



The key amendments introduced in statutes, policies and procedures in respect of Direct Tax, Indirect Tax, Corporate Laws & Accounting Standards, Foreign Exchange Management Act / Export Import Policy & Securities and Exchange Board of India related matters are summarized hereunder.

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DIRECT TAX

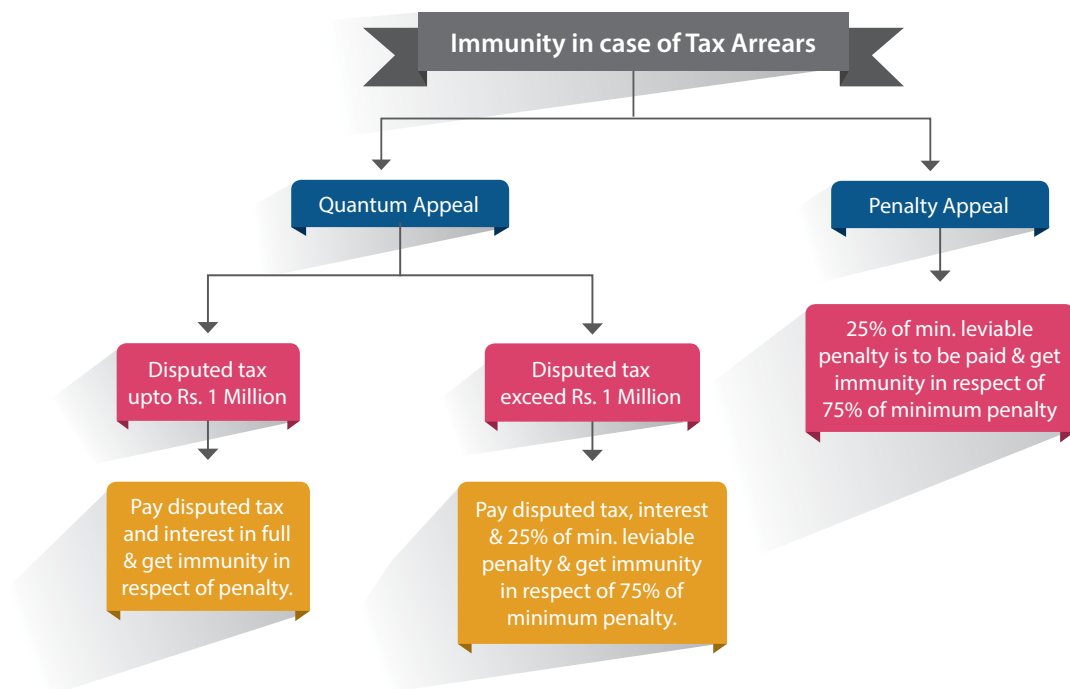
1. Additional Depreciation for Printing & Publishing Business

The business of 'Printing or Printing & Publishing' will be eligible for additional depreciation under section 32(1)(ia) of the Act. The business of printing or printing and publishing will amount to 'manufacture' & the same will be eligible for the additional depreciation. The decisions of Kerala High Court in the case of Mathrubhoomi Printing & Publishing Co. & Delhi High court in the case of Delhi Press Patra Prakashan Ltd, which held that printing or printing & publishing activity is a manufacturing activity, were accepted by the CBDT. CBDT also clarified that no appeals should be filed on this ground and where appeals had already filed, the same should not be pressed upon

Source: Circular 15/2016 dated May 19, 2016

2. Government notifies the Direct Tax Dispute Resolution Scheme Rules, 2016

- The CBDT vide Notification No. 35/2016 dated May 26, 2016 has notified these rules which shall be effective from June 1, 2016.
- Under the Rules, a declarant can file a declaration in relation to 'tax arrears' or 'specified tax' in respect of which appeal is pending before the CIT (A).
- 'Tax Arrear' refers to the amount of tax, interest or penalty determined under the Act or Wealth Tax Act ('WT Act'), in respect of which appeal is pending before the CIT(A) or Commissioner of Wealth Tax (Appeals) [CWT(A)] as on February 29, 2016. The pending appeal could be against an assessment order or an order imposing penalty.
- 'Specified Tax' refers to tax determined in consequence of or is validated by an amendment made with retrospective effect in Act or WT Act, a dispute in respect of which is pending as on February 29, 2016.
- The scheme is as depicted in the chart below:
- Immunity in respect of 'Specified Tax': In this case, only payment of disputed tax is to be done and immunity could be got from entire interest and penalty.
- The Central Government, vide a separate Notification dated May 26, 2016, has notified December 31, 2016 as the date on or before which a person may make a declaration to the designated authority under the Scheme.
- The forms prescribed by the rules, for carrying out various provisions of the scheme are tabulated



| S. No | Form No. | Particulars |
|-------|-------------------|---|
| 1 | Form – 1 | Form of declaration to be made by the declarant in respect of 'tax arrear' and 'specified tax' |
| 2 | Form – 2 | Undertaking to be filed by the declarant in respect of 'specified tax' |
| 3 | Form – 3 | Certificate of intimation to be issued by the designated authority |
| 4 | Form – 4 | Intimation of payment to be filed by declaration |
| 5 | Form-5 and Form-6 | Order to be passed by the designated authority for full and final settlement of 'tax arrears' (Form-5) and 'specified tax' (Form-6) |

Source: Notification 35/2016 dated May 26, 2016

3. Equalisation levy Rules, 2016 notified

The Equalisation Levy Rules, 2016 have been notified by The CBDT. These rules lay down the procedural framework for implementation, including prescribing forms for filing of annual return and appeals.

