

Tax Edge

Monthly Tax & Regulatory Updates



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Indirect Tax: GST

Indirect Tax: GST

Central Goods and Service Tax Acts (CGST) Notifications

Turnover Limit for Composition Levy for CGST is notified

Central Government on the recommendation of the GST Council has prescribed the aggregate turnover limit of Rs. 75 Lakhs for eligible registered person for Composition Levy. The central tax payable by such persons shall be 1 % in case of manufacturer, 2.5% in case of food/restaurant services and 0.5% in case of other suppliers like traders and agents. The above limit is Rs. 50 Lakhs for taxpayers registered in some special category states i.e. Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand. Further, Manufactures of ice cream, pan masala and tobacco are kept out of the list of eligible manufacturer who can opt for composition scheme.

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

Rules for Chapters IV to XVI are notified

Central Government vide notification No. 10 has notified rules for Determination of value of supply, Input tax credit rules, Tax Invoice, debit and credit notes rules , Accounts and Records, Returns, Payment of Taxes, Refund, Assessment and Audit, Advance Ruling, Appeals and Revision, Transition Provisions, Anti-profiteering and E-way Rules. To further amend these rules, separate notification No. 15/2017 has also been issued.

Please [Click Here](#) for the detailed Notification No. 10 dated June 28, 2017
Please [Click Here](#) for the Notification No. 15 dated July 1, 2017

Notification on number of HSN digits required on tax invoice

Central Board of Excise and Customs has held that registered person having aggregate turnover in the previous year upto Rs. 1.5 crore is not required to mention HSN code on the tax invoice. If the aggregate turnover is between Rs. 1.5 crore to 5 crore, then only 2 digits of HSN Code shall be mentioned and further, if aggregate turnover in previous year exceeds 5 crore then, only 4 digits of HSN code shall be mentioned in the tax invoice.

Please [Click Here](#) for the Notification dated June 28, 2017

Interest rates for delayed payments under GST

Central Government has notified the rate of interest of 18% p.a on delayed payment of taxes under GST, rate of 24% p.a in case undue and excess claim of input tax credit or undue and excess reduction in output tax liability. Where refund is withheld, taxpayer shall be entitled to rate of interest of 6% p.a and in case of further delay of 60 days in release in refund, taxpayer shall be paid additional interest of 6% p.a

Please [Click Here](#) for the Notification dated June 28, 2017

Notification issued for conditions and safeguards for the registered person who intends to supply goods or services for export without payment of integrated tax

The CBEC has notified categories of registered taxpayers who shall be eligible for furnishing letter of undertaking instead of bond and also specified that such persons shall be free from any prosecution or offence under CGST or under any existing law.

Please [Click Here](#) for the Notification dated July 7, 2017

Indirect Tax: GST

Circulars

Bond/ Letter of Undertaking allowed to be furnished manually with Jurisdictional Deputy/Assistant Commissioner

To ease out the difficulty faced in filing online Form GST RFD – 11 for furnishing information on Bond/Letter of Undertaking for export of goods or services without payment of Integrated Tax, Central Board of Excise & Customs ('CBEC') vide its circular has allowed the filing of such forms manually till the module for furnishing of Form RFD – 11 is available on the common portal.

For this CBEC has stated that the acceptance of the Bond/Letter of Undertaking required to be furnished by the exporter shall be done by the jurisdictional Deputy/Assistant Commissioner.

Please [Click Here](#) for the circular dated July 4, 2017

Clarification on multiple issues related to Bond/Letter of Undertaking for exports without payment of integrated tax

CBEC has clarified vide circular dated July 7, 2017 that bond to be furnished for exports shall be running bond as consignment-wise bond would be a significant compliance burden on the exporters.

For clarity on the amount of bank guarantee as a security for the bond, it is directed that the jurisdictional Commissioner may decide about the amount of bank guarantee depending upon the track record of the exporter. If Commissioner is satisfied with the track record of an exporter then furnishing of bond without bank guarantee would suffice. In any case the bank guarantee should normally not exceed 15% of the bond amount.

Exporters can furnish the bond/Letter of Undertaking to Central Tax Authority or State Tax Authority till the administrative mechanism for acceptance of these documents by Jurisdictional Deputy/Assistant Commissioner is implemented.

