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Income Tax

1 Clarification on declaration in Form 15G / 15H: The CBDT in Notification No.6 of 2017 dated 30.05.2017 considered the representation as regards whether a depositor should submit one declaration in respect of income each year before each person responsible for making payment or has to submit the declaration at each and every time the payment is due to be received by him. It clarified that the amended new Forms 15G and 15H are required to be submitted furnishing details of all investments up to that date including the current fixed deposit for which the Form 15G / 15H is being given to enable the deductor / payer to ascertain, whether Form No.15G / 15H can be accepted. In other words, whenever a fresh deposit is made, Form 15G / 15H as the case may be, is to be furnished by including the previous deposits and the fresh deposit.

2 Trade advance and commercial transactions out of deemed dividend provisions: The CBDT in Circular No. 19/2017 dated 12.06.2017 has clarified the trade advances which are in the nature of commercial transactions would not fall within the ambit of the word 'advance' in section 2(22)(e) of the Act. It illustrated some instances such as (i) advances paid to sister concern to be adjusted against the dues for job work done by the sister concern; (ii) advance paid to shareholder to install plant and machinery at the shareholder's premises to enable him to do job work for the company so that the company could fulfill an export order being in the nature of business expediency; and (iii) floating security deposit given to sister concern against the use of electricity generators owned by the sister concern.

3 CBDT clarification on Explanation 2 to section 132B for adjustment of seized cash against advance tax liability: The CBDT in Circular No.20/2017 dated 12.06.2017 took note of the Explanation 2 to section 132B inserted by Finance Act, 2013 w.e.f. 01.06.2013. The amendment is to clarify that the "existing liability" would not include advance tax payable in accordance with the provisions of Part C of Chapter XVII of the Act. The CBDT in the Circular has clarified that the Explanation is prospective in nature and the Department shall not file appeal on this issue for the cases prior to 01.06.2013 and those already filed may be withdrawn / not pressed upon.

4 Clarification on non-applicability of the provisions of section 194-I on remittance of Passengers Service Fees (PSF) by an airline to an airport operator: The CBDT in Circular No.21/2017 dated 12.06.2017 took note of the Bombay High Court decision in CIT v. Jet Airways (India) Ltd (ITA No.1181 of 2014 dated 04.01.2017) and accepted the view of the Court. Thus payment made by airlines by way of passenger service fees to airport operator would not fall within the meaning of the word 'rent'. Notwithstanding that the word 'rent' stood expanded because of the decision of the Supreme Court in Singapore Airlines and Japan Airlines (2015) 60 taxmann.com 71 (SC) the primary requirement is that the payment must be for the use of land and building. Mere incidental / minor / insignificant use of the same while providing other facilities and service would not make it a payment for use of land and buildings so as to attract section 194-I of the Act. It advised that the Department shall not file appeal because of the settled legal position and those already filed may be withdrawn / not pressed upon.

5 Cost inflation index notified: The Central Government in exercise of powers conferred by clause (v) of the Explanation to section 48 has notified cost inflation index by taking the base year as financial year 2001-02. The cost inflation index for the financial year 2017-18 is 272 and for the base year i.e. financial year 2001-02 it is 100.

EDITORS NOTE

Dear Reader, this edition also features on Accounts and records to be maintained under GST apart from Income Tax. Corporate Law etc., We have also increased the number of pages of this issue. As usual, expecting your valuable suggestions for improving in order to make it more relevant and useful.

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TAX DUE DATES - JULY 2017

Monthly Compliances for the month of July 2017

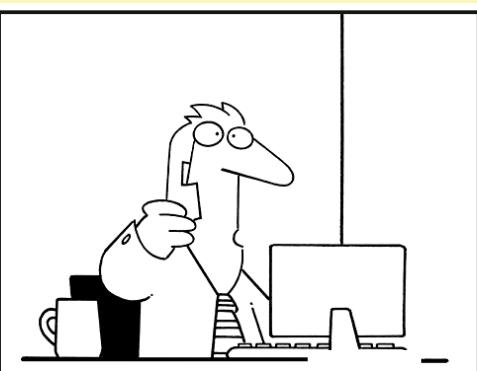
Sl. No	Particulars	Due Date
1	TCS/TDS Payment	07 th July, 2017
2	Issue of the TDS Certificate for tax deducted under section 194-IA (Payment on transfer of certain immovable property other than agricultural land) in the month of May 2017.	15 th July, 2017

