



# ANIL AGRAWAL AND COMPANY

Chartered Accountants

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**Tax [Direct & Indirect] News**

**Important Due Dates**

- **7<sup>TH</sup> MAY** - Due date for deposit of Tax deducted/collected for the month of April, 2015.
- **15<sup>TH</sup> MAY**- Quarterly statement of TDS/TCS deposited for the quarter ending March 31, 2015.
- **22<sup>ND</sup> MAY** - Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of April, 15.
- **30 TH MAY**- Quarterly TDS/TCS certificates in respect of tax deducted (for payment other than salary) or tax collected during the quarter ending March 31, 2015.
- **30<sup>TH</sup> MAY** - Submission of a statement by non-resident (under Section 285) having a liaison office in India for the financial year 2014-15.
- **29TH MAY**- DVAT- Due date for 4th Quarter Return extended to 29/05/2015. ( Circular No. 11 of 2015-16

Delhi VAT Department has extended the last date of filling of online/hard copy of fourth quarter return for the year 2014-15, in the Form DVAT-16, DVAT-17 and DVAT-48 along with required annexures/ enclosures to 29/05/2015)

**Tax [Direct & Indirect] News**

**Finance Bill received assent of President**

Finance Bill 2015 passed in Lok Sabha on 30 April 2015 and became law on 14 May 2015 (Finance Act 2015) after receiving the President's assent. Key amendments are :-

**MAT (Minimum Alternate Tax) exemption net widened:-** Exemption from MAT regarding capital gains transfer of securities (except capital gains from transfer of unlisted securities held for less than 3 years and listed securities held for less than 1 year and transferred off the floor of the stock exchange) is now extended to all foreign companies and to certain streams of income.

**Tax residency provision for non-Indian companies:-**

The Finance Bill proposed that apart from an Indian company, any company whose Place of Effective Management (POEM) at any time during the year is in India, shall be considered to be resident of India.

**Changes in disclosure requirements for foreign assets:-**

All resident individuals who are either beneficial owners or beneficiaries of foreign assets (including financial interest in any entity) or who have signing authority in any account outside India specifically are required to disclose their foreign assets.

**Definition of 'income' expanded :-**

Income now includes any assistance received by the taxpayer in cash or kind in the form of any Government subsidy / grant / cash incentive / duty drawback etc., which is not reduced from or taken into consideration for determination of actual cost of capital asset for tax depreciation.

**Important Circular/ Notification Regarding Indirect Tax**

**Special Objection Hearing Authority [ SOHA] under DVAT**

- There has been an important change in the DVAT department. The Assistant Commissioner is now authorized as Special Objection Hearing Assessment (Spl. OHA) for hearing the objections related to 2A-2B mismatch.

**Amendements under Service Tax/ Excise**

- Government announced the new service tax rate @ 14% from 1<sup>st</sup> June 2015 onwards.
- PAN is mandatory for obtaining Central Excise/ Service Tax Registration for applications other than Government departments.
- Existing registrants (Service Tax/ Central Excise) are need to submit an amendment application to update their email address and mobile number by 31 May 2015.
- Service Tax Registration will be issued within 2 days of filing ST1 application, in the case of Single Premises Registration. Prescribed documents are required to be submitted within 7 days. Verification of documents will be done post issue of Registration Certificate.( CBEC Order 1/2015 ST)
- Existing registrants, except Government departments not having PAN shall obtain PAN and apply online for conversion of temporary registration to PAN based registration by 31st May, 2015, failing which the temporary registration shall be liable for cancellation. (CBEC Order 1/2015 ST)

**RBI Regulation & Notifications**

- NGOs (not for profit organizations) that receive foreign funding are required to obtain the FCRA clearance from the Ministry of Home Affairs (MHA). Such NGOs are supposed to file mandatory annual return within 9 months of the closure of the financial year. FCRA Certificate of 8000 NGO's is cancelled due to violation of such FCRA laws.
- Government has now increased the FDI limit to 49% in the pension sector in line with the FDI limit in the insurance sector. No government approval is now required till 26% investment. However it is required to take the approval beyond 26% upto till the limit of 49%.
- RBI has clarified that A2 form needs to be filled at the time of foreign exchange using rupee funds only. Hence it is not applicable while remitting FCRN (B) funds.

### **Companies (Amendment) Act, 2015: Key Points & Comparison**

SECTION	EARLIER PROVISION	PROVISIONS AFTER AMENDMENT
2 (68)	Private Company required “Minimum Paid up Share Capital of Rs 100,000/-“	No requirement of Minimum Paid Up Capital.
2 (71)	Public Company required “Minimum Paid up Share Capital of Rs 500,000/-“	No requirement of Minimum Paid Up Capital.
9, 12 and 223	Affixation of Common Seal is Mandatory	Use of Common Seal is now optional. (Not Mandatory)
11	Commencement of Business	No requirement of Commencement of Business Certificate. Such section shall be omitted.
22	Execution of Bills of Exchange	Use of Common Seal is now optional. (Not Mandatory)
46	Issue of Share Certificate(46(1): A share certificate issue under the common seal of Company{ Clause substituted)	Use of Common Seal is now optional. (Not Mandatory)If company doesn't have common seal then signed by two Directors or by a director and Company secretary (if any)
76A	This was not in the Act.	New Section 76A inserted after Section 76 for punishment for deposits accepted in violation of the provisions of the said Act.
117(3)(g)	Public can inspect the formMGT-14 filed by the Companies as per section 179(3) for the Board Resolution.	Public can't inspects form MGT-14 filed for the purposes mention in section 179(3).{ MGT-14 (filed for purpose of Section 179(3), Board Resolution) will not available for public inspection on MCA portal. }
123(1)	This was not in the Act.	After the third proviso of 123(1), the proviso is inserted states that No company can declare dividend till all the previous year's carry forward losses and depreciations will be set off.

