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Taxation



Accounting



Regulatory

TAX EDGE

Monthly Tax & Regulatory Updates



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Roll out of e-Way Bill system for intra-State movement of goods

As per the decision of the GST Council, e-Way Bill system for inter-State movement of goods has been rolled out from 1st April, 2018. As on 30th May, 2018, e-Way Bill system for intra-State movement of goods has been rolled out in the States of Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland, Rajasthan, Sikkim, Telangana, Tripura, Uttarakhand and Uttar Pradesh along with the Union Territories of Andaman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep and Puducherry.

It is informed that e-Way Bill system for intra-State movement of goods has been implemented in the following States as per below schedule-

| Sr. No. | State | Date of Implementation |
|---------|---|----------------------------|
| 1 | Chhattisgarh, Goa, Jammu & Kashmir, Mizoram, Odisha & Punjab | 1 st June 2018 |
| 2 | Tamil Nadu | 2 nd June 2018 |
| 3 | West Bengal | 3 rd June 2018 |
| 4 | Delhi | 16 th June 2018 |

Please click here to read Press Release on the above





Clarifications on 5 Main issues related to GST refund

1

Claim for refund filed by an Input Service Distributor, a person paying tax under section 10 or a non-resident taxable person:

Doubts have been raised in case of claims for refund filed by an Input Service Distributor (ISD), composition taxpayer or a non-resident taxable, CGST Act mandates that refund claim for a tax period may be filed only after filing the details in FORM GSTR-1 for the said tax period and that it is also to be ensured that a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed.

However, it is clarified that in case of a claim for refund of balance in the electronic cash ledger filed by an ISD or a composition taxpayer; and the claim for refund of balance in the electronic cash and/or credit ledger by a non-resident taxable person, the filing of the details in FORM GSTR-1 and the return in FORM GSTR-3B is not mandatory. Instead, the return in FORM GSTR-4 filed by a composition taxpayer, the details in FORM GSTR-6 filed by an ISD and the return in FORM GSTR-5 filed by a non-resident taxable person shall be sufficient for claiming the said refund.

2

Application for refund of integrated tax paid on export of services and supplies made to a Special Economic Zone developer or a Special Economic Zone unit:

It has been represented that while filing the return in FORM GSTR-3B for a given tax period, certain registered persons committed errors in declaring the export of services on payment of integrated tax or zero rated supplies made to a Special Economic Zone developer or a Special Economic Zone unit on payment of integrated tax. They have shown such supplies in the Table under column 3.1(a) instead of showing them in column 3.1(b) of FORM GSTR-3B whilst they have shown the correct details in Table 6A or 6B of FORM GSTR-1 for the relevant tax period and duly discharged their tax liabilities. Such registered persons are unable to file the refund application in FORM GST RFD-01A for refund of integrated tax paid on the export of services or on supplies made to a SEZ developer or a SEZ unit on the GST common portal because of an in-built validation check in the system which restricts the refund amount claimed (integrated tax/cess) to the amount of integrated tax/cess mentioned under column 3.1(b) of FORM GSTR-3B (zero rated supplies) filed for the corresponding tax period.

In this regard, it is clarified that for the tax periods commencing from 01.07.2017 to 31.03.2018, such registered persons shall be allowed to file the refund application in FORM GST RFD-01A on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period.



Clarifications on 5 Main issues related to GST refund

3

Refund of unutilized input tax credit of compensation cess availed on inputs in cases where the final product is not subject to the levy of compensation cess:

Doubts have been raised whether an exporter is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminum products, whereas cess is not levied on aluminum products.

In this regard, IGST Act states that, credit of input tax may be availed for making zero rated supplies other that ineligible credit under CGST Act. Further, as per section 8 of the Goods and Services Tax (Compensation to States) Act, 2017, (hereafter referred to as the Cess Act), all goods and services specified in the Schedule to the Cess Act are leviable to cess under the Cess Act; and vide section 11 (2) of the Cess Act, section 16 of the IGST Act is mutantis mutandis made applicable to inter-State supplies of all such goods and services. Thus, it implies that all supplies of such goods and services are zero rated under the Cess Act. Moreover, as section 17(5) of the CGST Act does not restrict the availment of input tax credit of compensation cess on coal, it is clarified that a registered person making zero rated supply of aluminum products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal.

