



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. Time schedule for making payment under Income Declaration Scheme, 2016 ('IDS') revised

CBDT taking into consideration the practical difficulties of the stakeholders has revised the time schedule for making payment of tax, surcharge and penalty on undisclosed income under the IDS, as under:

Sr. No	Due Date	Percentage of tax, surcharge and penalty to be paid
1	November 30, 2016	At least 25%
2	March 31, 2017	At least 25%
3	September 30, 2017	Balance
	<b>Total</b>	<b>100%</b>

Source: Notification No. 59/2016 dated July 20, 2016

### 2. CBDT retains arm's length range of 1 per cent and 3 per cent for AY 2016-17

The Central Government has retained transfer pricing variation range of 1 per cent in case of wholesale trader and 3 per cent in other cases from the transaction price, for international transactions and/or specified domestic transactions entered during assessment year 2016-17 as well.

Source: Notification 57/2016 dated July 14, 2016

### 3. Foreign Tax Credit ('FTC') rules notified, to come into effect from 01 April, 2017

CBDT has notified Foreign Tax Credit ('FTC') Rules laying down broad principles and conditions for computation and claim of foreign taxes paid in overseas countries by resident taxpayers. These Rules shall come into effect from 1 April 2017. The key features of the notified FTC rules is as under:

- a) The credit for foreign tax shall be aggregate of the amount of tax paid outside India. Credit shall be lower of the tax computed as per the Act and foreign tax paid.
- b) The credit shall be only given against the tax, surcharge and cess payable under the Act and not in respect of penalty, interest or fee.
- c) FTC shall be available to the taxpayer in the year in which the income corresponding to such foreign tax has been offered/ assessed to tax in India. Where the income corresponding to foreign tax is offered to tax in more than one year, FTC shall be available across those years, in proportion to the income offered/ assessed to tax in India.
- d) The income tax department has allowed taxpayers to give self-certified statement, giving the nature of income and the amount of foreign tax deducted or paid accompanied with the counterfoil or acknowledgment of taxes paid and/or proof of taxes having been deducted at source, for claiming FTC.

- e) No credit shall be availed if the foreign tax or any amount is disputed by the assessee.
- f) In case the tax is payable as per section 115JB or section 115JC of the Act, the FTC shall be given on the tax computed as per the normal provisions.
- g) The following documents should be furnished before the filing of return u/s 139(1) of the Act to claim FTC:
  - Form 67
  - Self-certified statement giving the nature of income and the amount of foreign tax deducted or paid accompanied with the counterfoil or acknowledgment of taxes paid and/or proof of taxes having been deducted at source.

*Source: Notification 54/2016 dated June 27, 2016*

#### 4. Deferment of Income Computation & Disclosure Standards ('ICDS')

CBDT taking into consideration the practical difficulties of the stakeholders has deferred the implementation of ICDS by one year to Assessment Year 2017-18.

#### 5. India - Cyprus complete tax treaty negotiations

India and Cyprus have agreed to provide for source based taxation of capital gains on transfer of shares. However, a grandfathering clause would be provided for investments made prior to April 1, 2017, in respect of which capital gains would be taxed in the country of which taxpayer is a resident.

It was also agreed that India will consider rescinding the notification under section 94A of the Act with effect from November 1, 2013, and will be initiating the process for the same.

*Source: Press release dated July 1, 2016*

#### Legends

- Act – Income Tax Act, 1961
- CBDT – Central Board of Direct Taxes
- r.w.s – read with section
- u/s – Under Section
- w.e.f – with effect from

## INDIRECT TAX

### 1. Service Tax - CBEC Instructions under Section 73C of the Finance Act, 1994

- a) Allahabad High Court, in one of the case has made mandatory for the authority to issue a notice giving 15 days to reply before attaching a property in relation to a order directing attachment of the property without waiting for a reply to the show cause notice, and without giving any opportunity and without giving any notice, was in gross violation of Rule 3 of the Rules of 2008 read with paragraph 2(iii) of the Circular dated July 1, 2008.

- b) The Court also directed that a certified copy of the order be sent to the Central Board of Excise & Customs, Department of Revenue, Ministry of Finance with specific instructions to issue a circular to all officers ensuring that the powers under Rule 3 should be exercised with utmost care and caution
- c) Further, Permission to pay service tax through Non – electronic mode may be allowed by Jurisdictional DC/AC after recording the reasons in writing in exceptional situations – Instruction dated July 22, 2016.

*Source: Circular No. 196/06/2016 dated July 27, 2016*

## 2. Excise Duty - Manual signatures on digitally signed invoices-vide

This Circular clarifies and provides authentication to Manual signatures on digitally signed invoices and treat such invoices valid to avail the CENVAT Credit (Rule 11 of Central Excise Rules, 2002) in such situations where customers are unable to accept digitally signed invoices.

*Source: Circular No. 1038/26/2016 – Central Excise, dated July 19, 2016*

## 3. Custom Law - Removal of mandatory warehousing requirements

These circular states that, now there are no mandatory warehousing requirements for EOUs, STPIs, and EHTPs etc. Further, system of sending re-warehousing certificate to the custom station of import shall also stand dispensed. However, these units are required to maintain records of imported goods in digital form, based upon data element contained in Form A, w.e.f. August 13, 2016. The digital records should be kept updated, accurate, complete and available at all times for verification by the proper officer, whenever required.