The Finance Act 2016, had inserted a separate Chapter VIII titled 'Equalisation Levy', which provided for an equalisation levy of 6 per cent to be deducted from amounts paid to a non-resident, not having any permanent establishment in India, for specified services.

Specified services are as follows:

- Online advertisement
- Any provision for digital advertising space or
- Any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government.

Source: Notification 38/2016 dated May 27, 2016

4. Cost of Inflation Index of FY 2016-17 has been notified

The Cost of Inflation index for the FY 2016-17 is 1125.

Source: Notification 42/2016 dated June 2, 2016

5. Income Declaration Scheme Rules, 2016

The CBDT has recently notified the Income Declaration Scheme Rules, 2016 and issued explanatory notes along with clarifications in the form of FAQs for better compliance with the Scheme.

All persons, who have not paid full taxes in the past can come forward and declare their undisclosed income, whether in the form of investment in assets in India or otherwise, starting June 1, 2016 and up to September 30, 2016. The taxes payable along with Krishi Kalyan cess (KKC) are required to be paid on or before November 30, 2016.

Under the Scheme, such income as declared by the eligible persons would be taxed at the rate of thereby totalling to 45 per cent of the income declared under the scheme.

The declaration can be filed in respect of the below mentioned reasons, through Form-1 with the designated Principal Commissioner/Commissioner of Income Tax on or before September 30, 2016.

Few of the clarifications have been given by FAQs by CBDT vide Circular No.17/2016 dated May 20, 2016:

| S. No. | Issue | Clarification |
|--------|---|---|
| 1. | Where undisclosed income is in the form of investment in asset, how will capital gains be computed in future when such asset is sold? | For the purpose of Section 48, Fair Market Value ('FMV') as on June 1, 2016 would be 'Cost of Acquisition' ('COA') and the period of holding should be reckoned from the date of determination of FMV for the purposes of the Scheme. |
| 2. | Eligibility to declare income where notices under various sections (assessment, reassessment, search assessment) have been issued for the relevant years | He will be ineligible in respect of the Assessment Years for which notices have been issued. For the other years, he could make a declaration |
| 3. | Where no valid service of notices has taken place, how would the Assessee ascertain his eligibility? | The relevant notice(s) should have been issued and served on the declarant on or before May 31, 2016. Declarant is required to file declaration in Form-1 regarding receipt of such notice |
| 4. | Computation of undisclosed income ('UDI') where it represents investment in asset which is sourced partly from income that has been already assessed to tax | $UDI = FMV \text{ on June 1, 2016} - FMV * (\text{Income assessed which is utilised for investment in asset/ COA of asset})$ |

| | | |
|-----|--|--|
| 5. | Where there is an appeal pending in respect of any AY, can Assessee file a declaration? | No, not in respect of that AY |
| 6 | Eligibility to file declaration where search/ survey has been initiated | (i) Search – No, where search has been initiated and time limit for issue of notice under section 153A has not expired – He could file declaration in respect of years not covered by the search (ii) Survey – No, in respect of UDI in which survey conducted – could be filed in respect of any other previous year |
| 7. | Consequences when it is subsequently found that the declarant is not eligible under the Scheme | Where the income has been declared in good faith but the declarant is ineligible under the Scheme, such UDI may be assessed under the normal provisions of the Act. |
| 8. | Whether UDI earned by corruption could be declared under the Scheme? | No. Where it is subsequently found that income was so earned due to mis-representation of certain facts and will render the declaration void, normal provisions of the Act would apply. |
| 9. | Confidentiality of declarations | Incorporates Section 138 of the Act relating to disclosure of information in respect of Assesseees. Confidentiality would be maintained. |
| 10. | Requirement of Valuation Report | Not mandated – however, should be obtained and could be attached along with the declaration. |

Failure to pay entire amount of tax and penalty on or before November 30, 2016 and/ or any misrepresentation or suppression of facts or information will render the declaration void. Where the declaration is rendered void, all the regular provisions of the Act would apply.

Any tax (including Krishi Kalyan Cess) or penalty paid in pursuance of the declaration shall, however, not be refundable under any circumstances.

The method of valuation of undisclosed assets and various other procedural aspects have also been notified.

Source: Notification 33/2016 dated May 19, 2016

Legends

Act – Income Tax Act, 1961

CBDT – Central Board of Direct Taxes

CIT(A) – Commissioner of Income Tax (Appeals)

INDIRECT TAX

1. Service Tax - Krishi Kalyan Cess ('KKC') to be applicable on reverse charge mechanism

Effective June 1, 2016, in addition to Service Tax and Swachh Bharat Cess, a service recipient shall be required to pay KKC on the services received under reverse charge mechanism.

