



TAX EDGE

Monthly Tax & Regulatory Updates



Audit



Tax



Regulatory

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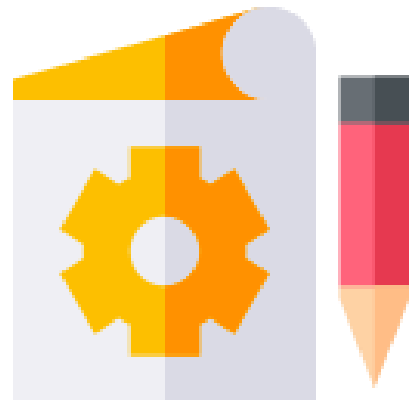
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Goods & Services Tax (GST)

Goods & Services Tax

Recommendations of the 35th GST Council Meeting

The 35th GST Council Meeting was held on 21st June 2019 at New Delhi under the chairmanship of the newly appointed Union Finance & Corporate Affairs Minister, Mrs. Nirmala Sitharaman. Altogether, 12 Agenda items were discussed during the Council meeting, covering following topics:

A. Law and Procedure

- New GST Return filing system (Forms ANX-1 and 2)
- Extension of due dates of various forms (Forms GSTR 9, 9A, 9C, ITC-04, CMP-02)
- Restriction on generating E-way Bill - Taxpayers who have not filed returns for 2 consecutive tax periods shall be restricted from generating e-way bills. This recommendation has been made effective from 21st August, 2019 (instead of 21st June, 2019 prescribed earlier) as per notification no.25/2019 dated 21st June 2019.

B. Changes in GST Rates

The GST Council referred following matters to the Fitment Committee to be examined and brought before the GST Council in the next meeting:

- Issues relating to GST concessions on electric vehicle, charger and hiring of electric vehicle
- Issues related to valuation of goods and services in a solar power generating system and wind turbine

Group of Ministers (GoM) on Lottery submitted report to the GST Council. The Council recommended that certain issues relating to taxation (rates and destination principle) would require legal opinion of Learned Attorney General.

C. Administrative decisions

- State and Area Benches of GST Appellate Tribunal for various States and Union Territories
- Tenure of National Anti-Profiteering Authority has been extended by 2 years
- Introduction of Electronic Invoicing System

Please [Click Here](#) to read our detailed alert dated 23rd June, 2019 on recommendations of the 35th GST Council Meeting.

Goods & Services Tax

Extension in due date for GST Audit and Annual Return from 30th June to 31st August 2019

The GST council in its 35th Meeting in order to provide sufficient time to the industry has extended due date for filing following forms from 30 June to 31 August 2019, for FY 2018-19.

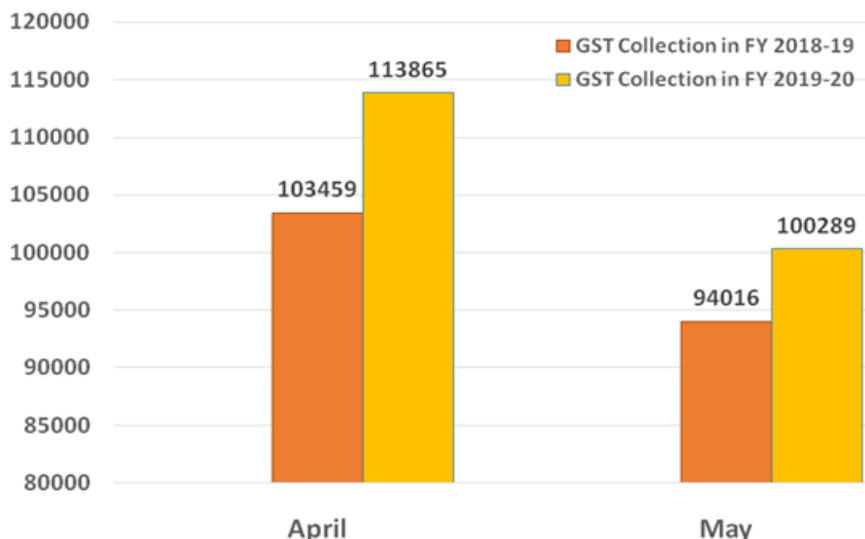
- GSTR-9: Annual Return for Normal Taxpayer
- GSTR-9A: Annual Return for Composition Dealer
- GSTR-9C: Reconciliation for persons having aggregate turnover > Rs.2 crore during FY 2017-18

The extension came for the 3rd time, as previously the date was extended (1st) from 31st December 2018 to 31st March 2019 and then again (2nd) from 31st March 2019 to 30th June 2019.

