

News Weekly

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Services Offered

Corporate Finance
Audit and Assurance
Accounting Services
Income Tax
Service Tax
Value Added Tax
Corporate Governance
Services For Non-Resident
Consultancy

HIGHLIGHTS OF THE WEEK

INCOME TAX

- Submission of AADHAR details by subscriber not mandatory for any Provident Fund (PF) Transaction
- December 15, 2014 is last date for payment of Advance Tax @75% by the company and 60% by others.
- With effect from November 13, 2014, Invest upto Rs. 1.50 Lacs instead of Rs. 1 Lacs tax saving bank fixed deposit under section 80C.

SERVICE TAX

- Limitation of six months for availing CENVAT Credit not applicable in case of Re-availment.
- Amendments in Negative List applicable w.e.f. 1st October, 2014

DELHI VAT

- Last date for e-filing Form-9 (Details of Concessional interstate sales against From-C and F etc) for 2013-2014 has been extended to January 09, 2015. [DVAT Circular 19 of 27-11-2014]

COMPANIES ACT

- Last date of Filing CAR2 for appointment of Cost Auditor is January 31, 2015, No need to file if 23AC already filed for 2014-2015.

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SERVICE TAX

LIMITATION OF SIX MONTHS FOR AVAILING CENVAT CREDIT NOT APPLICABLE IN CASE OF RE-AVAILMENT"

CBEC has issued *Circular No. 990/14/2014-CX-8 dated 19th November, 2014* to clarify that the limitation of six months on availment of CENVAT Credit inserted by Notification No. 21/2014-CE (NT) is only applicable on credit taken for the first time within six months of the issue of the Invoice.

For instance an invoice is issued on 01/Sep/2014 & CENVAT Credit is availed on 01/Sep/2014 as per rule 4(7) of CCR, 2004. However, Payment to vendor is not made within 90 days i.e. till the end of December. Therefore, CENVAT Credit availed is required to be reversed on or before the completion of 90 days. Thereafter, payment to vendor is made in September 2015.

Now, the issue arises as to whether CENVAT Credit can be re-availed as per 3rd proviso to rule 4(7) of CCR, 2004 i.e. after the completion of six months. Now, CBEC, through this circular has clarified that it can be re-availed in September 2015 & there is no limitation on re-availment of such CENVAT Credit.

Therefore, re-credit taken in the following situations are outside the ambit of aforementioned Notification:

1. Whereas per 3rd proviso to rule 4(7) of CCR, 2004, payment of value of service and service tax payable is not made within three months, CENVAT Credit availed is required to be reversed back only to re-avail such CENVAT Credit after aforesaid payments are made.
2. Whereas per Rule 3(5B) of CCR, 2004, CENVAT Credit on inputs/ Capital goods are re-credited after being reversed owing to writing off such inputs/capital goods before being put to use.

- 3) Whereas per Rule 4(5)(a) of CCR, 2004, when the inputs sent to job workers are not received back within 180 days, CENVAT Credit availed on such inputs are reversed only to re-avail such CENVAT after such inputs are received back by the manufacturer or service provider.

AMENDMENTS IN NEGATIVE LIST APPLICABLE W.E.F. 1ST OCTOBER, 2014

Finance (No. 2) Act 2014 had proposed certain changes in Negative List which were to be applicable from a future date to be notified. These changes have now been **effected from 1st October, 2014** vide Notification No. 18/2014-ST dated 25th August, 2014

Consequent to the efficacy of the notification, following shall be the impact.

Service Tax will be applicable on:

- **Radio Taxi** (the abatement presently available to rent-a-cab service would also be made available to radio taxi service, to bring them on par); and
- **Advertisements in internet websites, out-of-home media, on film screen in theatres, bill boards, conveyances, buildings, cell phones, Automated Teller Machines, tickets, commercial publications, aerial advertising, etc. (sale of space for advertisements in newspapers, book other than business directories/yellow pages/trade catalogues would continue to be non-taxable)**

TRANSPORT OF GOODS BY VESSEL

Taxable portion in respect of transport of goods by vessel to be reduced **from 50% to 40%** effective service tax will decrease from the present 6.18% to 4.944%. this change will come in force from **1st October 2014**.