Such registered persons may also make zero-rated supply of aluminum products on payment of integrated tax but they cannot utilize the credit of the compensation cess paid on coal for payment of integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies. Accordingly, they cannot claim refund of compensation cess in case of zero-rated supply on payment of integrated tax.

4

Whether bond or Letter of Undertaking (LUT) is required in the case of zero rated supply of exempted or non-GST goods and whether refund can be claimed by the exporter of exempted or non-GST goods?

As per IGST Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply is an exempt supply. Whereas, as per section 2 (47) of the CGST Act, exempt supply includes non-taxable supply. Further, as per section 16(3) of the IGST Act, a registered person making zero rated supply shall be eligible to claim refund when he either makes supply of goods or services or both under bond or letter of undertaking (LUT) or makes such supply on payment of integrated tax.

However, in case of zero rated supply of exempted or non-GST goods, the requirement for furnishing a bond or LUT cannot be insisted upon. It is thus, clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of integrated tax; LUT/bond is not required. Such registered persons exporting non-GST goods shall comply with the requirements prescribed under the existing law (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any.

Further, the exporter would be eligible for refund of unutilized input tax credit of central tax, state tax, union territory tax, integrated tax and compensation cess in such cases.



Clarifications on 5 Main issues related to GST refund

5

What is the scope of the restriction imposed by rule 96(10) of the CGST Rules, regarding non-availment of the benefit of notification Nos. 48/2017-Central Tax dated the 18.10.2017, 40/2017-Central Tax (Rate) dated 23.10.2017, 41/2017-Integrated Tax (Rate) dated 23.10.2017, 78/2017-Customs dated 13.10.2017 or 79/2017-Customs dated 13.10.2017?

Sub-rule (10) of rule 96 of the CGST Rules seeks to prevent an exporter, who is receiving goods from suppliers availing the benefit of certain specified notifications under which they supply goods without payment of tax or at reduced rate of tax, from exporting goods under payment of integrated tax. This is to ensure that the exporter does not utilise the input tax credit availed on other domestic supplies received for making the payment of integrated tax on export of goods.

However, the said restriction is not applicable to an exporter who has procured goods from suppliers who have not availed the benefits of the specified notifications for making their outward supplies. Further, the said restriction is also not applicable to an exporter who has procured goods from suppliers who have, in turn, received goods from registered persons availing the benefits of these notifications since the exporter did not directly procure these goods without payment of tax or at reduced rate of tax.

Thus, the restriction under sub-rule (10) of rule 96 of the CGST Rules is only applicable to those exporters who are directly receiving goods from those suppliers who are availing the benefit under notification Nos. 48/2017-Central Tax dated the 18.10.2017, notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017, or notification No. 41/2017-Integrated Tax (Rate) dated the 23rd October, 2017 or notification No. 78/2017-Customs dated the 13th October, 2017 or notification No. 79/2017-Customs dated the 13th October, 2017.

Further, there might be a scenario where a manufacturer might have imported capital goods by availing the benefit of notification No. 78/2017-Customs dated the 13th October, 2017 or notification No. 79/2017-Customs dated the 13th October, 2017. Thereafter, goods manufactured from such capital goods may be supplied to an exporter. It is hereby clarified that this restriction does not apply to such inward supplies of an exporter.

Please click here to read the circular



<u>Sanction of pending IGST refund claims where the records have not been transmitted</u> from the Goods and Services Tax Network (GSTN) to Directorate General (DG) Systems:

The Central Board of Indirect Taxes and Customs (CBIC) has issued a circular for the issues arisen due to non-sanction of refunds because non-transmission of data from Goods and Services Tax Network (GSTN) to the Customs Electronic Data Interchange (EDI) system.

The circular provides a solution to the above issue through submission of certificates from a Chartered Accountant (CA).

CBIC has categorized the above issue in two ways:

- Where there is no short payment of Integrated GST (IGST)- Exporters will be required to submit a
 certificate from a Chartered Accountant to the effect that there is no discrepancy between the IGST
 amount refunded on exports and the actual IGST amount paid on export of goods for the period July
 2017 to March 2018.
- 2. Where there is a cases of short payment of IGST of amounts up to INR 1 million Exporters will be required to first make good such shortfall, submit self-certified copy of challans and then file CA certificate. If refund amount exceeds INR1 million, exporters will also be required to submit a certificate from a CA to the effect that the shortfall amount has been liquidated.