GST Revenue collection for May 2019 - growth of 6.67% over revenue in May 2018

Gross GST revenue collection in the month of May, 2019 is Rs. 1,00,289 crore (details given below), which is a growth of 6.67% over revenue collection for the same month last year (i.e, May 2018).

IGST (Integrated GST)	Rs. 49,891 crore
CGST (Central GST)	Rs. 17,811 crore
SGST (State GST)	Rs. 24,462 crore
Compensation cess	Rs. 8,125 crore
Total	Rs.1,00,289 crore



Please [Click Here](#) to read press release dated 1st June, 2019

Goods & Services Tax

Clarifications on filing of Annual Return in Form GSTR-9

Government has clarified certain issues mentioned below raised by industry with respect to filing of Form GSTR-9:

- Information contained in Form GSTR-2A as on 1 May 2019 shall be auto-populated in Table 8A of Form GSTR-9.
- Input Tax Credit on inward supplies shall be declared from April 2018 to March 2019 in Table 8C of Form GSTR-9.
- Particulars of the transactions for Financial Year 2017-18 declared in returns between April 2018 to March 2019 shall be declared in Pt. V of Form GSTR-9. Such particulars may contain details of amendments furnished in Table 10 and Table 11 of Form GSTR- 1.
- It may be noted that irrespective of when the supply was declared in Form GSTR- 1, the principle of declaring a supply in Pt. II or Pt. V is essentially driven by when tax was paid through Form GSTR-3B in respect of such supplies. If the tax on such supply was paid through Form GSTR-3B between July 2017 to March 2018 then such supply shall be declared in Pt. II and if the tax was paid through Form GSTR-3B between April 2018 to March 2019 then such supply shall be declared in Pt. V of Form GSTR-9.
- Any additional outward supply which was not declared by the registered person in Form GSTR-1 and Form GSTR-3B shall be declared in Pt.II of the Form GSTR-9. Such additional liability shall be computed in Pt.IV and the gap between the “tax payable” and “Paid through cash” column of Form GSTR-9 shall be paid through Form DRC-03.
- Many taxpayers have reported a mismatch between auto-populated data and the actual entry in their books of accounts or returns. One common challenge reported by taxpayer is in Table 4 of Form GSTR-9 where details may have been missed in Form GSTR-1 but tax was already paid in Form GSTR-3B and therefore taxpayers see a mismatch between auto-populated data and data in Form GSTR- 3B. It may be noted that auto-population is a functionality provided to taxpayers for facilitation purposes, taxpayers shall report the data as per their books of account or returns filed during the financial year.
- Many taxpayers have represented that Table 8 has no row to fill in credit of Integrated GST paid at the time of import of goods but availed in the return of April 2018 to March 2019. Due to this, there are apprehensions that credit which was availed between April 2018 to March 2019 but not reported in the annual return may lapse. For this particular entry, taxpayers are advised to fill in their entire credit availed on import of goods from July 2017 to March 2019 in Table 6(E) of Form GSTR-9 itself.
- Payments made through Form DRC-03 for any supplies relating to period between July 2017 to March 2018 will not be accounted for in Form GSTR-9 but shall be reported during reconciliation in Form GSTR-9C.

Please [Click Here](#) to read press release dated 4th June, 2019.

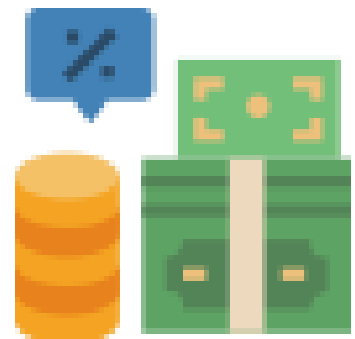
Goods & Services Tax

Supreme Court's 3-Member Bench to examine GST Officer's power to arrest

Effective implementation of GST law has been a matter of concern ever since introduction of GST regime 2 years back. Power of arrest in case of serious offence is an important matter in this regard.

