

KrayMan

Demystifying Complexities



TAX EDGE

Monthly Tax & Regulatory Updates

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Goods & Services Tax

Government simplifies GSTR-3B filing

The Central Government has come out with a simplified version of GSTR-3B, making it more user-friendly.

Following key changes made in the process of filing GSTR 3B:

1. **Tax payment** - Earlier, a taxpayer was required to submit the return to ascertain the tax liability amount. Post submission, no changes were allowed. Now, the tax liability to be paid in cash/ credit will be shown before submitting the return.
2. **Challan generation** - Tax payment challan can now be auto-generated after offsetting the input tax credit available in credit ledger. Taxpayer, however, has an option to edit the credit amount to be utilized and not to consider the system generated credit utilisation. Earlier, the assessee had to manually fill in the credit utilization amount and generate the challan.
3. **Download facility of draft return** - A new feature of downloading draft return at any stage has been provided to verify the saved details offline.
4. **Auto-fill of tax amount** - Taxpayer now need to fill either CGST or SGST / UTGST amount, other tax will be filled automatically
5. Once taxpayer proceeds to payment, he can also see details of existing balances in cash and credit ledgers
6. System suggested Input Tax Credit will be automatically filled for discharging liability. However it is only suggestion and can be edited.
7. Status of Return can be tracked and return can be downloaded through Track Return Status, functionality available at GST portal Dashboard of Taxpayer.

Please [Click Here](#) to read the details.

E-Way bill suspension officially notified by Central Board of Excise and Customs (CBEC)

Nationwide e-way Bill system for Inter-State movement of goods was made compulsory with effect from 1st February, 2018. Rules for compulsory requirement were also notified on the said date by various states. However due to technical glitches, mandatory generation of E-Way Bill has been suspended till further notification.

Please [Click Here](#) to read notification.

Clarifications regarding GST in respect of certain services

The Central Government has clarified certain issues regarding levy of GST on supply of services which are as follows:

Sr. No.	Issue	Clarification
1.	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt	<p>Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT (Rate).</p> <p>However, services by a hotel, inn, guest house, club or campsite, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt.</p>

Sr. No.	Issue	Clarification
2.	<p>Is GST leviable on the fee / amount charged in the following situations / cases: –</p> <ol style="list-style-type: none"> 1. A customer pays fees while registering complaints to Consumer Disputes Redressal Commission office and its subordinate offices. These fees are credited into State Customer Welfare Fund's bank account. 2. Consumer Disputes Redressal Commission office and its subordinate offices charge penalty in cash when it is required. 3. When a person files an appeal to Consumers Disputes Redressal Commission against order of District Forum, amount equal to 50% of total amount imposed by the District Forum or Rs 25000/- whichever is less, is required to be paid. 	<p>Services by any court or Tribunal established under any law for the time being in force are neither a supply of goods nor services. Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution. However, they are clothed with the characteristics of a tribunal on account of the following: -</p> <ol style="list-style-type: none"> 1. Statement of objects and reasons as mentioned in the Consumer Protection Bill state that one of its objects is to provide speedy and simple redressal to consumer disputes, for which a quasi judicial machinery is sought to be set up at District, State and Central levels. 2. The President of the District/ State/National Disputes Redressal Commissions is a person who has been or is qualified to be a District Judge, High Court Judge and Supreme Court Judge respectively. 3. These Commissions have been vested with the powers of a civil court under CPC for issuing summons, enforcing attendance of defendants/witnesses, reception of evidence, discovery/production of documents, examination of witnesses, etc. 4. Every proceeding in these Commissions is deemed to be judicial proceedings as per sections 193/228 of IPC. 5. The Commissions have been deemed to be a civil court under CrPC. 6. Appeals against District Commissions lie to State Commission while appeals against the State Commissions lie to the National Commission. Appeals against National Commission lie to the Supreme Court. 7. In view of the aforesaid, it is hereby clarified that fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST. Any penalty imposed by or amount paid to these Commissions will also not attract GST.

Sr. No.	Issue	Clarification
3.	<p>Whether the services of elephant or camel ride, rickshaw ride and boat ride should be classified under heading 9964 (as passenger transport service) in which case, the rate of tax on such services will be 18% or under the heading 9996 (recreational, cultural and sporting services) treating them as joy rides, leviable to GST @ 28%?</p>	<p>Elephant/ camel joy rides cannot be classified as transportation services. These services will attract GST @ 18% with threshold exemption being available to small service providers.</p>
4.	<p>What is the GST rate applicable on rental services of self-propelled access equipment (Boom Scissors/ Telehandlers) The equipment is imported at GST rate of 28% and leased further in India where operator is supplied by the leasing company, diesel for working of machine is supplied by customer and transportation cost including loading and unloading is also paid by the customer</p>	<p>Leasing or rental services, with or without operator, for any purpose are taxed at the same rate of GST as applicable on supply of like goods involving transfer of title in goods. Thus, the GST rate for the rental services in the given case shall be 28%, provided the said goods attract GST of 28%. IGST paid at the time of import of these goods would be available for discharging IGST on rental services. Thus, only the value added gets taxed.</p>