Please [Click Here](#) for the circular dated 7 July, 2017

Indirect Tax: GST

Press Releases

Relaxation in filing returns for July and August 2017

The GST Council has now proposed a relaxation in return filing for the month of July and August.

It has been decided that, for the first two months of GST implementation, tax would be payable based on a simple return (Form GSTR-3B) containing summary of outward and inward supplies which will be submitted before the 20th of the succeeding month.

However, the invoice-wise details in registered GSTR – 1 would have to be filed for July and August, 2017, as per the timelines given below:

Month	GSTR – 3B	GSTR – 1	GSTR – 2 (auto-populated from GSTR – 1)
July 2017	20 th August	1 st – 5 th September	6 th – 10 th September
August 2017	20 th September	16 th – 20 th September	21 st – 25 th September
September, 2017	N.A	Upto 10 th October	Upto 15 th October

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



Indirect Tax: GST

Press Releases

Applicability of Representational Services provided by advocates to be covered under Reverse Charge

The CBEC has clarified vide press release that legal service has been defined to mean any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority. Legal Services provided either by individual advocate including a senior advocate or a firm of advocates are liable for payment of GST under Reverse Charge by the business entity.

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

Clarification on services provided by Educational Institute

The CBEC has clarified vide press release that education upto Higher Secondary School level does not suffer GST on output services and also on most of the important input services.

Some of the input services like transport, canteen etc. provided by private players to educational institutions were subject to service tax in pre-GST era and the same is continued in GST regime.

Meaning of Registered Brand Name for chargeability of appropriate GST rate

As the press release dated July 5, 2017 CGST rate of 5% will not be applicable on the supply of goods unless the brand name or trade name is actually on the Register of Trade Marks and is in force under the Trade Marks Act, 1999.

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

Goods and Services Tax (GST) rate for specified items for Physically Challenged Persons

As per the press release issued by the Government of India, Assistive devices and rehabilitation aids for physically challenged persons have been kept at the concessional 5% GST rate. Council has released the list of 22 items where GST rate of 5% shall be charged. Though the raw material used for manufacturing these devices and equipment's is 18%, the domestic manufacturer shall be entitled to claim refund of the accumulated input tax credit.

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

Judicial precedents

GST on legal Services: *Legal practitioners are under genuine doubt whether they require getting themselves registered. The Court directs that no coercive action be taken against any lawyer or law firms for non-compliance with any legal requirement under the CGST Act, the IGST Act or the DGST Act till a clarification is issued by the Central Government and the GNCTD and till further orders in that regard by the Court. [JK Mittal & Co vs. UOI \(Delhi High Court\)](#)*

Direct Tax Updates

Direct Tax Updates

Notifications/Circulars

01

Clarification on TDS on GST component comprised in Invoice

Central Board of Direct Taxes ('CBDT') has clarified that wherever the component of 'GST on services' comprised in the amount payable separately, tax shall be deducted at source on the amount paid or payable without including such 'GST on services' component.

Please [Click Here](#) for the circular dated July 19, 2017

02

Rules for Valuation of Unquoted Shares are notified

CBDT has released the final rules for valuation of unquoted shares where transfer for shares is made without consideration or for consideration which is less than for aggregate fair market value of shares.

New section 50CA was inserted in the Finance Act, 2017 to provide that where consideration for transfer of the unquoted equity share of a company is less than the FMV of such a share, the FMV shall be deemed to be the full value of consideration for the purposes of computing income under the head "capital gains". The section further provides that FMV should be determined in the manner as defined in the relevant rule.

Please [Click Here](#) for the Notification dated July 12, 2017

03

Non-applicability of provisions of section 269ST on certain transactions

Sec 269ST was inserted by Finance Act, 2017, whereby recipients were prohibited to receive an amount of Rs. 2 lakhs or more during a single day or in a single transaction otherwise than by account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account.

By notification dated July 3, 2017 Central government has exempted certain transactions from the purview of section 269ST of IT Act. These exempted transactions includes receipt by a business correspondent or a white label automated teller machine operator from retail outlet sources on behalf of a banking company or co-operative bank, in accordance with the guidelines issued by the Reserve Bank of India (RBI) etc.

