



TAX EDGE

Monthly Tax & Regulatory Updates



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Taxation

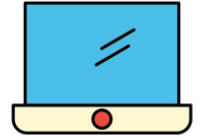


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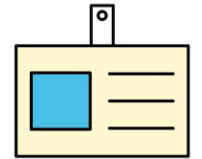
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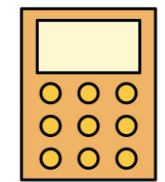
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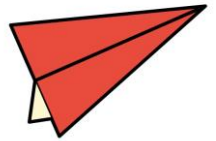
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Goods & Services Tax (GST)



Goods & Services Tax

Recommendations made by the GST Council in 31st Meeting

The GST Council in its 31st Meeting at New Delhi on 22nd December 2018 took forward-looking approach by responding to key industry challenges like rationalization of tax rates, ease of compliances, clarifications on certain vexed issues and referring contentious issues to dedicated group of ministers etc.

Please [Click Here](#) to read our detailed bulletin on recommendations made by the GST Council in its 31st Council Meeting.

Extension of due date of filing Annual Return (Form GSTR 9) and Reconciliation Statement (Form GSTR 9C) till 31st March 2019

The Central Government has extended till 31st March 2019, the due date of filing Annual return in Form GSTR-9 for the period 1st July 2017 to 31st March 2018, as the technical utility for filing the form online is expected to be available for taxpayers not before 31st January 2019.

As the Annual Return is required to file along with a copy of the audited annual accounts and reconciliation statement in Form GSTR 9C in case of aggregate turnover exceeds Rs.2 Crore, therefore, due date of filing GSTR 9C has also been extended to 31st March, 2019.

Please [Click Here](#) to read Order no.1 dated 11th December 2018.

Extension of due date of filing monthly / quarterly return in Form GSTR 3B/GSTR 1 for certain registered persons

The Central Government has notified that the return in Form GSTR-3B/ GSTR 1 for the following registered persons has been extended upto the dates given below:

Location of principal place of business	Form	Period	Due date
Srikakulam district in the State of Andhra Pradesh	GSTR-3B/GSTR-1 (monthly return)	September 2018 to October 2018	30 th November 2018
	GSTR-1 (quarterly return)	July 2018 to September 2018	30 th November 2018
	GSTR-4 (quarterly return)	July 2018 to September 2018	30 th November 2018
Cuddalore, Thiruvarur, Puddukottai, Dindigul, Nagapatinam, Theni, Thanjavur, Sivagangai, Tiruchirappalli, Karur and Ramanathapuram in the State of Tamil Nadu	GSTR-3B/GSTR-1 (monthly return)	October 2018	20 th December 2018

Please [Click Here](#) to read notification for GSTR-3B monthly return.

Please [Click Here](#) to read notification for GSTR-1 monthly return.

Please [Click Here](#) to read notification for GSTR-1 quarterly return.

Please [Click Here](#) to read notification for GSTR-4 quarterly return.

Goods & Services Tax

Extension of due date of filing Form GSTR-7 (TDS Return) till 31st January 2019

The Central Government has notified that the due date of furnishing return in Form GSTR-7 (TDS return) for the months of October, 2018 to December, 2018 has been extended to 31st January 2019.

Please [Click Here](#) to read notification no. 66 dated 29 November 2019.

