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Income Tax

Optional reporting of details of one foreign bank account by the non-residents in refund cases

Refund generated on processing of return of income is currently, credited directly to the bank accounts of the tax-payers. Availability of the detail of bank accounts in which the refund is to be credited is a precondition for direct credit of refund in the bank accounts.

Income-tax Return Forms for the Assessment Year 2017-18 were notified on 30th March, 2017. A number of representations were received from the non-residents that they are facing difficulties in getting refund as they do not have bank account in India and there is no column in the notified form of return of income for reporting details of foreign bank account by the non-residents for this purpose.

In view of this, a facility has been provided in the return utility for reporting of details of bank account by non-residents, who do not have bank account in India and who are claiming income-tax refund. Therefore, the non-residents who are not claiming refund or non-residents who are claiming refund but having a bank account in India are not required to furnish details of their foreign bank account in the return of income. However, the non-residents, who are claiming income-tax refund and not having bank account in India may, at their option, furnish the details of one foreign bank account in the return of income for issuance of refund.

IT Updates

Section 269ST- restriction on cash transactions

According to Section 269ST (applicable from 1st April 2017)-

- One cannot accept Rs. 2 lakhs or more in aggregate from the same person in a day even against different bills.
- One cannot accept Rs. 2 lakhs or more against a single transaction even on different days.
- One cannot accept Rs. 2 lakhs or more from a person for a series of transactions related to one event or occasion.

except through electronic or banking methods like cheque, draft etc.

This section will not apply to- Government

- any banking company
- post office savings bank
- co-operative bank
- other persons/receipts as may be notified

Transactions referred to in section 269SS (attracted when we accept loan from any person) will be excluded from the scope of the new section 269ST.

EDITORS NOTE

Dear Reader, this edition features mainly on GST updates and compliance apart from Income Tax. Corporate Law updates etc., As usual, expecting your valuable suggestions for improving in order to make it more relevant and useful.

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TAX DUE DATES - AUGUST 2017

Sl. No	Particulars	Due Date
1	Extended date for filing of ITR for Non audited cases and Individual assessees for AY 2017-18	05-Aug-2017
2	TCS/TDS Payment for July 2017	07-Aug-2017
3	Issue of the TDS Certificate for tax deducted under section 194-IA (Payment on transfer of certain immovable property other than agricultural land) in the month of June 2017.	14-Aug-2017
4	PF Payment	15-Aug-2017
5	Service tax return for Q1 (April-June 17, before GST implementation, there is no half yearly return)	15-Aug-2017
6	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending June 30, 2017	16-Aug-2017
7	Payment of GST for July 17-Form No. GSTR 3B	20-Aug-2017
8	ESIC Payment	21-Aug-2017
9	PF Return	25-Aug-2017

e filing

"I had a very good day. For a while, my computer and I were both functional at the same time."



GST UPDATES

HOW TO MAKE GST PAYMENT:

Section 49 provides for the following:

1. Methodology or mode of payment of tax, interest, penalty, fee or any other amount by a taxable person,
2. This Section prescribes three kinds of ledgers to be maintained by the taxable person.
 - (A) Electronic Cash Ledger;
 - (B) Electronic Input Tax Credit Leger or Electronic Credit Ledger;
 - (C) Electronic Tax Liability Register.
3. The Section further provides for availability of credit in the Cash Ledger or the credit ledger depending on the payment made by the taxable person.
4. It provides for utilization of credit and also prescribes the method of cross utilization of credit
5. Transfer of input tax credit from UTGST to IGST account when UTGST is utilized for payment of IGST; similar provisions are there in SGST Act also

A. ELECTRONIC CASH LEDGER:

1. Deposit of Tax, interest, penalty, fee or any other amount by a taxable person can be made by the following modes:-
 - Internet Banking
 - Credit /Debit cards
 - National Electronic Fund Transfer (NEFT)
 - Real Time Gross Settlement (RTGS)
 - Over the Counter payment (OTC) through authorized banks for deposits up to ten thousand rupees per challan per tax period,
 - Any Other Mode as may be prescribed.
2. The 'deposit' made will be credited to the Electronic Cash Ledger of the taxable person. This ledger shall be maintained in FORM GST PMT-05
3. Any person, or a person on his behalf, shall generate a challan in FORM GST PMT-06 on the Common Portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount
4. The challan in FORM GST PMT-06 generated at the Common Portal shall be valid for a period of fifteen days
5. Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the Common Portal
6. Date of credit into the account of the Government is deemed to be the date of deposit
7. On successful credit of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number (CIN) will be generated by the collecting Bank and the same shall be indicated in the challan
8. The amount available in the Electronic Cash Ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or Rules.
9. Any amount deducted under section 51 (TDS by Central / State Government or local authority or Government Agencies) or collected under section 52 (TCS by e-commerce operator) and claimed in FORM GSTR-02 by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger

