



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.

## CONTENTS AT A GLANCE

### DIRECT TAX

#### Amendments, Notifications & Court Rulings

- » Enquiry or investigation in respect of document/evidence relating to Income Declaration Scheme (IDS), 2016 found during the course of Search u/s 132 or Survey action u/s 133A of the Act
- » Extension of due date of declaration in Form 15G/15H Declaration
- » Rule 37CB: Non-applicability of Section 206C(1D)
- » Amendment in India-Mauritius Double Taxation Avoidance Agreement

### INDIRECT TAX

#### Amendments, Notifications & Court Rulings

- » Service Tax on freight forwarders on transportation of goods from India
- » Service Tax liability in case of hiring of goods without the transfer of the right to use goods
- » Services provided to the Government, a local authority or a governmental authority with regard to water supply
- » Special Advance Authorization Scheme under para 4.04A of FTP 2015-20 in combination with All Industries Rate Drawback
- » Service Tax - CBEC Instructions under Section 73C of the Finance Act, 1994
- » Excise Duty - Manual signatures on digitally signed invoices-vide
- » Custom Law - Removal of mandatory warehousing requirements

### CORPORATE LAWS

#### Amendments, Notifications & Court Rulings

- » Issuance of rupee bonds to overseas investors by Indian Companies-Clarification regarding applicability of provisions of chapter III of the Companies Act, 2013
- » Notification of Companies (Share capital and Debentures) Fourth Amendment Rules, 2016

## DIRECT TAX

### 1. Enquiry or investigation in respect of document/evidence relating to Income Declaration Scheme (IDS), 2016 found during the course of Search u/s 132 or Survey action u/s 133A of the Act

CBDT has clarified that during the course of search or survey under section 132 or 133A of the Income-tax Act, 1961 (“the Act”), any document is found regarding any asset / income disclosed in IDS, no enquiry shall be made with respect to the source of undisclosed income or investment in movable or immovable property which has been declared in such IDS.

*Source: Circular No. 32 dated September 1, 2016*

### 2. Extension of due date of declaration in Form 15G/15H Declaration:

Sr. No	Form 15G/15H received during	Original due date	Extended due Date
1	01.10.2015 to 31.03.2016	30.06.2016	31.10.2016
2	01.04.2016 to 30.06.2016	15.07.2016	31.10.2016
3	01.07.2016 to 30.09.2016	15.10.2016	31.12.2016

*Source: Notification 10/2016 dated August 31, 2016*

### 3. Rule 37CB: Non-applicability of Section 206C(1D) (w.e.f. 19-08-2016)

The provisions of sub-section (1D) of section 206C in relation to sale of any goods (other than bullion or jewellery) or providing any service shall not apply to the following class or classes of buyers, namely :-

- i) Government;
- ii) embassies, Consulates, High Commissions, Legation or Commission and trade representation, of a foreign State;
- iii) institutions notified under United Nations (Privileges and Immunities) Act, 1947

*Source: Notification 75/2016 dated August 19, 2016*

### 4. CBDT notifies protocol amending India-Mauritius Double Taxation Avoidance Agreement (DTAA)

CBDT in order to avoid double taxation and to prevent fiscal evasion with respect to taxes on income and capital gains, and for the encouragement of mutual trade and investment, on August 10, 2016 notified the Protocol amending India - Mauritius DTAA, whereby the following Articles are amended/introduced:

Article	Relating to	Details
5	Permanent Establishment	Service permanent establishment clause inserted providing for provision of services for a period of more than 90 days within any 12 month period.
11	Interest	Chargeability of interest income to Source based taxation is restricted to 7.5%. Further, interest income exemption provided previously is now also restricted for debt-claims existing on or before 31st March 2017.
12A	Fees for technical Services (Inserted)	New clause for Fees for Technical services has been inserted which provides the source country the right to tax the income at the rate of 10%.
13	Capital Gain	This clause has been amended to provide the source country right to tax such capital gains.
22	Other Income	Residuary clause for taxation of incomes not covered in the previous Articles.
26	Exchange of Information or Document	Enlarging the scope of the rules relating to exchange of information.
26A	Assistance in Collection of Taxes (Inserted)	Strengthening the rules relating to assistance in collection of taxes
27A	Limitation of Benefits (Inserted)	New clause in relation to Limitation of Benefits has been inserted wherein the treaty benefits are restricted to company (other than listed) which incur expenditure of at least Mauritian Rupees 1.5 million or Indian Rupees 2.7 million

Source: Notification No. 68/2016 dated August 10, 2016

## INDIRECT TAX

### 1. Service Tax on freight forwarders on transportation of goods from India

With reference to Rule 9 and 10 of Place of Provisions of Services Rules 2012, this Circular clarifies service tax liability of the freight forwarding agent in cases where he acts as an agent (not liable to service tax) and cases where he acts as a principle (liable to service tax) in the case of movement of goods outside India.