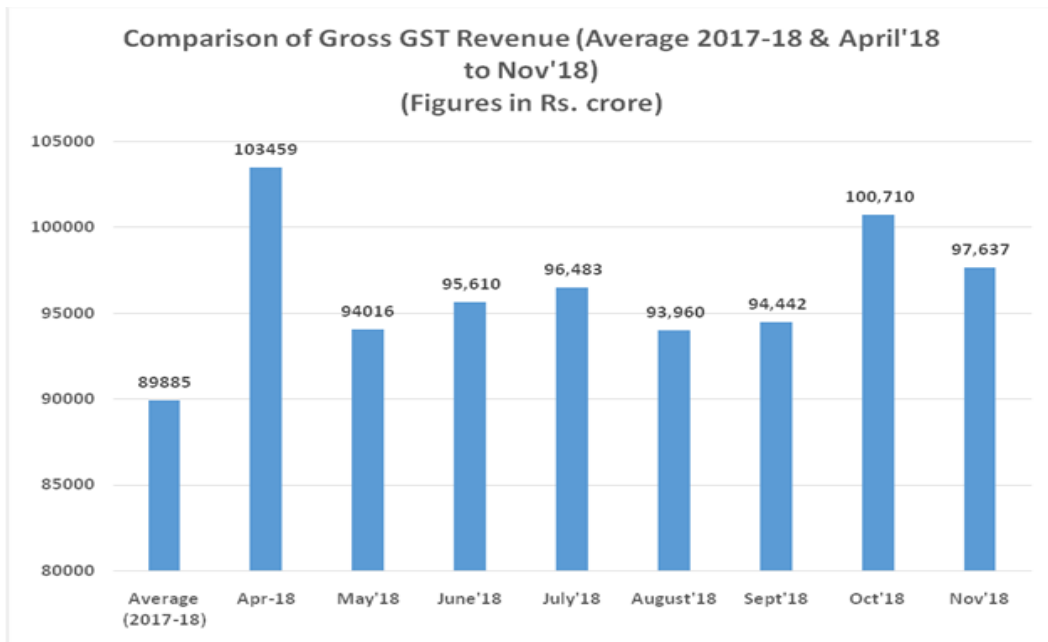
GST Revenue collection for the month of November 2018 crosses Rs.97,637 crore

The total gross GST revenue collected in the month of November 2018 is Rs. 97,637 crore, segregation of which is given below:

Tax	Amount (Rs.)
Central Goods and Services Tax (CGST)	16,812 crore
State Goods and Services Tax (SGST)	23,070 crore
Integrated Goods and Services Tax (IGST)	49,726 crore
Cess	8,031 crore

The total number of GSTR 3B Returns filed for the month of October up to 30th November 2018 is 69.6 lakh.

Please [Click Here](#) to read press release dated 1 December 2018.



Customs



Customs

Extension of exemption granted from Basic custom duty (BCD) and IGST for imports by National Technical Research Organisation (NTRRO)

The Central Government has extended the exemption granted from BCD and IGST for imports by NTRRO upto 31st December 2021. Earlier this exemption was valid upto 31st December 2018 only.

Please [Click Here](#) to read notification no.81 dated 17 December 2018.

Revision in All Industry Rates (AIRs) of Duty Drawback and clarifications issued thereon

With respect to goods which are entitled to duty drawback, the rates of drawback for the tariff item corresponding to the export goods as if it were a claim for duty drawback filed with reference to such rate and cap, has been notified by the Central Government.

The primary conditions for entitlement to duty drawback as per the notification are given below:

- The general rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 shall apply as it is for classifying the export goods listed in the drawback rates Schedule.
- Drawback at the rates specified in the Schedule as per notification shall be applicable only if the procedural requirements for claiming drawback as specified in rule 12, 13 and 14 of the said rules are satisfied, unless otherwise relaxed by the competent authority.
- Whenever a composite article is exported for which any specific rate has not been provided in the said Schedule, the rates of drawback applicable to various constituent materials can be extended to the composite article according to net content of such materials on the basis of a self-declaration to be furnished by the exporter to this effect and in case of doubt or where there is any information contrary to the declarations, the proper officer of customs shall cause a verification of such declarations.

Further, in reference to the above notification, the Central Government has issued certain clarifications as given below:

- The revised AIRs of Duty Drawback neutralize incidence of duties of Customs on inputs used and remnant Central Excise duty on specified petroleum products used in manufacture of export goods
- AIR notification also specifies the alternative AIRs on garments exports made against the Special Advance Authorization
- The AIR of Duty Drawback for items of marine products and seafood, chemicals, leather articles and footwear, cotton, textiles, silk, sports goods etc. have been increased
- 24 new tariff items in various sectors viz. Chemicals (17 items), Textiles and made-up (3 items) and Electrical and electronics (4 items) have been introduced in the Schedule
- Rationalization of rates for some readymade garments have been done
- Appropriate caps have been provided to prescribe upper limit of Duty drawback wherever felt necessary.