Please [Click Here](#) for the Notification No. 57 dated July 3, 2017

Direct Tax Updates

04

Clarification in respect of Sec 269ST of the Income Tax Act

The clarification was sought on whether the provisions of section 269ST of the Act shall apply to one installment of loan repayment or the whole amount of such repayment. It is clarified that in respect of receipt in the nature of repayment of loan by NBFCs or HFCs, the receipt of one installment of loan repayment in respect of a loan shall constitute a 'single transaction'.

Please [Click Here](#) for the Circular dated July 3, 2017

05

CBDT amends Clause 31 of Form 3CD

CBDT has issued the Income tax (IT) (18th Amendment) Rules, 2017 wherein it has made certain changes with respect to the particulars required to be furnished in clause 31 of the Form No. 3CD i.e. "Particulars of loan accepted or repaid exceeding the limits specified under section 269SS and 269T of the IT Act, 1961". Some of the changes that have been made in the aforementioned clause are as follows:

- Separate disclosure of each specified sum accepted or taken in an amount of Rs. 20,000/- or more
- Separate disclosure of particulars of repayment of those loans or deposits or any specified advance whose amount is Rs. 20,000/- or more, is also required if those loans were received either otherwise than by cheque or bank draft or use of electronic clearing system through a bank account or by a cheque or bank draft which is not an account payee cheque or account payee bank draft.

These rules shall come into force w.e.f. 19 July 2017

Please [Click Here](#) for the Notification No. 58/2017 dated July 3, 2017

06

Launch of Aaykar Setu - Another E-Initiative by CBDT

A new tax payer service module 'Aaykar Setu', was launched by the Honourable Finance Minister, Shri Arun Jaitley on July 10, 2017. The module compiles various tax tools, live chat facility, dynamic updates, and important links to various processes within the Income Tax Department in a single module. The tax payers will also be able to receive regular updates regarding important tax dates, forms and notifications on mobile numbers registered with the ITD.

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

Judicial Precedents

Honda Siel Cars India Ltd vs. CIT (Supreme Court):

Expenditure incurred under a Technical Collaboration Agreement for setting up of new plant for the first time to manufacture cars constitutes capital expenditure.

Dismissing the appeal of Honda Siel in this case, the Supreme Court upheld the decision of high court and observed that virtually life of manufacture of product in the plant and machinery, establishes with assistance of foreign company, is co-extensive with the agreement. The technical collaboration between “Honda India” and “Honda Japan” included not only transfer of technical information, but, complete assistance, actual, factual and on the spot, for establishment of plant, machinery etc. so as to bring in existence manufacturing unit for the products. Thus, a new business was set up with the technical know-how provided by HMCL, Japan and lump sum royalty, though in five installments, was paid therefore to be treated as capital expenditure.

CIT vs. Orchid Industries Pvt. Ltd (Bombay High Court):

Mere fact that parties to whom the share certificates were issued and who had paid the share capital money were not traceable and did not appear before the AO in response to summons does not mean that the transaction can be treated as bogus if the documentation shows the genuineness of the transaction.

Mahavir Manakchand Bhansali vs. CIT (Bombay High Court):

If the delay in filing the return is completely attributable to the revenue for non-furnishing of copies of the documents and not giving inspection of the documents seized within a reasonable time after making the demand, the interest has to be waived. Though s. 158BFA(1) does not (pre 2002) confer the power to waive interest, it has to be read in on equitable construction because the subject cannot be made to pay for the negligence of the Officers of the State.

***International
Taxation / Transfer
Pricing***

International Taxation

India's Advance Pricing Agreement regime Moves Forward with Signing of More APAs by CBDT

The Central Board of Direct Taxes (CBDT) entered into Five Unilateral Advance Pricing Agreement with Indian taxpayers and a Bilateral Advance Pricing Agreement (involving United Kingdom) during June, 2017. The APAs signed in June, 2017 pertain to healthcare, information technology and gaming/animation (media) sectors of the economy. With this, the total number of APAs signed since the commencement of the program till date stands at 162 (Unilateral-150 and Bilateral-12).

