FOR PRIVATE CIRCULATION ONLY

DECEMBER 2017
Volume-2 Issue-7

S&V INSIGHT NEWSLETTER

CHARTERED ACCOUNTANTS

sarathyandvasu.com

Income Tax

Consequences of non-filing of Income tax return

Penalty and Interest

Notice u/s 142(1) for non-filing of income tax return will be issued by the department if the Income tax department feels it fit. Further, if the individual fails to furnish his income tax returns after the notice he will be penalized for the same. If there are any taxes which are unpaid, penal interest as per u/s 234A i.e. @ 1% per month or part thereof will be charged till the date of payment of taxes. Also Penalty of Rs. 5,000 may be charged. The penalty is not levied in all cases and depends upon the circumstances of the case.

For the Financial year of 2017-18 and onwards

- Penalty of Rs. 5,000 will be charged for returns filed after the due date but it should be before 31st December and
- If returns are filed after 31st December, a penalty of Rs. 10,000 shall apply
- Penalty will be Rs. 1,000 for those with income up to Rs. 5Lakhs

Penalty for Concealment of Income

The Assesse is liable to penalty for concealment of income which ranges from 100% to 300 % for non-Filling of Income tax return where there is assessable income.

Delay in tax refund

If a person is holding on the income tax return of the latest year he will be not be entitled to the Tax Refund of the previous year also. If the person delays or not files the income tax return he/she will be forfeited the "Tax refund" for the previous Income Tax Returns.

No easy eligibility in loan applications from Banks

The basic need for all loan such as housing, business, car or personal loan is the record of last three years I-T return. Before issuing the loan, banks want to be well aware of person's financial capacity and income details as shown in income tax returns. So it is mandatory for a person to file Income Tax Return regularly because of the fact that the person would not be able to grab the facilities like loans easily because banks do not give loans without the statement of income by the person taking a loan.

Decreased chances of obtaining visa outside India

There is a high possibility that a person applying for a visa outside India have to produce the records of the Income Tax Return of previous years to the latest years. The Visa authorities and the High commissioner of the various countries around India would ask the applicant to produce his/her Income proof and the best proof of Income in India is the records of his I-T Return.

Loss not to be allowed to Carry Forward

Filing of Income tax returns on time allows the setting off the losses of this year against the gain of forthcoming years. E.g. If you have business Loss this year, you can claim set off against business profit next year. In case a person does not file his Income Tax Return on or before due date he/she will not be allowed to carry forward their losses.

EDITORS NOTE

Dear Reader, this edition features Income Tax, GST updates, Corporate Law and Foreign Direct Investment in India -Reporting and Compliance. As usual, expecting your your valuable suggestions.

CONTENTS

TAX DUE DATES - DECEMBER 2017

Monthly Compliances

Sl.No	Particulars	Due Date
1.	TCS/TDS Payment for Nov- 2017	07-Dec-2017
2.	GSTR-5 by Non-resident Taxable person for the month of July, Aug, Sep & Oct 2017	11-Dec-2017
3.	Issue of the TDS Certificate for tax deducted under section 194-IA in the month of October 2017.	15-Dec-2017
4.	PF Payment(ECR) for Nov-2017	15-Dec-2017
5.	ESIC Payment (ESIC Challan) for Nov-2017	15-Dec-2017
6.	GSTR-3B (Summary Return) for Nov-2017	20-Dec-2017
7.	GSTR -1 from the month of July to Sep 2017(Turnover less than 1.50 Crore)	31-Dec-2017
8.	GSTR-6 (for input service distributor) for the month of July 2017	31-Dec-2017

Quarterly Compliances

Sl.No	Particulars	Due Date
1.	Advance tax Payment-3rd Instalment for the AY 2018-19	15-Dec-2017
2.	GSTR-4 – (Composition Dealers under GST) for the Quarter July-Sep 2017	24-Dec-2017
3.	GST ITC – 04 – Form for making Declaration with respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another for the Quarter ended 30th Sep 2017	31-Dec-2017

Annual Compliances

Sl.No	Particulars	Due Date
1.	VAT Audit Report for the FY 2016-17(Form WW)	31-Dec-2017
2.	FCRA Annual return for the FY 2016-17-(FC 4)	31-Dec-2017

One Time Compliance

Sl.No	Particulars	Due Date
1.	Original GST TRAN-1 & Revision of already submitted GST TRAN-1	27-Dec-2017

GST Updates

GST Amendments in 23rd GST Council Meeting

1. All taxpayers are exempted from tax payment of Tax on advance received in case of supply of Goods.

2. E-Commerce operator who's turnover does not exceed Rs. 20 Lacs (Rs.10 Lacs in specified state) is not required to register under GST. (Prior to this amendment, E- commerce Operator was required compulsory registration.)