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B. ELECTRONIC CREDIT LEDGER

1. Section 49(2) of the CGST Act provides that the self-assessed Input Tax Credit as per return filed by a taxable person shall be credited to its Electronic Credit Ledger.
2. This ledger shall be maintained in FORM GST PMT-02 for each registered person eligible for input tax credit under the Act on the Common Portal and every claim of input tax credit under the Act shall be credited to the said Ledger.
3. The Electronic credit ledger may include the following:
 - ITC on inward supplies from registered tax payers.
 - ITC available based on distribution from input services distributor (ISD).
 - ITC on Input of Stock held/ semi-finished goods or finished goods held in stock on the day immediately preceding the date from which the taxpayer became liable to pay tax Provided he applies for registration within 30 days from the date of his liability.
 - Permissible ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day of conversion from composition scheme to regular tax scheme.
 - ITC eligible on payment made on reverse charge basis
4. A registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, through the Common Portal in FORM GST PMT-04

COMMON POINTS FOR ELECTRONIC CASH & CREDIT LEDGER

1. Where a person has claimed refund of any amount from the electronic cash or credit ledger, the said amount shall be debited to the electronic cash or credit ledger
If the refund so claimed is rejected, either fully or partly, the amount debited earlier to the extent of rejection, shall be credited to the electronic cash or credit ledger by the proper officer by an order made in FORM GST PMT-03.

MANNER OF UTILISATION OF ITC AND CROSS UTILIZATION

1. The Electronic Credit Ledger has only three Major Heads of Credit:

INPUT TAX	OUTPUT TAX
IGST	IGST CGST SGST
CGST	CGST IGST
SGST	SGST IGST
UTGST	UTGST IGST

2. Hence cross-utilization of credit is available only as above in that order. The main restriction is that the CGST credit cannot be utilized for payment of SGST or UTGST and vice versa
3. Sub-Section (6) provides that the balance in the cash or credit ledger after payment of tax, interest, penalty, fee or any other amount may be refunded in accordance with the provisions of section 54 (dealing with refunds)
4. A unique identification number shall be generated at the Common Portal for each debit or credit to the electronic cash or credit ledger, as the case may be. The said UIN must be used to discharge tax liability.

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C. TAX LIABILITY LEDGER:

1. Tax Liability Ledger is required to be maintained electronically for all liabilities of a taxable person in FORM GST PMT-01.
2. This ledger shall be debited by the following amounts (liability is created by debiting)
 - the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person;
 - the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said person;
 - the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or any amount of interest that may accrue from time to time

GST COMPLIANCE :

1. Deadlines for July and August GST Returns are as follows:

Forms	For July 2017	For August 2017
GSTR 3B	20 TH August	20 th September
GSTR 1	5 TH September	20 th September
GSTR 2	10 th September	20 th September
GSTR 3	15 th September	20 th September

2. FAQ's BY DEALERS OPTING COMPOSITION SCHEME

Q1. Who can opt for Composition Scheme?

Ans. Businesses dealing only in goods and not making any Inter State Sales (IGST) can only opt for composition scheme. Services providers have been kept outside the scope of this scheme. However, restaurant sector taxpayers may also opt for the scheme.

This holds true if your annual turnover is below Rs 75 Lakhs.

Q2. What is the tax rate applicable on a composition dealer?

Ans. A registered taxpayer, who is registered under the Composite Scheme will pay tax at a rate not more than 1%

Sl.no	Category of registered persons	Rate of Tax CGST	Rate of SGST	Total Rate of Tax
1	Manufacturers(other than manufacturers of notified goods)	1%	1%	2%
2	Suppliers (food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption)	2.5%	2.5%	5%
3	Other supplies	0.5%	0.5%	1%

Continued...



Q3. Must a Composition Dealer maintain detailed records?

Ans. No, a dealer registered under composition scheme is not required to maintain detailed records as in the case of a normal taxpayer.

Q4. Do Composition Dealers have the option to avail Input Tax Credit?

Ans. No, a Composition Dealer is not allowed to avail input tax credit of GST paid to their supplier.

Q5. Can a Composition Dealer issue Tax Invoice?

Ans. No, since a Composition Dealer is not allowed to avail input tax credit, such a dealer cannot issue a tax invoice as well. A buyer from composition dealer will not be able to claim input tax on such goods.

