



The key amendments introduced in statutes, policies and procedures in respect of Direct Tax, Indirect Tax, Corporate Laws & Accounting Standards, Foreign Exchange Management Act / Export Import Policy & Securities and Exchange Board of India related matters are summarized hereunder.

CONTENTS AT A GLANCE

DIRECT TAX

Amendments, Notifications & Court Rulings

- » Procedure for registration and submission of Form No. 61 notified
- » CBDT notifies Income Tax Return Forms for Assessment Year 2018-19
- » Provision of doubtful debts considered as non-operating expense while computing profit margins of comparable companies for Transfer Pricing (TP) analysis

INDIRECT TAX

Amendments, Notifications & Court Rulings

- » Authority for Advance Ruling – Order No .CT/531/18-C3 – Authority for Advance Ruling dated March 26, 2018
- » Central Tax -Notification No. 18/2018 dated March 28, 2018
- » Circular No. 39/13/2018-GST dated April 03, 2018
- » Circular No. 40/14/2018-GST dated April 06, 2018
- » Press Release on Issues Regarding “Bill To Ship To” for e-Way Bill dated April 23, 2018

COMPANY LAW

Amendments, Notifications & Court Rulings

- » Notification of the Companies (Indian Accounting Standards) Amendment Rules, 2018

FEMA & RBI NOTIFICATION

- » Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Amendment) Regulations, 2018
- » Notification on Start-up – DIPP
- » Liberalised Remittance Scheme (LRS) for Resident Individuals – daily reporting of transactions
- » Exim Bank's Government of India supported Line of Credit of USD 4.50 billion to the Government of the People's Republic of Bangladesh

DIRECT TAX

1. Procedure for registration and submission of Form No. 61 notified

As per Rule 114D of Income Tax Rules, the following persons who have received any declaration in Form No. 60, on or after the 1st day of January, 2016, in relation to a transaction specified in rule 114B, shall furnish a statement in Form No. 61 electronically containing particulars of such declarations:

- a) Every person referred to in clauses (a) to (k) of sub-rule (1) of rule 114C; and
- b) Every person referred to in sub-rule (2) of rule 114C and who is required to get his accounts audited under section 44AB of the Act,

Procedure for preparation and submission of Form No.61 has been notified vide CBDT Notification No.2 dated April 05, 2018 and a separate portal has been created for the filing purpose known as “Reporting Portal” by insertion of the below points:

- i) Reporting persons/entities already registered on e-filing portal are not required to register again on the new reporting portal. The registered users of such reporting persons/entities shall be communicated of their new login credentials through registered e-mail.
- ii) For new registration, the person/entity shall login to income tax portal and click on ‘Reporting Portal’ under “My Account” tab at e-filing portal. On furnishing of details like form type, address and category and address of reporting person/entity along with details of Principal Officer, the Income Tax Department Reporting Entity Identification Number (ITDREIN) will be generated.
- iii) The prescribed schema, Report generation and validation utility for form No.61 and Generic Submission Utility can be downloaded from the reporting portal under “Resources” tab.
- iv) In case, the reporting person/entity comes to know or discovers any inaccuracy in the information provided in the statement or the defects have been communicated to the reporting person/entity through Data Quality Report (DQR) after submission of Statement, it is required to remove the defects by submitting a correction statement.
- v) In case, the reporting person/entity wishes to delete the inadvertently filed reports within a statement, it can choose the statement type as “Deletion Statement” and file all such reports within a single statement.
- vi) The values under Statement Type of Form 61 have been modified/enhanced to include Deletion Statement (‘DB’) for deletion of previously submitted information.
- vii) The reporting person/entity is required to document and implement important security, archival and retrieval policies with clearly defined roles and responsibilities.

Source: CBDT Notification No.2 dated April 05, 2018.

