

Tax Edge

Monthly Tax & Regulatory Updates



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Indirect Tax Updates: GST & Service Tax

Indirect Tax Updates

GST

The GST Council, in its last two meetings, has approved GST return rules and rules relating to Anti-profiteering, Advance Ruling, Appeal & Revision, Assessment and Funds Settlement. The Central Board of Excise & Customs (CBEC) has released final return rules and formats approved by the Council.

Further, it has decided to set up a committee for addressing anti-profiteering issues.

The Council has also fixed the GST rate on various goods such as gold, textile and biscuits. It has also released the rates schedule for goods covered under various chapters, further amendments to the earlier rates of goods and list of exemptions for import of goods under IGST.

The Council deferred the implementation of e-way bill and allowed the existing system of road permits / way bills to continue.

It has relaxed Return filing timeline for first 2 months whereby simple return containing summary of outward and inward supplies needs to be submitted. It further provided that invoice-wise details in regular returns for the month of July and August, 2017 needs to be filed in September. Late fees and penalty would not be levied for the interim period.

Indirect Tax Updates

Notifications under GST

Certain sections of Integrated Goods and Service Tax (IGST) and Central Goods and Service Tax (CGST) are brought into force

The Central Government has notified the appointed date to be June 22, 2017 for coming into force of provisions of certain sections of IGST Act, and CGST Act. These provisions relates to power of Central Government to fix appointed date for enforcement of law, Definitions, appointment of officers, Grant of registration, amendment in Registrations, Transitional Provisions, Special Provision for Payment of Tax by a Supplier of Online Information Database Access Retrieval (OIDAR), applicability of some provisions of Central Goods and Service tax to Integrated Goods and Service Tax, Act, power to make rules by Government, issuance of regulation by Board and issuance of notification by the Government

Please [Click Here](#) for the Notification No. 1/2017 – Integrated Tax dated June19, 2017

Please [Click Here](#) for the Notification No. 1/2017 – Central Tax dated June19, 2017

Suppliers subject to GST on Reverse Charge Basis exempted From Registration

The Central Board of Excise and Customs, has notified that persons, who are only engaged in making supplies of taxable goods or services or both, the total tax of which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under Section 9(3) of the Act, are exempted from obtaining registration under the Act....

Please [Click Here](#) for the Notification No. 5/2017 dated June 19, 2017

Composition Levy and Registration Rules are notified for force of law

The CBEC has notified Composition Levy and Registration rules which were approved by GST Council earlier this month. The detailed notification has prescribed the procedural aspects for registration under various sections of the Goods and Service Tax, Act and shall have force of law on the date of its issue.

Please [Click Here](#) for the Notification No. 3/2017 dated June 19, 2017

Indirect Tax Updates

Migration of existing taxpayers and New Registrations to open from June 25, 2017

GSTN providing IT backbone for GST System shall be re-opening enrollment of existing taxpayers and new registrations beginning June 25, 2017.

Provisional ID which can't be used to migrate as they are showing 'RC Cancelled' are being reactivated.

Migrating Taxpayers can use enrolled provisional ID as their GSTIN for conducting their business from July 1, 2017 for three months without waiting for issue of certificate of registration.

The taxpayers, who have obtained Central Excise and Service Tax Registration in the month of June, 2017 would be issued provisional Id in the first week of July, 2017.

Service Tax

Due date for filing Service Tax return for April to June 2017 extended to 15 Aug 2017

To implement GST, due date for filing service tax return for the period April 1, 2017 to June 30, 2017 has been notified to be Aug 15, 2017 and for filing revised return for the period, period of 45 days is allowed from the date of filing of original return.

Please [Click Here](#) for the notification No.18/2017 dated June 22, 2017

Direct Tax Updates

Direct Tax Updates

Notifications/Circulars

Clarification on trade advance to be kept out of purview of deemed dividend

The Central Board of Direct Taxes (CBDT) has clarified that trade advances which are in the nature of commercial transactions and are given to shareholder holding not less than 10% of the voting power or to any concern in which such shareholder is a member would not fall within the ambit of provisions of deemed dividend u/s 2(22)(e) and hence appeals filed by department basis this ground should be withdrawn.

Please [Click Here](#) for the Circular No. 19/2017 dated June 12, 2017

Applicability of Explanation defining 'existing liability' for adjustment against seized assets

Sec 132B allows adjustment of seized assets against the amount of 'existing liability' under the Act. An explanation was inserted by Finance Act, 2013 to clarify that the term 'existing liability' does not include advance tax payable. Accordingly, seized assets would not be adjusted for the payment on account of advance tax liability.