Please <u>click here</u> to read the circular

Total GST refund disposed till 16th June, 2018 stands at Rs 41,548 crore and Special Refund Fortnight extended from 31st May, 2018 to 16th June, 2018.

In line with the commitment of Government to liquidate all pending GST refunds filed till 30th April, 2018, the Central Board of Indirect Taxes and Customs (CBIC) has successfully concluded the 2nd Special Refund Fortnight extended from 31st May, 2018 to 16th June, 2018.

By the end of 16th June, 2018, Rs.6,087 crore IGST refund has been sanctioned in the refund fortnight. The interesting facts during the second fortnight are (i) about 1,68,191 shipping bills have been processed (ii) IGST refund claims of about 9,293 exporters have been sanctioned including about 3500 new exporters, whose refunds had been held up, have got their refund sanctioned.

The momentum gained during this fortnight would be carried on by all formations where refunds are still pending. The CBIC is dedicated to sanction all the legitimate refund claims of exporters. Efforts are being made to resolve those issues which are still pending. However, the exporters need to ensure that the correct procedure of filing returns, giving accurate information in Shipping Bill and submitting RFD01A application forms to the jurisdictional formations are followed for quick disbursal of their refund claims

Please click here to read Press Release on the above



Change of email and mobile number of the authorized signatory by taxpayers with assistance from the jurisdictional tax officer under GST system

A functionality to update email and mobile number of the authorized signatory is available in the GST System. The email and mobile number can be updated by the concerned Jurisdictional tax authority of the taxpayer as per the following procedure:

Following steps are required to be followed for change of email and mobile number.

- Taxpayer is required to approach the concerned jurisdictional Tax Officer to get the password for the GSTIN allotted to the business
- Taxpayer would be required to provide valid documents to the tax officer as proof of his / her identity and to validate the business details related to his GSTIN
- Tax officer will check if the said person is added as a Stakeholder or Authorized Signatory for that GSTIN in the system
- Tax officer will upload necessary proof on the GST Portal in support to authenticate the activity
- Tax officer will enter the new email address and mobile phone number provided by the Taxpayer
- · After upload of document, Tax officer will reset the password for the GSTIN in the system
- Username and Temporary password reset will be communicated to the email address as entered by the Tax Officer
- Taxpayer need to login on GST Portal https://www.gst.gov.in/ using the First time login link.

After first time login with the Username and Temporary password that was emailed to him, system would prompt the taxpayer to change username and password. The said username and password can now be used by the taxpayer.

Please click here to read Press Release on the above





No change in the GST law and taxation relating to farmers since July, 2017; Support Services to agriculture, forestry, fishing or animal husbandry are exempt from GST Agriculturists are also exempted from taking GST Registration.

It was circulating in certain section of the Press that certain changes have been made in GST law relating to farmers, which will come into force with effect from 1st June, 2018 according to which farmers would be required to take registration and pay GST of 18% when they lease out their land.

This news is factually incorrect and misleading. There has been no Change in the GST law and taxation relating to farmers since July, 2017, when GST was implemented. Support services to agriculture, forestry, fishing or animal husbandry are exempt from GST. Such exempted support services include renting or leasing of vacant land with or without a structure incidental to its use. Thus, renting or leasing of land by farmers for agriculture, forestry, fishing or animal husbandry on batai (share cropping) or otherwise is also exempt from GST.

Further, agriculturists are also exempted from taking GST registration. Agriculturist has been defined to mean an individual or an HUF who undertakes cultivation of land-

- · by own labour
- by the labour of family
- by servants or wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family.

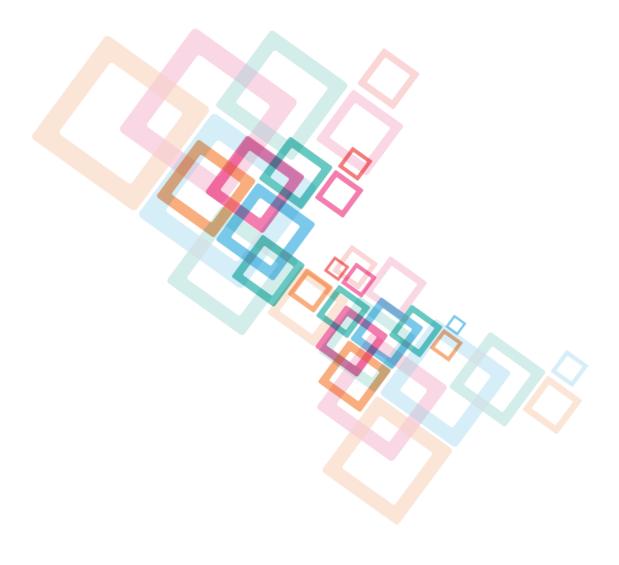
Please <u>click here</u> to read Press Release on the above

