



TAX EDGE

Monthly Tax & Regulatory Updates



Accounting



Taxation

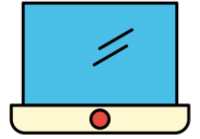


Regulatory

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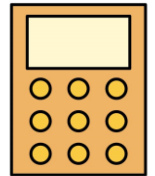
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Goods & Services Tax (GST)



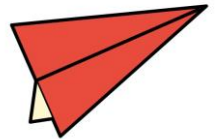
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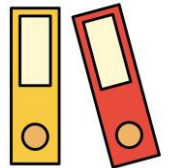
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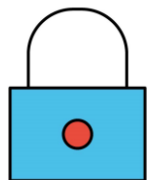
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Goods & Services Tax (GST)



Goods & Services Tax

GST Revenue collections for the month of October 2018 crosses INR 1000 Billion

The total gross GST revenue collected in the month of October, 2018 is Rs. 100,710 crore (approx.) as below:

Description	Amount
Integrated GST	Rs. 53,419 crore
Central GST	Rs. 16,464 crore
State GST	Rs. 22,826 crore
Compensation cess	Rs. 8,000 crore
Total	Rs.1,00,709 crore

The Revenue collected in October, 2018 is higher by 6.64% as compared to September, 2018 collection of Rs. 94,442 crore.

The total number of GSTR 3B Returns filed for the month of September up to 31st October, 2018 is 67.45 lakh

Please [Click Here](#) to read the Press Release dated 1 Nov 2018

Collection of Tax at source ('TCS') by Tea Board of India

Government has received representation from Tea Board seeking clarification whether they should collect TCS under section 52 of the CGST Act from the sellers of tea (i.e. the tea producers), or from the auctioneers of tea or from both. The Central Board of Indirect Taxes and Customs ('CBIC') has clarified that TCS @ 1% shall be collected by Tea Board respectively from the:-

- I. Sellers (i.e. tea producers) on the net value of supply of goods i.e. tea; and
- II. Auctioneers on the net value of supply of services (i.e. brokerage)

Please [Click Here](#) to read Circular No.74/48/2018-GST dated 5 Nov 2018.

31 Dec 2018 is the due date for furnishing final return in Form GSTR-10 by persons whose GST registration has been cancelled on or before 30 Sep 2018

The CBIC has notified 31 Dec 2018 as the due date for furnishing of final return in Form GSTR-10 by the persons whose GST registration has been cancelled by the proper officer on or before the 30 Sep 2018.

Please [Click Here](#) to read notification no.58 dated 26 Oct 2018.

Goods & Services Tax

Extension of time limit till 31 Dec 2018 for furnishing FORM GST ITC-04 for the period Jul 2017 to Sep 2018 in case of job work

The CBIC has extended the time limit for furnishing the declaration in FORM GST ITC-04 in respect of goods/ capital goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from Jul 2017 to Sep 2018 till 31 Dec 2018.

Please [Click Here](#) to read notification no.59 dated 26 Oct 2018.

Authorities under Ministry of Defence exempted from Tax Deducted at Source (TDS) compliance

The CBIC has exempted the authorities under the Ministry of Defence from the applicability and compliance of TDS. However, the authorities (total 30 authorities) as specified in the annexure to this notification are mandatorily required to deduct tax from the payment made or credited to the supplier of taxable goods or services or both, where the total value of such supply, under a contract, exceeds Rs.2.5 lakh.

Please [Click Here](#) to read notification no.57 dated 23 Oct 2018.

Supply from one Public Sector Undertaking (PSU) to another PSU exempted from applicability of TDS provisions

The CBIC has exempted supply from one Public Sector Undertaking (PSU) to another PSU from applicability of TDS provisions.

Please [Click Here](#) to read notification no.61 dated 5 Nov 2018.

