



TAX EDGE

Monthly Tax & Regulatory Updates



Accounting



Taxation

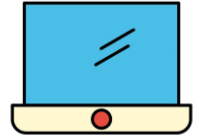


Regulatory

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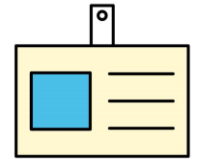
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Goods & Services Tax (GST)



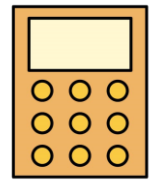
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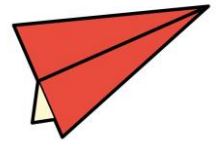
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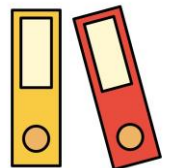
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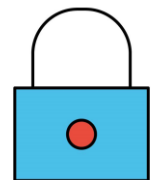
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Goods & Services Tax (GST)



Goods & Services Tax

Highlights of 31st & 32nd GST Council Meeting

The GST Council in its 32nd Meeting held in New Delhi on 10th January 2019 took the following decisions giving relief to MSME sector including small traders.

Highlights of 32nd GST Council Meeting

Key Recommendations:

Headings	Existing Rules	Proposed Amendments
Increase in turnover limit under the Composition Scheme	Currently, Composition Scheme is available for persons having annual turnover up to Rs. 1 crore	Annual turnover limit for Composition Scheme taxpayers increased to Rs. 1.5 crore
Compliance simplification for Composition Scheme taxpayers	Currently, Composition Scheme taxpayers are required to file quarterly tax returns along with payment of GST. Further, such taxpayers are required to file an Annual Return in Form GSTR-9A	Only one Annual Return required to be filed by Composition Scheme taxpayers. However, the payment of taxes would remain on quarterly basis (along with a simple declaration)
Benefit of Composition Scheme extended to service providers	Currently, composition scheme is available only for supplier of goods and not for service providers (except restaurant service). Further, suppliers of goods and services are not eligible to avail the current Composition Scheme for goods	Composition scheme shall be available to service providers (or mixed suppliers) having annual turnover up to Rs. 50 lakh. The application rate of tax shall be 6% (i.e. 3% CGST + 3% SGST). Further, Composition Scheme shall be available to both service providers as well as suppliers of goods and services.
Higher exemption threshold limit for registration under GST laws	Threshold limit for registration for supplier of goods and/ or services is Rs. 20 lakh. In case of special category States, the exemption threshold limit is Rs. 10 lakhs	There would be two threshold limits for exemption from registration and payment of GST for the suppliers of goods i.e. Rs 40 lakhs and Rs 20 lakhs. The States would have an option to adopt one of the limits. Registration for service providers would continue to be Rs 20 lakhs and in case of special category States at Rs 10 lakh.

Goods & Services Tax

Highlights of 32nd GST Council Meeting

Other Details:

Effective date:	The above decisions shall made operational from April 1, 2019
Revenue Mobilization for natural calamities:	The GST Council approved levy of cess on intra-state supply of goods and services within the State of Kerala at a rate of 1% for 2 years.
Matters referred to Group of Ministers:	<p>A 7-member Group of Ministers shall be constituted to examine the proposal for giving Composition Scheme benefits to boost the residential segment of the real estate sector.</p> <p>A Group of Ministers shall be constituted to examine the GST rate structure on lotteries.</p> <p>Please Click Here to read Press Release on the key decision of the GST Council.</p>
Notification of GST (Amendment) Acts:	<p>Changes made by CGST (Amendment) Act, 2018, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018, GST (Compensation to States) Amendment Act, 2018 and the corresponding changes in SGST Acts would be notified w.e.f. 1st February 2019.</p> <p>Please Click Here to read Press Release on other important decision of the GST Council.</p>

Please [Click Here](#) to read our detailed bulletin for the key Notifications/ Circulars giving effect to the recommendations of the GST Council 31st Meeting.