Applicability of Integrated Goods and Services Tax (IGST) on goods supplied while being deposited in a customs bonded warehouse

The Central Government vide circular clarified that IGST shall be levied and collected at the time of final clearance of the warehoused goods for home consumption i.e., at the time of filing the ex-bond bill of entry and the value addition accruing at each stage of supply shall form part of the value on which the IGST would be payable at the time of clearance of the warehoused goods for home consumption. IGST Act, 2017 provides that the supply of goods imported into the territory of India, till they cross the customs frontiers of India, is treated as a supply of goods in the course of inter-State trade or commerce. Further, the proviso to section 5(1) of the IGST Act provides that the IGST on goods imported into India would be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975. Thus, in case of supply of the warehoused goods, the point of levy would be the point at which the duty is collected under section 12 of the Customs Act, 1962 which is at the time of clearance of such goods under section 68 of the Customs Act. A sub-section (8A) has been inserted in section 3 of the CTA vide section 102 of the Finance Act, 2018,with effect from 31st March, 2018,so as to provide that the valuation for the purpose of levy of IGST on warehoused imported goods at the time of clearance for home consumption would be either the transaction value or the value as per sub-section (8) of section 3 of the CTA (i.e. valuation done at the time of filing the into-bond bill of entry), whichever is higher.

It is therefore clarified that the supply of goods before their clearance from the warehouse would not be subject to the levy of IGST and the same would be levied and collected only when the warehoused goods are cleared for home consumption from the customs bonded warehouse. This Circular would be applicable for supply of warehoused goods, while being deposited in a customs bonded warehouse, on or after the 1st of April, 2018.

Please click here to read circular





Applicability of Income Tax Return (ITR) forms to various category of taxpayers

Central Board of Direct Taxes (CBDT) has notified the new ITR forms for the Financial Year 2017-18. The below table summarizes the forms applicable to particular category of taxpayers according to their sources of Income.

| to their sources of Income. | | | | |
|-----------------------------|--|--|--|--|
| Form | Category of taxpayers | Sources of income covered | | |
| ITR-1 (Sahaj) | Individuals (resident and ordinarily resident) | Who can file ITR-1: Income from Salary/ Pension; or Income from One House Property (excluding cases where there is brought forward loss or loss to be carried forward from previous year); or Income from Other Sources Who cannot file ITR-1 Who has an asset or signing authority in any account outside India or earns income from any source outside India, or Who has claimed tax treaty relief and/or unilateral double tax relief, or Has agricultural income above INR 5,000 or Has total income above INR 50 Lakh, or Has dividend income exceeding INR 10 Lakh attracting super rich dividend tax levy, or Has unexplained credits or investment taxable at 60% under the provisions of the ITL, or Has capital gains or business income, or Income from more than one house property or has brought forward loss or loss to be carried forward under the house property head, or Income from lotteries or horse races or loss under the other sources head | | |
| ITR-2 | Individuals and HUFs | Who can file ITR-2: Has income from salaries, or Income from house property, or Capital gains, or Income from other sources Who cannot file ITR-2 Income under the head "Profits or Gains of Business or | | |

Profession".



| Form | Category of taxpayers | Sources of income covered |
|----------------|--|--|
| ITR-3 | Individuals and HUFs | Who can file ITR-3 Has income from business or profession Who cannot file ITR-3 Who is required to file Sugam (ITR-4) (presumptive tax) |
| ITR-4 Sugam | Individuals, HUFs, firms (other than limited liability partnerships (LLPs)) | Assesses having Income from Profits and gains from business and professions to which presumptive tax provisions apply |
| ITR-5 | For Firms/ LLPs/ Association of Persons (AOPs) | Assesses having Income from Income from house property, Capital gains, Profits and gains from business and profession, Income from other sources |
| ITR-6 | Companies other than those filing ITR-7 | Assesses having Income from Income from house property, Capital gains, Profits and gains from business and profession, Income from other sources |
| ITR-7 | Persons requiring to furnish return of income in circumstances specifically provided for under the ITL viz., charitable trusts and other institutions, political parties, business trusts etc. | Income from house property Capital gains Profits and gains from business and profession Income from other sources |