Goods & Services Tax

Procedure in respect of return of time expired drugs or medicine

The CBIC has clarified the procedure to be followed in respect of return of time expired drugs or medicines under the GST laws. The drugs or medicines are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as case may be. They have a defined life term which is referred to as the date of expiry and on crossing the date of expiry, are returned back to the manufacturer through supply chain. Therefore, the retailer/wholesaler can follow either of the below mentioned procedures for the return of the time expired goods:

A. *Return of time expired goods to be treated as fresh supply:*

1. Where person returning the time expired goods is a registered person
 - Return of goods to be treated as fresh supply
 - Value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply
 - Recipient is eligible to avail Input Tax Credit (ITC) on said return supply subject to section 16 of the CGST Act
2. Where person returning the time expired goods is a composition taxpayer
 - Return the said goods by issuing a bill of supply and pay tax at the rate applicable
 - Recipient is not eligible to avail ITC of said return supply
3. Where person returning the time expired goods is an unregistered person
 - Recipient may return the said goods by issuing any commercial document without charging any tax
4. Where the time expired goods which have been returned by the retailer/wholesaler are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17 of the CGST Act. However, ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

Goods & Services Tax

B. Return of time expired goods by issuing Credit Note:

1. The manufacturer or the wholesaler has the option to issue a credit note in relation to the time expired goods returned by the wholesaler or retailer
2. If the credit note is issued within the time limit specified in the CGST Act, the tax liability may be adjusted by the supplier, provided the person returning the time expired goods has either not availed the ITC or if availed has reversed the ITC so availed against the goods being returned. However, if the time limit has expired, a credit note may still be issued but the tax liability cannot be adjusted by him in his hands
3. Further, in case they are returned beyond the time period specified and a credit note is issued, there is no requirement to declare such credit note on the common portal by the supplier as tax liability cannot be adjusted in this case
4. Where the time expired goods, which have been returned by the retailer/wholesaler, are destroyed by the manufacturer, he/she is required to reverse the ITC attributable to the manufacture of such goods

Though the circular discusses the scenarios in relation to return of goods on account of expiry of the same, it may be applicable to such other scenarios where the goods are returned on account of reasons other than the one detailed above.

Please [Click Here](#) to read circular no.72 dated 26 Oct 2018.



Goods & Services Tax

CBIC issues clarifications on issues under GST related to casual taxable person (CTP) and recovery of excess Input Tax Credit (ITC) distributed by Input Service distributor (ISD)

S. No.	Issue	Clarification
1	Whether the amount required to be deposited as advance tax while taking registration as a CTP should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	<p>a) While applying for registration as a casual taxable person, the FORM GST REG-1 (S. No. 11) seeks information regarding the “estimated net tax liability” only and not the gross tax liability.</p> <p>b) It is accordingly clarified that the amount of advance tax which a CTP is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person</p>
2	As per section 27 of the CGST Act, 2017, period of operation by causal taxable person is 90 days with provision for extension of same by the proper officer for a further period not exceeding 90 days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.	<p>a) In case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person</p> <p>b) While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business</p> <p>c) In such cases he would not be required to pay advance tax for the purpose of registration</p> <p>d) He can surrender such registration once the exhibition is over.</p>

Goods & Services Tax

S. No.	Issue	Clarification
3	Representations have been received regarding the manner of recovery of excess credit distributed by an ISD in contravention of the provisions contained in section 20 of the CGST Act.	<p>a) Where the ISD distributes the credit in contravention of section 20 of the CGST Act resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest and penalty if any</p> <p>b) The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest by using FORM GST DRC-03</p> <p>c) If the said recipient unit(s) does not come forward voluntarily, necessary proceedings may be initiated against the said unit(s) by the tax authorities in such cases</p> <p>d) ISD would also be liable to a general penalty under the provisions contained in section 122(1) (ix) of the CGST Act.</p>

Please [Click Here](#) to read circular no.71 dated 26 Oct 2018.

Categories of CTPs exempted from obtaining registration

CBIC has specified following categories of CTPs who shall be exempted from obtaining registration under the Central Goods and Services tax Act:

1. Persons making inter-State taxable supplies of handicraft goods as defined in the Explanation in Notification No. 21/2018 -Central Tax (Rate), dated the 26 Jul 2018.
2. Persons making inter-State taxable supplies of certain notified products as per Notification No. 32/2017- Central tax dated 15 Sep 2017.

Further provided that the aggregate value of such supplies, to be computed on all India basis, does not exceed the amount of aggregate turnover above which a supplier is liable to be registered in the State or Union territory. Such persons shall obtain a Permanent Account Number and generate an e-way bill in accordance with rule 138 of the CGST Rules, 2017.