Goods & Services Tax

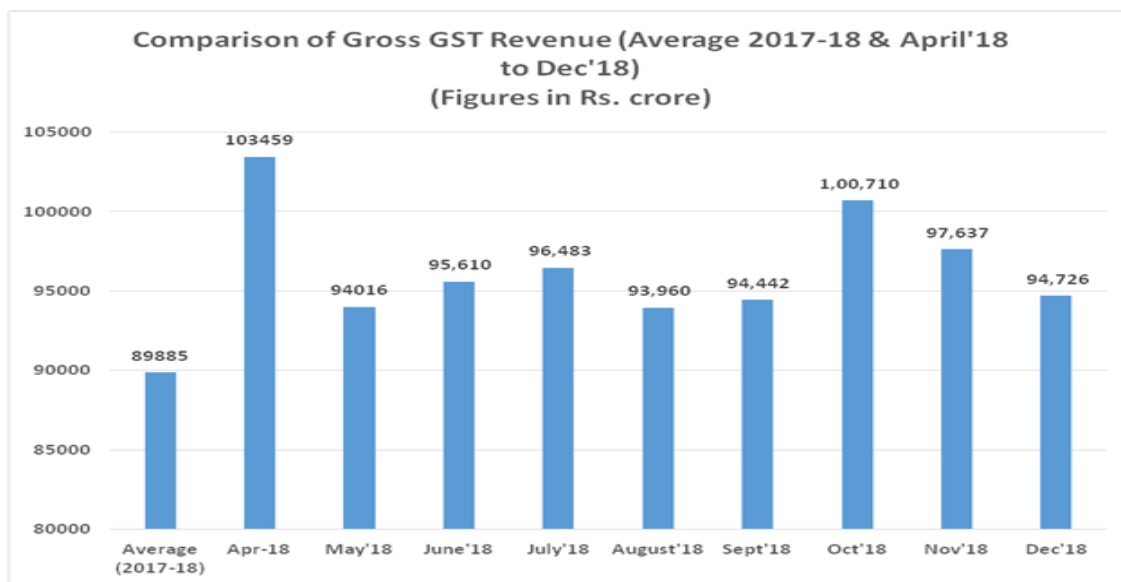
GST Revenue collections for the month of December 2018 is Rs.94,726 crore

The total gross GST revenue collected in the month of December, 2018 is Rs. 94,726 crore segregation of which is as follows:

Tax	Amount (Rs.)
Integrated Goods and Services Tax (IGST)	Rs. 47,936 crore
Central Goods and Services Tax (CGST)	Rs. 16,442 crore
State Goods and Services Tax (SGST)	Rs. 22,459 crore
Compensation cess	Rs. 7,888 crore

The total number of GSTR 3B Returns filed for the month of November up to 31st December, 2018 is 72.44 lakh

Please [Click Here](#) to read Press Release dated 1st January, 2019.