SERVICE TAX ON ACTIVITIES RELATED TO INWARD REMITTANCE

Earlier, department has issued *Circular No. 163/14/2012-ST dated 10th July, 2012* on the issue of levy of service tax on activities involved in the inward remittance. This clarification covers the scenario where the Indian bank/financial institution provide services on principal to principal basis to foreign bank/entity. Taxability of transaction where foreign Money Transfer Service Operator (MTSO) has appointed Indian Banks/financial entities as agent was left to be clarified.

Now, to clarify taxability of transactions under both scenario's department has issued *Circular No. 180/06/2014-ST dated 14th October, 2014 vide F. No. 354/105/2012-TRU (Pt.)* in suppression of *Circular No. 163/14/2012-ST dated 10th July, 2012*.

Taxability of various transactions related to inward remittances is as under:

Issue-1

Whether service tax is payable on remittance received in India from abroad?

Clarification-1

No service tax is payable *per se* on the amount of foreign currency remitted to India from overseas being transaction in money specifically excluded from the definition of service.

Issue-2

Whether the service of an agent or the representation service provided by an Indian entity/ bank to a foreign money transfer service operator (MTSO) in relation to money transfer falls in the category of intermediary service?

Clarification-2

Yes.

Issue-3

Whether service tax is leviable on the service provided, as mentioned in point 2 above, by an

intermediary/agent located in India (in taxable territory) to MTSOs located outside India?

Clarification-3

Service provided by an intermediary is covered by rule 9 (c) of the Place of Provision of Service Rules, 2012. As per this rule, the place of provision of service is the location of service provider. Hence, service provided by an agent, located in India (in taxable territory), to MTSO is liable to service tax.

The value of intermediary service provided by the agent to MTSO is the commission or fee or any similar amount, by whatever name called, received by it from MTSO and service tax is payable on such commission or fee.

Issue-4

Whether service tax would apply on the amount charged separately, if any, by the Indian bank/entity/agent/sub-agent from the person who receives remittance in the taxable territory, for the service provided by such Indian bank/entity/agent/sub-agent?

Clarification-4

Yes. As the service is provided by Indian bank/entity/agent/sub-agent to a person located in taxable territory, the Place of Provision is in the taxable territory. Therefore, service tax is payable on amount charged separately, if any.

Issue-5

Whether service tax would apply on the services provided by way of currency conversion by a bank /entity located in India (in the taxable territory) to the recipient of remittance in India?

Clarification-5

Any activity of money changing comprises an independent taxable activity. Therefore, service tax applies on currency conversion in such cases in terms of the Service Tax (Determination of Value) Rules. Service

provider has an option to pay service tax at prescribed rates in terms of Rule 6(7B) of the Service Tax Rules 1994.

Issue-6

Whether services provided by sub-agents to such Indian Bank/entity located in the taxable territory in relation to money transfer is leviable to service tax?

RE-ORGANIZATION OF SERVICE TAX DELHI COMMISSIONERATE"

Service Tax Delhi Commissionerate has been split in to the four independent Commissionerate's namely

- 1) Service Tax Commissionerate Delhi-I;
- 2) Service Tax Commissionerate Delhi-II;
- 3) Service Tax Commissionerate Delhi-III; and
- 4) Service Tax Commissionerate Delhi-IV.

Directorate of Data Management, Central Excise and Customs has issued **F. No - DDM/3105/2014/S.T./16 dated 15-10-2014** to allot Commissionerate codes.

Along with Commissionerate codes, the location codes have also been allotted to the Divisions and Ranges of Delhi -I, II, III and IV Service Tax Commissionerate. However, the address and jurisdiction of the respective Divisions and specific ranges are yet to be released.

For the purpose of change in the Jurisdiction of Commissionerate of the existing assessee, the changes will be done in the system soon. However, if there is any pending adjudication/SCN/other notices, corrigendum will be provided to each assessee for approaching the new jurisdictional officers with regard to pending adjudication/SCN/other notices.

Clarification-6

Sub-agents also fall in the category of intermediary. Therefore, service tax is payable on commission received by sub-agents from Indian bank/entity

INTEREST RATE ON LATE PAYMENT OF SERVICE TAX

Simple interest rates per annum payable under section 75, to vary on the basis of extent of delay in payment of service tax. This will come into force on **1st October 2014**.

