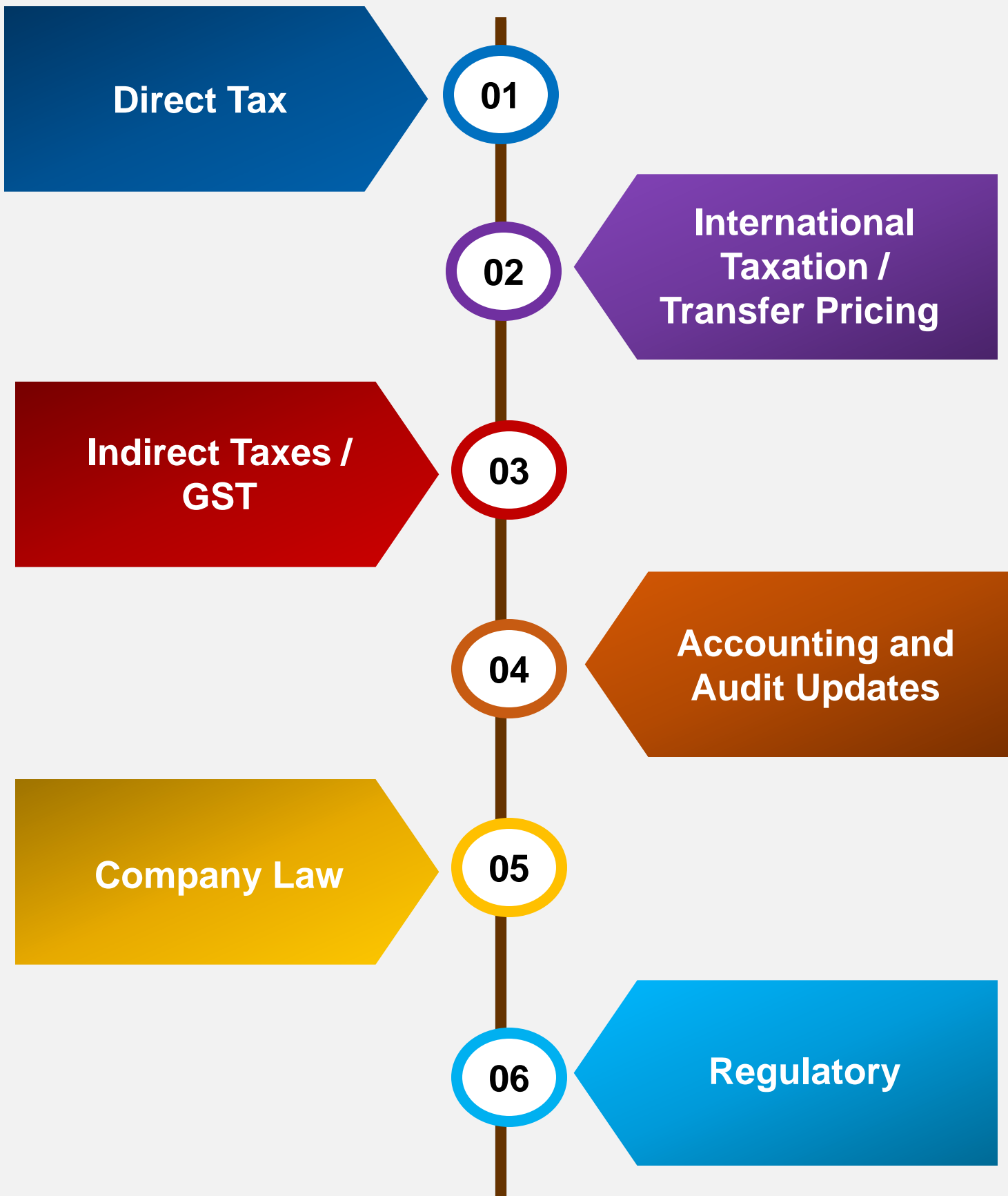


Tax Edge

Monthly Tax & Regulatory Updates



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Direct Tax

Direct Tax

Central Board of Direct Taxes (CBDT) provides relaxation for waiver/reduction of interest on default in deduction of tax at source