Sr. No.	Issue	Clarification
5.	<p>Is GST leviable in following cases:</p> <ol style="list-style-type: none"> Hospitals hire senior doctors/ consultants/ technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer employee relationship. Will such consultancy charges be exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST? Retention money: Hospitals charge the patients, say, Rs.10000/- and pay to the consultants/ technicians only Rs. 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc. Will GST be applicable on such money retained by the hospitals? Food supplied to the patients: Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST. 	<p>Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt.</p> <ol style="list-style-type: none"> Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt. Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India. Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt. Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable

Sr. No.	Issue	Clarification
6.	Appropriate clarification may be issued regarding taxability of Cost Petroleum	<p>As per the Production Sharing Contract (PSC) between the Government and the oil exploration & production contractors, in case of a commercial discovery of petroleum, the contractors are entitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty.</p> <p>Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs is called “Cost Petroleum”. The relationship of the oil exploration and production contractors with the Government is not that of partners but that of licensor/lessor and licensee/lessee in terms of the Petroleum and Natural Gas Rules, 1959.</p> <p>Having acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out the exploration and production of petroleum for themselves and not as a service to the Government. Para 8.1 of the Model Production Sharing Contract (MPSC) states that subject to the provisions of the PSC, the Contractor shall have exclusive right to carry out Petroleum Operations to recover costs and expenses as provided in this Contract.</p> <p>The oil exploration and production contractors conduct all petroleum operations at their sole risk, cost and expense. Hence, cost petroleum is not a consideration for service to GOI and thus not taxable per se. However, cost petroleum may be an indication of the value of mining or exploration services provided by operating member to the joint venture, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture</p>

Please [Click Here](#) to read circular

Power to issue show cause notice

The Central Government has clarified the monetary limits up to which the functions in relation to issue of show cause notices and orders can be exercised by the proper officers.

Sr. No.	Officer of Central Tax	Monetary limit of the amount of tax (including Cess) not paid or short paid or erroneously refunded or input tax credit of respective taxes wrongly availed or utilized for issuance of show cause notices and passing of orders		
		Central Tax	Integrated Tax	Central & Integrated Tax
1.	Superintendent of Central Tax	Not exceeding Rs 10 lakhs	Not exceeding Rs. 20 lakhs	Not exceeding Rs. 20 lakhs
2.	Deputy or Assistant Commissioner of Central Tax	Above Rupees 10 lakhs and not exceeding Rs. 1 crore	Above Rs. 20 lakhs and not exceeding Rs. 2 crore	Above Rs. 20 lakhs and not exceeding Rupees 2 crore
3.	Additional or Joint Commissioner of Central Tax	Above Rs. 1 crore without any limit	Above Rs. 2 crore without any limit	Above Rs. 2 crore without any limit

Please [Click Here](#) to read the Circular

Collection of Revenue from Indirect Taxes including GST

Post introduction of GST, Revenue from Indirect Taxes has been estimated to be increased sharply for the Budget Estimates 2018-19.

(Amount - Rs. in Crore)

Particulars	Actual (2016-17)	Revised Estimates (2017-18)	Budget Estimates (2018-19)
Goods & Services Tax	--	4.46 Lakh	7.46 Lakh
Customs	2.25 Lakh	1.35 Lakh	1.12 Lakh
Excise	3.80 Lakh	2.76 Lakh	2.59 Lakh
Service Tax	2.54 Lakh	0.79 Lakh	--
Total Tax Revenue	8.62 Lakh	9.37 Lakh	11.18 Lakh
% Increase		8.8%	19.31%



Direct Tax

Breather for Startups from Angel Tax

To protect start-ups from aggressive tax demands, the income tax (I-T) department on February 6, 2018 (vide circular no. F.No.173/14/2018-ITA.I) stayed all recovery proceedings of the so-called 'Angel tax' against start-ups that come under the definition put out by the department of industrial policy and promotion (DIPP) and got certified in 2016 or after. The department of revenue has directed assessing officers that "no coercive measure to recover the outstanding demand would be taken" in cases where additions have been made to the income on account of high valuations provided that the start-ups fall within the start-up definition of DIPP. Further, the notification has directed speedy disposal of pending appeals by 31 March 2018.

Please [Click Here](#) to read the notification.

