

technical update

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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.

DIRECT TAX

Amendments, Notifications & Court Rulings

- CBDT notifies the Rule to make PAN inoperative if it is not linked with Aadhaar.
- CBDT notifies Forms to exercise option under new regime of section 115BAA and 115BAB for reduced corporate tax rates.
- CBDT issues clarification on the applicability of TDS provisions on Mutual Fund dividend.

INDIRECT TAX

Amendments, Notifications, Circulars

- Chapter IV of Finance Bill, 2020
- Notification No. 07/2020 – Central Tax dated February 03, 2020
- Madras High Court ruling - Refex Industries Limited Vs The Assistant Commissioner of CGST & CE on January 06, 2020
- Haryana Appellate Authority for Advance Ruling (AAAR)- M/s YKK India Private Ltd – Appeal case dated April 03, 2019
- Hon'ble Supreme Court of India ruling- Union of India Vs Tax Bar Association & Ors on February 10, 2020

MCA NOTIFICATIONS

MCA Rules:

- Companies (Accounts) Amendment Rules, 2020
- National Company Law Tribunal (Amendment) Rules, 2020
- Nidhi (Second Amendment) Rules, 2020
- Companies (Incorporation) Amendment Rules, 2020

MCA Circulars:

- Relaxation of additional fee

RBI Notifications

- Subvention Scheme for MSMEs

DIRECT TAX

Amendments, Notifications & Court Rulings

- **CBDT notifies the Rule to make Permanent Account Number ('PAN') inoperative if it is not linked with Aadhaar**

Where a person, who has been allotted a PAN as on July 1, 2017 and is required to intimate his Aadhaar number under section 139AA (2) of the Income Tax Act, 1961, has failed to intimate the same on or before the 31st day of March, 2020, the PAN of such person shall become inoperative immediately after the said date. Where a person, whose PAN has become inoperative, he shall be liable for all the consequences under the Income-tax Act for not furnishing, intimating or quoting PAN.

Source: NOTIFICATION G.S.R. 112(E) [NO.11/2020/F.NO. 370149/166/2019-TPL], DATED February 2,2020

- **CBDT notifies Forms to exercise option under new regime of section 115BAA and 115BAB for reduced corporate tax rates.**

A domestic company who has opted to exercise the option under section 115BAA of a reduced tax rate of 22% (on fulfilling the prescribed conditions) would have to file Form No. 10- IC as per new Rules 21AE inserted in Income-tax Rules 1962 ('Rules') for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020. Further, a domestic company who has opted to exercise the option under section 115BAB of a reduced tax rate of 15% (on fulfilling the prescribed conditions) would have to file in Form No. 10- ID for any previous year relevant to the assessment year beginning on or after April 01, 2020.

The forms shall be furnished electronically either under digital signature or electronic verification code.

Source: NOTIFICATION G.S.R. 110(E) [NO. 10/2020/F.NO./370142/34/2019-TPL], DATED February 2, 2020

- **CBDT issues clarification on the applicability of TDS provisions on Mutual Fund dividend.**

It is clarified by CBDT that under the proposed section 194K of Income-tax Act 1961, Mutual Fund shall be required to deduct TDS at the rate of 10% only on dividend payment and no tax shall be required to be deducted by the Mutual Fund on income which is in the nature of capital gains on redemption of units.

Source: PRESS RELEASE, DATED February 4, 2020

INDIRECT TAX

Amendments, Notifications, Circulars

Key GST amendments proposed by Union Budget 2020-21:

- Date of issuance of debit note delinked from date of underlying invoice to determine time period for availing input tax credit in respect of such debit note
- Provisions introduced to prescribe manner of issuance of invoice in case of supply of specified taxable services
- Beneficiary also now equally liable for penalty for fraudulently availing input tax credit along with person committing such fraud
- Availment of tax credit without an invoice or a bill shall be cognizable and non-bailable offence

Chapter IV of Finance Bill, 2020

- **Due dates for filing FORM GSTR-3B for the months of January, February and March 2020:**

The due dates for taxpayers having an aggregate turnover of up to INR 50 million in the previous FY, based on the State of their principal place of business shall be as follows:

For registered taxpayers having principal place of business in the State of Revised Due Date for GSTR 3B

Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep 22nd of each subsequent month

Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi 24th of each subsequent month

Notification No. 07/2020 – Central Tax dated February 03, 2020

- **Interest on delayed payment of tax:**

As per amended Section 50 of the CGST Act effective from August 01, 2019, interest is not payable on the gross tax liability but only on net tax liability after reducing available ITC. This amendment seeks to correct an anomaly in the original provision and thus shall be operative retrospectively.