*Source: Circular No. 35/2016 –Customs, dated July 22, 2016*

## CORPORATE LAWS

### 1. Notification of Companies (Cost Records and Audit) amendment Rules, 2016

The Ministry of Corporate Affairs ('MCA') vide notification dated July 14, 2016 has amended rules 2, 3, 4 & 6 of The Companies (Cost Records and Audit) amendment Rules, 2014. With this amendment, the following changes would come into effect:

- a) The definition of Cost Audit Report has been modified.
- b) Under applicability clause, in Non Regulated Sectors, the following type of sector have been included /omitted:
  - (i) 8402 heading of CETA have been omitted.
  - (ii) Explosives have been included along with Arms & Ammunitions.
  - (iii) Iron have been included along with Steel under the headings 7201 to 7229; 7301 to 7326
  - (iv) Mechanical Appliances have been included along with Other Machineries under the headings 8402 to 8487.

- c) A proviso mandating to obtain the written consent w.r.t the appointment and a certificate from the eligible Cost Auditor have been inserted.
- d) Clause 3B have been inserted in Rule 6, which mandates that the cost statements, including other statements to be annexed to the cost audit report, has to be approved by the Board of Directors before they are signed on behalf of the Board by any of the director authorised by the Board, for submission to the cost auditor to report thereon.

The detailed information is given in the amended rule.

*Source: Notification dated July 14, 2016*

## **2. Notification of Companies (Share capital and Debentures) Third Amendment Rules, 2016**

MCA vide notification dated July 19, 2016 has amended the Companies (Share capital and Debentures) Rules, 2014. With this amendment, the starts up companies have been exempted or relaxation provided from complying certain provisions under this rules. The following changes would come into effect:

- a) Now the Start-up Company may issue sweat equity shares not exceeding fifty per cent of it's paid up capital up to five years from the date of its incorporation or registration.
- b) Provisions of ESOP shall not apply to Startup Company up to five years from the date of its incorporation.

*Source: Notification dated July 19, 2016*

## **3. National Company Law Tribunal Rules, 2016**

MCA has vide notification dated July 21, 2016 has notified new rule The National Company Law Tribunal Rules, 2016 which has come with immediate effect.

*Source: Notification dated July 21, 2016*

## **4. National Company Law Appellate Tribunal Rules, 2016**

MCA has vide notification dated July 21, 2016 has notified new rule The National Company Law Appellate Tribunal Rules, 2016 which has come with immediate effect.

*Source: Notification dated July 21, 2016*

## **5. Notification of Companies (Incorporation) Third Amendment Rules, 2016**

MCA vide notification dated July 27, 2016 has amended the Companies (Incorporation) Rules, 2014. With this amendment, the following changes would come into force:

- a) Now Natural person cannot become a member of more than One Person Company and also he shall not be a nominee of more than One Person Company. However, he can incorporate more than a One Person Company, provided he shall not hold membership in any other One Person Company at any point in time.

- b) Now the company can use the word Financial / Corporation without obtaining Central Govt. Approval.
- c) The Subscription sheet need not be hand whitened. Hence the same can be of printed one.
- d) Now after giving declaration that the subscriber is holding valid DIN, then he/she need not attach the Proof of Identity or Address.

*Source: Notification dated July 27, 2016*

## 6. Notification of Companies (Accounts) Amendment Rules, 2016

MCA vide notification dated July 27, 2016 has amended the Companies (Accounts) Rules, 2014. With this amendment, the following changes would come into force:

- a) Non applicability of Consolidation of Accounts:
  - (i) Wholly-owned subsidiary, or partially owned subsidiary of other company,
  - (ii) Unlisted Companies.
  - (iii) If ultimate/ intermediate holding company has already filed the consolidated financial statements with Registrar.
- b) In spite of separate section on the performance and financial position of each of the subsidiaries, associate and joint venture in consolidated financials, the overall performance and their contribution of the company shall be highlighted in the board's report.
- c) Company has defined the following as eligible persons to be appointed as internal auditors
  - (i) Individual or
  - (ii) Partnership firm or
  - (iii) A body corporate
- d) For internal auditors appointment even Cost accountant whether engaged in practice or not can be appointed along with Chartered accountant.

*Source: Notification dated July 27, 2016*

## 7. Relaxation of additional fees and extension of last date of filing AOC-4, AOC-4(XBRL), AOC-4(CFS) and MGT-7 under the companies act, 2013

MCA vide notification dated July 29, 2016 has issued circular for relaxation of additional fees and extension of last date of filing AOC-4, AOC-4(XBRL), AOC-4(CFS) and MGT-7 under the companies act, 2013. With reference to this circular, now the company's whose AGM is held on or after April 1, 2016, irrespective of the Date of Annual General Meeting, it shall have time limit to file the aforesaid forms on or before October 29, 2016.

*Source: Notification dated July 29, 2016*

## 8. Indo-Japan Social Security Agreement

The Social Security Agreement ('the Agreement') between India and Japan which was signed on November 16, 2012, will now come into force with effect from October 1, 2016.

Source <http://www.mofa.go.jp/mofaj/files/000018403.pdf> dated July 23, 2016



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