Please [Click Here](#) to read notification no. 56/2018-Central Tax dated 23 Oct 2018 for CGST

Please [Click Here](#) to read notification no. 3/2018-Integrated Tax dated 22 Oct 2018 for IGST.

Direct Tax



Direct Tax

Central Board of Direct Taxes (CBDT) issues final notification amending Rule 114 and forms for Permanent Account Number (PAN) application

CBDT issues final notification amending PAN application Rule 114 and Forms 49A/49AA, on similar lines to draft notification. Amended Rule 114(3) requires PAN allotment application to be made by:

1. Resident-person (other than individual) entering into a financial transaction for Rs. 2.50 lakh or more in a financial year
2. Managing director, partner, trustee, principal officer or office bearer of such person

In both cases application to be filed on or before 31st May immediately following Financial Year, in which such transaction is entered into, further amended Rule empowers Principal Director General of Income Tax (Systems) to specify the manner in which PAN shall be issued.

CBDT also amended PAN application forms 49A/49AA relating to 'details of parents'. Amended forms now enable applying for PAN by furnishing solely the name of the mother, in a case where the mother is a single parent, provides that father's name not mandatory in such a case.

Please [Click Here](#) to read notification dated 19 Nov 2018.

Draft Notification proposing Amendment of Rules 2C, 2CA and 11AA and form Nos. 10G, 56 and 56G of the Income-tax Rules, 1962 placed in public domain for inputs

Current Scenario:

1. As per Rule 2C of the Income-tax Rules, 1962 (the Rules) Form No. 56 is required to be filed manually for availing exemption of income received by any person on behalf of any other fund or institution established for charitable purposes [Clause (v) of Section 10(23C)] or any trust or institution wholly for public religious purposes or wholly for public religious and charitable purposes [Clause (vi) of Section 10(23C)]
2. As per rule 2CA Form No 56D is required to be filed manually for availing exemption of income received by any person on behalf of any university or other educational institution and any hospital or other institution [Clause (vi) and (via) of Section 10]
3. As per rule 11AA Form No 10G is required to be filed manually for grant of approval for deduction in respect of donations to any other fund or any institution to which section 80G applies [clause (vi) of section 80G(5)]

Proposed Scenario:

In order to focus on digital initiatives the manual filing of these applications is done away with so as to ensure not only faster processing of the same but also to reduce the interface between the department and the applicant. In view of the above, these rules and forms are proposed to be amended by way of substituting:-

- a) Rules 2C and 2CA with a New Rule 2C and Rule 11AA with new rule 11AA; and
- b) Form No 56 and 56D with a new Form No 56 and Form No 10G with a new Form 10G

The draft notification proposing the above amendments has been formulated and uploaded on the website of the Income-tax Department (www.incometaxindia.gov.in) for inputs from stakeholders and general public.

Please [Click Here](#) to read notification dated 29 Oct 2018.

Direct Tax

CBDT specifies 87 jurisdictions for purpose of 'passive non-financial entity' definition under Foreign Account Tax Compliance Act (FATCA)

Vide notification no. 78 dated 5 Nov 2018, CBDT has notified list of 87 jurisdictions for the purpose of passive non-financial entity definition under Section 285BA of the Income-tax Act, 1961 read with of Rule 114F of the Income-tax Rules, 1962. To meet the reporting requirements as per said provisions, Reporting financial institutions may have to consider the same going ahead.

Please [Click Here](#) to read the list of said jurisdictions.

Union Cabinet approves appointment of Adjudicating Authority & establishment of Appellate Tribunal under Benami Property Transactions Act, 1988

Background:

Benami transaction refers transactions made in a fictitious name, or the owner is not aware of the ownership of the property, or the person paying for the property is not traceable. The rules and all the provisions of the Benami Transactions (Prohibition) Act came into force on November 1, 2016. After coming into effect, the existing Benami Transactions (Prohibition) Act, 1988, was renamed as the Prohibition of Benami Property Transactions (PBPT) Act, 1988.

Press Release dated 24 Oct 2018:

Vide the above Press Release, government has approved setting up of Appellate Tribunal and Adjudicating Authority for speedy disposal of cases related to benami transactions. The decision was taken at the Union Cabinet chaired by Prime Minister Mr. Narendra Modi. Earlier, the government had notified Sessions courts in 34 states and Union Territories, which will act as special courts for trial of offences under the benami transaction law.