Madras High Court ruling – M/s Refex Industries Limited Vs Assistant Commissioner of CGST & CE on January 06, 2020

ITC is eligible where buses have approved seating capacity of more than thirteen persons after amendment of the CGST Act effective from August 08, 2018.

Haryana Appellate Authority for Advance Ruling (AAAR) - M/s YKK India Private Ltd – Appeal case dated April 03, 2019

- **Late fees to be applicable on late filing of GSTR 9 and 9C for FY 2017-18:**

Late fees of INR 200 per day shall be applicable on filing of Form GSTR 9 and 9C for FY 2017-18 after February 12, 2019. However, no penal provisions shall be invoked by the Department.

Hon'ble Supreme Court of India ruling- Union of India Vs Tax Bar Association & Ors on February 10, 2020

MCA NOTIFICATIONS & CIRCULARS:

MCA Rules:

- **Companies (Accounts) Amendment Rules, 2020**

MCA has mandated for every Ind AS complying non-banking financial company (NBFC) to file Financial Statements with Registrar in Form AOC-4 NBFC (Ind AS) and the consolidated financial statement, if any, in Form AOC-4 CFS NBFC (Ind AS).

Source: http://www.mca.gov.in/Ministry/pdf/Rules_31012020.pdf dated January 30, 2020.

- **National Company Law Tribunal (Amendment) Rules, 2020**

MCA has come up with a new provision for the aggrieved parties with respect to the takeover offer under compromises, arrangements and amalgamations of companies, other than listed companies.

The aggrieved parties may make an application in Form NCLT-1 to the Tribunal along with an application fee shall be Rs. 5000/- (Five Thousand Rupees only).

Source: http://www.mca.gov.in/Ministry/pdf/Rules3_04022020.pdf dated February 3, 2020.

- **Nidhi (Second Amendment) Rules, 2020**

MCA has revised the time limits for companies to declare themselves as Nidhi Companies by nine months from the date of commencement of Nidhi (Amendment) Rules, 2019.

If the Companies doesn't comply with the above said requirements, it shall not be allowed to file Form No. SH-7 i.e. alteration of share capital and Form PAS-3 i.e. Return of Allotment.

Source: http://www.mca.gov.in/Ministry/pdf/rule_14022020.pdf dated February 14, 2020.

- **Companies (Incorporation) Amendment Rules, 2020**

MCA has come up with the new incorporation form i.e. "SPICe+ (Simplified Performa for Incorporating Company Electronically Plus: INC-32) with effect from February 23, 2020.

The following feature is added under SPICe+:

Profession Tax Registration;

Opening of Bank Account;

Application of new name.

Source: http://www.mca.gov.in/Ministry/pdf/rule_22022020.pdf dated February 18, 2020.

MCA Circulars:

Relaxation of additional fee

- MCA has extended the last date of filing of e-form AOC-4 NBFC (Ind AS) i.e. financial statements and e-form AOC-4 CFS NBFC (Ind AS) i.e. consolidated financial statements for the Financial Year 2018-19, up to March 31, 2020.

Source: http://www.mca.gov.in/Ministry/pdf/Circular_30012020.pdf dated January 30, 2020.

- MCA has extended the last date of filing of E-Form AOC-4, AOC-4 (CFS), AOC-4 XBRL i.e. financial statements and MGT-7 i.e. Annual return for the Financial Year 2018-19, up to March 31, 2020 for the companies having jurisdiction in UT of J&K and UT of Ladakh.

Source: http://www.mca.gov.in/Ministry/pdf/Circular_31012020.pdf dated January 31, 2020.

RBI Notifications:

Subvention Scheme for MSMEs

The Reserve Bank of India ('RBI') has come up with changes in operational guidelines for the captioned scheme contained in circular on 'Interest Subvention Scheme for MSMEs'.

It has now been allowed to submit statutory auditor certificate by June 30, 2020 and in the meantime, to settle claims based on internal / concurrent auditor certificate. Acceptance of claims in multiple lots for a given half year by eligible institutions has been allowed. RBI noted that the requirement of Udyog Aadhar Number (UAN) may be dispensed with for units eligible for GST. Unit not required to obtain GST, may either submit Income Tax Permanent Account Number (PAN) or their loan account must be categorized as MSME by the concerned bank. RBI has also permitted trading activities without UAN.

Further, with the trading activity also eligible for interest subvention, the 'Format of Certificate for claiming Subsidy' has been revised.

Source: https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=11803&fn=2754&Mode=0 dated February 05, 2020

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