Extent of Delay	Simple interest rate per annum
Up to six month	18%
From six month and up to one year	24%
More than one year	30%

COMPANIES ACT 2013

Nomenclature of various forms prescribed under the provisions of Companies Act, 2013

- Forms under the new Act are mandatorily numbered alpha-numeric
- Initial of forms is to be started with alphabet of two or three letters based on the subject of the Chapter, followed by serial number of the form.

Summary of chapter wise nomenclature of forms

Chapter No.	Particulars of chapters	Form no. Starts with.
II	I ncorporation of company and matters incidental thereto.	INC
III	P rospectus and A llotment of S ecurities	PAS
IV	S hare Capital and Debenture	SH
V	Acceptance of D eposit by Companies	DPT
VI	C harges	CHG
VII	M anagement and Administration	MGT
VIII	Declaration and Payment of D ividend	DIV
IX	A ccounts of companies	AOC
X	A udit and auditors	ADT
XI	Appointment and Qualification of D irector	DIR
XII	M eetings of B oard and Its P ower	MBP
XIII	Appointment and Remuneration of M anagerial Personnel	MR
XXI	C ompanies Authorized to R egister U nder this Act	URC
XXII	Company Incorporated Outside India	FC
XXIV	Registration Offices and fees	GNL
XXVI	N idhis	NDH
XXVIII	Special Court	MAC
XXIX	Memorandum of appeal	ADJ
XXIX	M iscellaneous	MSC

MAPPING OF NEW FORMS

S No.	New E- Form CA, 2013	Corresponding old form under CA, 1956	Purpose of form as per companies act, 2013
1	INC-1	1A	Application for reservation of name
2	INC-2	New form	Form for Incorporation and nomination (One Person Company)
3	INC-3	New form	Form for consent of nominee of One Person Company
4	INC-4	New form	Form for change in member/nominee of One Person Company
5	INC-5	New form	Form for intimation of exceeding threshold of One Person Company
6	INC-6	New form	Application for Conversion

7	INC-7	1	Application for Incorporation of Company (Other than One Person Company)
8	INC-18	New form	Application to Regional Director for conversion of section 8 company into any other kind of company
9	INC-20	New form	Intimation to Registrar of revocation or surrender of license issued under section 8
10	INC-21	19	Declaration prior to the commencement of Business
11	INC-22	18	Notice of situation or change of situation of registered office and verification
12	INC-23	1AD, 24AAA	Application to Regional director for approval to shift the registered office from one state to another state or from jurisdiction of one registrar to another within the state
13	INC-24	1B	Application for approval of Central Government for change of name
14	INC-27	1B,62	Conversion of public company into private company or private company into public company
15	INC-28	21	Notice of order of the Court or other authority
16	PAS-3	2	Return of allotment
17	SH-7	5	Notice to Registrar for alteration of share capital
18	SH-8	NEW FORM	letter of offer
19	SH-11	4C	Return in respect of buy back of securities
20	CHG-1	8	Application for registration of creation, modification of charge (other than those related to debentures) including particulars of modification of charge by Asset Reconstruction Company in terms of (SARFAESI)
21	CHG-4	17	Particulars for satisfaction of charge
22	CHG-6	15	Notice of appointment or cessation of receiver or Manager
23	CHG-9	10	Application for registration of creation or modification of charge for debentures or rectification of particulars filed in respect of creation or modification of charge for debentures
24	MGT-6	22B	Form of return to be filed with the Registrar
25	MGT-14	23	Filing of Resolutions and agreements to the Registrar under section 117
26	DIR-3	DIN1	Application for allotment of Director Identification Number
27	DIR-6	DIN4	Intimation of change in particulars of Director to be