Cost Inflation Index (CII) for FY 2018-19 used for Long Term Capital Gains (LTCG) calculation notified by Government

The Finance Ministry has notified 280 as the CII number for FY 2018-19. This CII number is important as it will be used to compute inflation adjusted LTCG on assets such as house, gold, debt mutual funds etc. accrued in FY 2018-19 and consequently impacts the amount of tax payable on them. Tax on such LTCG is calculated at the rate of 20% of the gain after indexation.

Please <u>Click Here</u> to read the notification.

Taxpayers' appeals in Income Tax Appellate Tribunal (ITAT) must mention amount locked up in dispute

Income tax payers filing appeals before ITAT will have to provide information relating to the amount locked up in dispute along with a brief case history and the relief claimed. The Income Tax Department came out with a draft notification saying it is amending Form 36, 36A and Rule 47 under the Income Tax (I-T) Act to seek information about pending disputes with a view to reframing its litigation policy.

Please Click Here to read the draft notification proposing amendment.

Income Tax Department introduced new reward scheme titled "Income Tax Informants Reward Scheme. 2018"

With the objective of obtaining people's participation in the Income Tax Department's efforts to unearth black money and reduce tax evasion, a new reward scheme titled "Income Tax Informants Reward Scheme, 2018" has been issued by the Income Tax Department, superseding the earlier reward scheme issued in 2007. Under the revised scheme, a person can get reward up to Rs.50 lakh for giving specific information in prescribed manner to the designated officers of Investigation Directorates in Income Tax Department about substantial evasion of tax on income or assets in India which are actionable under the Income-tax Act, 1961.

Information under this scheme has to be given in prescribed manner to the Director General of Income Tax (Investigation) or an officer whom he may authorize in this behalf. Foreigners will also be eligible for reward under this scheme. Identity of the persons giving information will not be disclosed and strict confidentiality shall be maintained.

Please Click Here to read the full scheme.

New Benami Transactions Informants Reward Scheme launched by the Income Tax Department

With the objective of obtaining people's participation in the Income Tax Department's efforts to unearth black money and to reduce tax evasion, a new reward scheme titled "Benami Transactions Informants Reward Scheme, 2018", has been issued by the Income Tax Department. This reward scheme is aimed at encouraging people to give information about benami transactions and properties as well as income earned on such properties by such hidden investors and beneficial owners.

Under the "Benami Transactions Informants Reward Scheme, 2018", a person can get reward up to Rs.1crore for giving specific information in prescribed manner to the Joint or Additional Commissioners of Benami Prohibition Units (BPUs) in Investigation Directorates of Income Tax Department about benami transactions and properties as well as proceeds from such properties which are actionable under Benami Property Transactions Act, 1988, as amended by Benami Transactions (Prohibition) Amendment Act, 2016. Foreigners will also be eligible for such reward.

Please Click Here to read the full scheme.

International Tax/ Transfer Pricing





International Tax

CBDT proposes clear-cut timelines under Transfer Pricing

The IT department has proposed clear-cut timelines by which excess amount assessed by transfer pricing officials (TPOs) over what was declared by associated enterprises of multinational corporations (MNCs) has to be brought in India.

These timelines relate to advance pricing agreements (APAs) and mutual agreement procedures (MAPs). In the Union Budget 2016-17, the government has come out with a concept of secondary adjustments.

This basically means that if there is primary adjustment either made by the TPO or suomoto by the companies, which differs from what was declared by companies earlier, the excess amount has to be brought back to India within a stipulated time.

Please Click Here to read the draft Notification.



Companies Act, 2013





Companies Act, 2013

Companies (Significant Beneficial Owners) Rules, 2018

The Government, through a notification dated 13th June 2018, issued notification for amendment in Companies (Significant Beneficial Owners) Rules, 2014.

Significant beneficial owner" means an individual holding ultimate beneficial interest of atleast 10%, but whose name is not entered in the register of members of a company as the holder of such shares.

Earlier, the member and beneficial owner, both had to submit the declarations to the company in Form MGT-4 & MGT-5 respectively. The company was then required to submit the same in Form MGT-6 within 30 days of receipt, to the Registrar of Companies.