However, it was doubtful if the explanation inserted in the said section is prospective in nature and not applicable to cases prior to June 1, 2013. According to the recent clarification issued by the department it has been settled that the explanation shall have prospective application.

Please [Click Here](#) for the Circular No. 20/2017 dated June 12, 2017

Notification on transfers for which the condition of chargeability to STT on acquisition shall not be applicable for claiming exemption under section 10(38) of the Income Tax Act

In Finance Act, 2017 Government amended sec 10(38) of the Income tax Act to provide that exemption under section 10(38) shall be available if the transaction of acquisition is carried through recognized stock exchange and STT have been paid on such acquisition.

To protect the exemption for genuine cases where STT could not have been paid due to the nature of the transaction, the CBDT clarified that such transfers would still be exempt u/s 10(38) even though condition of chargeability to STT has not been met.

CBDT has notified certain instances like acquisition of share in IPO, FPO, bonus or right issue by a listed company, acquisition by non-resident in accordance with FDI policy of the Government or where acquisition is approved by the supreme Court, High Court, National Company Law Tribunal etc., to limit the exemption to genuine cases.

Please [Click Here](#) for the notification No. 43/2017 dated June 5, 2017

Direct Tax Updates

No requirement to deduct tax in case of entities whose income is exempted as per Income Tax Act

The Board clarified that in case of entities, whose income is unconditionally exempt under section 10 of the Income-tax Act, and who are statutorily not required to file return of income as per section 139 of the Act, there would be no requirement to deduct tax from the payment made to them since their income is anyway exempt from tax under the Act.

Please [Click Here](#) for the Circular No.18/2017 dated May 29, 2017

Declaration in Form 15G/15H to be furnished to the Deductor/Payer for each financial year

It is clarified that new forms 15H/15G vide CBDT Notification No. 76 dated 29th September, 2015 requires the depositor to furnish the details of all investments up to the date including the current Fixed Deposit for which the Form 15G/15H is being given and which are to be listed in Form 15G/15H to enable the deductor/payer to ascertain, whether the Form 15G/15H can be accepted.

Please [Click Here](#) for the notification No. 6/2017

Deposit of TDS on payment of Rent by Individuals and Hindu undivided family

A new section 194-IB was inserted in Income tax Act, 1961 by finance act 2017 whereby individuals and HUFs were made liable to deduct TDS at the rate of 5% on the payment of rent where it exceeds Rs. 50,000 per month or part of a month.

Now as per notification released, date of deposit of such TDS shall be 30 days from the end of the month in which deduction is made. Deposit to be accompanied by a challan-cum-statement in Form No. 26QC and deductor is required to issue certificate of deduction of TDS in Form No. 16C within 15 days from the end of the due date of filing of challan-cum-statement.

Please [Click Here](#) for the Notification No. 48 dated June 8, 2017

Cost Inflation Index for Financial Year 2017-18 is released

Government has released the Cost Inflation Index (CII) for FY 2017-18 to be 272 in exercise of the powers conferred by clause (v) of the explanation to section 48 of the Income Tax Act, 1961

Please [Click Here](#) for the relevant notification No. 44/2017 dated June 5, 2017

Judicial Precedents

01

Capital or Revenue receipt :

Subvention monies paid by a parent company to its loss making Indian company are to be understood to be payments made in order to protect capital investment of the assessee-company and could not be treated as revenue receipts. The principle that unless the grant-in-aid received by the assessee is utilized for acquisition of an asset, the same must be understood to be in the nature of revenue receipt, is not applicable to all situations.

[(Siemens Pub. Communication Network P. Ltd. vs. CIT[(2017) 390 ITR 1 SC]]

02

Capital Gains:

While a family arrangement/settlement does not amount to a "transfer" u/s 2(47) as it only recognizes "pre-existing rights" between the parties, the same applies only to members of the families and not to transfers made by corporate entities. The corporate veil can never be lifted at the instance of the company itself because that would amount to its denying its own corporate existence. The fact that the Company is wholly owned by the members of the family is irrelevant.

B.A Mohota Textiles Traders Pvt. Ltd vs. DCIT(Bombay High Court)

03

Writ – Existence of alternative remedy :

The High Court was not justified in dismissing the writ petition filed by and assessee challenging the issuance of notice u/s. 148 as not maintainable.