3. Late fees payable is reduced from Rs. 200/- to Rs. 50 for who's turnover is below Rs. 1.5 Crore from October onwards, Provided further where the total amount of CGST or SGST payable is nil, late fees will Rs. 20 Per Day from October onwards.

4. Form GSTR-3B compulsory to be filed till March, 2018.

5. Taxpayers with aggregate turnover of upto Rs. 1.5 crore have to file on GSTR-1 on a quarterly basis.

Refund of GST:

Amount is paid in excess of actually payable to the Government's treasury, then we will get ITC for that in next tax period. But if there is no liability to set off the ITC, then that amount will be refunded to the taxpayer.

Following are the situations which will lead to claim of refund of GST from the Government:

1. Export of goods or services with or without payment of Tax
2. Supplies to SEZs units and developers
3. Deemed exports
4. Refund of taxes on purchase made by UN or embassies etc.
5. Refund arising on account of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court
6. Refund of accumulated Input Tax Credit on account of inverted duty structure
7. Finalization of provisional assessment
8. Refund of pre-deposit
9. Excess payment due to mistake
10. Refunds to International tourists of GST paid on goods in India and carried abroad at the time of their departure from India
11. Refund on account of issuance of refund vouchers for taxes paid on advances against which, goods or services have not been supplied
12. Refund of CGST & SGST paid by treating the supply as intrastate supply which is subsequently

Continued...

GST Updates

Following three things to be remember and following procedure is to be initiated as per given case:

1. Refund of IGST paid on export of goods – No separate application is required as shipping bill itself will be treated as application for refund

2. Refund of IGST paid on export of services / zero rated supplies to SEZ units or SEZ developers – Printout of FORM GST RFD01A needs to be filed manually with the jurisdictional GST officer along with relevant documentary evidences, wherever applicable

3. Refund of unutilized input tax credit due to the accumulation of credit of tax paid on inputs or input services used in making zero-rated supplies of goods or services or both – FORM GST RFD-01A needs to be filed on the common portal of GSTN. The amount of credit claimed as refund would be debited in the electronic credit ledger and proof of debit needs to be generated on the common portal. Printout of the FORM GST RFD- 01A needs to be submitted before the jurisdictional GST officer along with necessary documentary evidences.

When and how much refund will be granted by the Government?

1. GST law also provides for grant of provisional refund of 90% of the total refund claim, in case the claim relates for refund arising on account of zero rated supplies.
2. The provisional refund would be paid within 7 days after giving the acknowledgement.
3. The acknowledgement of refund application is normally issued within a period of 14 days but in case of refund of integrated tax paid on zero rated supplies, the acknowledgement would be issued within a period of three days.
4. The provisional refund would not be granted to such supplier who was, during any period of five years immediately preceding the refund period, was prosecuted.

No GST on the Advances received for Supply of Goods from 15th November!

- Earlier as per GST law, tax was to be paid on the advances received and it was to be adjusted after the invoice was issued. But now, as per notification issued on 15th November, no need to pay GST on the advances received against the supply of goods. But still the service providers are liable to pay GST on advances received.

GST OTHER AMENDMENTS

- There are changes in the registration for the service providers. The service providers whose aggregate turnover is less than Rs. 20 Lakh are not liable to take registration. Prior to this date 15 Nov 17, Interstate Service providers and E Commerce service providers were compulsorily to get registered irrespective of the turnover. From 15 Nov 17 such assesses are liable to register if turnover is more than Rs. 20 Lakh

- In case of restaurants, if the room tariff is less than Rs.7500 then, 5% GST will be levied on them but no ITC will be available. Similarly, if the room tariff is more than Rs.7500 and in case of outdoor catering, 18% GST will be levied on them and ITC will be allowed to them

- From 13th October, the provisions of RCM were postponed. But from 15th November the provisions of RCM are being made applicable to supply of Raw cotton. The provision relating to that is, the supply of Raw cotton by an agriculturist is liable to pay GST. But the tax on it will be paid by the recipient registered person on RCM basis

- There are changes in the late fees. For the Form GSTR- 3B of October month, the late fees for nil returns are Rs.10 for CGST and Rs.10 for SGST. As well as for other returns late fees are Rs.25 for CGST and Rs.25 for SGST

Corporate Law

Features of Facility to Consolidate Multiple PF Accounts of an Employee

A facility has been provided to the members to merge their earlier PF Accounts to the current PF account so that EPFO may help them in the integration of all these PF accounts in the Current UAN activated PF account. The said functionality has been provided in the EPFO website at Our Services » For Employees » One Employee – One EPF Account. It can also be accessed using the URL http://103.194.45.139/UANDEDUP/.