Recently, the Supreme Court of India has referred the examination of power of GST Officers to arrest taxpayer to a 3-judge bench of the Supreme Court. Supreme Court observed that Telangana High Court and Bombay High Court have taken divergent views in the matter. Telangana HC held that GST officers can arrest the taxpayer even before assessment or adjudication. Further, it refused anticipatory bail to the taxpayers considering facts and circumstances of the case. Supreme Court has dismissed the Special Leave Petition ('SLP') filed by taxpayers against the said order. On the other hand, Bombay HC granted interim relief to the taxpayers. While attending SLP against Bombay HC ruling, Supreme Court held that as the taxpayers were granted the privilege of pre-arrest bail by High Court, at this stage it (Supreme Court) was not inclined to interfere with the same.

Please [Click Here](#) to read the decision by Supreme Court.



Direct Tax

Direct Tax

Upcoming Union Budget post-elections to be presented on 5 July 2019

Post clean victory at the (election) box office, Modi-Government is set to announce the Union Budget on 5th July 2019 through Finance Minister Mrs. Nirmala Sitharaman. Industry anxiously awaits opening of the Pandora's box!

Some of the major expectations from the upcoming Budget are:

- Reduction in corporate as well as individual tax rates to encourage consumption
- Reforms to encourage meaningful economic growth along with creation of employment
- Encouragement of Foreign Direct Investment (FDI) which has always been priority of Modi-Government, making it easier (and lucrative) to do business in India
- Reduction in interest rates

Clarification regarding non-allowability of set-off of losses against deemed income u/s 115BBE of Income-tax Act, 1961 prior to Assessment Year 2017-18

Background

Section 115BBE(1) of the Income-tax Act provides that where the total income of an assessee includes any income in the nature of unexplained cash credits, unexplained investments, unexplained money / bullion / jewellery / other valuable article, undisclosed investments or expenditure, such income is taxable @ 60%. As per sub-section (2), no deduction in respect of any expenditure or allowance or '**set off of any loss**' is allowable against such income.

The non-allowability of '**set off of any loss**' has been specifically included by Finance Act 2016 from 1st April 2017 onwards. In this regard, it has been brought to the notice of the Central Board of Direct Taxes (CBDT) that in assessments / audits prior to Assessment Year (AY) 2017-18, while some of the tax officers have allowed set off of losses against such addition, in some cases, the set-off has been denied. As such, conflicting views have been taken by tax officers in matters relating to prior to AY 2017-18.

Clarification issued on 19 June 2019:

Referring to Circular no.3/2017 dated 20 January 2017 (explanatory notes to Finance Act, 2016), CBDT has clarified that since the bar on '**set off of any loss**' has been specifically inserted from 1 April 2017 onwards, set-off of loss is allowable till AY 2016-17. Pending litigations on the matter may be closed accordingly.

Please [Click Here](#) to read the circular dated 19th June 2019.

Direct Tax

Government releases Guidelines for Compounding of Offences under Direct Tax Laws, 2019

In supersession of earlier guidelines on the subject, Government has issued fresh guidelines for compounding of offences for applications received on or after 17 June 2019. Applications received prior to the said date shall continue to be dealt with in accordance with erstwhile Guidelines dated 23 December 2014.

Topics covered by revised Guidelines:

- *Compounding Provision* – Section 279(2) of the Act – Power to compound by Principal Commissioner of Income-tax (Pr. CIT) / Chief CIT / Principal Director General of Income-tax (DGIT) / DGIT
- *Compounding of offences is not a matter of right* – Department may extend such relief only in certain cases considering factors like conduct of the person, nature and magnitude of offence and the facts and circumstances of each case.
- *Prosecution under Indian Penal Code ('IPC') cannot be compounded.* However, section 321 of Criminal Procedure Code, 1973 provides for withdrawal of such prosecution. In case the prosecution complaint filed under provisions of both Income-tax Act and IPC are based on the same facts and the complaint under the Income-tax Act is compounded, then process for withdrawal of complaint under IPC may be initiated by the Competent Authority.
- *Classification of Offences*

Category 'A':

S.No.	Section	Description/Heading of Section
1	276	(Prior to 01/04/1976) - Failure to make payment or deliver returns or statements or allow inspection
2	276B	(Prior to 01/04/1989) - Failure to deduct or pay tax
3	276B	(w.e.f. 01/04/1989 and up-to 30/5/1997)- Failure to pay tax deducted at source under Chapter XVII-B
4	276B	Failure to pay tax deducted at source under chapter XVII-B or tax payable under section 115-O or 2 nd proviso the section 194B to the credit of the Central Government (w.e.f. 01/06/1997)
5	276BB	Failure to pay the tax collected at source
6	276CC	Failure to furnish Return of Income
7	276CCC	Failure to furnish returns of income in search cases in block assessment scheme
8	276DD	(Prior to 1.04.1989) - Failure to comply with the provisions of section 269SS
9	276E	(Prior to 1.04.1989) - Failure to comply with the provisions of section 269 T
10	277	False statement in verification etc. with reference to Category 'A' offences
11	278	Abetment of false return etc. with reference to Category 'A' offences