Salient features:

- i. Appointment of an Adjudicating Authority, along with 3 additional Benches and to establish the Appellate Tribunal under the PBPT Act;
- ii. To provide the officers and employees to Adjudicating Authority, Benches of the Adjudicating Authority and Appellate Tribunal by diverting the existing posts at the same level/rank from the Income Tax Department / CBDT;
- iii. The Adjudicating Authority and Appellate Tribunal shall sit in the National Capital Territory of Delhi (NCTD). Benches of Adjudicating Authority may sit in Kolkata, Mumbai and Chennai, and the necessary notification in this regard shall be issued after making consultation with the Chairperson of the proposed Adjudicating Authority.

Expected Benefits:

- Effective and better administration of cases referred to the Adjudicating Authority
- Speedy disposal of appeals filed against the order of the Adjudicating Authority before the Appellate Tribunal.
- First stage review of administrative action under the PBPT Act. Establishment of the proposed Appellate Tribunal would provide an appellate mechanism for the order passed by the Adjudicating Authority under the PBPT Act.

Please [Click Here](#) to read the Press Release dated 24 Oct 2018.

CBDT notifies 'Indian Commodity Exchange Limited' as a 'recognized association' u/s 43(5)

Background:

Section 43 of the Income-tax Act deals with definition of certain terms relevant to income from “profits and gains of business or profession”. As per clause 5 of Section 43, any derivatives transaction entered in to any recognized stock exchange is not treated as speculative transaction and therefore loss in such transaction can be set off against normal business profit.

Notification dated 31 Oct 2018:

CBDT notifies Indian Commodity Exchange Limited as a 'recognized association' for the purpose of excluding eligible commodity transactions from the definition of 'Speculative transactions subject to fulfillment of following conditions in respect of trading in commodity derivatives, namely:

- i. The Exchange shall have the approval of the Forward Markets Commission established under the Forward Contracts (Regulation) Act, 1952 (74 of 1952) (merged with Securities and Exchange Board of India vide Gazette Notification No.5.0.2630(E) dated 24.09.2015) in respect of trading in derivatives and shall function in accordance with the guidelines or conditions laid down by it; or
- ii. it shall ensure that the particulars of the client (including unique client identity number and PAN) are duly recorded and stored in Its databases; or
- iii. it shall maintain a complete audit trail of all transactions (in respect of derivative market) for a period of atleast seven years on its system; or
- iv. it shall ensure that transactions (in respect of derivative market) once registered in the system are not erased;
- v. it shall ensure that the transactions (in respect of derivative market) once registered in the system are modified only in cases of genuine error (as mentioned in Circular of Securities and Exchange Board of India(SEBI) dated 19.08.2016 in SEBI/HO/CDNIRD/Olv1P/CIR/P/2016/73) and maintain data regarding all transactions (in respect of derivative market) registered in the system which have been modified and submit a monthly statement in Form No. 38C to the Director General of Income-tax (Intelligence and Criminal investigation), New Delhi within 15 days from the last day of each month to which such statement relates.

Please [Click Here](#) to read notification no.76 dated 31 Oct 2018.

Service charge not distributed to workers by restaurants liable to income tax: CBDT

Service charge collected by hotels and restaurants but not passed on to staff and workers will be liable to income tax in the hands of such entities, the tax department has said. The department has asked the field offices to examine the books of hotels and restaurants to see if there is any 'under reporting' or 'non reporting' of service charge collected by them.

The directions of CBDT came after the Ministry of Consumer Affairs flagged that some hotels and restaurants are collecting service charge from customers in a compulsory manner, which is in contravention with the guidelines issued by the ministry. The ministry also said that there is possibility that the service charge amount collected is not even distributed among staff and workers of the hotels and restaurants. The CBDT asked the field offices to examine whether there is any under-reporting or non-reporting of additional income collected in the name of service charge.

It said that in situations where it is found that the receipts have not been passed on to the staff or workers by the hotel/restaurant or there is some under reporting or non-reporting, the receipts should be duly brought to tax in the hands of concerned hotel/restaurant.



International Taxation



International Taxation

Latest Automatic Exchange of Information (AEOI) Annual report released; India shared information with 58 jurisdictions in 2018

11th plenary meeting of the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) was held on 20-22 Nov 2018 in Uruguay.