CBDT has notified vide circular dated 24 March 2017, relaxations for waiver/reduction of interest in certain cases of non-deduction or lower-deduction, upon fulfillment of certain conditions. The Circular authorizes tax authorities to reduce /waive interest in certain specific cases, which is a welcome move and likely to relieve hardship caused to taxpayers in genuine cases. The tax authorities have been given the power to decide on the period and the extent to which reduction / waiver of interest may be considered.

Please [click here](#) to read circular no. 11 dated 24 March 2017

ICDs apply to taxpayers following mercantile system of accounting, for computation of business income and income from other sources. The Central Government had notified 10 ICDs in March 2015 with effect from Assessment Year 2016-17. Pursuant to deferment by 1 year as a result concerns raised by the industry on implementation issues, the ICDs have been effective from Assessment Year 2017-18. CBDT has now come up with clarifications on 25 issues by way of frequently asked questions (FAQs).

Please [click here](#) to read circular no. 10 dated 23 March 2017

CBDT issues clarifications for smooth implementation of Income Computation and Disclosure Standards (ICDs)

Amendments to Finance Bill 2017

The Lok Sabha has recently signed off the Finance Bill, 2017 which was presented by the Finance Minister (FM) on 1 February 2017. The FM has introduced certain amendments to the Finance Bill 2017 to address ambiguities and also to further restrict cash transactions. Some of the key amendments are:

- Retrospective exemption from indirect transfer provisions for direct / indirect investments to Category I & II FPIs (Foreign Portfolio Investors) extended to erstwhile FIIs (Foreign Institutional Investors).
- Limitation in relation to deduction of interest and similar payments to apply not only on expenditure 'paid' but also 'incurred'.
- Threshold limit for prohibited cash receipts reduced from INR 0.3 million to INR 0.2 million.

A template has been prescribed to Assessing Officers for issue of notices under section 133(6) of the Income Tax Act for online verification of cash deposits made in demonetization period i.e. 9 November 2016 to 31st December 2016.

Notice for verification of cash deposits during demonetization period

***International
Taxation / Transfer
Pricing***

International Taxation / Transfer Pricing

01

CBDT Signs Another Bilateral Advance Pricing Agreement (APA) with subsidiary of a Japanese Company

- CBDT has entered into a bilateral Advance Pricing Agreement (APA) with rollback provision with a Japanese subsidiary on 6th March, 2017. The total number of bilateral APAs signed with Japanese subsidiaries has thus reached 5, all with rollback provisions. 4 APAs out of these five have been signed in the current financial year.
- All these 5 bilateral APAs are with Japanese trading companies (Sogo Soshas). Certainty in tax treatment for Sogo Soshas has been a long standing demand of the Japanese industry. The bilateral signing of APAs in this sector provides tax certainty up to 9 years in each of these cases. The total number of APAs entered into by the CBDT has reached 141 with this signing.

Please [click here](#) to view the press release dated 7 March 2017

02

Clarification regarding determination of Place of Effective Management (POEM)

- The concept of POEM for deciding the residential status of a company is effective from Assessment Year 2017-18 onwards. POEM is a place where the key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are made. CBDT has confirmed the Press Release of Jan 2017 that concept of POEM shall not apply to a company having turnover or gross receipts of INR 500 Million or less in a financial year.

