these 4 Agreements, 3 are Unilateral and 1 is a Bilateral. The Bilateral APA is for international transactions between an Indian company and a UK-based company.

With the signing of these 4 Agreements, the total number of APAs entered into by CBDT has reached 175. This includes 162 Unilateral APAs and 13 Bilateral APAs. In the current financial year, a total of 23 APAs (2 Bilateral and 21 Unilateral) have been signed till date. The 4 APAs entered into during August, 2017 pertain to various sectors of the economy like Telecom, Banking, Manufacturing and Education.

The APA scheme endeavors to provide certainty to taxpayers in the domain of transfer pricing by specifying the methods of pricing and setting the prices of international transactions in advance. Since its inception, the APA scheme has been well accepted by taxpayers and has resulted in more than 800 applications being filed so far in 5 years.

Please [Click Here](#) for the press release dated Sep 4, 2017

Companies Law

Companies Act, 2013

Government amends Companies (Acceptance of Deposits) Rules, 2014

As per Companies Act, 2013, no company was allowed to accept or renew deposits from its shareholders for a total amount which should not be more than 25% of aggregate of paid up capital, free reserves and securities premium account.

Government has further relaxed the above provision vide notification dated 19 Sep 2017. Now, specific class of companies are allowed to accept monies from its shareholders up to 100% of aggregate of paid up capital, free reserves and securities premium account. These companies include private company and unlisted public company which is licensed to operate by the Reserve Bank of India or the Securities and Exchange Board of India or the Insurance Regulatory and Development Authority of India from the International Financial Services Centre located in an approved multi services Special Economic Zone set-up under the Special Economic Zones Act 2005 (28 of 2005) read with the Special Economic Zones Rules, 2006.

Following companies are exempted from the above limit of accepting deposits:-

- A private company which is a start-up, for five years from the date of its incorporation;
- A private company which fulfills all of the following conditions, namely –
 - ✓ which is not an associate or a subsidiary company of any other company;
 - ✓ the borrowings of such a company from banks or financial institutions or any body corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is less ; and
 - ✓ such a company has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under section 73:

All the above companies accepting deposits shall file the details of such monies in Form DPT-3.

Please [Click Here](#) for the Notification dated Sep 19, 2017.

Companies Act, 2013

Companies (Restriction on number of layers) Rules, 2017 notified

A company, other than a company belonging to a class as specified, is not allowed to have more than two layers of subsidiaries. However, the rules shall not affect a company from acquiring a company incorporated outside India with subsidiaries beyond two layers as per the laws of such country. One layer which consists of one or more wholly owned subsidiary or subsidiaries shall not be taken into account for this purpose.

Certain banking, insurance and Government companies are exempted under these rules.

A company, other than the companies as specified above, existing on or before the commencement of these rules, which has number of layers of subsidiaries in excess-

- shall file with the Registrar a return in Form CRL- I within a period of 150 days from the date of publication of these rules in the official Gazette;
- shall not, after the date of commencement of these rules, have any additional layer of subsidiaries over and above the layers existing on such date; and
- in case one or more layers are reduced by it subsequent to the commencement of these rules, shall not have the number of layers beyond the number of layers it has after such reduction or maximum layers allowed, whichever is more .

Please [Click Here](#) for the Notification dated Sep 20, 2017.



About KrayMan

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