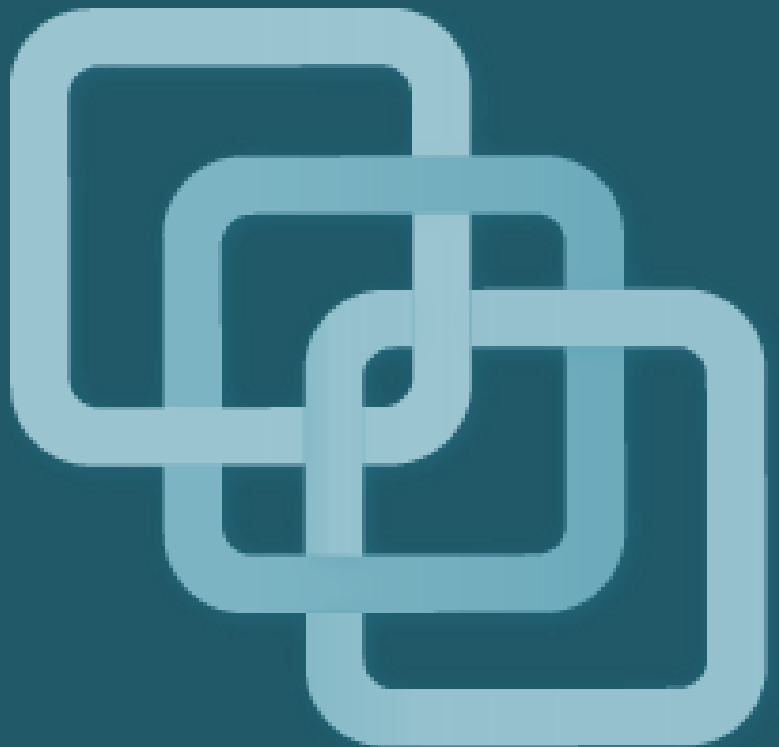


Advance Authorization: Removal of pre-import condition for IGST exemption

Central Board of Indirect Taxes and Customs (CBIC) has removed pre-import condition in respect of physical exports made under Advance Authorization (AA) scheme, provided authorization holder complies with the condition that where exports have already been made after availing Input Tax credit (ITC), goods supplied against AA shall be used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) and a certificate to this effect from a chartered accountant shall be submitted to jurisdictional commissioner of GST or any other authorized officer within 6 months of such supply (no such certificate is required if ITC has not been availed on inputs used in manufacture of export goods).

Please [Click Here](#) to read Press Release dated 15th January, 2019.

Customs



Customs

Amendment in Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver

CBIC has amended Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver as given below:

Table 1 – Edible Oils, Brass Scrap, Poppy Seeds

S. No.	Chapter/ heading/ sub heading/ tariff item	Description of goods	Tariff value (US \$ per Metric Tonne)
1	1511 10 00	Crude Palm Oil	544
2	1511 90 10	RBD Palm Oil	550
3	1511 90 90	Others – Palm Oil	547
4	1511 10 00	Crude Palmolein	553
5	1511 90 20	RBD Palmolein	556
6	1511 90 90	Others – Palmolein	555
7	1507 10 00	Crude Soya bean Oil	686
8	7404 00 22	Brass Scrap (all grades)	3526
9	1207 91 00	Poppy seeds	2258

Table 2 – Gold & Silver

S. No.	Chapter/ heading/ sub heading/ tariff item	Description of goods	Tariff value (US \$)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 and 358 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	416 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 and 359 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	504 per kilogram

Table 3 – Areca Nuts

S. No.	Chapter/ heading/ sub heading/ tariff item	Description of goods	Tariff value (US \$ per Metric Tonne)
1	080280	Areca nuts	3492''

Please [Click Here](#) to read Notification no. 4 dated 15th January, 2019.

Direct Tax



Direct Tax

Central Board of Direct Taxes (CBDT) issues annual circular on deduction of tax at source (TDS) from salaries for Financial Year 2018-19

CBDT has issued circular containing instructions in relation to TDS on salary payment u/s 192 during the Financial Year 2018-19 (Assessment Year 2019-20), including explanations on many other issues under the said provision. Such circular is issued by CBDT on annual basis to guide employers and employees understand the various provisions relating to TDS on salaries.

Please [Click Here](#) to read Circular no.1 dated 1st January 2019.

Direct tax collection rises 14.1 % to Rs 8.74 lakh crore in April-December 2018

Direct tax collection grew 14.1 % to Rs 8.74 lakh crore during April-December 2018 as per the reports of Finance Ministry. Refunds amounting to Rs 1.30 lakh crore have been issued during April to December, 2018, which is 17 % higher than refunds issued during the same period in the preceding year. As per the reports, almost Rs 3.64 lakh crore has been collected as advance tax, which is 14.5 % higher than the advance tax collections during the same period last year.

Net collections (after adjusting for refunds) have increased by 13.6 % to Rs 7.43 lakh crore during April-December, 2018. The net direct tax collections represent 64.7 % of the total budget estimates of direct taxes for financial year 2018-19 (Rs11.50 lakh crore). The gross collections for corporate tax are 14.8 % while that for personal income tax is 17.2 %.

After adjustment of refunds, the net growth in corporate tax collections is 16 % and that in personal income tax collections is 14.8 %. The growth rate of corporate advance tax is 12.5 % and that of personal advance tax is 23.8 % during April-December 2018.

Please [Click Here](#) to read Press Release dated 7th January 2019.



Cabinet sanctions expenditure for Integrated E-Filing & Centralized Processing Centre 2.0 Project

The Union Cabinet, chaired by Prime Minister Mr. Narendra Modi, has given its approval to expenditure sanction of Rs 4,242 crore for Integrated E-filing & Centralized Processing Center 2.0 project of the Income Tax Department. The cabinet also approved the expenditure sanction for the consolidated cost of Rs 1,482 crore of the existing CPC-ITR 1.0 project upto Financial Year 2018-19.