Please [Click Here](#) to read notification no.95 dated 6th December 2018. The notification is effective from 19th December 2018.

Please [Click Here](#) to read circular no. 52 dated 12 December 2018 for clarifications on the revised AIRs.

Direct Tax



Direct Tax

Direct tax collection grows to Rs.6.75 lakh crore upto November 2018

The provisional figures of direct tax collections up to November 2018 show that gross collections are at Rs. 6.75 lakh crore which is 15.7% higher than the gross collections for the corresponding period of last year.

Refunds amounting to Rs.1.23 lakh crore have been issued during April 2018 to November 2018, which is 20.8% higher than refunds issued during the same period in the preceding year. Net collections (after adjusting for refunds) have increased by 14.7% to Rs. 5.51 lakh crore during April - November 2018.

The Net Direct Tax collections represent 48% of the total Budget Estimates of Direct Taxes for Financial Year 2018-19 (Rs. 11.50 lakh crore). The Growth Rate of Gross Collections for Corporate Income Tax (CIT) is 17.7% while that for Personal Income Tax (PIT) (including Securities Transaction Tax) is 18.3%. After adjustment of refunds, the Net Growth in CIT collections is 18.4% and that in PIT collections is 16.0%.

Please [Click Here](#) to read Press Release dated 10th December 2018.

Valuation of start-ups as per Income-tax Act – No coercive action to be adopted by tax department to recover outstanding tax demand - Expert panel to be set up to look into valuation related issues

[Background](#)

Valuation of start-ups has always been a matter of dispute with the tax authorities. Section 56(2)(viib) of the Income-tax Act provides for taxation of the share premium that is above the 'fair value' of shares as 'other income'. Since startups are valued based on the business potential of their ideas, which could change with time, they are finding it hard to justify the share premium received. While tax officials prefer to value these enterprises based on their net asset value, companies tend to be valued based on estimates of their future earnings (commonly called Discounted Cash Flow method of valuation). Rule 11UA gives an option to the assessee to adopt Net Asset Value or Discounted Cash Flow method as basis of valuation at their choice. Although start-ups have been excluded from the purview of section 56(2)(viib) vide department's instruction dated 6 February 2018, it appears that the tax department is still chasing startup-taxpayers to pay outstanding demand as per said provision.

[Internal instructions issued by tax department:](#)

In February 2018, the Central Board of Direct Taxes (CBDT) had instructed that no coercive measures shall be adopted by tax officers to recover the outstanding demand in case of start-ups if additions have been made under section 56(2)(viib) read with Rule 11UA(2) of the Income-tax Rules. Based on further representations received by CBDT, the above direction has been re-iterated by CBDT to give relief to start-ups.

Please [Click Here](#) to read Instruction dated 24 December 2018.

Direct Tax

[Expert panel to be set-up:](#)

To resolve the above issue effectively, Government has decided to set-up an Expert Panel on matter relating to valuation of start-ups. The expert committee to be set up with members from institutions such as Indian Institute of Technologies (IITs) and Indian Institute of Managements (IIMs) which will make recommendations on issues relating to recognition of startups for exemption from share premium tax and other connected matters.

Please [Click Here](#) to read press release dated 21 December 2018.

CBDT takes steps to stop refunds based on bogus investments

As per media reports, CBDT chairman Mr. Sushil Chandra stated that the income tax department has introduced additional check to prevent outgo towards bogus refund claims based on fraudulent investments shown in tax return forms. During the search operations in Mumbai, Bengaluru and certain parts of Punjab, the Income-tax department discovered that some fraudsters were encouraging tax payers to claim refunds based on fictitious investments under 80C and towards housing loans.

Adding further, it was stated that a three member committee has been set up to deal with the issues concerning "high-pitched assessments" where in irrational tax demands are raised by tax officers. If the committee decides that the assessment is "high-pitched", it would stay the demand and steps would be initiated against the assessing officer.

A high-pitched scrutiny assessment case is one where it is found that the addition of income was made on frivolous grounds, non-observance of principles of natural justice, or non-application of mind and gross negligence by the assessing officer in deciding a case.