Please [Click Here](#) for the Press Release dated June 28, 2017

OECD issues draft content of the 2017 update to the Model Tax Convention

The Organisation for Economic Co-operation and Development (OECD) has issued the draft contents of the 2017 update to the Model Tax Convention and has invited comments by 10 August 2017 in respect to the four identified changes that have not previously been released for comments. Primarily, the changes are in line with the approved OECD/ G20 Base Erosion and Profit Shifting (BEPS) Action Plans.

Please [Click Here](#) for the Draft Model Tax Convention

Judicial Precedents

[Pr CIT vs. M/s Veer Gems \(Gujarat High Court\):](#)

The mere fact that an enterprise has de facto participation in the capital, management or control over the other enterprise does not make the two enterprises "associated enterprises" so as to subject their transactions to the rigors of transfer pricing law.

Regulatory

Company Law

Limit for mandatory rotation of auditors/auditor firm in private companies modified

- As per Companies Act, a specific class of companies is not allowed to appoint an individual as auditor for more than 1 term of 5 consecutive years and an audit firm as auditor for more than 2 terms of 5 consecutive years.
- Earlier, the above said mandatory rotation of auditors/auditor firm was applicable to private companies with paid up capital of Rs. 20 Crores or more
- Ministry recently relaxed this limit from Rs. 20 Crores to 50 Crores

Please [Click Here](#) for the Notification

Criteria modified for appointment of Independent Directors

- As per the Company law, certain classes of Public companies, based on their paid up share capital and turnover, are mandatorily required to appoint 2 Independent Directors on Board
- A recent notification dated 5 July 2017, exempted following classes of unlisted public companies from above requirement:-
 - Joint Venture;
 - Wholly Owned Subsidiary; and
 - Dormant company

Please [Click Here](#) for the Notification

Companies (Registered Valuers and Valuation) Rules notified

- Now, the valuation has to be done by registered valuer having certification of registration.
- As per Sub rule (5) and (6) of this rule, besides other individuals holding degrees in specified discipline, members of professional bodies having more than 5 years of experience and also having passed valuation examination conducted by Registration Authority are eligible to be registered valuer.
- Relaxation from above condition is granted for six months under sub rule (11) in transitional provision.

Please [Click Here](#) for the Rules

Foreign Trade Policy

Foreign Trade Policy 2015-20 amended to bring in line with the onset of GST (Goods and Services Tax)

GST has been made effective from 1st July 2017

As the Foreign Trade Policy 2015-20 did not contain the provisions in line with GST, therefore, the Government issued Trade Notice to align the existing FTP with the GST.

Please [Click Here](#) for the Trade Notice



Limits modified for investment by Foreign Portfolio Investors (FPI) in Government securities

SEBI issued notification regarding allocation and monitoring of FPI debt investment limits in Government securities

Limits for FPIs in Government securities has been revised for July- September 2017 quarter as follows:-

- Limit for FPIs in Central Government securities enhanced to INR 187,700 crore
- Limit for Long Term FPIs (Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks) in Central Government securities revised to INR 54,300 crore
- The debt limit category of State Development Loans (SDL) to have two sub-categories, namely, SDL- General and SDL- Long Term. SDL - General shall be available for investment on tap for all categories of FPIs while SDL- Long Term shall be available for investment on tap for only Long Term FPIs.
- The limit for investment by all FPIs in SDL- General shall be INR 28,500 crore while that for SDL-Long Term shall be INR 4,600 crore

Transferring unutilized limits of the Long term category of FPIs to the general category has been done away with.

Future increases in State Development Loans, limit for FPIs investing in Government securities have been modified.

Please [Click Here](#) for the Circular

Acceptance of e-PAN card for KYC purposes by Foreign Portfolio Investors (FPI)

Central Board of Direct Taxes (CBDT) has recently introduced facility of e-PAN (Electronic PAN card).

It is now clarified by SEBI that e-PAN issued by CBDT can be produced by FPI for KYC compliances

Please [Click Here](#) for the Circular

Filings for Foreign Venture Capital Investors (FVCI) made online

SEBI, vide its circular dated 6 July 2017, decided to introduce online system for registration, reporting and other compliances for FVCI.

The online system shall facilitate ease of operations and ensure greater accuracy. It is made functional from 1 July 2017

Activation email has been sent to existing FVCI to activate online accounts

Please [Click Here](#) for the Circular



About KrayMan

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