Please [click here](#) to read circular no 8 dated 23 February 2017

03

Key Judicial Precedents

- The Special Bench of Hyderabad Tribunal in case of M/S Nagarjuna Fertilizers Limited. T.A.Nos. 1187 & 1188/H/2014 has held assessee could not be held liable to deduct tax at higher of the rates u/s 206AA from payments made to non-resident persons having taxable income in India in spite of payee's failure to furnish PAN.
- Payments made by agents to its principal foreign company for using common facility of Maersk Net System could not be said to fee for technical services as it was in the nature of reimbursement of costs and no technical services were provided by the said company to the agents. — DIT vs. A. P. Moller Maersk AS SLP (C) No. 5980 of 2017 & ors (SC)

Indirect Taxes / GST

Indirect Taxes / GST

Goods and Services Tax (GST) Update

The Central GST (CGST – Bill No.57 of 2017), Integrated GST (IGST- Bill No 58 of 2017), Union Territory GST (UTGST- Bill No. 59 of 2017) and the Bill for Compensation to States (Bill No. 60 of 2017) have been introduced in the Lower House of Parliament (Lok Sabha) on 27 March 2017. The revised draft of the model GST law released in public in November 2016, has been split into CGST, SGST, UTGST Bills besides IGST Bill. Further, the draft Law has seen more changes before being introduced in the Parliament, such as in definitions, levy of tax, input tax credit, transitional provisions, amongst others. The list of exemption, classification of goods & services, and mechanical provisions including valuation and other rules are yet to be notified. Subsequent to ratification of Central GST Bills in the Parliament, states will take up State GST Bills for clearance.

With the presentation of GST bills in Lok Sabha, the proposed timeline of 1 July 2017, for implementation of GST now seems realistic.

Delhi VAT: De-sealing of Business Premises during Survey

A procedure is prescribed vide Circular No.27 of 2016-17, dt. 8-3-2017 which is required to be adopted for de-sealing of the business premises, which are sealed in the event of enforcement survey etc. by the departmental officers. The process of de-sealing should be conducted in the presence of two independent witnesses and one of them should be area SDM/executive Magistrate. Consequent upon de-sealing of the premises, the goods seized should be kept in the custody of malkhanas of concerned Revenue District.

Please [click here](#) to read circular no. 27 dated 8 March 2017

Partial withdrawal of service tax exemption provided to educational institutions

Presently, entry 9(b) of Mega Exemption Notification No. 25/2012-ST dated 20.06.2012 exempt some specified services provided by any person to the educational institution, viz, transportation of student, faculty and staff, etc. catering. Now, a proviso is inserted to the said entry vide Notification No. 10/2017, dated 8-3-2017 which provides that such exemption is applicable only when the aforesaid services are rendered to pre-school educational institutions and higher secondary schools or equivalent.

Please refer to the notification no. 10 dated 8 March 2017

No service tax on transportation services pertaining to goods imported in India intended for transshipment to another country

Circular No.204/2/2017 dated 16th February, 2017 has been issued to clarify that transportation services pertaining to goods imported into a customs station in India intended for trans-shipment to any country outside India would not be leviable to service tax.

Please refer to the circular no. 204 dated 16 February 2017

Key Judicial Precedents

- The Hon'ble Supreme Court in case of Safety Retreading Company (P.) Ltd. v. CCE(2017) 048 STR 0097 held that assessee is liable to pay tax only on the service component in a contract for retreading of tyres and not on entire gross value of services .
- Where it is not specifically mentioned in section 35F that pre-deposit of duty has to be made only by way of cash payment, deposit can be made from CENVAT credit Account, so long as the CENVAT credit is permissible for utilization as per Rule 3(4) of the CENVAT Credit Rules, 2004. - M/s.Manaksia Ltd. Vs Commissioner of Central Excise, Haldia (CESTAT Kolkata) Appeal No. E/75914/16.

Accounting and Audit Updates

Accounting and Audit Updates

Guidance note on Audit of Banks

The Auditing and Assurance Standards Board (AASB) of the ICAI has issued a Guidance Note (GN) on Audit of Banks. The GN covers manner of disclosure in the financial statements, audit procedures, reporting on long form audit reports, special purpose reports and certificates etc.

GN also provides various illustrative formats of Engagement Letters, Audit Reports and Letter of Representations.