The proposal is another step taken by Government towards business transformation through technology. The E-filing and CPC projects are expected to enable end to end automation of all processes within the Department using various innovative methods and also promote voluntary compliance.

Broad objectives of the Project:

- a) Faster and accurate outcomes for taxpayer
- b) First time right approach
- c) Enhancing user experience at all stages
- d) Improving taxpayer awareness and education through continuous engagement
- e) Promoting voluntary tax compliance
- f) Managing outstanding demand

Expected benefits for both Revenue as well as Taxpayer:

- a) Pre-filing of Income Tax return (ITR)
- b) Reduce refund/processing turnaround time drastically
- c) Facilitation to taxpayers in resolving outstanding tax demands
- d) Integrated contact centers for taxpayer assistance
- e) Tax payer outreach program through digital media and employer/ partner accreditation program to bring significant enhancement in services to taxpayers.
- f) Improvement of accuracy and ensuring that processing of returns filed by all categories of taxpayers across the country is consistent, uniform, rule driven & in identity blind manner.
- g) Results in faster processing of returns and issue of refunds to the taxpayer's bank account directly without any interface with the Department, by adhering to international best practices and standards (ISO certification)

Please [Click Here](#) to read Press Release dated 16th January 2019.

CBDT notifies procedure for obtaining online certificate for lower / nil withholding tax

Background:

The Income-tax Rules were modified in October 2018 to provide for online / electronic filing of application in Form 13 for obtaining nil / lower withholding tax certificate. The Government vide notification no.8 dated 31 December 2018 has specified the procedure, format and standards for the purpose of electronic filing of Form 13 and generation of certificate u/s 197(1) / 206C(9), explained in brief below.

Procedure for electronic filing in Form 13:

- Taxpayer to log in to TRACES website through registered id for submission of application in Form 13 electronically
- Form 13 alongwith supporting documents to be submitted electronically under digital signature / electronic verification mode
- Once the application is submitted successfully, it shall reach TDS-Assessing Officer on 'TRACES AO portal' on his / her log-in.
- Taxpayer can track status of application online through option 'Track Request for Form 13' under the tab 'Statement / Forms'.
- If the AO requires any further clarification, information or documents from the applicant, the same shall be obtained online using 'Seek Clarification' functionality. The response submitted by taxpayer shall be visible to AO within the functionality for taking a decision on the application.
- Once the AP has taken a decision, the application shall be forwarded to his supervising authority Range Head / Commissioner of Income-tax) for according administrative approval.
- After the final decision is taken by Range Head / Commissioner, the application will be marked to AO portal for issuance / rejection of certificate.
- AO shall generate the approved certificate / close the request based on decision taken on the application. The certificate will be system generated and hence will not require manual signature. Certificate shall be available to taxpayer / applicant for download through their TRACES login.

Please [Click Here](#) to read Notification No. 8 dated 31st December 2018.

CBDT Chairman asks for special efforts for collection of Regular Assessment Tax

As per media reports, CBDT Chairman in office memo addressed to Income-tax Department has asked them to enhance efforts for maximization of direct tax collections with special efforts for collection of Regular Assessment Tax. The position of growth in gross collections is marginally better at 14.1% but still below the required rate for achieving the Budget Estimates of Rs.1,50,000 crore, as per the reports.

The letter further states that the review of the trends of growth under different Heads revealed that the growth in collection under Regular Assessment Tax (recovery from arrear and current demand) is extremely low at 1.1% as compared to 15.6% growth during the corresponding period last year. In fact, most of the regions are showing negative growth under Regular Assessment Tax. The CBDT Chairman has expressed serious concern over this and stressed that concerted efforts are required to be made to drive up recovery from arrear and current demand.

The following strategies have been advised to be implemented in the quarter ended 31st March, 2019:

- Targeted recovery surveys in potential cases where high amount of recovery is likely
- Sale of attached properties in appropriate cases by Tax Recovery Officers (TROs) to recover confirmed demand where normal measures of recovery have not yielded results
- Initiation of proceedings under section 179 of the Act in eligible cases to make recoveries of outstanding dues of the companies.
- Filing of prosecution under section 276C (2) against persons who are willfully evading payment of outstanding taxes.
- Completion of non-time-barring assessments in cases where demand is likely to be raised and collected during the current financial year itself.
- Verification of deductors where there is non-payment of TDS to the Government account though TDS has been deducted as well as where there is substantially low TDS as compared to last year including launching of prosecution in cases of substantial default.
- Verification of payment of advance tax by the seller of properties in cases where TDS under section 194IA has been made by the buyer.
- Monitoring of payment of Dividend Distribution Tax by obtaining information from financial websites

The communication further states that depending upon the specific characteristics of the region, other strategies should also be adopted to increase collections and achieve the budget target.