2. CBDT notifies Income Tax Return Forms for Assessment Year 2018-19

The Central Board of Direct Taxes (CBDT) has notified Income Tax Return Forms (ITR Forms) for the Assessment Year (‘AY’) 2018-19. Following are certain salient features:

- i) For AY 2017-18, a one page simplified ITR Form-1(Sahaj) was notified. For AY 2018-19 also, a one page simplified ITR Form-1(Sahaj) has been notified which can be filed by an individual who is resident other than not ordinarily resident, having income upto Rs.50 lakh and who is receiving income from salary, one house property / other income (interest etc.).
- ii) Further, the parts relating to salary and house property have been rationalized and furnishing of basic details of salary (as available in Form 16) and income from house property have been mandated.
- iii) ITR Form-2 has also been rationalized by providing that Individuals and HUFs having income under any head other than business or profession shall be eligible to file ITR Form-2.
- iv) The Individuals and HUFs having income under the head business or profession shall file either ITR Form-3 or ITR Form-4 (in presumptive income cases).
- v) In case of non-residents, the requirement of furnishing details of any one foreign Bank Account has been provided for the purpose of credit of refund.
- vi) Further, the requirement of furnishing details of cash deposit made during a specified period as provided in ITR Form for the Assessment Year 2017-18 has been done away with from Assessment Year 2018-19.
- vii) There is no change in the manner of filing of ITR Forms as compared to last year. All these ITR Forms are to be filed electronically. However, where return is furnished in ITR Form-1 (Sahaj) or ITR-4 (Sugam), the following persons have an option to file return in paper form:-
 - a) an Individual of the age of 80 years or more at any time during the previous year; or
 - b) an Individual or HUF whose income does not exceed five lakh rupees and who has not claimed any refund in the Return of Income.

The notified ITR Forms are available on the official website of the Department www.incometaxindia.gov.in.

Source: CBDT Press Release dated April 05, 2018.

3. Provision of doubtful debts considered as non-operating item while computing profit margins of comparable companies for Transfer Pricing (TP) analysis

Bangalore ITAT in the case of M/s. Marvell India Pvt. Ltd., vs ACIT [ITA No. 173/Bang/2017 dated April 6, 2018] has held that while computing profit margins of comparable companies, provision for doubtful debts to be considered as non-operating expense.

The Hon'ble Tribunal has explained that if the sale is made in an earlier year and provision for doubtful debts is made in a later year then in such a later year, such provision for doubtful debts made cannot be considered for reduction from the operating profit as it will impact the profit percentage inconsistently. Profit percentage is worked out by dividing profit by turnover. In this case, only the numerator would be reduced and not the denominator i.e. turnover because turnover for which the provision is made, is considered in the earlier years and not the present year. Hence such provision for doubtful debts is not to be considered as operating expense for TP analysis

The Hon'ble Tribunal distinguished the judgement in the case of Sony India (P.) Ltd. vs. DCIT [114 ITD 448 (Delhi)] on the basis that in Sony India provision made in earlier years was written back in the present year whereas the present case pertains to provision for bad and doubtful debts.

Kenexa Technologies Pvt. Ltd. vs. DCIT [51 taxmann.com 282 (Hyderabad)] was distinguished on the ground that the same was pertaining to consideration of foreign exchange fluctuation loss as operating loss. The Tribunal in that case followed another Tribunal order rendered in the case of Capital IQ Information Systems India (P.) Ltd. vs. DCIT (International Taxation) as reported in 57 SOT 14 (Hyd. – Trib.) pertaining to foreign exchange fluctuation gain. Further for such issue also it has to be seen as to whether foreign exchange fluctuation gain is on sale of the present year or of an earlier year.

Source: M/s. Marvell India Pvt. Ltd., vs ACIT [ITA No. 2173/Bang/2017] dated April 6, 2018

INDIRECT TAX

1. Clarification regarding GST liability on reimbursement of food expenses from employees

It has been held that food expenses recovered from employees for canteen services would come within the definition of outward supply and therefore leviable to GST.

Source: – Vide Order No .CT/531/18-C3 – Authority for Advance Ruling dated March 26, 2018

2. Seeks to prescribe the due dates for furnishing FORM GSTR-1 for the months of April to June 2018

The due dates for Monthly filing of GSTR-1 have been prescribed as follows:

Month	Due Date
April, 2018	May 31, 2018
May, 2018	June 10, 2018
June, 2018	July 10, 2018

Source: Vide Notification No 18/2018-Central Tax dated March 28, 2018

3. Setting up of an IT Grievance Redressal Mechanism to address grievances due to technical glitches on GST Portal

An IT-Grievance Redressal Mechanism has been set up to address difficulties faced by taxpayers owing to technical glitches on the GST portal and the relief that needs to be given by allowing filing of any Form or Return prescribed in law or amending any Form or Return already filed. GST Council has delegated powers to the IT Grievance Redressal Committee to approve and recommend to the GSTN the steps to be taken to redress the grievance and the procedure to be followed for implementation of the decision.

