



INCOME TAX

Compensation received in respect of award or agreement is exempted from levy of Income Tax:

CBDT Circular No. 36/2016 – Taxability of the compensation received by the land owners for the land acquired under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('RFCTLARR Act')

Under the existing provisions of the Income-tax Act, 1961, an agricultural land which is not situated in specified urban area, is not regarded as a capital asset. Hence, capital gains arising from the transfer (including compulsory acquisition) of such agricultural land is not taxable.

Finance (No. 2) Act, 2004 inserted section 10(37) in the Act from 01.04.2005 to provide specific exemption to the capital gains arising to an Individual or a HUF from compulsory acquisition of an agricultural land situated in specified urban limit, subject to fulfilment of certain conditions. Therefore, compensation received from compulsory acquisition of an agricultural land is not taxable under the Act (subject to fulfilment of certain conditions for specified urban land).

The RFCTLARR Act which came into effect from 1st January, 2014, in section 96, inter alia provides that income-tax shall not be levied on any award or agreement made (except those made under section 46) under the RFCTLARR Act. Therefore, compensation received for compulsory acquisition of land under the

RFCTLARR Act (except those made under section 46 of RFCTLARR Act), is exempted from the levy of income-tax.

As no distinction has been made between compensation received for compulsory acquisition of agricultural land and non-agricultural land in the matter of providing exemption from income-tax under the RFCTLARR Act, the exemption provided under section 96 of the RFCTLARR Act is wider in scope than the tax-exemption provided under the existing provisions of Income-tax Act, 1961. This has created uncertainty in the matter of taxability of compensation received on compulsory acquisition of land, especially those relating to acquisition of non-agricultural land. The matter has been examined by the Board and it is hereby clarified that compensation received in respect of award or agreement which has been exempted from levy of income-tax vide section 96 of the RFCTLARR Act shall also not be taxable under the provisions of Income-tax Act, 1961 even if there is no specific provision of exemption for such compensation in the Income-tax Act, 1961.

SERVICE TAX

In terms of Section 66B of the Finance Act, 1994 [Service Tax Act as amended by the Finance Act 2016] service tax will be leviable on all services provided in the taxable territory by a person to another for a consideration other than the services specified in the Service Tax Negative List.

However Service Tax Negative List specified services which is out of the ambit of service tax applicability i.e. service tax exemption without any condition. The negative list of services is specified in the Act itself in the Section 66D of Finance Act 1994. In all, there are seventeen heads of services that have been specified in the negative list services.

Continued...

EDITORS NOTE

It is indeed a pleasure to send to you the 6th Issue of S&V INSIGHT, newsletter in online format, which we hope you will enjoy.

Our Editorial Committee decided that a completely web-based publication, apart from being environment-friendly, would make the newsletter quickly available to the world at large, which is also available in our website www.sarathyandvasu.com, for consultation or your future reference.

This Edition includes information on Taxation and Law together with a quick referencer for monthly due dates.

Please feel free to provide your feedback.

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TAX DUE DATES FOR NOVEMBER 2016

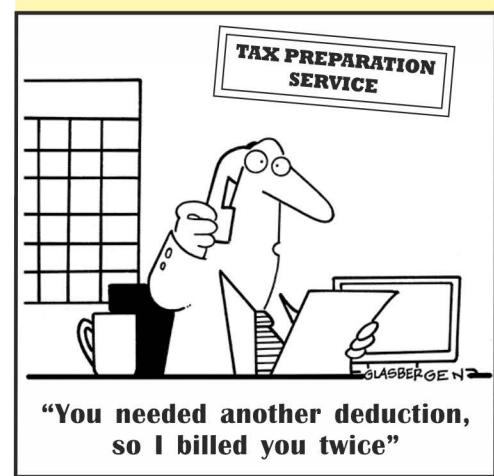
Sl. No	Particulars	Due Date
1	Service Tax Payment	06-Nov-2016
2	Central Excise Payment	06-NOV-2016
3	TDS / TCS Payment/Remittance	07-NOV-2016
4	Central Excise Monthly Return	10-NOV-2016
5	STPI Monthly Returns	10-NOV-2016
6	CST Payment	20-NOV-2016
7	VAT Monthly Payment	20-NOV-2016
8	PT Payment – Employees	20-NOV-2016
9	ESIC Payment	21-NOV-2016
10	PF Payment	15-NOV-2016
11	PF Return	25-NOV-2016
12	VAT Return filing	12 or 22-NOV-2016

Half yearly Compliances

Sl. No	Particulars	Due Date
1	ESIC- Half yearly return	11-Nov-16

Annual Tax Compliances

Sl. No	Particulars	Due Date
1	Due date to submit audit report under Sec.92E for the companies under transfer pricing	30-NOV-16
2	Due date for filing ROC Annual return MGT-7 and AOC-4	29-NOV-16