			given to the Central Government
28	DIR-11	NEW FORM	Notice of resignation of a director to the Registrar
29	DIR-12	32, 32AD	Particulars of appointment of directors and the key managerial personnel and the changes among them
30	MR-1	25C	Return of appointment of managing director or whole time director or manager
31	MR-2	25A	Form of application to the Central Government for approval of appointment or reappointment and remuneration or increase in remuneration or waiver for excess or over payment to managing director or whole time director or manager and commission or remuneration to directors
32	URC-1	37,39	Application by a company for registration under section 366
33	FC-1	44	Information to be filed by foreign company
34	FC-2	49,52	Return of alteration in the documents filed for registration by foreign company
35	FC-3	52	List of all principal places of business in India established by foreign company
36	FC-4	PTII	Annual Return
37	GNL-1	61	Form for filing an application with Registrar of Companies
38	GNL-2	62	Form for submission of documents with Registrar of Companies
39	GNL-3	1AA	Particulars of person(s) or director(s) or charged or specified for the purpose of section 2(60)
40	ADJ	NEW FORM	Memorandum of Appe
41	MSC-1	NEW FORM	Application to ROC for obtaining the status of dormant company
42	MSC-3	NEW FORM	Return of dormant companies
43	MSC-4	NEW FORM	Application for seeking status of active Company
44	RD-1	24A	Form for filing application to Regional Director
45	RD-2	24AAA	Form for filing petitions to Central Government (Regional Director)
46	CG-1	65	Form for filing application or documents with Central Government

CORPORATE SOCIAL RESPONSIBILITY

Applicability

- Applicable from the financial year 2014-15 and effective from 1 April 2014
- CSR provisions applicable to every company having:
 - Net worth => ` 500 crore , or
 - Turnover => ` 1,000 crore , or
 - Net profit => ` 5 crore

CSR Committee

Constitution of a CSR Committee, comprising 3 or more directors with at least 1 ID

- Unlisted public companies and private companies who are required to comply with CSR provisions and are not required to appoint an ID as per the 2013 Act, may set up the CSR committee without an ID [CSR Rules 2014, para 5(1)(i)]

CSR spend

- CSR spend should be at least 2% of the average net profit of the company in the immediately 3 preceding years
- Net profit of a company to mean net profit as per its financial statements prepared in accordance with the 2013 Act [CSR Rules 2014, para 2(f)], but excludes:
 - any profit arising from any overseas branch or branches of the company, whether or not operated as a separate company;
 - any dividend received from other companies in India complying with CSR provisions, as applicable
- Net profit in respect of a FY for which financial statements have been prepared as per the 1956 Act is not required to be re-calculated as per 2013 Act

Mode of operation

- CSR projects / programs / activities approved can be implemented through [CSR Rules 2014, para 4(2)]

- a registered trust, or
- a registered society, or
- a company established by the company or its holding or subsidiary or associate company whether a not for profit company or otherwise

- Board report and company's website to contain specified disclosure

Other conditions [CSR Rules 2014, para 4]

- CSR projects / programs / activities are required to be undertaken in India only

WOMAN DIRECTOR – AT LEAST 1

The following class of companies [Chapter XI, Rule 3] requiring woman director to comply with this requirement within 1 year (by April 1, 2015)

- Listed companies
- Public companies with paid up capital of Rs. 100 crores or more or turnover of Rs. 300 crores or more

Companies incorporated under the 2013 Act are required to comply with the above, if applicable, within 6 months of incorporation

LIMITS ON DIRECTORS

Maximum - 15

(can be increased by passing a special resolution).

LIMITS OF DIRECTORSHIPS

- Maximum 20 companies including any alternate directorship – includes private companies, excludes foreign companies
- Of the maximum 20, not more than 10 can be public companies (private companies that holding or subsidiaries of public company are also included).
- Minimum number of directors in
 - Public company – 3
 - Private company – 2

IMPORTANT DATE

Due Date	Under The Act	Application Form	Obligation
15/12/2014	Income Tax	Challan No. ITNS-280	Due date of Advance tax
15/12/2014	Provident Fund	Electronic Challan cum Return (ECR)	E-Payment of PF for Nov (Cheque to be cleared by 20th)
21/12/2014	ESI	ESI Challan	Payment of ESI of Nov
21/12/2014	M-VAT	MVAT Challan	Payment of VAT & WCT TDS under MVAT for Nov
21/12/2014	D-VAT	DVAT-20 & Central	Deposit of VAT & CST for Nov

DATES OF FILING QUARTERLY STATEMENTS E-TDS RETURN

S No.	Return for Quarter ending	Due date for Government Offices	Due date for Other Deductor
1	30th June	31st July	15th July
2	30th September	31st October	15th October
3	31st December	31st January	15th January
4	31st March	15th May	15th May