EPFO: Timeline for Online Filing of Monthly Returns by Exempted Establishments

All the exempted establishments were directed to file the statutory online returns within the stipulated time i.e. the return for the wage month of March 2017 was required to be filed by 15th of May 2017. In supersession of the circular under reference at SI. No. (i) above, all the exempted establishments/employers vide circular under reference at SI. No. (ii) above, were directed to file the statutory online returns in time i.e. on or before 25th of the month following that to which it relates.

Salient features of Equalisation Levy ON E-commerce Transactions

- It is to tax the e-commerce transaction/digital business which is conducted without regard to national boundaries.
- The equalization levy would be 6% of the amount of consideration for specified services received or receivable by a non-resident not having permanent establishment ('PE') in India, from a resident in India who carries out business or profession, or from a non-resident having permanent establishment in India.
- Specified services mean online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government.
- No levy if aggregate amount of consideration does not exceed Rs.1 lacs in any previous year

Advantages of LLP Registration over company (LIMITED LIABILITY PARTNERSHIP)

- A corporate business vehicle that enables professional expertise and entrepreneurial initiative to combine and operate in flexible, innovative and efficient manner, providing benefits of limited liability while allowing its members the flexibility for organizing their internal structure as a partnership.

Continued...

- The following are reasons some small businesses choose to do an LLP registration:
- Audit is not required for a LLP annual sales turnover is less than Rs. 40 lakhs and the LLP have a capital contribution of less than Rs. 25 lakhs. Whereas, for a Private Limited Company, audit is mandatory irrespective of sales turnover or capital.
- There is no dividend distribution tax applicable for LLPs. Whereas, for a Private Limited Company, dividends are taxed at the rate of 15%.
- In LLP, there is no concept of Board Meetings or Annual General Meetings. So annual compliances are relatively fewer.
- The fee for incorporation of LLP is lower than the government fee for incorporation of private limited company.
- The process for incorporation of LLP also involves less documents and is less cumbersome.

Advantage of Private Limited Company Registration over LLP

- LLPs do not have the concept of shareholding. Venture Capitalists and Private Equity Investors –who do not wish to actively participate in the management of the Company do not approve this kind of arrangement. Hence, equity investors will only invest in a Private Limited Company.

Foreign Direct Investment in India

Each subscriber to the Memorandum of Association (MoA) of the company (Private or Public), after its incorporation shall required to deposit a minimum subscription money (i.e. first subscription money) as specified in the Memorandum of Association (MoA) against share capital in Company's bank account.

The subscriber may be a body corporate (company incorporated outside India) or foreign national or PIO/NRI/OCI holder. In that case an Indian company receiving investment from either of the above parties should report the details of amount of consideration to Regional office of RBI within whose jurisdiction the office is situated and comply with the rules and regulation specified in FEMA under FDI policy.

Steps to be followed as per FEMA under FDI policy.

- Information to be provided by the remitter to Authorised Dealer (AD) regarding remittance to beneficiary.
- After receipt of information AD, will initiate the process of issuing Foreign Inward Remittance Certificate (FIRC) to beneficiary.
- To file the Foreign Inward Remittance Certificate (FIRC) AND Advance Reporting Form and KYC form by beneficiary company to RBI through an Authorised dealer by mentioning the purpose of FIRC.
- After issue of share beneficiary company shall file Foreign Collaboration – General Permission Route form to RBI WITHIN 30 days from the date of issue of shares.
- Return of allotment in PAS-3 has to be filed and for further receipt of any money from the same foreign national/ Company has to follow the same procedure.

Sarathy and Vasu LLP, Chartered Accountants, No.3, First Floor, Sriman Srinivasan Road, Alwarpet, Chennai 600018 - email: sarathyvasuca@gmail.com
● CHENNAI - 9994287611 ● TIRUCHIRAPPALLI - 7200585709 ● HYDERABAD - 9940366146