Source: Notification No. 27/2016 – Service Tax dated May 26, 2016

2. Excise Duty - CENVAT Credit of Krishi Kalyan Cess ('KKC')

KKC is effective from June 1, 2016 and will be charged at the rate of 0.5 per cent on all taxable services. CENVAT Credit of KKC would be available to service providers but can be utilized only for discharge of liability of KKC.

Source: Notification No. 28/2016 – Central Excise dated May 26, 2016

3. Excise Duty - Introduction of Indirect Tax Dispute Resolution Scheme

Effective June 1, 2016, Government has introduced Indirect Tax Dispute Resolution Scheme for disputes pertaining to Customs, Central Excise and Service Tax matters, pending before Commissioner (Appeals) as at March 1, 2016. In order to avail benefit of the scheme, the assessee has to pay duty /tax liability along with interest and penalty equivalent to 25 per cent of the penalty imposed in the Impugned Order.

Source: Notification No. 29/2016 – Central Excise dated May 31, 2016

CORPORATE LAWS

1. Commencement of section 2(29), sections 435 to 438 and 440 of Companies Act, 2013

The Central government has appointed May 18, 2016 as the date on which the following sections of Companies Act, 2013 will come into force:

- a) Provisions of clause (iv) of sub-section (29) of section 2 relating to special court;
- b) Section 435- Establishment of special court,
- c) Section 436- Offences triable by special courts,
- d) Section 437- Appeals and revisions,
- e) Section 438- Application of Code to proceedings before special court and
- f) Section 440- Transitional provisions.

Source: Notification No. 1220 dated May 18, 2016

2. Companies (Corporate Social Responsibility Policy) Amendment Rules, 2016

The MCA has issued Companies (Corporate Social Responsibility Policy) Amendment Rules, 2016 whereby in rule 4, for sub-rule (2), the following sub-rule shall be substituted:

“(2) The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through

- a) a company established under section 8 of the Act or a registered trust or a registered society, established by the company, either singly or along with any other company, or
- b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government or any entity established under an Act of Parliament or a State legislature.

Source: Notification No. 365 dated May 23, 2016

3. Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2016

The SEBI has issued Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2016. The following Regulations/Schedules have been amended:

- (i) Chapter IV: a. Regulation 33- Financial results & b. Regulation 34- Annual report
- (ii) Chapter V: a. Regulation 52- Financial results & b. Regulation 53- Annual report
- (iii) Chapter X: a. Regulation 95- Form B accompanying the annual report
- (iv) Schedule VI- Disclosures in financial results
- (v) Schedule VIII- Manner of reviewing form B accompanying annual audited results has been deleted.

These regulations have come into the force on April 1, 2016.

Source: SEBI/ LAD-NRO/GN/2016-17/001

FEMA & OTHER LAWS

1. Liberalization of Foreign Direct Investment ('FDI') Policy for Asset Reconstruction Companies

Department of Industrial Policy and Promotion ('DIPP') under Ministry of Commerce and Industry, Government of India has liberalised its FDI Policy for Asset Reconstruction Companies ('ARC'). Investment in ARC is now allowed up to 100 per cent under Automatic route subject to certain conditions.

Source: D/o IPP File No.: No. 5/19/2012-FC.I dated May 6, 2016

2. Establishment of Branch Office ('BO')/ Liaison Office ('LO')/ Project Office ('PO') in India by foreign entities - procedural guidelines

RBI has issued procedural guidelines with respect to establishment of BO/ LO/PO in India by foreign entities. As per these guidelines, the power to give approval has been delegated to AD Category I Banks if the application to open a BO/LO/PO is received from an entity resident outside India whose principal business falls under sectors where 100 per cent FDI is allowed. Prior approval of RBI shall be required in certain specified cases only.

Source: RBI//2015-16/397 A.P. (DIR Series) Circular No.69 [(1)/22(R)] dated May 12, 2016

3. Escrow Arrangement of the consideration in case of transfer or issue of Security by a Person Resident outside India

RBI has issued the amendments to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Seventh Amendment) Regulations, 2016. As per the amended Regulations, in case of transfer of shares between a resident buyer and a non-resident seller or vice-versa, a maximum of 25 per cent of the total consideration can be paid by the buyer on a deferred basis within a period not exceeding eighteen months from the date of the transfer agreement. For this purpose, an escrow management may be made between the buyer and seller. The Regulation further states that total consideration finally paid for the shares must be compliant with the applicable pricing guidelines.

Source: Notification No. FEMA.368/2016-RB dated May 20, 2016

4. Compounding of Contraventions under FEMA, 1999 - Transparency and Greater Disclosure

In order to ensure more transparency and greater disclosure in the compounding proceedings, RBI has now decided:

- a) to host the compounding orders passed on or after June 1, 2016 on the Bank's website which will be updated at monthly intervals
- b) to put the guidance note for calculating the amount of penalty imposed on the Bank's website for information of general public.

Source: RBI//2015-16/412 A.P. (DIR Series) Circular No.73 dated May 26, 2016



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