Key points of the new notification:

- Every significant beneficial owner shall file a declaration in Form No.
 BEN-I to the company in which he holds the significant beneficial
 ownership on the date of commencement of these rules within ninety
 days (i.e. latest by 12th September 2018) from such commencement
 and within thirty days in case of any change in his significant beneficial
 ownership.
- Where the company receives any declaration, it shall file a return in Form No. BEN-2 with the Registrar in respect of such declaration, within a period of thirty days from the date of receipt of declaration by it.
- The Company shall maintain a register of significant beneficial owners in Form No. BEN-3.

Please click here for the notification



Companies Act, 2013

Companies (Management and Administration) Second Amendment Rules, 2018

The company has come up with the notification in line with 'Ease of Doing Business', which shall be effective from 13 June 2018.

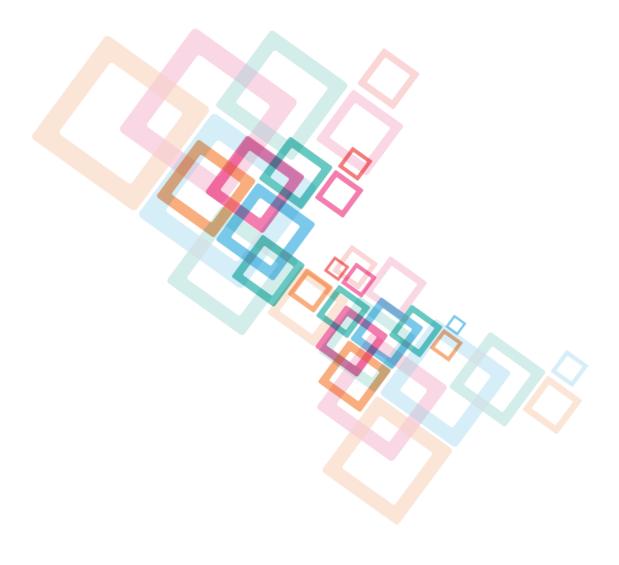
Key Points of notification:

- The requirement to file form MGT-10 for Changes in Shareholding Position of Promoters and Top Ten Shareholders has been done away with.
- The Extra-Ordinary General Meeting can now be held outside India.
- The requirement to file proposed special resolution in advance for keeping register, return at any place other than the registered office of the company in India has been omitted
- The item of business, which are mandatorily required to be transacted by means of postal ballot, may be transacted at a general meeting by a company, which is required to provide the facility to members to vote by electronic means.

Please click here for the notification.



Foreign Exchange Regulations (FEMA)





Foreign Exchange Regulations (FEMA)

Foreign Investment Reporting - Single Master Form

The Reserve Bank of India (RBI'), with the objective of integrating the various reporting structures of foreign investment in India, has introduced a **Single Master Form (SMF)**. The SMF would be required to be filed online and would provide a facility for reporting total foreign investment in an Indian entity. SMF would substitute the requirement of individual reporting currently being done through Form FC-GPR, FC-TRS, LLP-II, ESOP, CN and DRR. The requirement of submitting annual statement of foreign liabilities and assets ('FLA') with RBI by 15 July of every year, shall, however, continue.

Prior to the implementation of SMF, RBI would provide an interface to the Indian entities to input the data on total foreign investment in a specified format called **Entity Master File (EMF)**. The interface will be available on RBI's website (www.rbi.org.in) from **June 28, 2018 to July 12, 2018**. Indian entities not complying with this pre-requisite will not be able to receive foreign investment and will be considered non-compliant with Foreign Exchange Management Act, 1999 and regulations made there under.

Considering the limited window of 15 days for filing EMF and the severe consequences attached to non-filing, Indian entities having foreign investment must prepare to submit the information timely.

Please Click Here to view the circular no.30 dated 7 June 2018 issued by RBI

About KrayMan

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We are members of following associations:

- Japan Chamber of Commerce and Industry in India (JCCII) an organization of more than 400 Japanese companies working towards the welfare of Japanese companies in India
- Prime Advisory Network (PAN), United Kingdom a network of Accountants and Lawyers with presence in more than 60 countries

- Cross Border Associates (CBA), Germany specializing in mergers & acquisitions activities having presence in more than 95 countries
- TiE Delhi world's largest entrepreneurial organization with 62 chapters in 18 countries

For any assistance, please write to us at: communications@krayman.com

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