KrayMan

Demystifying Complexities

# TAX EDGE

## Monthly Tax & Regulatory Updates

April 2018

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# Contents

# Goods & Services Tax

## Recent updates on GST

1. Central Board of Indirect Taxes and Custom (CBIC) prescribes procedures for arrears recovery / inadmissible ITC reversal, detention & release of goods
2. CBIC prescribes detailed procedure for inspection, release & confiscation of goods / conveyances
3. Clarification regarding GST on supply of food and drinks in educational institutions
4. Clarification on issues related to furnishing of Bond/Letter of Undertaking ('LUT') for exports
5. Government sets up an IT Grievance Redressal Mechanism to address the grievances of taxpayers due to technical glitches on GST Portal
6. No IGST on overseas trading absent importation of goods into India
7. Recovery of canteen expenses from employees taxable under GST regime
8. 5% Uniform rate of GST to apply in all railway catering services in trains or on stations

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## Clarification on issues related to Job Work

**Central Government has clarified few issues related to Job Work under GST which are as follows-**

1. Job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.
2. Job worker is required to obtain registration only in cases where his aggregate turnover exceeds the threshold limit regardless of whether the principal and job worker are located in the same state or in different states.
3. It is clarified that the supply of goods by the principal from the place of business / premises of the job worker will be regarded as supply by the principal and not by the job worker.
4. Principal should intimate in Form GST ITC-04 for removal goods sent to the job worker without payment of tax.
5. Principal can claim Input tax credit (ITC) on inputs even if goods move directly from the supplier to the job worker. Registered job worker can also avail ITC on inputs procured by him in supplying the job work services.

Please Click Here to read the circular

## CBIC amends Central Goods and Services Tax Rules for refund in case of inverted duty structure, consumer welfare fund and others

CBIC has amended the following rules vide issuing a notification dated 18th April 2018

1. Method for calculation for refund in case of inverted duty structure

2. Audit of consumer welfare fund by Comptroller & Auditor General of India and other provisions

3. Insertion of Form GSTR-10 (Final Return) to be submitted by a registered person who is required to furnish a return under section 39(1) of the CGST Act and whose registration has been cancelled.

Please Click Here to read the notification

## Clarification on issues regarding "Bill To Ship To" for e-Way Bill under CGST Rules, 2017

Central Government has clarified the procedure to be followed for generation of e Way bill under "Bill To Ship To" model of movement of goods.

Basically, Government has clarified that who would generate the e-Way Bill for the movement of goods in said model.

It is clarified that as per the CGST Rules, 2017 either 'Seller' (Who has received the order) or 'Purchaser' (who has given the order) can generate the e-Way Bill but it may be noted that only one e-Way Bill is required to be generated.

Please Click Here to read the circular

## Due Dates of GST Returns

CBIC has notified the due dates for GST returns for the period April 2018 to June 2018 by issuing notifications. The due dates are tabulated below:

| Sr. No. | Returns | Description | Tax Period | Due Dates |
|---|---|---|---|---|
| 1 | Monthly GSTR 1 | Taxpayer having aggregate turnover of more than Rs. 1.50 crores in previous financial year are required to file monthly GSTR 1 | April-2018<br>May -2018<br>June-2018 | 31-May-2018<br>10-June-2018<br>10-July-2018 |
| 2 | Quarterly GSTR 1 | Taxpayer having aggregate turnover of upto Rs. 1.50 crores in previous financial year can file quarterly GSTR 1 | April 2018 to June 2018 | 31- July-2018 |
| 3 | GSTR 3B | All Taxpayers need to file GSTR 3B | April-2018<br>May -2018<br>June-2018 | 20-May-2018<br>20-June-2018<br>20-July-2018 |
| 4 | GSTR-6 | Input Service Distributors | July, 2017 to April, 2018 | 31-May-2018 |
| 5 | TRAN-2 | For availing credit of stock held on 30 June, 2017 without possession of invoice | July, 2017 to December, 2017 | 30-June-2018 |

Please Click Here to read the notification for monthly GSTR1
Please Click Here to read the notification for quarterly GSTR1
Please Click Here to read the notification for GSTR 3B

**Roll-out of e-Way Bill system for Intra-State movement of goods in the Six more states from 20th April, 2018.**

As per the decision of GST Council, e-Way Bill system for all inter-State movement of goods has been rolled-out from 01st April, 2018. E-way Bill system for Intra-State movement of goods in the State of Karnataka is also operational from the said date. E-way bill has been implemented in Andhra Pradesh, Gujarat, Kerala, Telangana and Uttar Pradesh from 15th April 2018.

