S&V CHARTERED ACCOUNTANTS
FOR PRIVATE CIRCULATION ONLY
JANUARY 2017
Volume-1 Issue-8
INSIGHT NEWSLETTER

# INCOME TAX

## TAXATION AND INVESTMENT REGIME FOR PRADHAN MANTRI GARIB KALYAN YOJANA, 2016 IX-A OF THE FINANCE ACT, 2016

### Introduction

1. The Taxation Laws (Second Amendment) Act, 2016 has been enacted by Parliament on 15.12.2016. The said Act has inter alia amended the provisions of Finance Act, 2016 and inserted a new Chapter on, 'The Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (hereinafter 'the Scheme') in the Finance Act, 2016.
2. The Scheme provides an opportunity to persons having undisclosed income in the form of cash or deposit in an account maintained with a specified entity (which includes banks, post office etc.) to declare such income and pay tax, surcharge and penalty totaling in all to 49.9 per cent. of such declared income. Besides, the Scheme provides that a mandatory deposit of not less than 25% of such income shall be made in the Pra dhan Mantri Garib Kalyan Deposit Scheme, 2016(hereinafter 'the PMGKY Deposit Scheme') which has separately been notified by the Department of Economic Affairs. The Scheme has commenced on 17.12.2016 and shall remain open for declarations/deposit upto 31.03.2017.

### Scope of the Scheme

3. A declaration under the aforesaid Scheme may be made in respect of any income in the form of cash or deposit in an account maintained by the person with a specified entity, chargeable to tax under the Income -tax Act for any assessment year commencing on or before the 1st day of April, 2017. No deduction in respect of any expenditure or allowanceor set-off of any loss shall be allowed against the income in respect of which a valid declaration is made under the Scheme.

### Tax, surcharge, penalty & deposit under the Scheme

4. The person making a declaration under the Scheme would be liable to pay tax at the rate of thirty per cent. of the undisclosed income as increased by surcharge to be called the Pradhan Mantri Garib Kalyan Cess calculated at the rate of thirty-three per cent. of such tax. In addition, penalty at the rate of ten per cent. of the undisclosed income shall be payable.
   The declarant shall also be required to deposit an amount not less than twenty-five per cent. of the undisclosed income in the PMGKY Deposit Scheme. The deposit shall bear no interest and the amount deposited shall have a lock-in period of four years.

### Time limits for declaration and making payment

5. A declaration under the Scheme can be made anytime on or after 17th December, 2016 but on or before 31st March, 2017. The tax, surcharge and penalty payable under the Scheme and deposit to be made in the Deposit Scheme, shall be paid/made before filing of declaration under the Scheme. The declaration shall be accompanied with proof of payment made in respect of tax, surcharge and penalty payable under the Scheme and proof of deposit made in the PMGKY Deposit Scheme.

Continued

## EDITORS NOTE

**Greetings for a Progressive New Year 2017.**

Eighth edition of the SV insight containing useful information on Tax Laws, details on migrating to GST and action points for the month. We do hope that you find the contents are informative.

We welcome suggestions from you for improving the scope and nature of content in order to make it more relevant and useful.

We thank all of you for the encouraging feedback.

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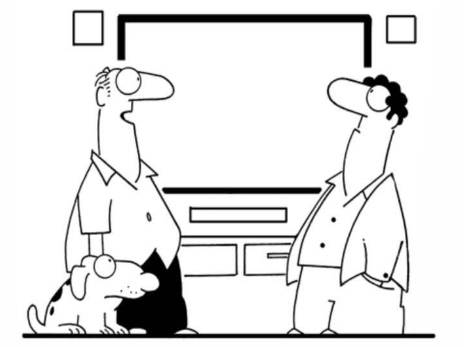
## TAX DUE DATES FOR DECEMBER 2016

**Monthly Compliance:**

| Sl. No | Particulars | Due Date |
|---|---|---|
| 1 | Service Tax Payment | 06-Jan-2017 |
| 2 | Central Excise Payment | 06-Jan-2017 |
| 3 | TDS / TCS Payment/Remittance | 07-Jan-2017 |
| 4 | Central Excise Monthly Return | 10-Jan-2017 |
| 5 | CST / VAT Payment | 20-Jan-2017 |
| 6 | PT Payment - Employees | 20-Jan-2017 |
| 7 | VAT/CST Monthly Return | 20-Jan-2017 |
| 7 | ESIC Payment | 21-Jan-2017 |
| 8 | PF Payment | 15-Jan-2017 |
| 9 | PF return | 25-Jan-2017 |

**Quarterly Compliances**

| | | |
|---|---|---|
| 1 | TDS return | 31-Jan-2017 |



"I can claim a 70-in LED TV as a business expense because my accountant said it's important to look at the big picture."