DETAILS TO BE MAINTAINED BY THE REGISTERED PERSONS

3. Following declarations has to be filed by the supplier & has to maintain a consecutive series of all such documents for filling of GSTR 1 return

Sr. no	Nature of document	From	To	Total Number	Cancelled	Net Issued
1	Invoices for outward supply	-	-	-	-	-
2	Invoices for inward supply from unregistered person	-	-	-	-	-
3	Revised Invoice	-	-	-	-	-
4	Debit Note	-	-	-	-	-
5	Credit Note	-	-	-	-	-
6	Receipt voucher	-	-	-	-	-
7	Payment Voucher	-	-	-	-	-
8	Refund voucher	-	-	-	-	-
9	Delivery Challan for job work	-	-	-	-	-
10	Delivery Challan for supply on approval	-	-	-	-	-
11	Delivery Challan in case of liquid gas	-	-	-	-	-
12	Delivery Challan in cases other than by way of supply (excluding at S no. 9 to 11)	-	-	-	-	-



CORPORATE LAW UPDATES

Responsibilities of Co-Promoter & unregistered real estate agent under RERA (Real Estate Regulation and Development Act, 2016):

Query 1: Under the RERA Act, the term PROMOTER includes Landowner also... But take a case, where in a Joint Development of 10 apartments, the Builder gets 7 apartments and Landowner gets 3 apartments... The Landowner intends to retain the 3 apartments for his own use or let it out on rental and does not wish to sell these 3 apartments... In this circumstance, can the Landowner be exempted from the definition of Promoter ?

Reply to Q1: Land owner is co-promoter be it is a revenue sharing agreement or area sharing agreement. He is not exempted from the definition of co-promoter. However the liabilities of such Co-Promoters shall be as per the agreement or arrangement with the Promoters, however for withdrawal from designated Bank Account, they shall be at par with the Promoter of the Real Estate Project.

Query 2: An individual refers an customer to Builder and the booking is done... The individual does not intend to register himself as "Real Estate Agent" with the state RERA authorities ... What are the penal consequences to the Individual Agent ? Will there be any penal consequences to the Builder for accepting the sale through an unregistered Agent?

Reply to Q2: no real estate agent (whether it is individual or company or firm) can facilitate the sale/purchase of properties in a real estate projects registered u/s 3 of the Act without obtaining registration under section 9. If he does so, there are hefty penalties on him.

Penalty for non-registration and contravention u/s 9 & 10 – Sec. 62.

If any real estate agent fails to comply with or contravenes the provisions of section 9 or 10, then he shall be liable to a penalty of:

- 10,000 Per Day during which default continues cumulatively which may extend to 5% of the cost of the property of which sale / purchase has been facilitated by him.

Penalty for failure to comply with orders of the Appellate Tribunal by Real Estate Agent – Sec. 66.

If any real estate agent fails to comply with or contravenes the orders or directions of the Appellate Authority, then he shall be punishable with:

- I. Imprisonment up to 1 year; or
- II. Fine for every day during which default continues, which may cumulatively extend up to 10% of estimated cost of the property as determined by the authority, or
- III. With both.

Penalty on builder / Promoter

Sec. 61	If any promoter contravention any other provisions of this Act or rules or regulations made there under.	Penalty up to 5% of estimated project cost as determined by the authority.
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The above offence is compoundable by the court as per section 70 of the Act.



Compounding of offences by Court –Section 70

Notwithstanding Code of Criminal Procedure, 1973, if any person is punished with imprisonment under this Act:

1. The court may compound the offence on paying 10% of estimated cost of the property.
2. The promoter shall comply with orders of Appellate Tribunal within period of not more than 30 days of compounding orders of court.
3. On such payment and compliance of court order, the promoter who is in custody shall set at liberty and no proceeding shall be instituted or continued against such person.
4. The acceptance of such money for compounding shall be deemed to be an acquittal order.

Offences by Company

1. In case of offence by company or partnership firm, Officer in charge as well as company shall be deemed to be guilty of the offence and be liable to be proceeded accordingly.
2. Such person shall not be liable for punishment if he proves that offence was committed without his knowledge or that he exercise all due diligence to prevent such offence.
3. Where an offense under this Act has been committed by company or partnership firm, and it is proved that the offence was committed with the consent or connivance of or due to neglect of any director or partner, manager, secretary or any other officer of the organisation, then such person shall also be deemed to be guilty of that offence and be liable to be proceeded against and punished accordingly.

Highlights

AADHAAR LINKING TO PAN TIME EXTENSION:

There have been lot of representation regarding the linking Aadhaar to PAN . The Government has extended the time upto 31st August 2017.

Please note that the income tax return filed will be processed only after the AADHAAR is linked to PAN.

DETAILS OF FORM 16 / 16A

From A.Y. 2017-18 onwards, all the Tax payers have to ensure that the Income/Receipts/Deductions (80 C / 80 D etc.,) matches with the Form 16 / 16A issued by the deductor. The salaried class tax payers are advised to give complete information about their deduction to their employer.

Similarly the recipients of 16A shall ensure that the income/receipt shown in 16A matches with the invoice raised by them.

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