Further, e-Way Bill system for Intra-State movement of goods would be implemented from 20th April, 2018 in the following States:-

I. Bihar

II. Jharkhand

III. Haryana

IV. Himachal Pradesh

V. Tripura

VI. Uttarakhand

Please Click Here to read the press release

# Direct Tax

## Requirement for obtaining PAN card u/s 139A eased for Corporate Assesses

In case of a company, an application for incorporation, allotment of Permanent Account Number (PAN) and allotment of Tax Deduction and Collection Account Number (TAN) may be made through a Common Application Form submitted to the Ministry of Corporate Affairs (MCA). In these cases, the Certificate of Incorporation (COI) issued by MCA contains a mention of both PAN and TAN. Finance Act, 2018 amended section 139A of the Income-tax Act, 1961 removed the requirement of issuing PAN in the form of a laminated card. Hence, it is clarified that PAN and TAN mentioned in the COI issued by MCA shall also be treated as sufficient proof of PAN and TAN for the said company assessees.

Please Click Here to read the Press Release.

## New Income Tax Return (ITR) forms for AY 2018-19 released by Central Board of Direct Taxes (CBDT)

The CBDT has notified ITR Forms for the Assessment Year 2018-19. For Assessment Year 2018-19,a one page simplified ITR Form-1(Sahaj) has been notified. This ITR Form-1 (Sahaj) can be filed by an individual who is resident other than not ordinarily resident, having income upto Rs.50 lakh and who is receiving income from salary, one house property / other income (interest etc.). Further, the parts relating to salary and house property have been rationalized and furnishing of basic details of salary (as available in Form 16) and income from house property have been mandated. ITR Form-2 has also been rationalized by providing that Individuals and HUFs having income under any head other than business or profession shall be eligible to file ITR Form-2. The Individuals and HUFs having income under the head business or profession shall file either ITR Form-3 or ITR Form-4 (in presumptive income cases). In case of non-residents, the requirement of furnishing details of any one foreign Bank Account has been provided for the purpose of credit of refund. Further, the requirement of furnishing details of cash deposit made during a specified period as provided in ITR Form for the Assessment Year 2017-18 has been done away with from Assessment Year 2018-19.

Please Click Here to read the Press Release.

**Standard deduction available on pension received from former employer**

The CBDT has clarified that the pension received by a taxpayer from his former employer is taxable under the head “Salaries”. The Finance Act, 2018 has amended Section 16 of the Income–tax Act, 1961(“the Act”) to provide that a taxpayer having income chargeable under the head “Salaries” shall be allowed a deduction of Rs 40,000/- or the amount of salary, whichever is less, for computing his taxable income. Accordingly, any taxpayer who is in receipt of pension from his former employer shall be entitled to claim a deduction of Rs 40,000/- or the amount of pension, whichever is less, under Section 16 of the Act. Earlier, the representations were received seeking clarification as to whether a taxpayer, who receives pension from his former employer, shall also be eligible to claim this deduction.

Please Click Here to read the Press Release.

**Revised procedure for registration and submission of Statement of Reportable Account as per section 285BA of the ITA read with Rule 114G of the Rules**

To keep a watch on high value transactions undertaken by the taxpayer, the Income-tax Law has framed the concept of statement of financial transaction or reportable account. With the help of the statement the tax authorities will collect information on certain prescribed high value transactions undertaken by a person during the year. Statement of financial transaction or reportable account is to be filed by certain prescribed entities, and in such statement they are required to furnish the details of specified financial transactions or any reportable account registered/recorded/maintained by them during the year. Thus, on the basis of the information provided by certain prescribed entities in statement of financial transaction or reportable account, the Income-tax Department keeps a track of specified financial transactions carried on by a person during the year.

The Central Board of Direct Taxes (CBDT) has modified the procedure for registration and submission of Statement of Reportable Account’ as per section 285BA of the Income-tax Act, 1961 read with Rule 114G of the Income-tax Rules, 1962 (Rules) vide its notification no. 4 of 2018 dated 5 April 2018 which is effective from 9 April 2018.

Please Click Here to read the notification.

## Government of India notifies revised procedure for availing tax benefits for "Start-ups"

Department of Industrial Policy and Promotion (DIPP), under the Union Ministry for Commerce and Industry, has come out with the latest notification on angel tax exemption. Now angel investors with average returned income of Rs 25 lakh for last 3 years or net-worth of Rs 2 crore are eligible for 100 per cent tax exemption on investments made into Startups above fair market value. The notification further added that startups with aggregate paid-up share capital and share premium up to Rs 10 crore with merchant banker's report of the fair market value may apply for tax exemptions. DIPP has also notified the form for claiming 100 per cent tax exemption on profits for any three consecutive years out of the initial 7 years of the start-up. A limited liability partnership incorporated on or after the 1st day of April 2016 but before the 1st day of April 2021, can claim 100 per cent tax exemption on profits for three out of seven years, as per the prescribed norms.