Source: Circular No. 197/07/2016-ST dated August 12, 2016

### 2. Service Tax liability in case of hiring of goods without the transfer of the right to use goods

Transfer of goods by way of hiring, leasing, licensing or in any such manner without transfer of right to use such goods is a declared service and hence liable to service tax.

Source: Circular No. 198/08/2016-ST dated August 17, 2016

### 3. Services provided to the Government, a local authority or a governmental authority with regard to water supply

This circular reiterates the exemption available w.e.f. July 11, 2014 onwards for the said services. Further it states- what activities are involved in term - “Water Supply”. (and states that it will also include the activity of construction of Tube Wells.

*Source: Circular No. 199/09/2016-ST dated August 22, 2016*

### 4. Special Advance Authorization Scheme under para 4.04A of FTP 2015-20 in combination with All Industries Rate Drawback

In this Scheme, the exporters can also be eligible for All Industry Rates of Duty Drawback as specifically determined by Central Government in which case, for the purpose of value addition norm of para 4.08 of FTP, the value of any other input used on which benefit of Drawback is claimed or intended to be claimed has been specified in the DGFT notification as equal to 22 per cent of the FOB value of export realized. However, option to claim drawback determined and fixed by Central Excise Authority (brand rate) under Rule 7 of the Drawback Rules 1995 remains in which case the value of inputs (other than the fabric imported duty free under the Special Advance Authorization) continues to be based on actuals.

*Source: Circular No. 37/2016-Cus (ADD), dated August 13, 2016*

### 5. 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*

### 7. 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*

### 8. 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*

## Legends

Act – Income Tax Act, 1961

CBDT – Central Board of Direct Taxes

CBEC – Central Board of Excise and Customs

u/s – Under Section

w.e.f – with effect from

## CORPORATE LAWS

### 1. Issuance of rupee bonds to overseas investors by Indian Companies- Clarification regarding applicability of provisions of chapter III of the Companies Act, 2013

The Ministry of Corporate Affairs ('MCA') vide Circular dated August 03, 2016 has clarified that the chapter III of the act and Rule 18 of Companies (share capital and Debenture) rules, 2014 will not apply for the Indian companies issuing rupee denominated bonds exclusively to overseas investors which has regulated by RBI as part of ECB policy framework.

*Source: General Circular dated August 3, 2016*

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

MCA vide notification dated August 12, 2016 has amended the Companies (Share capital and Debentures) Rules, 2014. With this amendment, Rule 18 of the Share capital and Debentures will not apply to the rupee denominated bonds issued exclusively to Overseas investors.

*Source: Companies Fourth Amendment Rules dated August 17, 2016*



**CORPORATE CATALYST  
INDIA PVT LTD**

*(in Joint Venture with SCS Global)*

[www.cci.in](http://www.cci.in)

#### Head Office

Times Square, Fourth Floor, Block B Sushant Lok 1, Gurgaon 122 002 INDIA Tel : +91 124 4333 100

Fax: +91 124 4333 101

**National Offices:** Ahmedabad, Bengaluru, Chennai, Gurgaon, Hyderabad, Kochi, Mumbai, New Delhi

**National Affiliates:** Chandigarh, Jaipur, Jammu, Kolkata, Lucknow, Ludhiana and Pune

**International Affiliates:** Australia, Austria, Belgium, Canada, China, Denmark, Egypt, France, Finland, Germany, Hongkong, Hungary, Indonesia, Ireland, Israel, Italy, Japan, Luxembourg, Malaysia, Mauritius, Myanmar, Netherlands, Norway, Philippines, Poland, Portugal, Russia, South Korea, Singapore, Slovenia, Spain, Switzerland, Sweden, Thailand, Turkey, UAE, UK, USA, Vietnam

This document is meant for circulation to internal staff and clients of CCI. The technical contents herein are solely meant for information and not as professional advice. We do not take responsibility for accuracy or correctness or business decisions taken without seeking professional guidance