Sl. No.	Service Category	Details
A	Service by Govt. or a Local Authority	<p>All services excluding the following services to the extent they are not covered elsewhere:-</p> <p>(i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transport of goods or passengers; or</p> <p>(iv) [any services], other than services covered under clauses (i) to(iii) above, provided to business entities.</p>
B	Services by the Reserve Bank of India (RBI)	
C	Services by a Foreign Diplomatic Mission Located in India	
D	<p>Services relating to agriculture by way of –</p> <p>(i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;</p> <p>(ii) supply of farm labour;</p> <p>(iii) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter essential characteristics of agricultural produce but make it only marketable for the primary market;</p> <p>(iv) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;</p> <p>(v) loading, unloading, packing, storage or warehousing of agricultural produce;</p> <p>(vi) agricultural extension services;</p> <p>(vii) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.</p>	
E	Trading of goods	
F	Services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption	
G	Services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption	
H	selling of space for advertisements in print media	
I	service by way of access to a road or a bridge on payment of toll charges	
J	betting, gambling or lottery	
K	transmission or distribution of electricity by an electricity transmission or distribution utility;	
L	services by way of renting of residential dwelling for use as residence	
M	<p>services by way of</p> <p>a) extending deposits, loans or advance in so far as the consideration is represented by way of interest or discount</p> <p>b) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers</p>	



N	service of transportation of passengers, with or without accompanied belongings, by i) railways in a class other than (A) first class; or (B) an air-conditioned coach ii) metro, monorail or tramway; iii) inland waterways; iv) public transport, other than predominantly for tourism purpose, in a vessel, between places located in India ; and v) metered cabs or autorikshaws vi) services by way of transportation of goods— a) by road except the services of i) A Goods Transportation Agency or ii) A courier agency b) Inland waterways
O	Funeral, burial, crematorium or mortuary services including transportation of the deceased

INPUT TAX CREDIT UNDER MODEL GST LAW

Input Tax Credit (ITC) mechanism is one of the crucial aspect under Indirect Taxation which facilitates utilisation of tax suffered in previous leg across the supply chain, thus, eliminating the tax on tax effect. The Model GST law provides a comprehensive and continuous chain of 'set-off' benefits from the producer's point and the service provider's point up to retailer's level.

1. Key terms

'Input' means any goods other than capital goods, subject to prescribed exceptions, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business.

'Input Service' means any service, subject to prescribed exceptions used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;

'Input tax' in relation to a taxable person, means the {IGST and CGST}/ {IGST and SGST} charged on supply of goods and/or services to him which are used or intended to be used in the course or furtherance of his business and includes the tax payable on reverse charge basis.

'Electronic cash ledger' means the cash ledger in electronic form maintained at the common portal for each registered taxable person in the prescribed manner.

'Electronic credit ledger' means the Input Tax Credit ledger in electronic form maintained at the common portal for each registered taxable person in the prescribed manner.

'Input tax credit' means the credit of Input tax.

2. Conditions for taking ITC:

Every registered taxable person is entitled within prescribed time and manner to take admissible credit of Input Tax.

Conditions prescribed in this regard.

- a. A person must be registered as a Taxable Person
- b. Use of Goods/Services for business.
- c. Credit shall be admissible only for effecting taxable supplies and zero rated supplies (exports)
- d. In case of change in constitution of registered taxable person on account of sale, merger or transfer of business with specific provision of transfer of liabilities, transfer of unutilised ITC will be allowed in a prescribed manner.



- e. Credit can be taken as self-assessed in Return and the same shall be credited on provisional basis to the Electronic Credit Ledger (ECL) of taxable person. Credit shall not be allowed to be utilized where a valid Return has not been furnished by a taxable person.
- f. ITC must be backed by supporting taxpaying documents like tax invoice, debit note, supplementary invoice or other prescribed documents issued by supplier;
- g. The goods or services have actually been received.
- h. The Input tax has been actually paid either through electronic cash ledger or credit ledger
- i. The taxable person has furnished the Return under section 27;
- j. Where the goods are received in lots, ITC will be allowed upon receipt of the last lot.

3. ITC not available under section 16 (9) in respect of:

- a. motor vehicle, (except in case the same is used for providing taxable services like transportation of passengers, goods, imparting training of motor driving skills)
- b. goods and services used for primarily for personal use or consumption of employees like beauty treatment, health services, life insurance, etc.
- c. goods and/or services acquired by principal in execution of works contract when such contract results in construction of immovable property, other than plant and machinery;
- d. goods acquired by a principal, the property in which is not transferred (whether as goods or in some other form) to any other person, which are used in the construction of immovable property, other than plant and machinery;
- e. goods and/or services on which tax has been paid under composition levy scheme; and
- f. ITC shall not be allowed on the tax component of depreciation of capital goods claimed.