Direct Tax

Category 'B':

S.No.	Section	Description/Heading of Section
1	276A	Failure to comply with the provision of sections 178(1) and 178(3)
2	276AA	(prior to 01/10/1986)- Failure to comply with the provisions of Section 269 AB or section 269 I
3	276AB	Failure to comply with the provisions of sections 269UC, 269UE and 269UL
4	276C(1)	Willful attempt to evade tax, etc
5	276C(2)	Willful attempt to evade payment of taxes, etc
6	276D	Failure to produce accounts and documents
7	277	False statement In verification etc. with reference to Category 'B' offences
8	277A	Falsification of books of account or documents, etc.
9	278	Abetment of false return, etc. with reference to Category 'B' offences

Offences u/s 275A, 275B and 276 of the Act will not be compounded.

- *Eligibility conditions for compounding*

- ✓ Application to be made in prescribed format in form of Affidavit on stamp paper of Rs.100
- ✓ No application can be filed after 12 months from the end of the month in which prosecution complaint, if any, has been filed in the court of law in respect of the offence for which compounding is sought ('concerned offence'). Said restriction may be relaxed, where application is filed after 12 months but before 24 months by the Committee mentioned in the Guidelines, provided that such delay should be attributable to reasons beyond applicant's control.
- ✓ Due taxes, interest and penalty relating to the concerned offence, has been paid
- ✓ Applicant to undertake to pay compounding charges to Government
- ✓ Applicant to undertake to withdraw appeals filed by him relating to the concerned offence

Direct Tax

- *Offences normally not to be compounded*

Following offences are generally not to be compounded:

- ✓ Category A offence on more than 3 'occasions'. In exceptional circumstances, however, it may be considered in case of more than 3 occasions.
- ✓ Category B offence other than 'first offence' as defined in the guidelines.
- ✓ Offence committed by a person for which he was convicted by a court of law under direct taxes laws.
- ✓ An offence in respect of which compounding application has already been rejected.
- ✓ Cases of person as main accused where it is proved that he has enabled others in tax evasion
- ✓ Offences committed by a person who has been found involved in anti-national / terrorist activity
- ✓ Offences committed by a person who was convicted by a court of law for any offence under any law other than direct taxes, for which prescribed punishment was imprisonment for 1 years or more (with or without fine) and which has a bearing on the offence sought to be compounded
- ✓ Offences committed by a person which have a bearing on a case under investigation by Enforcement Directorate, CBI, Lokpal, Lokayukta or any other central or state agency.
- ✓ Offences committed by a person whose application for 'plea-bargaining' under Code of Criminal Procedure in respect of any offence is pending in a Court
- ✓ Any offence which has a bearing on an offence relating to undisclosed foreign bank account / assets in any manner
- ✓ Any offence which has bearing on any offence under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.
- ✓ Any offence which has bearing on any offence under Benami Transactions (Prohibition) Act, 1988
- ✓ Any other offence, which Pr.CCIT / CCIT / Pr.DGIT/DDGIT considers not fit for compounding in view of factors like conduct of person, nature and magnitude of offence, etc

- *Authority competent to compound an Offence*

- *Compounding Procedure*

- ✓ On receipt of application, obtaining report from Assessing Officer
- ✓ Competent authority to dispose the application preferably within 6 months
- ✓ Amount of compounding charges to be intimated to the applicant (in case application is accepted)
- ✓ Payment of compounding charges by applicant
- ✓ Passing of compounding order by Competent authority within 1 month from the end of the month of payment of compounding charges
- ✓ Order of acceptance / rejection of application of compounding to be brought to the notice of Court

Direct Tax

- *Compounding charges*
- Fees for Compounding in following cases
 - ✓ Section 276B / 276BB – Failure to pay TDS / TCS
 - ✓ Section 276C(1) – Willful attempt to evade tax, etc.
 - ✓ Section 276C(2) – Willful attempt to evade payment of any tax, interest and penalty
 - ✓ Section 276CC – Failure to furnish returns of income
 - ✓ Section 276CCC – Failure to furnish return of income as required u/s 158BC
 - ✓ Section 276DD – Failure to comply with provisions of section 269SS (prior to 1 April 1989)
 - ✓ Section 276E – Failure to comply with provisions of section 269T (prior to 1 April 1989)
 - ✓ Section 277 – False statement in verification, etc.
 - ✓ Section 278 – Abatement of false return etc.
- *Applicability of the Guidelines to offences under other Direct tax laws*

The Guidelines shall apply to offences under other Direct tax law. Compounding fee for offences under other Direct tax laws will be same as mentioned in the Guidelines for corresponding provisions of offences under Income-tax Act.