Quarterly Tax Compliances for the month of July 2017

Sl. No	Particulars	Due Date
1	Quarterly statement of TCS deposited for the quarter ending June 30, 2017.	15 th July, 2017
2	Quarterly TCS certificate in respect of tax collected by any person for the quarter ending June 30, 2017	30 th July, 2017
3	Quarterly statement of TDS deposited for the quarter ending June 30, 2017	31 st July, 2017

Annual Tax Compliances for the month of July 2017

Sl. No	Particulars	Due Date
1	Annual return of income for the assessment year 2017-18 for all assessee other than a) Corporate-assessee or b) Non-corporate assessee (whose books of account are required to be audited) or c) Working partner of a firm whose accounts are required to be audited or d) An assessee who is required to furnish a report under section 92E.	31 st July, 2017



"If you pay your invoice on time, it will mess up our accounting system, so it's better if you keep paying late."



Bonds issued by PFC Ltd eligible for Section 54EC Exemption

The Central Government through notification no 47/2017 notifies that any bond redeemable after three years and issued on or after the 15th day of June, 2017 by the Power Finance Corporation Limited, a company formed and registered under the Companies Act, 1956 as long-term specified asset for claiming exemption under section 54EC.

Earlier, the exemption u/s 54EC was available only for investment made in NHAI and REC bonds and now even investment in Power Finance Corporation Limited bonds will also be eligible for exemption u/s 54EC.

Cash Transactions – New Provision

Section 269ST: The said section, prohibits receipt of an amount of 2 lakh or more by a person, Circumstances

1. In aggregate from a person in a day; or
2. In respect of a single transaction; or
3. In respect of transactions relating to one event or occasion from a person,

Otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account:

Provided that the provisions of this section shall not apply to —

1. any receipt by—
2. government / any banking company, post office savings bank or co-operative bank;
3. transactions of the nature referred to in section 269SS – i.e. acceptance of Loan, deposits etc;
4. Such other persons or class of persons or receipts etc.,

Section 271DA – Penal provisions for contravention

Liable to pay penalty of a sum equal to the amount of such receipt.

Section 40A (3): Disallowance of Expenses

Section 40A(3)(A) of the Income Tax Act provides that any expenditure incurred in respect of which payment is made in a sum exceeding Rs. 10,000 in a single day otherwise than by way of account payee cheque drawn on bank or by an account payee bank draft or through use of electronic clearing system, shall not be allowed as a deduction.

Corporate Law

1. Rotation of Auditors – Threshold Limit raised in respect of Private Companies: MCA has notified that paid up share capital limit for rotation of auditors in case of private companies has been increased from rupees twenty crore to rupees fifty crore or more w.e.f 22 June 2017. (Notification, dated 22nd June, 2017)

2. Clarification regarding due date of transfer of shares to IEPF Authority: The seven year period provided under sub-section (5) of section 124 is completed during 7th September, 2016 to 31st May, 2017, the due date of transfer of such shares by companies is 31st may, 2017. The modalities for transfer/transmittal of shares from companies accounts to the demat account of the IEPF authority are being finalised with the depositories. IEPF is considering opening special demat accounts and till such time, the due date for transfer of shares stands extended. The revised due date for transfer/transmittal of shares shall be notified soon. Companies are advised to complete all formalities as laid down in the Rule 6 of the IEPF (Accounting, Audit, Transfer and Refund) Amendment Rules, 2017 without waiting for the fresh dates. Companies which have already published notice in newspaper and send notices to the shareholders need not give the fresh notices again due to the proposed extension of dates. (General Circular No 06/2017, dated 29th May, 2017)

3. Clarification regarding transmission of Securities by operation of law: MCA has clarified that the procedure similar to what is followed in case of transmission of shares may be followed by companies while transferring shares to IEPF Authority pursuant to section 124 (6) read with the applicable Rules. (General Circular 07/2017 dated 5th June, 2017)

4. Exemption to Section 8 Companies under section 462 of CA, 2013:

(a) Clause (b) and first proviso to sub-section (1) of section 149, (that the company to have a maximum of fifteen directors and further that a company may appoint more than fifteen directors after passing a special resolution shall not apply to a section 8 company. The exceptions, modifications and adaptations provided shall be applicable to a company covered under section B of the said Act which has not committed a default in filing its financial statements under section 137 or annual return under section 92 of the said Act with the Registrar. (Notification dated 13th June, 2017).

Continued...