E-return filing doubled in last 4 years

There has been a growth in the number of e>Returns filed by the individual taxpayers during the last 4 years. The number of income-tax returns filed and the annual growth rate during the last 4 FYs are as under:

Financial Year	Number of Income-tax Returns filed by Individuals	Growth over previous year
2014-15	31,334,957	15.7%
2015-16	40,034,897	27.8%
2016-17	49,329,747	23.2%
2017-18	63,349,975	28.4%

The average net tax liability in the e>Returns filed by individual taxpayers during the period under reference is Rs. 49,656.

Please [Click Here](#) to read Press Release dated 14 December 2018.

Direct Tax

Income-tax department working on pre-filled income tax return forms: CBDT chief

As per media reports, CBDT Chairman stated that the Income tax payers will soon get pre-filled ITR forms that will make the process of filing returns easier. The tax department is working on the pre-filled income tax return (ITR) forms which would be based on tax deducted at source (TDS) details filed with the department by the employer or any other entity.

A pre-filled return could be submitted directly or after modification. The new form is aimed at encouraging people, who are daunted by the complexity of the process, to file their taxes.

CBDT task force for drafting new Direct Tax Code reconstituted

To review the Income-Tax Act and to draft a new direct tax law, the Finance Ministry reconstituted the task force by appointing CBDT Member Akhilesh Ranjan as the new convenor of the panel. The committee will submit its report by 28 February 2019.

The reconstitution of the panel comes after the task force formed last year to frame new direct tax legislation did not submit its final report to the Finance Ministry which was due by September-end. The convenor of the panel, then CBDT Member Arbind Modi, retired on 30 September 2018, which left the report of the task force in limbo.

The 28 February 2019 deadline for the new committee assumes significance as it will be after presentation of the likely interim Budget presentation on 1 February 2019 and before general elections slated later next year.

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



International Taxation



International Taxation

Final notifications issued under section 115JG(1) for conversion of Indian branch of foreign bank into an Indian subsidiary company

Background

The Finance Act, 2012 inserted Chapter XII-BB, consisting of section 115JG of the Act, which contains “special provisions relating to conversion of Indian branch of a foreign bank into a subsidiary company.” Section 115JG of the Act provides that where a foreign banking company, being a company engaged in the business of banking in India, through its branch situated in India, converts its branch into a subsidiary company, in accordance with the scheme framed by the Reserve Bank of India (RBI), then subject to the conditions notified by the Central Government, the capital gains arising from such a conversion shall not be chargeable to tax.

In this regard, CBDT had issued a draft notification dated 17th November 2017 prescribing the conditions to be satisfied for claiming the Capital Gains exemption and specifying the transitory provisions. Comments were invited by the CBDT on the Draft Notification. After taking into consideration the comments and suggestions from various stakeholders, the CBDT has issued final Notification dated 6th December 2018.

Conditions to be fulfilled for availing benefit of section 115JG as per the notification:

- The Indian branch amalgamates with the Indian subsidiary company in accordance with the scheme of amalgamation approved by the shareholders of the foreign company and the Indian subsidiary company and sanctioned by the RBI
- All assets and liabilities of the Indian branch immediately before conversion become the assets and liabilities of the Indian subsidiary company
- The asset and liabilities of the Indian branch are transferred to the Indian subsidiary company at book values appearing immediately before conversion (revaluation of assets to be ignored for this purpose)
- The foreign bank referred to in section 115JG(1) of the Act or its nominee shall hold the whole of the share capital of the Indian subsidiary company during the period beginning from the date of conversion and ending on the last day of the previous year in which the conversion took place, and continue to hold the share of the Indian subsidiary company carrying not less than 51% of the voting power for a period of 5 years immediately succeeding the said previous year; and
- The foreign company referred to in section 115JG(1) of the Act does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the Indian subsidiary company
- Further, the final notification specifies the applicability of provisions of the Act for treatment of unabsorbed depreciation, set-off or carry forward of losses, availability of Minimum Alternative Tax (MAT) credit and the computation of income of the foreign bank and the Indian subsidiary company with certain exceptions, modifications and adaptations as mentioned in the notification.