Please [Click Here](#) to read the detailed guidelines dated 14 June 2019.



Direct Tax

Extension of due date for filing Salary Tax Deduction at Source ('TDS') Return in Form 24Q and issue of Form 16 to salaried taxpayers

Background:

CBDT had earlier notified amended Form 24Q for filing TDS statement by deductors of tax vide Notification No. 36/2019 dated 12th April, 2019. Subsequently, the File Validation Utility (FVU) for online filing of Form 24Q was updated by NSDL on 21st May, 2019.

Extension of due date for filing TDS Return (Salary) and issue of Form 16 for FY 2018-19

To address genuine hardship faced by taxpayers due to above, due date for filing of TDS Return (Salary) has been extended from 31st May 2019 to 30 June 2019.

Due date for issue of TDS Certificate in Form 16 by employers to salaried taxpayers has been extended from 15th June 2019 to 10th July 2019.

Please [Click Here](#) to read Press Release dated 4th June 2019.

Guidelines for assessment of partnership firms issued by CBDT for tax officers

Background:

The Office of Comptroller & Auditor General ('CAG') of India had carried out a Performance Audit regarding 'Assessment of Firms' under the Income-tax Act and in its Report No. 7 of 2014, has made certain suggestions so that in future, assessments in these cases are handled in a more effective manner by the Assessing Officers (AOs). Various recommendations made by the CAG in its Report have been duly considered by the Board. In order to improve the quality of assessments being framed in these cases and also to reduce the scope for committing errors, CBDT desires that Assessing Officers should duly take into consideration the following issues while making assessments in case of firms.

Recommendations by CBDT:

- *Cross-verification of tax treatment of interest / remuneration, etc. paid to partners viz-a-viz return filed by partners:*

Expenses in the hands of the firm such as interest on capital paid to the partners, remuneration payable to the working partners etc. are taxable in the hands of respective partners. Therefore, while framing assessment in case of firms, a cross-verification of such amounts with income-tax return of firm's partner will be desirable and any discrepancy between the tax return of a firm and its partners should be dealt with as per provisions of the Act.

Further, AOs should invariably call for a copy of the partnership deed during the course of assessment proceedings and examine it carefully so that instances of payment of remuneration to any non-working partner or remuneration payment for period prior to the date of partnership deed but claimed as deductible are identified and cognizance of these are duly taken in assessment.

Direct Tax

- *Allowability / Deduction of interest paid to partners*

Section 40(b)(iv) stipulates following 3 conditions for allowability of interest to the partners of a firm:

- ✓ the payment should be in accordance with the terms of the partnership deed; and
- ✓ it should relate to any period falling after the date of such partnership deed; and
- ✓ it should not exceed the amount calculated @ 12% simple interest per annum.

Instances have been noticed where the interest in the partnership deed was stated to be below 12%, yet, the same was allowed at 12% by AO. Such mistakes should be avoided. Further, in case the rate prescribed in the partnership deed is in excess of 12%, the excess should be disallowed in assessment.

AO is also required to ascertain whether payment of interest is duly authorized by the partnership deed or not. Further, while calculating interest payable to the partners for purposes of section 40(b)(iv) of the Act, AOs are taking different yardsticks for calculating interest viz. opening balance of capital, closing balance of capital, fixed capital or current capital etc. In this regard, section 40(b)(iv) of the Act prescribes that payment of interest to partners should be authorized by and be in accordance with the partnership deed. Therefore, while framing assessment, AOs should refer to the terms of the partnership deed for purpose of computation of interest on capital payable to a partner.

- *Partnership deed should form basis for determination of remuneration payable to working partners, in all situations*

Clause (ii) and (v) of section 40(b) of the Act lays down that payment of remuneration to a working partner should be authorized by the partnership deed, be in accordance with the terms of the partnership deed, should relate to a period after the partnership deed and should also not exceed the maximum amounts prescribed therein. However, it has been noticed that in some assessments, AOs had allowed expenditure on remuneration to the working partners though the same was either not authorized by the partnership deed or was in excess of the amount specified therein. In order to prevent recurrence of mistakes and allowing the expenditure strictly as per provisions of the Act, the AOs should ensure that claim under section 40(b)(v) of the Act is allowed only after a thorough verification of the partnership deed.