CBDT gives 21 days' time to non-filers to file Income-tax Return for Assessment Year ('AY') 2018-19

CBDT identifies non-filers through Non-filers Monitoring System (NMS) by using Data Analytics and requests Non-filers to assess their tax liability for AY 2018-19 and file the ITR or submit online response within 21 days.

The NMS aims to identify and monitor persons who enter into high value transactions and have potential tax liabilities but have still not filed their tax returns. Analysis was carried-out to identify non-filers about whom specific information was available in the database of the Income Tax Department. The sources of information include Statement of Financial Transactions (SFT), TDS, Tax Collection at Source (TCS), information about foreign remittances, exports and imports data etc. Data analysis has identified several potential non-filers who have carried-out high value transactions in Financial Year 2017-18 but have still not filed Income Tax Return for Assessment Year 2018-19 (relating to FY 2017-18).

The Department has enabled e-verification of these NMS cases to reduce the compliance cost for taxpayers by soliciting their response online. It is reiterated that there is no need to visit any Income Tax office for submitting response, as the entire process is to be completed online. Taxpayers can access information related to their case from the 'Compliance portal' which is accessible through the e-filing Portal of the Department at <https://incometaxindiaefiling.gov.in>.

Non-filers have been suggested to assess their tax liability for AY 2018-19 and file the ITR or submit online response within 21 days. If the explanation offered is found to be satisfactory, matters will be closed online. However, in cases where no return is filed or no response is received, initiation of proceedings under the Income-tax Act, 1961 will be considered by tax department.

Please [Click Here](#) to read Press Release dated 22nd January 2019.

Applicability of 'gift tax provisions' on fresh issue of shares received without consideration or for inadequate consideration – Circulars issued by CBDT

CBDT issues Circular no.3 dated 21 January 2019 (3rd Circular) directing tax authorities to ignore the views expressed in earlier Circular No. 10 dated 31 December 2018 (1st Circular), which was subsequently withdrawn vide Circular No. 2 dated 4 January 2019 (2nd Circular).

Background:

- For the period 1 June 2010 to 31 March 2017, Income-tax Act provides for taxation in the hands of a firm / closely held company on 'receipt' of shares of another closely held company without consideration or for an inadequate consideration.
- From 1 April 2017 onwards, the above (earlier) gift tax provision was substituted with a wider provision applicable to all categories of taxpayers including on 'receipt' of shares (current gift tax provisions)

The Controversy:

Whether the earlier as well as current gift tax provisions are applicable in case of fresh issue of shares.

Development over the last one month:

- 1st Circular dated 31 December 2018 issued by CBDT clarified that earlier gift tax provisions do not apply to fresh issue of shares, given the intention of law to attack practice of 'transfer' (only) of shares without consideration or for inadequate consideration.
- Industry approached CBDT to seek clarification whether view expressed in 1st Circular will also apply to current gift tax provision. Vide 2nd Circular dated 4 January 2019, CBDT withdrew 1st Circular clarifying that the 1st Circular shall be considered to have been never issued. Further, CBDT clarified that a detailed circular on the subject shall be issued in due course.
- On 21 January 2019, vide 3rd Circular, CBDT clarified that the view taken in 1st Circular would not be a correct approach as it could be subject to abuse and would be contrary to the express provisions and intent of earlier as well as current gift tax provision. Accordingly, the 3rd Circular states that any view expressed by the CBDT in 1st Circular shall be considered to have never been expressed and, accordingly, the 1st Circular shall not be taken into account by any tax authority.

Conclusion

With the issue of 3rd Circular, tax authorities have been given the liberty to invoke gift tax provisions even in case of fresh issue of shares. This is likely to add uncertainty to the existing controversy of applicability of gift tax provisions on fresh issue of shares. Taxpayers shall be required to defend their position accordingly.