Please [Click Here](#) to read the Notification No.85/2018 Dated 6th December 2018.

Please [Click Here](#) to read the Notification No.86/2018 Dated 6th December 2018.

India - Hong Kong Double Taxation Avoidance Agreement (DTAA) comes into effect

As per media reports, DTAA between India and Hong Kong has come into effect which would stimulate more the two-way flow of investments and help curb fiscal evasion with respect to taxes on income. The agreement was signed on 19 March 2018. Both sides have completed required formalities for the agreement to come into effect.

Companies Act, 2013



Companies Act, 2013

Extension of due date for filing particulars of auditors with National Financial Reporting Authority (NFRA) in Form NFRA-1 within 30 days of deployment of Form

The Government, through a circular dated 13 December 2018, has stated that the time limit for filing Form NFRA-1 will be 30 days from the date of deployment of this form on the website of Ministry/ National Financial Reporting Authority (NFRA) for all bodies corporate governed by the said rule (excluding companies incorporated under the Companies Act, which are not required to file this Form).

Please [Click Here](#) to read circular no.12 dated 13 December 2018.

Relaxation of additional fees and extension of last date of filing of CRA-4 (Cost Audit Report in XBRL format

The Government, through a circular dated 10 December 2018, has provided relaxation of additional fees and extension of last date of filing of forms CRA-4 (Cost Audit Report in XBRL format) up to 31 December 2018, wherever additional fees is applicable.

Please [Click Here](#) to read the circular dated December 10, 2018.

Amendment in Class of Companies who are required to include cost records in their books of account

The Central Government via notification dated 3 December 2018 has amended applicability of class of Companies who are required to include cost records in their books of account by making following amendments in the Companies (Cost Records and Audit) Rules, 2014:

Corresponding Rule	Amendment
Rule 3 S. No. 7	Companies which are rendering services for a port has to include cost records in their books of account.
Rule 3 S. No. 8	Companies which are rendering services at the airport has to include cost records in their books of account.
Rule 3 S. No. 28	Companies which are rendering services of Pulp and Paper has to include cost records in their books of account.

Please [Click Here](#) to read the Companies (Cost Records and Audit) Amendment Rules, 2018 dated 3 December 2018.

Companies Act, 2013

New Rules for filings with Registrar of Companies in relation to company-incorporation, change in financial year and conversion of public into private company

Background:

The Central Government has inserted 3 new rules in the Companies (Incorporation) Rules, 2014 named as Rule 23A, 40 and 41 notifying the following:

- *Declaration at the time of commencement of business (applicable for companies incorporated after 2nd November 2018)*

Ministry of Corporate Affairs has notified form INC- 20A through which the declaration under section 10A has to be filed by Company. The contents of the said form shall be verified by a Company Secretary or a Chartered Accountant or a Cost Accountant in practice. It is pertinent to note that Form INC 20A is required to be filed by every Company incorporated after 2nd November 2018 within 180 days from the date of incorporation along with the evidence of receiving initial subscription money. Without this, the Company can't commence its business operations.

- *Application for change in Financial Year*

Application for change in Financial Year by a company or body corporate, which is a holding company or a subsidiary or associate company of a company incorporated outside India which are required to follow a different financial year for consolidation of its accounts outside India can file application alongwith requisite information and documents under sub-section 41 of section 2 of the Companies Act, 2013 to concerned Regional Director in form RD-1.

- *Application for conversion of public company into private company*

Ministry of Corporate Affairs vide rule no. 41 notified the procedure for obtaining approval from Central Government for effecting conversion of public company into a private company. An application along with requisite information and documents is to be filed within 60 days from the date of passing of special resolution, with Regional Director in e-Form No. RD – I.

Please [Click Here](#) to read the Companies (Incorporation) Fourth Amendment Rules, 2018 dated 18 December 2018.

Amendment in E-Form CHG-4 for reporting of details relating to satisfaction of charge on property

Every Company shall intimate the Registrar of Companies about the payment or satisfaction in full of any charge registered under Chapter VI of the Companies Act, 2013 in E-Form CHG-4 within 30 days of payment or satisfaction in full.