(b) New proviso to Sub-section (7) of section 186: The following proviso shall be inserted, namely:- Provided that nothing contained in this sub-section shall apply to a company in which twenty-six per cent or more of the paid-up share capital is held by the Central Government or one or more State Governments or both, in respect of loans provided by such company for funding Industrial Research and Development projects in furtherance objects as stated in its memorandum of association. (Notification dated 13th June, 2017)

5. Exemption to Private Companies under section 462 of CA, 2013:

- (a) Chapter I, clause (40) of section 2 (financial statement) : For the proviso, the following shall be substituted, namely:- Provided that the financial statement, with respect to person company, small company, dormant company private company (if such private company is a start-up) not include the cash flow statement; one and may Explanation. - For the purposes of this Act, the term 'start-up' or "start-up company" means a private company incorporated under the Companies Act, 2013 (18 of 2013) or the Companies Act, 1956 ('I of 1956) and recognised as start-up in accordance with the notification (a) issued by the Department of industrial Policy and Promotion, Ministry of Commerce and Industry.
- (b) Chapter V, clauses (a) to (e) of sub-section (2) of section 73 (Prohibition on acceptance of deposits from public): shall not apply to a private company- (A) which accepts from its members monies not exceeding one hundred per cent. of aggregate of the paid up share capital, free reserves and securities premium account; or (B) which is a start-up, for five years from the date of its incorporation; or (C) which fulfils all of the following conditions, namely:- (a) which is not an associate or a subsidiary company of any other company; (b) if the borrowings of such a company from banks or financial institutions or anybody corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower; and (c) such a company has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under this section: Provided that the company referred to in clauses (A), (B) or (C) shall file the details of monies accepted to the Registrar in such manner as may be specified.
- (c) Chapter VII, clause (S) of sub-section (1) of section 92 (Annual Return): shall apply to private companies which are small companies, namely: - section (1) of section 92 "(g) aggregate amount of remuneration drawn by directors.
- (d) Chapter VII, proviso to sub-section (1) of section 92: Provided that in relation to One Person Company, small company and private company (if such private company is a start-up), the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.
- (e) Chapter X, clause (i) of sub-section (3) of section 143 in respect of auditor's report): shall not apply to a private company:- (i) which is a one person company or a small company; or (ii) which has turnover less than rupees fifty crores as per latest audited financial statement or which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less than rupees twenty five crore.
- (f) Chapter XII, sub-section (5) of section 173 Meetings of Board): A One Person Company, small company, dormant company and a private company (if such private company is a start-up) shall be deemed to have complied with the provisions of this section if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap between the two meetings is not less than ninety days. Provided that nothing contained in this sub-section and in section 174 shall apply to One person Company in which there is only one director on its Board of Directors.
- (g) Chapter XII, sub-section (3) of section 174 (Quorum for meetings of Board): shall apply that the interested director may also be counted towards quorum in such meeting after disclosure of his interest pursuant to section 184.

The above exceptions, modifications and adaptations shall be applicable to a private company which has not committed a default in firing its financial statements under section 137 of the said Act or annual return under section 92 of the said Act with the Registrar. (Notification dated 13th June, 2017)

6. Exemption to Government Companies under section 462 of CA, 2013:

- (a) Chapter VII, subsection (2) of section 96, (Annual general Meeting): In sub-section (2), for the words "such other place as the Central Government may approve in this behalf", the words "such other place within the city, town or village in which the registered office of the company is situate or such other place as the Central Government may approve in this behalf shall be substituted.
- (b) Chapter XI, subsections (6) and (7) of section 152 (Appointment of Directors): shall not apply to - (a) a Government company, which is not a listed company, in which not less than fifty-one per cent. Of paid up share capital is held by the Central Government, or by (b) any State Government or Governments or by the Central Government and one or more State Governments; (b) a subsidiary of a Government company, referred to in (a) above.
- (c) Chapter XV, sections 230 to 232 (Compromises and Amalgamations): For the word "tribunal" wherever it occurs, the words "the Central Government" shall be substituted. The exceptions, modifications and adaptations provided in aforesaid Table shall be applicable to a Government company which a default in firing its financial statements under section 137 of the return under section 92 of the said Act with the Registrar. (Notification dated 13th June, 2017)



GST

COMPOSITION SCHEME UNDER GST

PERSON ELIGIBLE TO PAY TAX UNDER COMPOSITION SCHEME

Only registered person whose 'aggregate turnover' (aggregate of turnover in all States having same PAN) does not exceed Rs. 50 lakhs in the preceding financial year will be eligible to opt for payment of tax under the composition scheme.