Further, while computing remuneration which is allowable to a working partner under section 40(b)(v) of the Act, the term 'in accordance with the terms of the partnership deed' in clauses (ii) and (v) of section 40(b) of the Act implies that remuneration should not be undetermined or undecided. Hence, in all situations, partnership deed should form the basis for determination of remuneration payable to the working partners. Furthermore, in situations where the remuneration either so specified in the partnership deed or computed as per the method indicated therein falls short of the amount allowable under section 40(b)(v) of the Act, it would be restricted to the figure computed on the basis of the partnership deed.

Direct Tax

- *Computation of 'book profit' for purposes of section 40(b)(v)*

While computing remuneration payable to the working partners under section 40(b)(v) of the Act, the remuneration should not exceed a particular aggregate amount which is based upon the figure of 'book profit'. The Explanation 3 to section 40(b) of the Act contains definition of 'book profit' for the purposes of determination of remuneration of the partners and provides that 'book profit' shall mean the net profit, as shown in the profit & loss account for the relevant previous year, computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to all the partners of the firm if such amount has been deducted while calculating the net profit. Therefore, while computing 'book profit' for purposes of section 40(b)(v) of the Act, all incomes such as capital gain, interest, rental income, income from other sources etc. which do not fall under the head 'profit or gain of business or profession', should be excluded.

- *Any non-compliance by firm or partners with the Act may result in denial of expenses which are otherwise allowable*

AOs are advised to apply the provisions of Chapter XVI of the Act in assessment of firms whenever required. It should be taken into consideration that under section 185 of the Act, any non-compliance by the firm or its partners with provisions of section 184 of the Act may result in denial of expenses such as remuneration, interest etc. payable to the partners which are otherwise allowable under the provisions of the Act.

- *Verification of claim for deduction u/s 80IA*

It has also come to notice that some firms try to inflate the profits eligible for deduction under section 80IA of the Act by not claiming expenditure towards remuneration, salary, interest etc. which are payable to the partners. In such situations, AOs may examine these transactions in light of section 80IA(10) which empowers AO to re-compute profit of the eligible business after excluding the profits of the related activity/business which produced the excessive profit.

- *Verification of claim for carry forward and set off of losses*

While framing assessments in case of firms claiming carry forward and set off of losses, Assessing Officers are requested to verify such claims taking into consideration provisions of section 78 which disallow such a carry forward and set off in case of change in constitution of the firm or on succession.

- *Effective utilization of information in the Tax Audit Report*

Regarding the issue concerning possible action against the tax auditor for furnishing incomplete information in the Tax-Audit Report and effective utilization of information in the Tax Audit Report by the AOs, it is reiterated that directions given earlier viz. Instruction No. 09/2008 dated 31.07.2008 of CBDT should be followed scrupulously by the field authorities.

Please [Click Here](#) to read Circular dated 19th June 2019.

International Taxation

International Taxation

Ratification of Multilateral Convention (MLI) to implement Tax Treaty related measures to prevent Base Erosion and Profit Shifting (BEPS)

The Union Cabinet, chaired by Prime Minister Mr. Narendra Modi, has approved ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.

Background:

The Convention is one of the outcomes of the OECD/G20 project, of which India is a member, to tackle base erosion and profit shifting. The Convention enables countries to implement the tax treaty related changes to achieve anti-abuse BEPS outcomes through the multilateral route without the need to bilaterally re-negotiate each such agreement which is burdensome and time consuming. It ensures consistency and certainty in the implementation of the BEPS Project in a multilateral context.

Ratification of the Multilateral Convention will enable application of BEPS outcomes through modification of existing tax treaties of India in a swift manner. The Cabinet Note seeking ratification of the MLI was sent to the Cabinet on 16th April 2019 for consideration. Since the said Note for Cabinet could not be taken up in the Cabinet, due to urgency, the Hon'ble Prime Minister vide Cabinet Secretariat I.D. No. 216/1/2/2019-Cab dated 27 May 2019 has approved Ratification of MLI and India's Final Position under Rule 12 of the Government of India (Transaction of Business) Rules, 1961 with a direction that ex-post facto approval of the Cabinet be obtained within a month. Consequent to approval under Rule 12, a separate request had already been sent to Ministry of External Affairs by the Union Cabinet for obtaining instrument of ratification from Hon'ble President of India.