4. Time Limits - Section 16

Every registered taxable person shall be entitled within prescribed time and manner to take admissible credit of Input Tax (ITC) in various cases as under:-.

For the Credit of Input tax in respect of inputs held in stock and inputs contained in semi-finished (SFG) or finished goods (FG) held in stock various person shall be entitled to take credit as under:

S.No.	Case	Day of entitlement to take ITC on inputs on stock, on SFG or FG held on the day immediately preceding the date:
1	A person who becomes liable to registration, applied and granted registration	from which he becomes liable to pay tax
2	A person who voluntarily takes registration though not liable	of registration
3	A registered taxable person ceases to pay tax under composition levy scheme	from which he becomes liable to tax normally (under section 7)

Aforesaid credit cannot be taken after expiry of one year from the date of issue of tax invoice relating to supply.

In other cases ITC cannot be taken in respect of any invoice after the filing of valid return under section 27 for the month of September following the end of the financial year to which such invoice pertains or filing of the annual return, whichever is earlier.

As per section 30 last date for filing of annual return is 31st December following the end of the financial year.



5. Utilisation of ITC

- ITC on account of CGST to be utilised first towards payment of CGST and amount remaining towards payment of IGST. (ITC of CGST cannot be utilised for payment of SGST)
- ITC on account of SGST to be utilised first towards payment of SGST and amount remaining towards payment of IGST. (ITC of SGST cannot be utilised for payment of CGST)
- IGST to be utilised first towards payment of IGST and amount remaining towards payment of CGST and then in payment of SGST.

6. ITC in respect of Inputs sent for job work

Subject to prescribed conditions, the registered taxable person (principal) shall be entitled to ITC on inputs sent to a job-worker if the said inputs are received back by him within one hundred and eighty days. For capital goods this time limit is two years

Where the inputs or capital goods are not received back within the specified time, the taxable person shall pay an amount equivalent to the ITC availed along with interest. However, it may be reclaimed when the inputs or capital goods are received back place of business.d first towards payment of IGST and amount remaining towards payment of CGST and then in payment of SGST.

7. Reversal /Lapse of ITC

Registered taxable person who has availed ITC shall reverse it, by way of debit in the electronic credit or cash ledger if the said person

- Switches over as a taxable person under section 8 i.e. Composition levy or,
- where the goods and / services supplied by him becomes exempt under section 10.

Reversal shall be equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switchover or, as the case may be, the date of such exemption. After payment of such amount, the balance of ITC, if any, lying in his electronic credit ledger shall lapse.

8. ITC on Supply of Capital Goods

In case of supply of capital goods on which ITC has been taken, the registered taxable person shall pay an amount equal to the ITC taken on the said capital goods reduced by the prescribed percentage points or the tax on the transaction value of such capital goods, whichever is higher. Amount of credit to be calculated in accordance with generally accepted accounting principles.

9. Monitoring through matching mechanism

A matching system is provided to check accuracy of claims of ITC and therefore, details of every inward supply furnished by the 'recipient' for a tax period shall be matched with the corresponding details of outward supply furnished by the corresponding 'supplier' in his valid Return for the same tax period or any preceding tax period. Also, it shall be matched with the additional duty of customs paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him, and

In case of no discrepancy it is finally accepted and communicated to recipient. Where discrepancy is found or where excess ITC claimed by a recipient as compared to what is declared by the supplier or if not declared by the supplier in his Returns, it will be communicated to both.

In case of duplication of claims of ITC shall be communicated to the recipient and if it any discrepancy is communicated but not rectified by the supplier in his Return for the month in which discrepancy is communicated, it shall be added to the output tax liability of the recipient, in his return for the month succeeding the month in which the same is communicated.

The amount of excess claim on account of duplication of claims, it is to be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.

If the supplier declares the details of invoice and/or debit note in his valid Return within the specified time, the recipient shall be eligible to reduce, from his output tax liability, the amount rectified. A recipient in whose output tax liability any amount has been added due to discrepancy or excess claim, he shall be liable to pay interest at specified rate.

10. MIGRATION – CENVAT Credit / VAT credit carried forward.

The amount of admissible CENVAT credit / VAT carried forward in a Return furnished under the earlier law in respect of the period ending with the day immediately preceding the appointed day shall be allowed to be taken as ITC.

Un-availed admissible CENVAT credit on capital goods, not carried forward in a Return, which a registered taxable person is entitled shall also be allowed to be taken as ITC.

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email:sarathyvasuca@gmail.com

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