



# ANIL AGRAWAL AND COMPANY

Chartered Accountants

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***Tax [Direct & Indirect] News***

**Important Due Dates**

- 15-01-2015 was last day to file TDS/TCS returns for Q3 of 2014-2015
- 15-01-2015 was last date to contribute Rs 3 per employee as on 31-12-2014 to Delhi Labour Welfare Fund. (Applicable if 5 or more employees).
- Last date for filing Form 9 under Delhi VAT has been extended to 05.02.2015.
- File DVAT/CST Return online pertaining to 3rd Qtr of 2014-15 (Oct to Dec): 25.01.2015.
- Due date of Issuance of TDS certificate for tax deducted under section 194-IA: 22.01.2015
- 30-01-2015 was last day to issue form 16A downloaded from Traces and 27D (TCS certificate) for Q3 of 2014-2015. Government deductors to issue by 15-02-2015

**Important Notifications/Circulars of CBDT**

- CBDT has accepted the decision of the Bombay High Court in the case of Vodafone India Services Pvt. Ltd. for A.Y. 2009-10 (WP No.871/2014), wherein the Court has held, inter-alia, that the premium on share issue was on account of a capital account transaction and does not give rise to income and, hence, not liable to transfer pricing adjustment and directed the field officers to apply in all cases where this issue is involved. **Instruction No. 2/2015 [F.No.500/15/2014-APA-I], Dated 29-1-2015.**
- Under section 80 C, investment to 'Sukanya Samriddhi Account' has also been covered. **Notification No. 9/2015 [F.No.178/3/2015-ITA-1], Dated 21-1-2015.**

**Tax [Direct & Indirect ] News**

- CBDT clarifies that the processing of a return cannot be undertaken after notice has been issued under sub-section (2) of section 143 of the Act.  
**INSTRUCTION NO.1/2015 [F.NO.225/319/2014-ITAT.II], DATED 13-1-2015**
- As a part of Prime Minister's 'Good Governance Day' promise to provide an "open and accountable administration" it has been decided that all field offices of the Income Tax Department will observe 'Public Meeting Day' during 10.00 AM to 1.00 PM every Wednesday to listen to and try to resolve the grievances of the members of the public.  
**[F.NO.DIR.(HQRS.)/CH.(DT)/29/2013], DATED 6-1-2015.**

**Online Application for IEC Registration Mandatory from 1st Feb'15**

IMPORTER EXPORTER CODE ( in short IEC ) is a ten digit number granted by Directorate General of Foreign Trade under Ministry of Commerce and Industry, to any bonafide person/ company for carrying out import/export. An application has to be submitted online at dgft web site <http://dgft.gov.in> duly filled in along with prescribed documents and fees.

- VAT exemption/ Refund to foreign embassy also granted to Republic of Latvia No.F.5(54)/Policy/VAT/2013/PF/659-670 Dated:
- The central government is considering a Swachh Bharat Cess on all services under the service tax regime. The move is being considered as the centre plans to mop up Rs 1 lakh crore in five years to fund the Swachh Bharat Mission.

**Regulatory [ROC & RBI]**

**MCA Notification Regarding Form No. AOC-5**

MCA introduces Form No. AOC – 5 for notice of address at which books of account are maintained other than registered office. File e-Form AOC-5 in 7 days of board meeting authorizing keeping of books of accounts and other relevant papers at place other than registered office

**Declaration of Monetary Policy By RBI**

RBI cuts repo rate by 25 basis points from 8% to 7.75%. No change in CRR. This is likely to lower cost of borrowing for both individuals and corporate.

**Companies (Accounts) Amendment rules, 2015 Dated 16-01-2015**

Exemption from consolidation of accounts of foreign subsidiaries only for one FY starting 01-04-2014.

**SEBI ( Prohibition of Insider Trading) Regulations, 2015 (Regulations, 2015 )**

SEBI on January 15, 2015 issued SEBI (Prohibition of Insider Trading) Regulations, 2015 (Regulations, 2015) which is to come into force on 120th date of its publication in Official Gazette.

**Companies (Amendment) Act, 2014: Key Points**

The Companies Act, 2013 (Act) was notified on 29.8.2013. Out of 470 sections in the Act, 283 sections and 22 sets of Rules corresponding to such sections have so far been brought into force. In order to address some issues raised by stakeholders such as Chartered Accountants and professionals, following amendments in the Act have been proposed:

1. Omitting requirement for minimum paid up share capital, and consequential changes. (For ease of doing business)

**Regulatory (ROC & RBI )**

**Companies (Amendment) Act, 2014: Key Points**

2. Making common seal optional and consequential changes for authorization for execution of documents. (For ease of doing business)
3. Prescribing specific punishment for deposits accepted under the new Act. This was left out in the Act inadvertently. (To remove an omission)
4. Prohibiting public inspection of Board resolutions filed in the Registry. (To meet corporate demand)
5. Including provision for writing off past losses/depreciation before declaring dividend for the year. This was missed in the Act but included in the Rules.
6. Rectifying the requirement of transferring equity shares for which unclaimed/unpaid dividend has been transferred to the IEPF even though subsequent dividend(s) has been claimed. (To meet corporate demand)
7. Enabling provisions to prescribe thresholds beyond which fraud shall be reported to the Central Government (below the threshold, it will be reported to the Audit Committee). Disclosures for the latter category also to be made in the Board's Report. (Demand of auditors)
8. Exemption u/s 185 (Loans to Directors) provided for loans to wholly owned subsidiaries and guarantees/securities on loans taken from banks by subsidiaries. (This was provided under the Rules but being included in the Act as a matter of abundant caution).
9. Empowering Audit Committee to give omnibus approvals for related party transactions on annual basis. (Align with SEBI policy and increase ease of doing business)

**Regulatory [ROC & RBI]**

**Companies (Amendment) Act, 2014: Key Points**

10. Replacing 'special resolution' with 'ordinary resolution' for approval of related party transactions by non-related shareholders. (Meet problems faced by large stakeholders who are related parties)
11. Exempt related party transactions between holding companies and wholly owned subsidiaries from the requirement of approval of non-related shareholders. (Corporate demand)
12. Bail restrictions to apply only for offence relating to fraud u/s 447. (Though earlier provision is mitigated, concession is made to Law Ministry & ED)
13. Winding Up cases to be heard by 2-member Bench instead of a 3-member Bench. (Removal of an inadvertent error)
14. Special Courts to try only offences carrying imprisonment of two years or more. (To let magistrate try minor violations).

**Latest Judicial Pronouncements (International tax)**

**ON ALP**

**Joint Commissioner of Income-tax (OSD) -8(1), Mumbai v. Goldstar Jewellery Ltd. [2015] 53 taxmann.com 353 (Mumbai - Trib.)**

Mumbai Tribunal held that Longer credit period to AE is 'international transaction' in terms of Explanation to section 92(1) but is 'closely linked' to international transaction of sale or service to AE in terms of Rule 10A(d). This is not a transaction of loan or advance to the AE but it is only an excess period allowed for realization of sales proceeds from the AE. Therefore, the arm's length interest rate would be the average cost of the total fund available to the assessee and not the rate at which a loan is available.

**Assistant Commissioner of Income-tax, Circle -16(2), Hyderabad v. Mylan Laboratories Ltd. [2015] 53 taxmann.com 333 (Hyderabad - Trib.)**

Where assessee, engaged in business of manufacture of Active Pharmaceutical Ingredients (API), formed a joint venture company with a South African company, in terms of which assessee sold its technical knowhow relating to four Anti Petro Viral (ARV) products to joint venture company, in view of fact that assessee merely imparted its special knowledge and experience in field of manufacturing, marketing, selling and distribution of ARVs whereas property in knowhow remained with assessee, amount received by assessee on transfer of know how was to be taxed as 'business income' and not capital gain.

**ITC Infotech India Ltd. V. Deputy Commissioner of Income-tax, Circle -2 [2015] 53 taxmann.com 253 (Kolkata - Trib.)**

Assessee was following two business models, carrying the same risk - where in the first model customers could enter into contract directly with assessee and in the other model, they could enter into contract with its AE. In both business models assessee had to share same ratio of revenue with AE. It was held by Tribunal that TPO could not made transfer pricing adjustment on the ground that assessee was entitled to larger share of proceeds when contract was directly entered into with customers if assessee had bear the same risk in both business models.

**Latest Judicial Pronouncement on Domestic Taxation**

**Director General of Income-tax (Exemptions) v. India Trade Promotion Organization [2015] 53 taxmann.com 404 (Delhi) High Court Of Delhi**

The correct interpretation of the proviso to section 2(15) of the Act would be that it carves out an exception from the charitable purpose of advancement of any other object of general public utility and that exception is limited to activities in the nature of trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business for a cess or fee or any other consideration. In both the activities, in the nature of trade, commerce or business or the activity of rendering any service in relation to any trade, commerce or business, the dominant and the prime objective has to be seen. If the dominant and prime objective of the institution, which claims to have been established for charitable purposes, is profit making, whether its activities are directly in the nature of trade, commerce or business or indirectly in the rendering of any service in relation to any trade, commerce or business, then it would not be entitled to claim its object to be a 'charitable purpose'. On the flip side, where an institution is not driven primarily by a desire or motive to earn profits, but to do charity through the advancement of an object of general public utility, it cannot but be regarded as an institution established for charitable purposes.

**Income-tax Officer, Ward -12(2), Hyderabad v. Anil Bhansali [2015] 53 taxmann.com 367 (Hyderabad - Trib.)**

Where assessee, having residential status of 'resident but not ordinarily a resident' received certain amount as Stock Option Transfer Proceeds (SOTP) from its employer company namely 'Microsoft' for rendering services partly in India and partly in USA, only that portion of SOTP was taxable in India which was attributable to services rendered in India.



## 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**



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