Key highlights of the meeting:

- Take stock of progress made on AEOI standard
- 2018 AEOI Annual Report released in the meeting
- 4500 successful bilateral exchanges made under the new AEOI Standard in 2018 by 86 jurisdictions, containing information about millions of taxpayers worldwide holding financial accounts abroad
- As per Report, India had sent information to 58 partners in 2018, likewise Switzerland had shared information with 36 jurisdictions in 2018
- Report states that 4 jurisdictions yet to have complete domestic legal framework in place for automatic exchange while 10 jurisdictions are in the process of implementing international legal framework
- Report further highlights that 98% of exchanges have taken place so far where partners have the legal and technical elements in place.

Please [Click Here](#) to read the complete report.

Protocol amending India-China Double Taxation Avoidance Agreement (DTAA) including changes required to implement action reports of Base Erosion & Profit shifting (BEPS) Project

The Government of India and Government of China have amended the DTAA for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income, by signing a Protocol on 26 Nov 2018.

Besides other changes, the Protocol updates the existing provisions for exchange of information to the latest international standards. Further, the Protocol incorporates changes required to implement treaty related minimum standards under the Action reports of BEPS Project, in which India had participated on an equal footing. Besides minimum standards, the Protocol brings in changes as per BEPS Action reports as agreed upon by the two sides.

Please [Click Here](#) to read the Press Release dated 26 Nov 2018.

Company Law



Company Law

Relaxation of additional fees and extension of last date of filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013

The Government, through a circular dated 29 October 2018, has provided relaxation of additional fees and extension of last date of filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement), AOC (CFS), AOC-4 (XBRL) up to 31 Dec 2018, wherever additional fees is applicable.

Please [Click Here](#) to read the circular dated 29 Oct 2018.

The Companies (Amendment) Ordinance, 2018 enforced from 2 Nov 2018 for better corporate governance

The government has brought in major changes in many of the provisions of the Companies Act, 2013 through the Companies (Amendment) Ordinance, 2018 with effect from 2 November 2018

The twin objectives of the Ordinance are promotion of Ease of Doing Business along with better corporate compliance. The main amendments are as under:

A. To promote ease of doing business and enhance better corporate compliance

S.No.	Corresponding Section of Companies Act, 2013	Amendment	Implication
1.	Section 2 (41)- Definition of 'Financial year')	Where a company or body corporate, which is a holding company or a subsidiary or associate company of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Central Government may, on an application made by that company or body corporate in such form and manner as may be prescribed, allow any period as its financial year, whether or not that period is a year.	The authority to make application for adopting a different year as "financial year" has been shifted from "Tribunal" to "Central Government". Existing applications pending before the Tribunal before 2 nd November 2018 shall be disposed off by the Tribunal as per the existing law

Company Law

S.No.	Corresponding Section of Companies Act, 2013	Amendment	Implication
2.	Insertion of New Section 10A- Commencement of business	<p>Re-introduction of Commencement of Business: A company incorporated after the commencement of the Companies (Amendment) Ordinance, 2018 and having a share capital shall not commence any business or exercise any borrowing powers unless:</p> <p>(a) Declaration is filed by a Director within a period of 180 days of the date of incorporation of the company, with the Registrar that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him on the date of making of such declaration; and</p> <p>(b) The company has filed with the Registrar a verification of its registered office</p>	A Company cannot commence the business or exercise any borrowing powers until the subscribers to the memorandum deposit the values of shares agreed by them and the director is responsible for filing declaration within 180 days of incorporation of the company.
3.	Section 12(9)- Registered office of the company	Registrar of companies (ROC) may cause a physical verification of the registered office of the company and the RoC has reason to believe that the Company is not carrying into business/ operation after physical verification; he may initiate action to strike off the name of the Company.	The registrar has the power to conduct physical verification of the registered office and initiate strike-off of the company.
4.	Section 14- Alteration of Articles	<p>Any alteration having the effect of conversion of a public company into a private company shall not be valid unless it is approved by an order of Central Government.</p> <p>Further, any pending matters before NCLT shall be disposed off by NCLT.</p>	The power of conversion of public company into a private company and pass suitable orders thereon has been vested with the Central Government, which may delegate the same to any other authority; Earlier the said power was with National Company Law Tribunal ("NCLT")