Company Law

Company Law

Closure of place of business by a Foreign Company

- Clarification issued by the Ministry on applicability of 'Winding up' provisions of the Companies Act, 2013 on place of business by a foreign company. Winding up provisions of the Act were notified in December 2016
- Ministry clarified that Winding up provisions of the Act shall apply to closure of place of business by a foreign company in India, as if it was a company incorporated under Indian laws, only if such a foreign company has issued prospectus or Indian Depository Receipts under Indian Companies Law

Please [click here](#) to download the circular dated 22 Feb 2017

Transfer of petitions of winding up to be transferred to National Company Law Tribunal (NCLT)

- The pending Petitions relating to winding up due to inability to pay debts, which have not been served to the concerned respondent, be transferred to NCLT from High Court in accordance with their territorial jurisdiction. Petitioner be required to submit the requisite information, including details of the proposed insolvency professional, within 6 months (instead of 60 days) of the Notification. No fees be payable for proceedings transferred

Please [click here](#) to download the Amendment rules dated 28 Feb 2017

Investor Education and Protection Fund (IEPF) Authority Amendment rules notified

- Detailed procedure prescribed for transfer of shares to the IEPF Authority. Execution of share transfer forms in Form SH-4 for physical shares done away with
- Definition of 'Corporate Action' inserted
- The process for Refund to claimants from Fund has been revised

Please [click here](#) to download the Amendment rules dated 28 Feb 2017



Regulatory

Regulatory

Foreign Exchange Management Act / RBI guidelines



Migration of Reserve Bank (RBI) services from e-Biz Portal to new platform

- RBI services including Reporting of Advanced Foreign Remittance, Reporting of FC-GPR & FC-TRS, to be migrated to new platform
- Post migration, users will be redirected to new platform from the service page on eBiz portal
- PDF forms replaced with web forms on new platform.
- In order to apply digital signature, user will be required to register digital signature on eBiz

Intellectual Property Rights / Trade Mark

New Trade Mark Rules 2017 notified

New Trade Mark Rules 2017 notified and have come into effect from 6 March, 2017

These Rules to replace the erstwhile Trade Mark Rules 2002

New rules to streamline and simplify the processing of Trade Mark applications

Salient Features:

- Number of Trade Mark (TM) Forms reduced from 74 to 8
- Application fee slashed to nearly half
- Fee for e-filing of application is kept lower than physical filing
- Number of adjournments in opposition proceedings restricted to a maximum of two by each party, which will help dispose off matters in time
- Company Secretaries can now act as Trade Marks agents

Please [click here](#) to download the notification dated 6 March 2017



Regulatory

Labour Laws

01

Payment of Wages (Amendment) Act, 2017 notified

- Ministry of Law and Justice notified the Payment of Wages (Amendment) Act, 2017
- Now employers can pay wages to workers through cheque or crediting to their bank accounts without obtaining written authorisation of the employees
- Aims to strengthen the rights of the workers so that they can be paid in a transparent manner and to check the exploitation of workers
- Enables the Centre and state governments to notify industries where employers shall have to pay wages either through cheque or crediting that into workers' bank accounts

Please [click here](#) to download the notification dated 16 Feb 2017

02

Employees' Provident Fund Organization (EPFO) introduces Composite Claim Forms (Aadhar and Non-Aadhar)

- EPFO introduces Composite Claim Forms to replace existing Claim Forms
- Services to be available to the stakeholders in a more efficient and transparent manner
- Now, it is possible for subscribers, who have seeded with Aadhar number and Bank account details, to submit claim forms directly to EPFO without the attestation of employers
- New Composite Claim Form (Non-Aadhar), can be submitted with the attestation of employers to the respective jurisdictional EPFO office
- The process of submission of new forms made easier and simplified by inclusion of self certification by subscribers in place of various certificates required at present.