Income Tax (I-T) Department issued notices to 1 lakh crypto currency Investors: Central Board Of Direct Taxes (CBDT) Chairman

The I-T Department has issued about one lakh notices to people who have invested in crypto currencies like Bitcoin and have not declared it in their Income-tax return, CBDT chairman, Mr. Sushil Chandra said at an ASSOCHAM event. The CBDT chairman informed that the Income Tax Department had conducted various surveys on crypto currency exchanges to find as to how many people are regular contributors, how many have registered themselves and how many have done trading on that platform. He further said that as per income tax (laws), whatever money one is investing (in crypto currency), it would be taxable if it is unexplained. Besides, even the profit gained on the same is taxable.

CBDT issues Instructions for conducting E-Assessment

CBDT issued an advisory for conducting E-Assessment proceedings. The circular mandated that except for search-related assessments, proceedings in other pending scrutiny assessment cases shall be conducted only through the 'E-Proceeding' functionality in ITBA (Income-Tax Business Application)/E-filing. The circular further mandated that when an assessment is done through e-proceedings, case records and note sheets must be prepared and maintained electronically.

Please [Click Here](#) to read the notification.

CBDT issues 24 Frequently Asked Questions (FAQs) on Long Term Capital Gains (LTCG) Taxation

CBDT has issued 24 FAQs on [LTCG](#) taxation on equity shares proposed in the recent Union Budget. The Finance Bill 2018 introduced in Lok Sabha had proposed 10% on LTCG on equity shares. CBDT has now clarified that the proposed regime would apply where the equity is held for a minimum 12 months and the securities transaction tax (STT) is paid at the time of transfer.

The Central Board of Direct Taxes has also clarified that "grandfathering" of gains up to January 31 will apply to foreign institutional investors (FIIs) also.

FAQs have clarified on the point of chargeability, method for calculating LTCG, determining the cost of acquisition for assets acquired on or before January 31, 2018, and aspects around determining fair market value.

[Click Here](#) to read the FAQs.



International Taxation

Signing of Double Taxation Avoidance Agreement (DTAA) by India and Iran

India and Iran signed an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income.

The Agreement is on similar lines as entered into by India with other countries. The Agreement will stimulate flow of investment, technology and personnel from India to Iran & vice versa, and will prevent double taxation. The Agreement will provide for exchange of information between the two Contracting Parties as per latest international standards. It will improve transparency in tax matters and will help curb tax evasion and tax avoidance.

The Agreement also meets treaty related minimum standards under G-20 Organisation for Economic Co-operation and Development (OECD) Base Erosion & Profit Shifting (BEPS) Project, in which India participated on an equal footing.

Indian Advance Pricing Agreement regime moves forward with signing of five Unilateral Advance Pricing Agreements (UAPAs) and two Bilateral Advance Pricing Agreements (BAPAs) by CBDT

The CBDT has entered into Five Unilateral Advance Pricing Agreements (UAPA) and Two Bilateral Advance Pricing Agreements (BAPA) during the month of January, 2018. With the signing of these Agreements, the total number of APAs entered into by the CBDT has gone up to 196. This includes 178 Unilateral APAs and 18 Bilateral APAs. In the current financial year, a total of 44 APAs (7 Bilateral and 37 Unilateral) have been signed till date.

The 2 Bilateral Agreements signed in the month of January, 2018, inter alia, include the first BAPA signed with USA.

The 7 APAs entered into during January, 2018 pertain to various sectors of the economy like Banking, Insurance, Investment Advisory, Information Technology, Chemicals and Engineering. The international transactions covered in these agreements include provision of IT enabled services, provision of software development services, contract manufacturing, payment of royalty, sale of goods, etc.

The progress of the APA scheme strengthens the Government's resolve of fostering a non-adversarial tax regime. The Indian APA programme has been appreciated nationally and internationally for being able to address complex transfer pricing issues in a fair and transparent manner.

Revised India-Kenya DTAA notified

The government has notified revised tax treaty between India and Kenya which provides for lower withholding tax rate and mutual assistance in collection of tax revenue claims. In order to promote cross border flow of investments and technology, the revised DTAA provides for reduction in withholding tax rate on dividend and interest to 10% from 15%. The withholding tax rate on royalties, and fees for management, professional, technical services has been slashed to 10% from 20% and 17.5%, respectively. The revised DTAA provides for a new article on limitation of benefits to allow treaty benefits to bonafide residents of both countries. A new Article on Assistance in Collection of Taxes has been provided which will enable assistance in collection of tax revenue claims between both countries.

[Click Here](#) to read Press release.

Union Cabinet approves Protocol amending DTAA between India and China

The Union Cabinet has given its approval for signing and ratification of protocol amending the Agreement between India and China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income. Besides other changes, the Protocol updates the existing provisions for exchange of information to the latest international standards.