Direct Tax

Constitutional validity of dividend tax @ 10% on resident shareholders, upheld by Delhi High Court

Background:

Dividends from domestic companies are liable to 'dividend distribution tax' @ 15% in the hands of the company and, consequently, exempt from tax in the hands of shareholders. The Finance Act 2016 introduced dividend tax @ 10% in hands of resident shareholders on dividends exceeding Rs.10 lakh. The levy of such dividend tax has faced widespread opposition from the industry especially high net worth individuals as being unjust and leading to double taxation, once in the hands of company and subsequently in the hands of shareholder.

Delhi High Court's decision:

Levy of dividend tax @ 10% was challenged before the Delhi High Court on following grounds:

- There is ambiguity on whether the dividend tax applies on the entire dividend income or only on dividend income exceeding Rs.10 lakh, and
- Constitutional validity of the dividend tax has been challenged on the ground that it creates hostile discrimination as it applies only to non-corporate resident taxpayers and not to domestic companies or non-residents.

The Delhi High Court has ruled as below:

- Dividend tax @ 10% applies only to dividend income in excess of Rs.10 lakh, there is no ambiguity in this regard, and
- Constitutional validity of dividend tax has been upheld. The reason given by the Court is that Government has necessary flexibility within the tax framework to make reasonable classification, and in order to tax one group, it is not necessary to tax all. Non-applicability of dividend tax to domestic companies or non-residents is a case of 'under classification', which is not a valid ground for striking down the law.

Relaxation in conditions for exempting start-ups from angel tax under section 56(2)(viib) of the Income-tax Act

Background:

Section 56(2)(viib) of the Income-tax Act provides for charging 'angel tax' on issue of shares at premium to a resident by a closely held company. The exception to this are,

- shares issued by a venture capital undertaking to venture capital fund or venture capital company, and
- shares issued to class or classes of persons notified by the Central Government. In this regard, the Central Government vide notification No. 45/2016 dated 14 June 2016 notified that angel tax shall not apply in case shares are issued to a resident by a 'startup' company which fulfils conditions specified in the notification issued by Department of Industrial Policy & Promotion ('DIPP') on 17 February 2016 (2016 Notification). This is because of the obvious reason that valuation based on conventional methods would not necessarily reflect 'fair value' of shares in case of start-ups.

Direct Tax

Consequent to representations received from start-up industry, CBDT issued administrative instruction on 6 February 2018 to tax department to relieve start-up companies from hardship of angel tax. DIPP issued Notification on 11 April 2018 which setting out revised eligibility conditions and procedure for recognition as 'start-up' and revised conditions and procedure for availing tax benefits. Similarly, the CBDT issued a new Notification on 24 May 2018 exempting 'start-ups' who have obtained approval from Inter-Ministerial Board (IMB) as per the 2018 Notification. However, this Notification did not address the exemption for past issue of shares made before 2016.

As per media reports, in absence of any specific direction for past issue of shares, tax department continued to challenge the valuations causing wide spread discomfort within the start-up fraternity. Responding to the concerns raised, DIPP issued Press Release on 19 December 2018 clarifying that the DIPP has taken up the matter with Department of Revenue to protect bonafide investments into 'start-ups'.

Notification issued by CBDT

CBDT on 24 December 2018 issued fresh direction to tax department to refrain from taking any coercive measures to recover outstanding demand till further instructions are given by the CBDT. In pursuance thereof, DIPP has issued Notification on 16 January 2019 amending the prior 2018 notification with regard to conditions and procedure to obtain exemption from angel tax. The major relaxations in this regard include the following:

- Approval to be granted by CBDT (instead of IMB) within 45 days,
- Requirement to obtain merchant banker's valuation report done away with
- Conditions for qualifying resident investor modified from (a) average returned income of Rs.25 lakh or more in 3 preceding FY or net worth of Rs.2 crore as on last day of preceding FY to (b) returned income of Rs.50 lakh or more in preceding FY and net worth being higher of Rs.2 crore or amount of investment as on last day of preceding FY
- Resident investor to submit copies of income-tax return and net worth certificate directly to DIPP instead of routing through the start-up in question.