The Government, through a notification dated 18 December 2018, has amended E-Form CHG-4 effective from said date.

Please [Click Here](#) to read the Companies (Registration of Charges) Second Amendment Rules, 2018 dated 18 December 2018.

Reserve Bank of India (RBI)

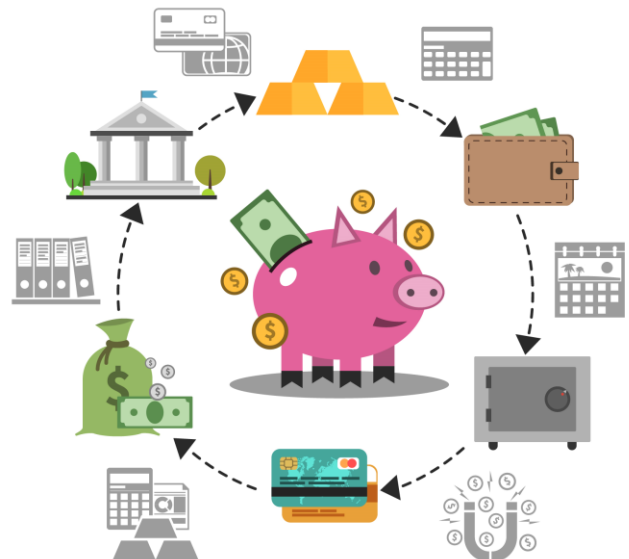


Reserve Bank of India (RBI)

Liberalization of External Commercial Borrowings (ECB) regulations

On 17 December 2018, vide Notification No. FEMA 3(R)/2018-RB, RBI has notified the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 {FEMA 3(R)}. The said regulations supersede the existing regulations regarding borrowing and lending in foreign exchange/ rupees and issuance of Foreign Currency Convertible/Exchangeable Bonds.

The amendments made by RBI intend to further liberalize the ECB regulations of India, making it easier in terms of processes and end-use restrictions for attracting more loan funds from outside India. It also broadens list of eligible borrowers of ECB which is likely to help non-corporate / 'semi'-corporate borrowers such as Limited Liability Partnerships (LLPs) to raise funds at competitive rates. Although further clarity is still required on certain aspects, this is a welcome move by RBI towards making it easier to do business in India.



Reserve Bank of India (RBI)

Key changes in the ECB framework as per the notification are summarized below. Detailed guidelines may be issued by RBI shortly.

Particulars	Existing ECB regulations	New ECB Regulations
List of Eligible Borrowers expanded	Certain specified classes such as companies engaged in manufacturing, software development, SEZ developers, start-ups, etc.	All entities eligible to receive foreign direct investment (FDI)
List of Eligible Lenders expanded	Certain specified classes such as international banks, international capital markets, foreign equity holders etc.	Lender should be a resident of Financial Action Task Force or International Organization of Securities Commissions compliant country. RBI in consultation with Government of India may provide clarity on any other conditions to be complied with to qualify as eligible lender
End-use restrictions	<p>Certain specified classes of transactions restricted such as:</p> <ul style="list-style-type: none"> investment in real estate/ purchase of land (except affordable housing), construction and development of SEZ and industrial parks/integrated townships, investment in equity and capital markets, working capital/ general corporate purposes repayment of rupee loans and on-lending for some of above activities 	<p>ECBs are prohibited for following:</p> <ul style="list-style-type: none"> Business of chit fund or nidhi company Investment in capital market (including margin trading and derivatives) Agricultural or plantation activities Real estate activity or construction of farm houses; Trading in Transferrable Development Rights (TDR)
Minimum average maturity	1 to 10 years	3 years
Approval or Automatic Route	Approval from Government required for raising ECB beyond specified threshold (except for Foreign Currency Exchangeable Bonds)	Approval from Government required for raising ECBs which is not in conformity with specified parameters. Financial Institutions raising foreign exchange or rupee denominated borrowings from outside India for onward lending will always require prior Government approval.

Please [Click Here](#) to read the Notification Dated 17th December 2018.

Editorial Team



Editor



Direct Tax



Indirect Tax



Regulatory



Communications

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