Company Law

S.No.	Corresponding Section of Companies Act, 2013	Amendment	Implication
5.	Section 77- Duty to Register Charges	<p>The company shall make an application for registration of charge</p> <p>(a) in case of charge created before 2nd Nov 2018 within 300 days of creation with additional fee</p> <p>in case of charge is not registered within this time, within 6 months from the 2nd Nov 2018 on payment of additional fees as may be applicable</p> <p>(b) Charges created after 2nd Nov 2018 within 60 days of such creation with additional fee</p> <p>in case of charge is not registered within this time, within further period of 60 days after payment of such advalorem fees as may be prescribed.</p>	The timeline to register the creation of charge has been reduced from 300 days to 60 days on the payment of such ad valorem fee as may be prescribed.
6.	Section 87- Rectification by Central Government in register of charges	The Central Government ("CG") on being satisfied that the omission/misstatement to give intimation to the Registrar regarding satisfaction of a charge was accidental or due to inadvertence or some other sufficient cause, it may on the application of the company or any person direct that the time for giving of intimation of payment or satisfaction shall be extended or as the case may be required, that the omission or misstatement shall be rectified.	Central Government may direct for extending the time for intimating about the satisfaction of charge and rectification of charge or omission made.
7.	Section 164 & 165 (Disqualification of Director)	If a director does not comply with the number of directorships i.e. maximum ten public companies and maximum twenty in other companies he/she shall be disqualified under section 164 of the Act.	A new ground for disqualification has been added under the Ordinance.

Company Law

B. Re-categorising of offences:

S.No	Section	Nature of default	Pre amendment provision	Post amendment provision
1.	Section 53(3)	Issue of shares at a discount	Fine or imprisonment or both	Company and every officer- 5 lakh or amount involved (whichever is less) and refund all monies received with interest rate of 12% pa.
2.	Section 64(2)	Failure/delay in filing notice for alteration of share capital	Fine only	Company and every officer- 1000/- Per day or 5 lakh whichever is less
3.	Section 92(5)	Failure/delay in filing annual return	Fine or Imprisonment or both	Company and every officer-penalty of Rs. 50,000/- and in case of continuing failure penalty of Rs 100/- Per day or 5 lakh whichever is less
4.	Section 102(5)	Attachment of a statement of a special business in a notice calling for general meeting	Fine only	Company and every officer-penalty of Rs. 50,000/- or 5 times the amount of benefit accruing to the directors etc whichever is more
5.	Section 105	Default in providing a declaration regarding appointment of proxy in a notice calling for general meeting	Fine only	Every officer liable to a penalty of Rs. 5000/-, instead of being punishable with fine.
6.	Section 117(2)	Delay in filing of resolutions and Agreements	Fine only	Company and every officer in default being liable to a penalty of Rs. 1 lakh, in case of continuing delay penalty of Rs. 500/- per day subject to a maximum of Rs. 25 lakh
7.	Section 121	Failure/Delay in filing Report on AGM by public listed company	Fine only	Non-compliance with sub-section (2) of Section 121 shall result in the company and every officer in default being liable to a penalty, instead of being punishable with fine.
8.	Section 137(3)	Failure/Delay in filing financial statement	Fine or imprisonment or both	Company and every officer in default being liable to a penalty of Rs. 1 lakh, in case of continuing delay penalty of Rs. 100/- per day subject to a maximum of Rs. 5 lakh

C. Ensuring compliance of the default and prescribing stiffer penalties in case of repeated defaults

S.No	Section	Title	Impact
1.	454(3)	Adjudication of Penalties	The adjudicating officer shall also give the direction of making good of the default at the time of levying penalty.
2.	454(8)	Adjudication of Penalties	Default would occur when the company or the officer in default would fail to comply with the order of the adjudicating officer or RD as the case may be.
3.	454A	Penalty for Repeated default	A new section has been inserted to provide where a penalty in relation to a default has been imposed on a person under the provisions of CA 2013, and the person commits the same default within a period of three years from the date of order imposing such penalty, passed by the adjudicating officer or RD as the case may be, it or he shall be liable for the second and every subsequent defaults for an amount equal to twice the amount provided for such default under the relevant provisions.