124(6)	“Unpaid or unclaimed dividend has been transferred under sub-section (5) Substituted	(i) for the words, brackets and figure “unpaid or unclaimed dividend has been transferred under sub-section (5) shall also be”, the words “dividend has not been paid or claimed for seven consecutive years or more (ii) after the proviso, the following explanation shall be inserted, namely:— “Explanation.— In case any dividend is paid or claimed for any year during the said period of seven consecutive years, the share shall not be transferred to Investor Education and Protection Fund.”.
134(3)	Not Earlier in the Act.	After Clause “c” following clause (ca) is inserted: Details in respect of frauds reported by auditors under sub-section (12) of section 143 <b>“other than those which are reportable to the Central Government”</b>
143(12)	The Act requires that if the auditor of a company has reason to believe that an offence of fraud has been committed against the company, by its employees, he must report the matter to the central government within a time period and in a manner prescribed	Notwithstanding anything contained in this section, if any auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the central government within such time and in such manner as may be prescribed: Provided that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases within such time and in such manner as may be prescribed: Provided further that the companies whose auditors have reported frauds under subsection 12 to the Audit Committee or the Board but not reported to the Central Government, shall disclosed details about such frauds in the Board Report in such manner as may be prescribed.

117(4)(iv)	Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall inter alia include (iv) approval or any subsequent modification of transaction of the Company with Related Party	After 117(4)(iv) following proviso added: Provided that the Audit Committee may make omnibus approval for related party transaction proposed to be entered into by the company subject to such conditions as may be prescribed”
185	Not Earlier in the Act. Bare Act Language of Section 185(1)(b) : A company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such loan an interest is charged at a rate not less than the bank rate declared by the RBI.	After clause (b) Sub Section (1) of Section 185 following clause and proviso added: (c) Any loan made by a Holding Company to its Wholly own Subsidiary Company or any guarantee given or security provided by a Holding Company in respect of any loan made to its wholly own subsidiary Company, (d) Any guarantee given or security provided by a Holding Company in respect of Loan made by any Bank or financial institution to its subsidiary Company Provided that the loan made under clauses (c) and (d) are utilized by the subsidiary company for its <u>principal business activity</u> .
188(1)	Earlier Special Resolution was required. (As per the previous system, the companies with a paid up capital of Rs 10 crore or more were required to get shareholders' nod through a special resolution in case of related party transactions)	For the word “Special Resolution” the word “Resolution” is substituted under the Act. Now Ordinary resolution will work.
188(1)	Not Earlier in the Act.	Not required to follow provision of Section 188. After the third proviso of Section 188(1) the following proviso inserted: Provided also that the requirement of passing the resolution under the first proviso shall not be applicable for transactions entered between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and have been placed before the shareholders for their approval



212(6)	Investigation into affairs of Company by Serious Fraud Investigation office Here provided Bail restriction for many sections.	The bail restrictions to apply only for offence relating to fraud u/s 447;
419(4)	In Section 419(4) winding up was mentioned	The word WINDING UP shall be omitted.
435	Establishment of Special Courts. The Central Govt. may for the purpose of providing speedy (Trial of offences under this Act), established or designate as many Special Courts as may be necessary.	For the Words “Trial of Offences under This Act”, The words “Trial of offences punishable under this Act with imprisonment with 2 years or more” is substituted. After Sub Clause (1) the following proviso is inserted: “Provided that all other offences shall be tried, as the case may be by a metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction to try any offence under this Act or under any pervious Company Law.
436	Offence Triable by special courts Section 436(1)(a)	For the words “all offences under this Act”, the words, brackets and figures “all offences specified under sub-section (1) of section 435” shall be substituted Section 435(1) given below.
462	Subsection { 2, 3 and 4 of Section 462) shall be substituted.	Substituted language of Section 462(2),(3) and (4) given below.

## About Us

We are a partnership CA firm of repute in New Delhi established in year 2003 with extensive cross functional experience of dealing with both multinational and domestic entities. We provide specialized services relating to International and domestic Taxation, Regulatory (ROC and RBI) and Assurance. The firm has been founded by Mr. Anil Agrawal, FCA who is alumni of Ernst & Young and has more than 12 years of experience in the fields of International Taxation and Regulatory matters. Our client comprises of Subsidiaries of foreign cos, Joint Ventures, Indian Corporates, LLPs, Firms, NGOs & HNI's.

We have dedicated team of Chartered Accountants, Company Secretary, Semi qualified and adequate support staff who are competent people with sharp insight and unique skill set. Our Current area of operation is NCR region comprising of Delhi, Gurgaon, Manesar and Noida. Our present multinational clientele includes clients from Turkey, USA, Australia, Dubai, Japan and Netherland.

### OUR SERVICE AREA

- Income Tax Assessment & Litigation
- Transfer Pricing Audit/Assessment & Documentation
- International & Domestic Tax Advisory & Compliance
- Assurance/ Auditing Service
- Expatriate Tax/ NRI Tax Advisory & Compliance

### OUR SERVICE AREA

- Outsourcing of Accounting & Payroll
- DVAT/CST Advisory & Compliance
- Service Tax Advisory & Compliance
- Valuation Services
- FEMA/RBI regulations advisory & compliance
- Company law Advisory & Compliance

### CONTACT US



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