To avail the concessions, startups would have to approach an eight-member inter-ministerial board of certification. DIPP has issued gazette notification which reads that an entity shall cease to be a Startup on completion of seven years from the date of its incorporation/ registration or if its turnover for any previous year exceeds Rs 25 crore. In respect of startups in the biotechnology sector, an entity shall cease to be a Startup on completion of ten years from the date of its incorporation/ registration or if its turnover for any previous year exceeds Rs. 25 crore.

Please Click Here to read the Notification.

## Start-up investors must disclose deal valuations in tax returns

To ensure that promoters and investors accurately report the capital gains from the sale of unlisted shares, the Income-Tax Department has introduced new disclosure norms in the latest edition of I-T return forms.
The new forms applicable for FY18 require taxpayers (individuals) to provide the fair market value of unlisted shares and also disclose the full value of consideration received/receivable in respect of unquoted shares sold by them during the year.

The start-up valuation world is often seen as a blackbox by the taxman, given its highly subjective nature and the closed nature of the deals. The I-T department, therefore, wants investors to commit themselves upfront on the manner in which the fair market value has been determined and support it with valuation reports.

# International Taxation

## CBDT invites comments on draft notification on Base Erosion and Profit Shifting (BEPS)

CBDT invites comments on draft notification proposing amendment to Rule 44E, Form 34C, 34D and 34DA as per BEPS Action 5, for improving transparency in tax rulings Under BEPS Action 5, exchange of rulings on Permanent Establishment (PE) by Authority for Advance Rulings is required to be done not only with the countries of residence of all related parties with whom taxpayer enters into transaction, but also with the country of residence of the immediate parent company and the ultimate parent company. Therefore, in order to implement the recommendations made under Action 5 of BEPS Action Plan to bring greater transparency in cross national transactions, Form 34C and 34D (Forms for Advance Rulings) are required to be modified so that details such as name, address and country of the residence of non-resident's immediate parent company or ultimate parent company etc. are captured at application stage itself. Further, vide Finance Act, 2017, the definition of the term "applicant" for the purpose of Advance Rulings has been amended by substituting clause (b) of section 245N of the Income-tax Act, 1961 (the Act). Therefore, consequential amendments are required in Rule 44E and respective Forms to bring them in harmony with the amendment to the Act. Accordingly, a draft notification has been framed and uploaded on the website of the Income Tax Department for comments from stakeholders and general public.

Please Click Here to read the Press Release.

## CBDT Notifies the Protocol Amending the Double Taxation Avoidance Convention (DTAC) Between India and Kazakhstan

A protocol to amend the existing DTAC between India and Kazakhstan, earlier signed on December 9, 1996, for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income, was signed on 06.01.2017. The said Protocol has entered into force on 12.03.2018 and was notified in Official Gazette on 12.04.2018. The Protocol provides internationally accepted standards for effective exchange of information on tax matters. Further, the information received from Kazakhstan for tax purposes can be shared with other law enforcement agencies with the authorization of the competent authority of Kazakhstan and vice versa.

The Protocol inserts a Limitation of Benefits Article, to provide the main purpose test to prevent misuse of the DTAC and to allow application of domestic law and measures against tax avoidance or evasion. The Protocol inserts specific provisions to facilitate relieving of economic double taxation in transfer pricing cases. The Protocol replaces the existing Article on Assistance in Collection of Taxes with a new Article to align it with international standards.

Please Click Here to read the Press Release.

# Company Law

## Companies (Share Capital and Debentures) Amendment Rules, 2018

The Government, through a notification dated 10 April 2018, issued notification for amendment in Companies (Share Capital and Debentures) Rules, 2014.

Key points:

- Every share/ debenture certificate to specify the shares/ debentures to which it relates and the amount paid-up thereon.
- The certificate to be signed by 2 directors or by a director and the company secretary, wherever the company has appointed company secretary.
- In case the company has a common seal, it shall be affixed in the presence of persons required to sign the certificate.
- In case of an One Person Company, it shall be sufficient if the certificate is signed by a director and the company secretary or any other person authorized by the Board for the purpose.

Please Click Here to read the notification.

# Securities and Exchange Board of India (SEBI)

## Monitoring of Foreign Investment limits in listed Indian Companies

Foreign Investment in India is regulated as per the Foreign Exchange Management Act, 1999 (FEMA) read with Foreign Exchange Management (Transfer or Issue of a Security by a Person resident Outside India) Regulations, 2017. FEMA prescribes the various foreign investment limits in listed Indian companies. These include the aggregate Foreign Portfolio Investor (FPI) limit, the aggregate NRI limit and the sectoral cap. As per FEMA, the onus of compliance with the various foreign investment limits rests on the Indian company. In order to facilitate the listed Indian companies to ensure compliance with the various foreign investment limits, SEBI in consultation with RBI has decided to put in place a new system for monitoring the foreign investment limits.