Jeans Knit Private Limited v. DCIT [(2017) 390 ITR 10 (SC)]

04

Exemption – Residential Palace :

Though a part of the residential palace is found to be in occupation of the tenant and remaining is in occupation of the Ruler for his residence, the Ruler is entitled to claim exemption for the whole of his residential palace u/s. 10(19A)

Maharao Bhim Singh of Kota vs. CIT (2017) 390 ITR 532 (SC)

International Taxation (Transfer Pricing)

International Taxation

CBDT issues Rule to support the implementation of the provisions of secondary adjustment

To ensure the profit allocation between the associated enterprises is consistent with primary TP adjustment, the Finance Act, 2017 introduced the “Secondary Transfer Pricing Adjustment”. Primary TP adjustment is defined to mean determination of the transfer price in accordance with the arm’s length principle resulting in an increase in the total income or reduction in the loss, as the case may be, of the taxpayer.

As per section 92CE(2) where, a primary adjustment is not repatriated to India within the time as may be prescribed, it shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance would be charged on the advance in the manner prescribed.

CBDT has vide notification issued Rule 10CB for supporting the implementation of the provisions of secondary adjustment. It prescribed the time limit for repatriation of excess money and the rate of interest to be applied for computing the income in case of failure to repatriate the excess money within the prescribed time limit. Separate rates of interest have been provided for international transaction denominated in Indian Currency and in foreign currency. The rates of interest are applicable on an annual basis.

Please [Click Here](#) for the Notification No. 52/2017 dated June 15, 2017

Acceptance of Price at which international transaction or specified domestic transaction has actually been undertaken in certain cases

CBDT vide notification dated June 9, 2017 has notified that where variation in the arm’s length price and price at which international transaction or specified domestic transaction has actually been undertaken does not exceed 1% of the latter in respect of wholesale trading and 3% of the latter in all other cases, the price at which the transaction has taken place shall be the arm’s length price for the AY 2017-18 and 2018-19.

Please [Click Here](#) for the Notification No. 50/2017 dated June 9, 2017

CBDT has prescribed the particulars of Scheme to be reported for Advance Pricing Agreement

Sec 92CC of the Income tax Act allows the CBDT to enter into any agreement with any person, determining the arm’s length price or specifying the manner of determining the ALP in relation to international transaction to be entered by that person. In pursuance of subsection (9) of the said section, CBDT has power to prescribe a scheme specifying therein the manner, form and procedure in respect of advance pricing agreement.

Vide notification dated June 16, 2017 CBDT has amended Form No. 3CED to include the various particulars of the scheme.

Please [Click Here](#) for the Notification No. 53/2017 dated June 16, 2017

Accounting Updates

Accounting Updates

IASB issues interpretation on IAS 12 – 7 June 2017

The International Accounting Standards Board (IASB) has issued an IFRIC 23 “Uncertainty over Income Tax Treatments” to specify how to reflect uncertainty in accounting for income taxes.

IAS 12 Income Taxes specifies how to account for current and deferred tax, but not how to reflect the effects of uncertainty. IFRIC 23 provides requirements that add to the requirements in IAS 12 by specifying how to reflect the effects of uncertainty in accounting for income taxes. This interpretation will become applicable from 1 January 2019

Please [Click Here](#) for more information



Regulatory

Regulatory

Company Law

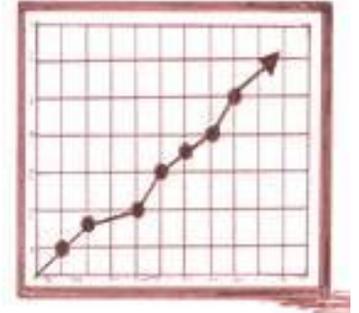
MCA relaxes provisions on Auditors term for Private Cos having Paid Up Share Capital of upto Rs. 50 Crore

As per Section 139(2) of Companies Act, 2013, listed companies and certain class of companies are required to do rotation of their statutory auditor after one term of five years in case of auditor being Individual and after two terms of five years in case auditor is a firm.

Rule 5 of the Auditors' Rules specifies a few categories of the Class of Companies which are required to comply with this provision and includes Private companies having paid up share capital of rupees twenty crore or more.

The Ministry of Corporate Affairs, recently notified the amendment to the Companies (Audit and Auditors) Rules, 2014 wherein it amended Auditors' rules with respect to the limits specified for "Class of Companies" and relaxed the provision of requirement of rotation of the statutory auditor in cases where paid up share capital of private limited companies does not exceed Rs. 50 Cr.

Please [Click Here](#) for the Notification dated June 22, 2017



Clarification issued on due date of transfer of shares to Investor Education and Protection Fund (IEPF) Authority

The amendment Investor Education and Protection Fund Authority (Accounting, Audit, transfer and Refund) Rules were notified with effect from 28 February 2017.