International Taxation



International Taxation

CBDT extends time limit for secondary filing by Indian resident constituent entity (CE) of a foreign headquartered multinational enterprise (MNE)

Background:

The Finance Act, 2018 amended the Country-by-Country reporting (CbCR) regulations retroactively from FY 2016-17. The time limit for furnishing the CbC report was extended to 12 months from the end of the reporting accounting year (i.e., fiscal year ending 31 March) in respect of following categories:

- Indian resident Ultimate Parent Entity (UPE); or
- Indian resident Alternate Reporting Entity (ARE) / Surrogate Parent Entity (SPE).

However, in situations where a CbC report filing obligation was applicable to an Indian resident constituent entity of a foreign headquartered multinational enterprise (MNE) group, the law provided that the due date would be prescribed by CBDT at a later date.

Notification by CBDT:

On 18 December 2018, CBDT through notification prescribed that the due dates for 'secondary filing' would be 12 months from the end of the reporting accounting year of the MNE group. However, for all reporting accounting years up to 28 February 2018, the due date has been extended to 31 March 2019.

In case of systemic failure (meaning where a country not exchanging CbC report with India even though there is an exchange agreement in place), the notification provides that the CbC report should be filed in India within 6 months from the end of the month in which such systemic failure has been communicated to the Constituent Entity by the Income-tax authorities.

Please [Click Here](#) to read circular dated 26 December 2018.



Companies Act, 2013



Companies Act, 2013

Companies (Amendment) Ordinance, 2019 enforced from 2nd November 2018 for better corporate governance

The Government of India published the Companies (Amendment) Ordinance, 2019 on 12 January, 2019 to amend the Companies Act, 2013.

Highlights:

1. Any Company incorporated after the commencement of this ordinance shall not commence any business unless the director within 180 days make a declaration which will be verified by the registrar that every subscriber to the memorandum has paid the value agreed to be taken by them. The Registrar after satisfaction shall issue a Commencement Certificate to the company
2. The Registrar of Companies (ROC) can strike off a company if the address of Registered Office is bogus or incomplete/improper address
3. Conversion of Public Ltd to Private Ltd matters shifted from National Company Law Tribunal (NCLT) to Regional Directorate
4. Company cannot issue shares at discount heavy penalty imposed on violation
5. Alteration of Authorised Capital to be intimated within 30 days, default – penalty Rs.1000 every day or Rs.5 Lakh whichever is less
6. Creation of charge filing with ROC– time limit reduced from 300 days to 60 days
7. Wrong statement/ information in filing Charge forms with ROC may lead to misrepresentation and imprisonment
8. Annual Return should be filed within 60 days from Annual General Meeting (AGM), failure to this will have following consequences: Penalty of Rs.100 per day to Company and Penalty on directors which may be upto Rs. 5 Lakh
9. Explanatory statement to be given with Notice of General Meeting must contain all details as required by Law, if no detail/short detail/misleading – penalty of upto Rs. 50,000 for Company in addition to Directors and Key Management Personnel
10. Filing of Resolutions with ROC- delay will be much costly now. Penalty for defaulter increased substantially to Rs. 500 per day upto Rs. 25 Lakh
11. Filing of Balance sheet with ROC within time limit- failure to this will have following consequences: Penalty of Rs.100 per day to Company and Penalty on directors and company may be upto Rs. 1 Lakh each

Companies Act, 2013

12. Resignation of Auditor must be filed by the resigning Auditor within 30 days, failure to which the resigning Auditor is liable for penalty of Rs.50,000 or Rs.500 per day for number of days of delay whichever is less.
13. A director cannot become director in more than 20 companies. If he continues, he becomes disqualified now
14. Every Company having paid up capital of Rs. 5 crore or more are under obligation to appoint Whole time Company Secretary on payroll
15. In addition to the amendments provided under Companies (Amendment) Ordinance, 2018, Ministry of Corporate Affairs (MCA) has amended section 454(4), which provides for giving reasonable opportunity of being heard to any other person also before imposition of penalty by adjudicating officer. Earlier, this opportunity was available only to company and officers in default

Please [click here](#) to read notification dated 12th January, 2019.

Shifting of power from Central Government to Regional Director in case of application filed for consolidation and division of share capital

The Government, through a rule dated 15th January, 2019, has stated that in case any application has been filed for the consolidation and division of all or any of the share capital into shares of a larger amount than its existing shares which results in changes in the voting percentage of shareholders, the company shall file copy of the application to the Regional Director instead of Central Government.