Impact:

The Convention will modify India's treaties in order to curb revenue loss through treaty abuse and BEPS strategies by ensuring that profits are taxed where substantive economic activities generating the profits are carried out and where value is created.

International Taxation

Details:

- India has ratified the Multilateral Convention which was signed by the Hon'ble Finance Minister Mr. Arun Jaitley at Paris 2 years back on behalf of India.
- The Multilateral Convention is an outcome of the OECD / G20 Project to tackle BEPS i.e., tax planning strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity, resulting in little or no tax being paid. The BEPS Project identified 15 actions to address the serious concern in a comprehensive manner.
- India was part of the Ad Hoc Group of more than 100 countries and jurisdictions from G20, OECD, BEPS associates and other interested countries, which worked on an equal footing on the finalization of the text of the Multilateral Convention, starting May 2015. The text of the Convention and the accompanying Explanatory Statement was adopted by the Ad hoc Group on 24 November 2016.
- The Convention enables all signatories, inter alia, to meet treaty-related minimum standards that were agreed as part of the Final BEPS package, including the minimum standard for the prevention of treaty abuse under Action 6.
- The Convention will operate to modify tax treaties between two or more Parties to the Convention. It will not function in the same way as an amending protocol to a single existing treaty, which would directly amend the text of the Covered Tax Agreement. Instead, it will be applied alongside existing tax treaties, modifying their application in order to implement the BEPS measures.

The Government has deposited the ratified MLI with Organisation for Economic Co-operation and Development (OECD) on 25 June 2019, as final leg from India's side towards effectuating the landmark MLI. India has notified 93 tax treaties (excluding China). Countries such as the UK, France, Japan, Netherlands, Australia and Singapore are part of the final list. Accordingly, India's tax treaties with such countries will include MLI provisions from 1 April 2020 onwards.

Please [Click Here](#) to read the Press Release dated 12th June 2019.

Please [Click Here](#) to read the list of signatories to MLI as per OECD updation dated 27 June 2019.

Agreement for Exchange of Information between India and Marshall Islands notified

The Agreement between Government of India and Government of Marshall Islands for the Exchange of Information with respect to taxes was signed on 18th March, 2016 at Majuro, Marshall Islands. The India-Marshall Islands Tax Information Exchange Agreements (TIEA) has been notified in the Gazette of India on 21st May, 2019.

The Agreement enables exchange of information, including banking and ownership information, between the 2 countries for tax purposes. It is based on international standards of tax transparency and exchange of information and enables sharing of information on request. The Agreement also provides for representatives of 1 country to undertake tax examinations in the other country.

Please [Click Here](#) to read the Press Release dated 6th June 2019.

Company Law

Company Law

National Financial Reporting Authority (Meeting for Transaction of Business) Rules

The Ministry of Corporate Affairs (MCA) has published the National Financial Reporting Authority (Meeting for Transaction of Business) Rules, 2019 on 22nd May, 2019.

Background:

National Financial Reporting Authority (NFRA) is a regulatory body for the establishment and enforcement of accounting and auditing standards and oversight of the work of auditors. NFRA is set to take charge of oversight of audits of larger corporates including listed companies from the Institute of Chartered Accountants of India (ICAI).

Highlights of the New Rules:

- All the meetings for transaction of business of the Authority will be held at its head office situated in New Delhi for the purpose of discharging its functions.
- In any situation not provided for in these rules, the chairperson in writing may determine the procedure in certain circumstances. No act or proceeding of the Authority shall be invalid merely by reason of any irregularities in the procedure of the Authority not affecting the merits of the case.

Please [Click Here](#) to read the rules dated 22nd May, 2019.

Public Companies to submit Form PAS 6, half yearly audit report on reconciliation of share capital

MCA has published the Companies (Prospectus and Allotment of Securities) Third Amendment Rules, 2019 on 22nd May, 2019 (effective from 30th September, 2019).

Background:

MCA has amended the Companies (Prospectus and Allotment of Securities) Rules, 2014 on 10th September, 2018 and has inserted the rules, which deal with issue of securities in dematerialised form and with the filing of Share Capital Reconciliation Audit report on half yearly basis by unlisted public companies with Registrar of Companies (ROC).