03

New rules notified for Maintenance of registers under various labour laws

- New rules enable an employer to maintain 5 types of combined registers under the specified labour laws
- These 5 registers include Employee Register, Wage Register, Register of Loan / Recoveries, Attendance Register and Register of Rest Days / Leave account of employees / Leave with Wages
- Employer can now maintain the registers in electronic form
- Aims to address the concerns foreign investors in relation to observing bulky compliances under the various labour laws
- Government hopes to reduce the compliance burden of establishments in their day-to-day business and to improve the ease of doing business in India
- Likely to cut costs and ensure better compliances under Labour Laws

Please [click here](#) to download the notification dated 21 February 2017

04

Increase in Minimum rates of wages in Delhi

- Delhi Government approved an increase of around 37% in minimum wages for skilled, semi-skilled and unskilled persons in National capital
- Criteria for determination of minimum wages also included education, electricity and fuel, apart from housing, clothing and food

Regulatory

SEBI



Permission granted to certain Financial Institutions to invest in Rupee Denominated bonds

Multilateral and Regional Financial Institutions where India is a member country, are now permitted to invest in Rupee denominated bonds, popularly known as Masala Bonds

Aims to give more choices of investors to Indian entities issuing Rupee denominated bonds abroad

The criteria of recognized investors in the Masala Bonds issued overseas has now been broadened

Some of such multilateral and regional financial institutions are as follows:

- World Bank;
- International Fund for Agricultural Development;
- Asian Development Bank;
- Asian Infrastructure Investment Bank;
- International Monetary Fund; and
- International Finance Corporation

Please [click here](#) to view the circular no.31 dated 16 February 2017

Foreign Portfolio Investors (FPIs) now permitted to invest in corporate debt securities

- SEBI allowed FPIs to invest in unlisted corporate debt securities and securitized debt instruments
- Earlier, investment in unlisted debt securities was permitted only in the case of companies in the infrastructure sector and investment by FPIs in securitized debt instruments was not permitted
- FPIs are now permitted to invest in the unlisted corporate debt securities in the form of non-convertible debentures (NCDs) or bonds issued by an Indian public or private company
- FPIs can also invest in Securitized debt instruments like any certificate or instrument issued by a special purpose vehicle (SPV) set up for securitization of assets with banks or Financial Institutions
- Such investment by FPIs not to exceed INR 35,000 crore
- Likely to enhance investor base in unlisted debt securities and securitized debt instruments

Please refer to circular no. 16 dated 28 February 2017



Regulatory

SEBI



Investments by Mutual Funds in hybrid securities (units of REITs (Real Estate Investment Trust) / InvITs (Infrastructure Investment Trusts)) now allowed

- Mutual Funds can now invest up to 10 percent of their net asset value into the units of REITs and InvITs
- REITs are companies that own and then lease out real estate (whether commercial or residential)
- The rental income is shared among the investors in a REIT. Units of a REIT are traded on exchanges and provide an investor with an option to quickly exit a real estate investment.
- InvITs function in the same manner, except they own infrastructure instead of real estate
- Investment restrictions shall be applicable to all fresh investments by all schemes or an existing scheme
- For investment in units of REITs/ InvITs by an existing Mutual Fund scheme, unit holders of the scheme shall be given a time period of at least 15 days for the purpose of exercising the exit option

Please refer to the circular no. 16 dated 28 February 2017

SEBI goes digital on all payments

- Market intermediaries and companies can now make their regulatory payments in digital mode
- Certain receipts such as filing fees for IPOs, takeover fees and payment from mutual funds were still received through cheques and demand drafts
- The move would help in speedy and easy transactions



About KrayMan

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Founded by ex-EY (Ernst & Young), BMW & Grant Thornton professionals KrayMan is an Accounting and Management Advisory Firm specializing in Assurance, Tax, Regulatory, Compliance & Outsourcing, Corporate Secretarial, Transaction Advisory and HR Advisory services. We cater to International & Domestic Clients.

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