Source: – Vide Circular No. 39/13/2018-GST dated April 03, 2018

4. Clarifications on issues related to furnishing of Bond/Letter of Undertaking for exports

It has been clarified that an LUT shall be deemed to be accepted as soon as Application Reference Number (ARN) is generated online and no documents would need to be physically submitted before jurisdictional office for acceptance.

Source: Vide Circular No. 40/14/2018 – GST dated April 06, 2018

5. Clarification in relation to requirement of e-Way Bill for “Bill To Ship To” model of supplies

It has been clarified that in case of “Bill To Ship To” transaction, only one e-Way Bill is required to be generated either by the Bill To Party or the supplier of goods.

Source: Press Release on Issues Regarding “Bill To Ship To” for e-Way Bill dated April 23, 2018

COMPANY LAW

○ Notification of the Companies (Indian Accounting Standards) Amendment Rules, 2018

The MCA vide notification dated March 28, 2018 has amended the Companies (Indian Accounting Standards) Rules, 2015.

Source: http://mca.gov.in/Ministry/pdf/INDAsEngRule2018_29032018.pdf

FEMA & RBI NOTIFICATION

○ Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Amendment) Regulations, 2018

The Reserve Bank of India (RBI) vide Notification No.FEMA.20(R) (1)/2018-RB dated March 26, 2018 has amended the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2017. Some of the relevant changes are provided below:

- Foreign investment in investing companies registered as Non-Banking Financial Companies (NBFCs) with the Reserve Bank, will be under 100% automatic route.
- 100 per cent FDI is now allowed in Schedule Air Transport Services / Domestic Scheduled Passenger Airlines and Regional Air Transport Services.
- 100% foreign investment is allowed in real estate broking services under automatic route.
- 100 per cent FDI in Single Brand Product Retail Trading (SBRT) is now permitted under automatic route.

Source: https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=11240&fn=5&Mode=0 dated March 26, 2018

○ Notification on Startup – DIPP

The Department of Industrial Policy and Promotion has issued guidelines for being considered as a “Startup”. An entity shall be considered as a Startup:

- Upto a period of 7 years from the date of incorporation / registration. This period shall be extended to 10 years if the entity falls under the Biotechnology sector.

- Turnover of the entity for any financial year since incorporation / registration has not exceeded INR 250 million.
- The entity is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.

Source: http://dipp.nic.in/sites/default/files/Startup_Notification11April2018_0.pdf dated April 11, 2018

○ Liberalised Remittance Scheme (LRS) for Resident Individuals – daily reporting of transactions

In order to improve monitoring and also to ensure compliance with the LRS limits, it has been decided to put in place a daily reporting system by AD banks of transactions undertaken by individuals under LRS, which will be accessible to all the other ADs.

All AD Category-I banks are required to upload daily transaction-wise information undertaken by them under LRS at the close of business of the next working day. In case no data is to be furnished, AD banks shall upload a 'Nil' report.

Source: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11255&Mode=0> dated April 12, 2018

○ Exim Bank's Government of India supported Line of Credit of USD 4.50 billion to the Government of the People's Republic of Bangladesh

Export-Import Bank of India (Exim Bank) has entered into an agreement with the Government of the People's Republic of Bangladesh for making available Line of Credit (LOC) of USD 4.50 billion (USD Four Billion and Five Hundred Million only).

Under the arrangement, financing export of eligible goods and services from India would be allowed which are eligible for export under the Foreign Trade Policy of the Government of India and whose purchase may be agreed to be financed by the Exim Bank under this agreement

Source: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11239&Mode=0> dated April 5, 2018

ASA & ASSOCIATES LLP

CHARTERED ACCOUNTANTS

www.asa.in

Head Office

Times Square, Fourth Floor, Block B Sushant Lok 1, Gurgaon 122 002 INDIA Tel : +91 124 4333 100
 Fax: +91 124 4333 101

Offices: Ahmedabad, Bengaluru, Chennai, Gurgaon, Hyderabad, Kochi, Mumbai, New Delhi

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