In the previous month there was confusion regarding filing of this report with the ROC. The rule was ambiguous regarding filing of report, therefore MCA has come up with amendment in the rules vide its notification dated 22nd May 2019.

Highlights of the notification:

- Every unlisted public company shall submit Form PAS-6 to the Registrar with such fee as provided in Companies (Registration Offices and Fees) Rules, 2014 within 60 days from the conclusion of each half year duly certified by a company secretary in practice or chartered accountant in practice.
- The company shall immediately bring to the notice of the depositories any difference observed in its issued capital and the capital held in dematerialised form.

Format of PAS-6 has been duly notified.

Please [Click Here](#) to read the rules dated 22nd May, 2019.

Company Law

Widening of activity-base for purpose of Corporate Social Responsibility (CSR) policy

MCA has issued a notification to amend Schedule VII (activities which may be included by companies in their Corporate Social Responsibility Policies) of the Companies Act, 2013 on 30th May, 2019

Impact:

Scope for CSR activities in which money can be spent by a company under Section 135 of Companies Act, 2013, has been widened to include 'disaster management, including relief, rehabilitation and reconstruction activities'

Please [Click Here](#) to read the notification dated 30th May, 2019.

Application for grant of License to an existing company u/s 8 (charitable objects)

MCA has published the Companies (Incorporation) Sixth Amendment Rules, 2019 on 7th June, 2019 (effective from 15th August, 2019).

Background:

Earlier, a person or an association of persons, desirous of incorporating a company with limited liability under section 8 without the addition to its name of the word "Limited", or as the case may be, the words "Private Limited", was required to make an application in Form INC-12 along with the fee as provided in the Companies (Registration offices and fees) Rules, 2014 to the Registrar for a license.

Going forward, the said application shall be made in the Form INC-32 (SPICe) from 15th August, 2019 onwards.

Highlights of the notification:

- The amendments are made in Rule 19(1) of the Companies (Incorporation) Rules, 2014 which specifies "license for new companies with charitable objects etc.", the Form INC-32 (SPICe) has been substituted.
- In the Annexure, Form No.INC-12, which specifies about the application for grant of license to an existing company under Section 8 of the Companies Act (formation of companies with charitable objects), has been substituted.

Please [Click Here](#) to read the rules dated 07th June, 2019.

Reserve Bank of India

Reserve Bank of India

Reserve Bank of India (RBI) amends 'Voluntary Retention Route' for investment by Foreign Portfolio Investors (FPI) in Indian debt securities

RBI has issued regulations on 24th May 2019 on Voluntary Retention Route for FPI investment.

Background:

- The Reserve Bank, in consultation with the Government of India and Securities and Exchange Board of India (SEBI), introduces a separate channel, called the 'Voluntary Retention Route' (VRR), to enable FPIs to invest in debt markets in India.
- Broadly, investments through the Route will be free of the macro-prudential and other regulatory norms applicable to FPI investments in debt markets, provided FPIs voluntarily commit to retain a required minimum percentage of their investments in India for a period. Participation through this Route will be entirely voluntary.

Highlights of the Circular:

RBI has made certain changes in the VRR scheme to increase its operational flexibility. The following table summarizes the key changes sought to be made to the VRR scheme:

Criteria	VRR Scheme	Revised VRR Scheme
Eligible Investors	FPIs registered with SEBI	No change
Eligible Instruments	Government Securities (VRR-Govt), Corporate Debt Instruments (VRR-Corp)	Introduction of a new category, 'VRR Combined' which permits investment in both Government securities and corporate debt
Investment Limits	Overall limit capped at: i. VRR-Govt – INR 400 billion per annum ii. VRR-Corp – INR 350 billion per annum Or such higher amount as decided by RBI from time to-time	Overall limit capped at INR 750 billion or higher, which shall be allocated between VRR Govt., VRR-Corp and VRR Combined as may be decided by RBI.
Investment conditions	Successful allottees to invest 25% of the Committed Portfolio Size (CPS) within 1 month and the balance within 3 months from the date of allotment	Successful allottees to invest 75% of the CPS within 3 months from the date of allotment
Option available where the FPI decides to not continue with VRR at end of retention period	Liquidate its portfolio and exit; Or Shift its investments to the 'General Investment Limit' (subject to availability of limit under the said category)	Additional option provided to FPIs i.e. hold the investment until date of maturity or date of sale, whichever is earlier

Please [click here](#) to read Circular dated 24th May, 2019

Editorial Team



Editor



Direct Tax



Indirect Tax



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