Also, the company is required to serve a copy of any objections received against the application to the Regional Director in place of Central Government.

Please [click here](#) to read the rule dated 15th January, 2019.

Onetime Return of outstanding receipt of money or loan by a company to be submitted in Form DPT-3

Ministry of Corporate Affairs through notification dated 22nd January, 2019 have notified Companies (Acceptance of Deposits) Amendment Rules, 2019.

Highlights:

1. Every Company except Government Company has to file e-form DPT-3 with ROC containing following Information:

- Every Outstanding Loan in Company as on 22nd January, 2019
- Every outstanding receipt of money in Company as on 22nd January, 2019

However, any loan received which falls under definition of 'deposit' is not required to be mentioned while filing e-form DPT-3.

2. Due date of Filing of e-form DPT-3 is within 90 days from the date of notification i.e. 22nd January, 2019

3. Outstanding Loan and outstanding receipt of money required to report under this rule from period 01st April 2014 to 22nd January, 2019

Please [click here](#) to read the rule dated 22nd January, 2019

Companies Act, 2013

Furnishing of Information about outstanding payments to micro and small enterprise suppliers

Furnishing of Information about outstanding payments to micro and small enterprise suppliers

In continuation to the notification dated 2nd November, 2018 in which it was directed that all companies who get supplies of goods or services from micro and small enterprises and whose payment to micro and small enterprises suppliers exceed 45 days from the date of acceptance of goods or services as per section 9 of MSME Development Act, 2006 ('specified companies'), shall submit a half yearly return to the Ministry of Corporate Affairs stating the followings:

- a) The amount of payment due; and
- b) The reason of the delay

The Government, considers it necessary to require such companies to furnish the above information under the Act and hence through a notification dated 22nd January, 2019, hereby makes the Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019

Highlights:

- Every specified company shall file in MSME Form 1 details of all outstanding dues to Micro or small enterprises suppliers existing on the date of notification (22 January 2019) within 30 days from the date of publication of the notification.
- Every specified company shall file a return as per MSME Form 1, by 31st October for the period from April to September and by 30th April for the period from October to March.

Please [click here](#) to read notification dated 22nd January, 2019

Reserve Bank of India (RBI)



Reserve Bank of India (RBI)

External Commercial Borrowings (ECB) Policy – New Framework

RBI through its circular no. A.P. (DIR Series) Circular No. 17 dated January 16, 2019 has revised guidelines for borrowings by Authorized Dealers and persons other than Authorized Dealers with immediate effect. The guidelines have been revised to improve the ease of doing business and to rationalize the extant framework for borrowings.

Major liberalization/rationalization in the new framework are as under:

- Tracks I and II under the existing framework are merged as “Foreign Currency denominated ECB” and Track III and Rupee Denominated Bonds framework are combined as “Rupee Denominated ECB” to replace the current four-tiered structure. The framework is instrument-neutral
- The list of eligible borrowers has been expanded. All entities eligible to receive foreign direct investment can borrow under the ECB framework
- Any entity who is a resident of a country which is Financial Action Task Force (FATF) or International Organization of Securities Commission's (IOSCO's) compliant will be treated as a recognised lender. This change increases the lending options and allows various new lenders in ECB space while strengthening the Anti Money Laundering (AML) framework
- The Minimum Average Maturity Period (MAMP) has been kept at 3 years for all ECBs, irrespective of the amount of borrowing in lieu of various layers of MAMPs as at present, except the borrowers specifically permitted in the circular to borrow for a shorter period
- All eligible borrowers can now raise ECBs up to USD 750 million or equivalent per financial year under the automatic route replacing the existing sector wise limits
- Introduction of late submission fee for delay in prescribed reporting under the ECB framework to obviate the need for compounding these contraventions.

Please [Click Here](#) to read Circular dated 16th January, 2019.

One-time restructuring of existing loans to micro and small enterprise classified as ‘standard’ without a downgrade in the asset classification

Reserve Bank of India through its circular dated 1st January, 2019 has permitted a one-time restructuring of existing loans to MSMEs classified as ‘standard’ without a downgrade in the asset classification, subject to the conditions provided in the circular

Please [Click Here](#) to read notification dated 1st January, 2019.

Editorial Team



Editor



Direct Tax



Indirect Tax



Regulatory



Communications

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.

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