RATE OF TAX

The rate of tax under composition scheme would be as under:

Categories of registered person	Central Rate	State/UTGST Rate	Total Rate
Manufacturer other than goods notified	1.00%	1.00%	2.00%
Other Supplier like agent, Traders	0.50%	0.50%	1.00%
Composite supply of food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption) Example: Restaurants, Eating Joints, Mess, Canteens, Outdoor Caterer, etc	2.50%	2.50%	5.00%
Service Provider	NA	NA	NA

Note: -A taxable person opting for composition scheme will be required to pay tax on supplies taxable under RCM [Section 9(3) & Section 9(4)] at regular rates and not the composition rate.

Tax under composition is calculated by above rate on 'turnover in state or turnover in union territory' which means:

Sr. No.	Particulars	Treatment
1.	Taxable Supplies	Yes
2.	Exempt Supplies (Nil rated, Wholly exempt or Non-taxable)	Yes
3.	Export of Goods or Service	Yes

PERSON NOT ELIGIBLE TO PAY TAX UNDER COMPOSITION SCHEME

- Supplier making inter-state outward supplies of goods.
- Supplier engaged in making supply of goods through Electronic Commerce Operator (it appears to be against the vision of Digital India)
- Manufacturer of such goods as may be notified by the Government
- Casual taxable person or a non-resident taxable person
- Supplier of services other than discuss in above table i.e. food/restaurants service
- Supply of goods which are not leviable to tax under this act

CONDITIONS FOR OPTING TO PAY TAX UNDER COMPOSITION SCHEME

- Composition dealer shall not collect any tax from the recipient on supplies made by him.
- Composition dealer shall not be entitled to any credit of input tax paid on his inward supplies.



Accounts and Records to be maintained under GST

Maintenance of accounts and records by registered persons

Records/Details pertaining to following to be maintained at principal place of business

- Production or manufacture of goods
- Inward and outward supply of goods or services or both
- Stock of goods for each commodity received & supplied,
- Input tax credit availed
- Output tax payable and paid
- Advances received, paid and adjustments made thereto
- Goods or services imported/exported or supplies covered under reverse charge
- Register of tax invoice, credit note, debit note, delivery challan issued or received
- Names and complete addresses of suppliers or recipient, from/to whom goods or services have been received/supplied

Documents to be kept along with the records mentioned above

- Invoices
- Bills of supply
- Delivery challans
- Credit/Debit Notes
- Receipt Voucher
- Payment Voucher
- Refund Voucher
- E-Way bill

Other provisions

More than one place of Business

- More than one place of business is specified in the certificate of registration
- Books of accounts, including electronic records, relating to each place of business shall be kept separately at such places of business

Different activities undertaken

- The account or records specified shall be maintained separately for each activity like:
- Manufacturing
- Trading
- Provision of services; etc.

Manner & Time for maintaining records

- Accounts and other records may be kept & maintained in Electronic form
- Records should be retained till six years from the due date of furnishing of annual return for that year
- For matters under any litigation under the GST Act, accounts and records pertaining to that issue shall be retained for one year after the final disposal/conclusion of the litigation



Accounts and Records to be maintained under GST

Requirements of maintaining records for specific set of persons

Manufacturer:

- Monthly production accounts, showing the quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof

Service Provider:

- Quantitative details of goods used in the provision of each service, details of input services utilised and the services supplied

Carrier or C&F Agent:

- Applies to a person having custody over the goods in the capacity of a carrier or a C& F Agent for delivery to a recipient on other's behalf
- He shall maintain true and correct records in respect of such goods handled by him

Works Contractor (for each contract separately) :

- Description, value & quantity of goods or services received & utilized in execution of each contract
- Names and addresses of the persons on whose behalf the works contract is executed
- Details of payment received in respect of each works contract
- Names and addresses of suppliers from whom he has received goods or services

REFUND OF GST PAID FOR EOU's:

One of the major categories under which, claim for refund may arise would be, on account of exports.

All exports (whether of goods or services) as well as supplies to SEZs have been categorised as Zero Rated Supplies in the IGST Act.

On account of zero rated supplies, the supplier will be entitled to claim input tax credit in respect of goods or services or both used for such supplies even though they might be non-taxable or even exempt supplies.

Every person making claim of refund on account of zero rated supplies has two options:

1. He can export under Bond/LUT and claim refund of accumulated Input Tax Credit;
or
2. He may export on payment of integrated tax and claim refund of tax thereof as per the provisions of Section 54 of CGST Act, 2017.

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