## Form for declaration

6. A declaration under the Scheme in Form-1 as prescribed in the Rules may be made at any time on or before 31.03.2017. After such declaration has been furnished, the notified Principal CIT/ CIT will issue an acknowledgment in Form-2 to the declarant within 30 days from the end of the month in which the declaration under Form-1 is made.

## Filing of declaration

7. A declaration under the Scheme can be filed:
   (i) Electronically under digital signature with CIT(CPC) Bengaluru or jurisdictional
   Principal CIT/CIT notified under section 120 of the Income-tax Act, 1961.(ii) Electronically through Electronic Verification Code (EVC) or in print form with jurisdictional Principal CIT /CIT notified under section 120 of the Income-tax Act, 1961.

## Declaration not eligible in certain cases

8. The provisions of this Scheme shall not apply -
   (a) in relation to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 subject to the conditions specified under the Scheme.
   (b) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988, the Prohibition of Benami Property Transactions Act, 1988 and the Prevention of Money-Laundering Act, 2002;
   (c) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992;
   (d) in relation to any undisclosed foreign income and asset which is chargeable to tax under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

## Circumstances where declaration shall be invalid

9. A declaration shall be void and shall be deemed never to have been made where a declaration has been made by misrepresentation or suppression of facts or without payment of tax and surcharge or penalty or without depositing the requisite amount in the PMGKY Deposit Scheme, and in such cases all the provisions of the Income-tax Act, including penalties and prosecutions, shall apply accordingly.

## Tax, etc., not refundable

10. Any tax, surcharge or penalty paid under the Scheme shall not be refundable under any circumstances.

## Effect of valid declaration

11. Where a valid declaration as detailed above has been made, the following consequences will follow:
    (a) The amount of undisclosed income declared shall not be included in the total income of the declarant under the Income-tax Act for any assessment year;
    (b) A declarant under this Scheme shall not be entitled, in respect of undisclosed income or any amount of tax and surcharge paid thereon, to re -open any assessment or reassessment made under the Income-tax Act or the Wealth-tax Act, 1957, or to claim any set-off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment

© The contents of the declaration shall not be admissible in evidence against the declarant for the purpose of any proceeding under any Act other th an the Acts referred in Para- 8 above.

# GST ENROLLMENT:

## All existing tax payers are required to migrate to GST by enrolling themselves in the GST Portal .

In Tamilnadu the enrolment is to be done between 01-01-2017 to 15-01-2017

An existing taxpayer is an entity currently registered under any of the Acts as specified below:-

a. Central Excise
b. Service Tax
c. State Sales Tax / VAT (except exclusive liquor dealers if registered under VAT)
d. Entry Tax
e. Luxury Tax
f. Entertainment Tax (except levied by the local bodies)

GST System portal has been created for this purpose as no paper based enrolment will be allowed.
You need to enroll as a user on the GST system portal, so that you may be enabled as a registrant for GST Compliance requirement viz. return filling, tax payment, etc.

What information should be readily available with me before I begin to enroll with GST?
Before enrolling with GST System Portal, you must ensure to have the following information/ documents available with you:-

I. Provisional ID received from State/Central Authorities;
II. Password received from the State/Central Authorities;
III. Valid Email Address;
IV. Valid Mobile Number;
V. Bank Account Number
VI. Bank IFSC

## Documents

a. Proof of Constitution of Business :
   i. In case of Partnership firm: Partnership Deed of Partnership Firm (PDF and JPEG format in maximum size of 1 MB)
   ii. In case of Others: Registration Certificate of the Business Entity (PDF and JPEG format in maximum size of 1 MB)
b. Photograph of Promoters/ Partners/Karta of HUF (JPEG format in maximum size of 100 KB)
c. Proof of Appointment of Authorized Signatory (PDF and JPEG format in maximum size of 1 MB)
d. Photograph of Authorized Signatory (JPEG format in maximum size of 100 KB)
e. Opening page of Bank Passbook / Statement containing Bank Account Number of < Account Number>, Address of Branch, Address of Account holder and few transaction details (PDF and JPEG format in maximum size of 1 MB)
f. DSC is mandatory for enrolment by Companies, Foreign Companies, Limited Liability Partnership (LLPs) and Foreign Limited Liability Partnership (FLLPs).

For other taxpayers, DSC is optional.

**For other procedural aspects for GST Enrolment you can visit the GST Portal www.gst.gov.in**

# FEMA

## Resident & Non-Resident Indians returning from abroad

1. The Specified Bank Notes (Cessation of Liabilities) Ordinance, 2016 has been promulgated, in the follow-up of withdrawal of the legal tender character of the existing series of banknotes, as on 8.11.2016, in denominations of Rs. 500 & Rs. 1000 (referred to as Specified Bank Notes or SBNs). The Ordinance has come into effect from 31.12.2016.

2. In terms of provisions of the Ordinance, the notification of the Ministry of Finance (Department of Economic Affairs) published in the Gazette of India: Extraordinary vide number S.O. 4251(E) dated 30.12.2016 permits citizens of India who were outside the country from 9.11.2016 to 30.12.2016 to deposit the SBNs in the prescribed manner and subject to prescribed conditions.