The Protocol will incorporate changes required to implement treaty related minimum standards under the Action reports of Base Erosion & Profit shifting (BEPS) Project, in which India had participated on an equal footing. Besides minimum standards, the Protocol will also bring in changes as per BEPS Action reports as agreed upon by two sides.

[Click Here](#) to read the Press release.

OECD publishes guidance on mechanism for effective collection of Value Added Tax (VAT)/GST on services and intangibles supplied by foreign suppliers.

The OECD has published guidance on implementing international standards for the VAT treatment of cross-border trade in services and intangibles, as recommended in the BEPS Action 1 report on tax challenges of the digital economy, reflecting the rapid growth in the digital economy and its implications for the tax base.

The guidance focuses on business-to-consumer sales, building on approaches such as the EU's 'mini one-stop-shop', requiring foreign suppliers to register and collect VAT on cross-border sales. The guidance, entitled mechanisms for the effective collection of VAT/GST where the supplier is not located in the jurisdiction of taxation.

[Click Here](#) to read the full report.



Company Law

Government introduces 'RUN' service and Zero fee incorporation services with authorized capital up to Rs. 10 Lakhs

In line with the vision of 'Ease of Doing Business', the Government has come up with simple and cost effective procedure for incorporation of companies with authorized capital up to Rs. 10 Lakh. A new web service "RUN" (Reserve Unique Name) for reserving name of proposed company and for changing name of existing company has been launched with effect from 26 Jan 2018.

Government of India is committed to achieve a position in the top 50 countries for "Doing Business" as per the rankings published annually by the World Bank. During the past 3 years, the Ministry of Corporate Affairs has contributed significantly towards improvement of ranking in Ease of Doing Business in the country, especially with respect to starting a business. Major initiatives include establishing the "Central Registration Centre (CRC)" for delivering speedy incorporation related services and near real time issuance of PAN & TAN through a single on-line process through Simplified Proforma for Incorporating Company Electronically (SPICE).

Companies (Appointment and Qualification of Directors) Amendment Rules, 2018 notified on 22 January 2018

The Government has revised the procedure to obtain Director Identification Number (DIN) vide Amendment rules notified on 26 Jan 2018. Earlier any individual could apply in Form DIR-3, with requisite documents and fee, to obtain DIN. Obtaining DIN is mandatory for all those individuals who intend to become director/ designated partner in any company/ Limited Liability Partnership.

However, now the provisions have been revised as below:-

- **Application for allotment of DIN before appointment in existing Companies:** Any person intended to become Director in an existing company, shall apply to Central Government in Form DIR-3, along with the requisite fee and documents, to obtain DIN.
- Certified true copy of board resolution for proposing the appointment of Director in an existing company shall also be required.
- **Application for allotment of DIN for appointment in proposed Companies:** DIN can be applied for a maximum of 3 proposed directors in a new company, through Form INC- 32 (eSpice).

[Click Here](#) to read the notification.

Companies (Registered Valuers and Valuation) Amendment Rules, 2018 notified.

Companies (Registered Valuers and Valuation) Rules, 2017 came into effect in October 2017. These rules provides for the qualifications, eligibility criteria and experience of persons who can act as registered valuers. Different professionals have been specified for the different class of assets. A transition period up to March 31, 2018 had been provided to the valuers to get themselves registered with the Registered Valuers Organizations. Until then, the valuers could continue doing valuation without registration.

The transition period mentioned above has been extended till 30 Sep 2018 vide Companies (Registered Valuers and Valuation) Amendment Rules, 2018.

[Click here](#) to read the notification.

Ministry of Corporate Affairs (MCA) issues Companies (Removal of Difficulties) Order, 2018

At present, an independent director shall hold office for a term up to 5 consecutive years on the Board of a company. He/ She shall be eligible for re-appointment by passing of a special resolution by the company and disclosure of such appointment in the Board's report. However, a company may remove a director, before the expiry of the period of his office after giving him a reasonable opportunity of being heard, by ordinary resolution.

In order to strengthen corporate governance process and on suggestion of stakeholders, the Government has amended the provisions dealing with removal of Independent Directors. Now, an independent director re-appointed for second term shall be removed by the company only by passing a special resolution and after giving him a reasonable opportunity of being heard.

[Click Here](#) to read the full order.

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We are a team of professionals comprising of Chartered Accountants, Company Secretaries, Cost and Management Accountants and MBAs who are truly committed in providing timely, professional and quality services to our Clients thereby building a long term relationship with them.

We are members of following associations:

- Japan Chamber of Commerce and Industry in India (JCCII) – an organization of more than 400 Japanese companies working towards the welfare of Japanese companies in India
- Prime Advisory Network (PAN), United Kingdom - a network of Accountants and Lawyers with presence in more than 60 countries
- Cross Border Associates (CBA), Germany - specializing in mergers & acquisitions activities having presence in more than 95 countries

For any assistance, please write to us at:
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