As per Companies Act, if any money transferred to the Unpaid Dividend Account of a company remains unclaimed for a period of 7 years from the date of transfer, such money will be transferred to Investor Education and Protection Fund. The Amendment rules specified that if the period of 7 years has been completed or being completed during the period from 7th September, 2016 to 31st May, 2017, the due date of transfer of such shares shall be 31st May, 2017.

Ministry recently extended the above due date by issuing a clarification. Fresh due date shall be notified soon.

Please [Click Here](#) for the Clarification issued dated May 29, 2017



Regulatory

Company Law

Clarification issued on procedure of transfer of shares to Investor Education and Protection Fund (IEPF)

Clarity was sought on the issue of duplicate shares in case of transfer of shares to IEPF.

Ministry clarified that since the procedure in the transfer of shares takes place by the operation of law, therefore, procedure of transmission of shares may be followed and hence, duplicate shares need not be issued.

Please [Click Here](#) for the Circular dated June 5, 2017



Exemptions to Private companies, Government companies and Not for Profit (Section 8) companies

Government came out with certain amendments regarding exemptions previously provided to Private companies, Government companies and Not for Profit (Section 8) companies vide notifications dated 5 June 2015.

These relaxations would be available to the companies which have not defaulted in filing of its financial statements under section 137 or annual return under section 92 of the 2013 Act with the Registrar of Companies.

Exemptions related to inclusion of cash flow statement in financial statements, signing of annual return, particulars to be included in audit report etc. are given to private companies which are start ups.

Please [Click Here](#) for the Exemption to Private Companies, [Click Here](#) for exemption to Section 8 companies and [Click Here](#) for the exemption to Government Companies



Regulatory

Limited Liability Partnership

Limited Liability Partnership (Amendment) Rules, 2017 notified

Government has notified LLP (Amendment) Rules, 2017 with effect from 20 May 2017 for the LLPs applying for the striking off name due to cessation of its business or commercial operations.

It prescribed that LLP has to file its overdue returns in Form 8 and Form 11 up to the end of financial year in which LLP ceases its business before filing Form 24, (which is for striking off name of LLP). Certain documents like Statement of Accounts, affidavit by Designated Partners, copy of latest ITR acknowledgement and copy of initial LLP Agreement (if not filed) are to be enclosed with Form 24.

Please [Click Here](#) for more information



Regulatory

Labor Laws

Self certification compliance regime for Startups extended to 5 years by Ministry of Labour

Government had launched Start up India Action Plan to promote Start up ecosystem in the country. In this regard, various incentives and ease in regulatory compliances have been initiated.

Earlier, the Ministry had allowed self certification for certain Labour Laws compliance for Start ups for 3 years. This period has now been extended to 5 years.



RBI

Master Direction on Information Technology Framework on Non Banking Financial Companies (NBFC) sector issued

Reserve Bank issues Master Direction on Information Technology on NBFC sector for enhancement in Information Technology /Information Security (IT/IS) framework, Business continuity planning (BCP), Disaster Recovery (DR) Management, IT audit, etc.

The Master Direction aims to enhance safety, security, efficiency in the processes leading to benefits for NBFCs and their customers.

The directions are categorized into two parts, those which are applicable to all NBFCs with asset size above 500 crore (Considered Systemically Important) and other applicable to NBFCs with asset size below 500 crore.

Please [Click Here](#) for the Notification dated June 8, 2017

Provisions for issue of Masala Bonds amended

Reserve Bank, vide its circular dated 7 June 2017, amended certain provisions in respect of maturity period, all-in-cost ceiling and recognized lenders (investors) of Masala Bonds

Maturity period: Minimum original maturity period for Masala Bonds raised up to USD 50 million equivalents in INR per financial year to be 3 years and for bonds raised above USD 50 million equivalents in INR per financial year to be 5 years.

All-in-cost ceiling: The all-in-cost ceiling for such bonds will be 300 basis points over the prevailing yield of the Government of India securities of corresponding maturity.

Recognized investors: It has specified the entities which are permitted as investors.

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

Regulatory

SEBI

Mutual Funds registration made online

SEBI, vide its circular dated 1 June 2017, decided to put SEBI intermediary portal for online registration of mutual funds applications into operations;

For registration of mutual funds the SEBI Intermediary Portal shall include online application for registration, processing of application, grant of in-principle approval, grant of final registration etc.

All applications for registration of mutual fund shall be made through SEBI intermediary portal only, which has been operational since 1 June 2017

The applicants are required to submit the relevant supporting documents in physical for record purposes.

Please [Click Here](#) for the relevant Circular dated June 1, 2017.



About KrayMan

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