The depositories (NSDL and CDSL) shall put in place the necessary infrastructure and IT systems for operationalizing the monitoring mechanism. The Stock Exchanges (BSE, NSE and MSEI) shall also put in place the necessary infrastructure and IT systems for disseminating information on the available investment headroom in respect of listed Indian companies.

The system for collecting this data from the companies shall go live on the date of the issuance of this circular.

The companies shall provide the necessary data to the depositories latest by April 30, 2018. The new system for monitoring foreign investment limits in listed Indian companies shall bemade operational on May 01, 2018.

The existing mechanism for monitoring the foreign investment limits shall be done away with once the new system is operationalized. RBI shall issue the necessary guidelines in this regard.

Please Click Here to read the Circular.


# Foreign Exchange Regulations (FEMA)

## Liberalized Remittance Scheme (LRS) for Resident Individuals – Daily reporting of transactions

Currently, transactions under Liberalized Remittance Scheme (LRS) are being permitted by AD banks based on the declaration made by the remitter. The monitoring of adherence to the limit is confined to obtaining such a declaration without independent verification, in the absence of a reliable source of information.

In order to improve monitoring and also to ensure compliance with the LRS limits, Reserve Bank has issued a notification on 12 April 2018. It has been decided to put in place a daily reporting system by AD banks of transactions undertaken by individuals under LRS, which will be accessible to all the other ADs.

Accordingly, all AD Category-I banks are required to upload daily transaction-wise information undertaken by them under LRS at the close of business of the next working day. In case no data is to be furnished, AD banks shall upload a 'Nil' report.

Please Click Here to read the circular.

# Provident Fund

## Employee Provident Fund Organisation (EPFO): Aims to transformation into 'Paperless Organisation'

In order to bring about ease of compliance and governance, EPFO has proposed various administrative initiatives to achieve the target in time. In addition, to provide better services to the employers and employees, EPFO vide its circular dated 27 February 2018 has reiterated its target for transformation of EPFO to an electronic paper less organization by 15 August 2018.

### Key changes:

1. **Increase in the minimum benefit under the Employees' Deposit Linked Insurance Scheme, 1976 (EDLI Scheme) –**

   Under the EDLI Scheme, in case of an employee's death, lump-sum benefit is paid to the nominee of the employee. For each employee, the employer is required to contribute 0.5% of the Monthly Pay or INR 15,000 per month, whichever is lower to the EPFO. Accordingly, the maximum contribution towards EDLI is INR 75 (0.5% of INR 15,000) per month per employee. There is no contribution required under the EDLI Scheme from the employee.

   The minimum life insurance cover has been raised from INR 150,000 to INR 250,000. The minimum life insurance cover of INR 250,000 will be valid for 2 years from the date of notification. However, the maximum life insurance cover of INR 600,000 and the formula to calculate life insurance cover remains unchanged.

2. **New facility to link Universal Account Number (UAN) and Aadhaar-**

   The EPFO had recently introduced online facility to link UAN with Aadhaar through e-KYC Portal at the EPFO website. In addition to the above, the EPFO has now introduced the linking facility through its UMANG mobile app.

Please Click Here to read the circular.

**Proposals made by the Central Board of Trustees of the EPFO:**

Basis the minutes of the 220th Meeting of the Central Board of Trustees of the EPFO, the following proposals were made for upcoming changes to the Provident Fund law:

1. Interest rate of 8.55% for the financial year 2017-18 - The EPFO has proposed interest rate of 8.55% for the financial year 2017-18 (For the financial year 2016- 17, the interest rate was 8.65%).

2. Reduction of Provident Fund administrative charges from 0.65% to 0.50% of employees' monthly pay - The EPFO has proposed to reduce the Provident Fund administrative charges from 0.65% of monthly pay to 0.50% of monthly pay.
3. In April 2017, the EPFO had reduced the administrative charges from 0.85% to 0.65%, which is currently applicable.

4. Reduction in the minimum number of employees for mandatory coverage under the Employees' Provident Fund from 20 to 10- The EPFO has proposed to reduce the employee threshold for coverage under the Provident Fund law from 20 employees to 10 employee. Currently, employers employing 20 or more employees are mandatorily required to be covered under the Provident Fund law.

   All the above proposals by the EPFO will be effective once there is an official notification/circular from the Government of India/EPFO.

Please Click Here to read the circular.

# About KrayMan

KrayMan is an Accounting and Advisory Firm specializing in Assurance, Tax, Regulatory, Compliance & Outsourcing, Corporate Secretarial, Transaction Advisory and HR Advisory services. We cater to International & Domestic Clients.

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
- **TiE Delhi -** world's largest entrepreneurial organization with 62 chapters in 18 countries

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