3. For Resident Indians, this window is open only until 31.3.2017. However, for Non-Resident Indians, the last date is 30.6.2017.

4. The maximum amount allowed per person shall be Rs. 25,000/- in terms of FEMA provisions (separate FEMA provisions apply to Nepal & Bhutan).

5. The copy of the requisite form to be submitted to Customs by the passengers on their arrival in India is available at www.cbec.gov.in.

6. For the above purpose, the declaration & statements that are required to be submitted along with SBNs at the time of deposit in RBI Issue Offices will be separately announced by RBI. At the time of arrival into India, Customs stamp on such forms may be obtained and the same shall be submitted along with other documents to RBI offices by the passengers.

# IGST: INTEGRATED GOODS AND SERVCE TAX

A new model is developed under proposed GST to monitor the interstate trade of Goods and Services and this is called IGST i.e. “Integrated Goods and Service Tax”.

Now it should also be noted that IGST will not be a Tax in addition to the SGST and CGST so one should not presume that besides SGST and CGST the IGST- The Integrated Goods and Service Tax is a third tax in the coming GST regime.

It is only an IT based centrally managed automated mechanism to monitor the “Interstate sale and Supply of Goods and services” and further it ensures that the ultimate SGST is gone to the consumer state since the GST is a destination based tax. It is called “integrated Goods and Service Tax”.

This whole mechanism will be known as a system of monitoring the interstate trade of Goods and services and will be called IGST. It is integrated Goods and service tax . Since the concept of Taxation is changed from the sales to Supply of Goods and Services under the GST hence “Branch and stock transfer” will also be governed with the model. The IGST will not increase the taxation cost since it is only a Mechanism to monitor the Interstate movement of 1/5 Goods but certainly it will increase the compliance cost of the dealers. Further the tax is required to be deposited at the time of transfer of Goods in the form of stock and Branch transfer it will certainly increased the capital cost of the amount of tax.

**IGST MECHANISM STEP BY STEP:**

| Sl. No. | Description |
|---|---|
| 1 | Dealer of the selling state will collect IGST from the purchaser on Interstate Transaction and the rate of IGST will be the combined rate of SGST and CGST, Say if the rate of SGST is 8% and CGST is 10% then the rate of IGST will be 18%. |
| 2 | While depositing the IGST the seller will take credit of SGST and CGST paid by him on purchase of such Goods or services within the state. |
| 3 | The selling state will transfer the amount of input credit of SGST taken by the selling dealer against the liability of IGST to the centre. This will ensure that selling state will not get any revenue out of this transaction. |
| 4 | The interstate buyer shall take credit of IGST against his liability of IGST / CGST/ SGST in this order |
| 5 | The centre will transfer the amount of input credit of IGST used by selling dealer of consumer state while paying his liability of SGST |

# UPDATES ON LABOUR LAWS:

***Starting 1 January 2017, employers will need to make contributions under the ESI Act for a larger pool of employees since the wage ceiling for applicability of this statute has been increased from INR 15,000 to INR 21,000.***

Employees' State Insurance Act, 1948 (ESI Act) is a social security legislation aimed at providing benefits to employees in case of sickness, maternity, employment injury and certain other related matters. Under this self-financing health insurance scheme, funds are primarily built out of contribution from employers and employees.

On 22 December 2016, the Ministry of Labour and Employment issued a notification increasing the wage limit for coverage under the ESI Act to INR 21,000. This change will come into effect on 1 January 2017. .

***Impact of increase in the wage ceiling:***

– More employees will be covered: The increase in the wage ceiling from INR 15,000 to INR 21,000 means that an employer will now also be required to make contributions for employees earning between INR 15,000 and INR 21,000. Consequently, a greater portion of the workforce would now be covered under the ESI Act.

The important factor for determining whether an employee would be covered under the ESI Act is whether the employee's monthly 'wages' exceed INR 21,000. Wage has a specific definition under the ESI Act with a list of components that need to be included and excluded. Therefore, as a first step, it is advisable for employers to assess which components of salary would fall within the definition of 'wages' for the purpose of the ESI Act and consequently determine which employees need to be covered.

– Impact on finances: As the ESI Scheme is financed by contributions from employers (4.75%) and employees (1.75%), the change will have a financial impact on companies as contributions will now have to be made for an additional set of employees. Similarly, the take home salary of employees earning between INR 15,000 to INR 21,000 will potentially decrease since the employee contribution of 1.75% will be deducted from their salaries.

– Additional Administrative Processes: For the employees who will now be covered under the ESI Act due to this change in the wage ceiling, employers will need to obtain their declaration forms, upload it on the online portal and also obtain the insured person number if not obtained previously. Employers will also be under an obligation to maintain returns and records in relation to the new pool of employees.

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