Please [Click Here](#) to read the Companies Amendment (Ordinance) dated November 2nd, 2018



Company Law

Classes of Companies and Body corporate governed by the Authority “National Financial Reporting Authority” (‘NFRA’)

The Government, through a notification dated 13 Nov 2018, has prescribed the National Financial Reporting Rules, 2018.

The Authority shall have power to monitor and enforce compliance with accounting standards and auditing standards, oversee the quality of service or undertake investigation of the auditors of the following class of companies and bodies corporate, namely:-

- All Listed Companies/ Listed Body Corporate;
- Unlisted public Companies which have
Paid up Capital of Rs. 500 Cr. or More; or
Turnover of Rs. 1000 Cr. or More; or
Aggregate of Outstanding Loan, Debentures and Deposit of Rs. 500 Cr. or More.
- All Banks/ Insurance/ Electricity Companies;
- Any Company or Person (Auditor), on a reference made to the Authority by the Central Government in public interest;
- Foreign Subsidiary/Associate company of Any Indian company as mentioned in above 4 points if Income/Net worth of such Foreign Subsidiary/Associate company exceeds 20% of consolidated Income/Net worth of Above mentioned Indian companies.

*Above Limits shall be check on as on the 31st March of immediately preceding financial year;

Key Points to the notification:

- Every existing body corporate other than a company governed by these rules, shall inform the Authority within **30 days of the commencement of these rules, in Form NFRA-1**, the particulars of the auditor as on the date of commencement of these rules.
- Once a Company falls under the above limits under NFRA, will be covered by NFRA for **3 more years** even if limits are reduced/ listed status changes later on.
- Every Body Corporate other than Company as defined u/s 2(20) formed in India and governed under this rule shall, **within 15 days of appointment of an auditor** under sub-section (1) of section 139, inform the Authority in Form NFRA-1, the particulars of the auditor appointed by such body corporate.

Filing of Annual Return By Auditor

- Every auditor referred above shall file a return with the Authority on or before **30th April every year** in such form as may be specified by the Central Government.

Please [Click Here](#) to read the notification dated 13 Nov 2018.

Reserve Bank of India (RBI)



Reserve Bank of India (RBI)

Ease of rules for borrowing overseas: Liberalization of External Commercial Borrowings ('ECB') Policy.

The Reserve Bank of India through notifications dated 6 Nov 2018 and 26 Nov 2018 has eased overseas borrowing rules in India.

It has reduced the minimum tenure for borrowing through the ECB route to 3 years from 5 years and the tenure required for exemption from mandatory hedging to 5 years from 10 years.

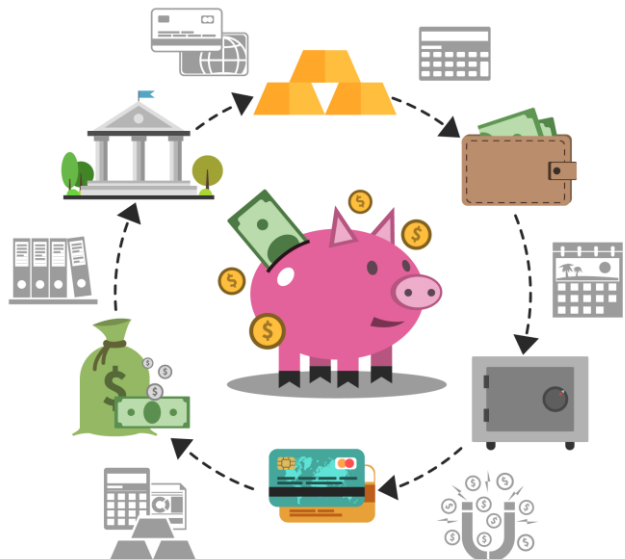
The central bank reduced the mandatory hedge coverage to 70% from 100% for ECB raised by Indian companies.

The step is likely to help attract dollar inflows as total outflows outweigh inflows this year.

These moves are seen as steps to support the credit markets well as resolve the differences that RBI had with the government on the liquidity issue.

Please [Click Here](#) to read notification dated 6 Nov 2018.

Please [Click here](#) to read notification dated 26 Nov 2018.



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Direct Tax



Indirect Tax



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About KrayMan

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.

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