

Amendments to Income Tax

✧ Income Tax Returns

- a) Income tax Returns ITR 1, 2 & 4S simplified for convenience of the tax payers.
 - b) At present individuals/HUFs having income from more than one house property and capital gains are required to file Form ITR-2.
 - c) A New Form ITR 2A Proposed which can be filed by an Individual or HUF who does not have Capital Gains, Income from Business/Profession or Foreign Asset/Foreign Income.
 - d) Due date of filing Income Tax return ITR 2 & 2A extended to 31st August from 31st July.
 - e) No need to disclose the foreign travel expenses. Only Passport Number needs to be disclosed in ITR 2 & 2A.
 - f) Individuals having exempt income without any ceiling (other than agricultural income exceeding Rs. 5,000) can now file Form ITR 1 (Sahaj).
 - g) As regards bank account details in all these forms, only the IFS code, account number of all the current/savings account which is held at any time during the previous year will be required to be filled-up. The balance in accounts will not be required to be furnished. Details of dormant accounts which are not operational during the last three years are not required to be furnished.
 - h) An individual who is not an Indian citizen and is in India on a business, employment or student visa (expatriate), would not mandatorily be required to report the foreign assets acquired by him during the previous years in which he was non-resident, if no income is derived from such assets during the relevant previous year.
- ✧ Any sum of money receivable in relation to transfer of immovable property whether or not transfer took place, amount taken or accepted in cash for more than Rs.20,000/- then penalty equal to amount taken or accepted will be charged. In case the amount is repaid in cash and amount received together with interest is Rs. 20000 or more, penalty equal to amount repaid shall be imposed.
- ✧ Form 15CA/CB is required to be furnished also for transactions where no income is chargeable to tax in India. Penalty for not providing/ incorrect furnishing of Form 15CA/15CB is Rs. 1 lakh subject to pleading reasonable cause.
- ✧ Payment to transport operators is subject to TDS if the transport operator is having more than 10 trucks or fails to give declaration that he owns less than 10 trucks and his PAN.

- ✧ TDS on Interest exceeding Rs. 10,000 paid by Co-operative Banks to members shall now be subject to deduction of tax at source. Members need to submit Form 15G/15H, PAN.
- ✧ Interest on Recurring Deposit is hereafter liable to TDS subject to limit of Rs. 10,000.
- ✧ TDS @ 10% should be deducted when the amount of payment or aggregate amount of payment exceeds Rs. 30,000/- on payment of accumulated balance due on Employees Provident Fund (W.E.F. 01-06-2015)
- ✧ Calculation of threshold limit for TDS from interest on FDR and RD will be on the basis of per bank and not per branch.
- ✧ Employer need to collect and keep proof of deduction claimed by the employees from their Salary income.
- ✧ Person like Individual & HUF who are not subject to Tax Audit u/s 44B need not take TAN for payment of one time TDS like buying property from NRI.
- ✧ New TCS return will also be processed.
- ✧ In case of motor accident claim, TDS provisions will be applicable only at the time of payment if claim amount exceeds Rs.50000 and not at the time of credit.
- ✧ **ARREAR DEMAND:** The CBDT has issued Circular No. 8 of 2015 dated 14.05.2015 setting out the detailed procedure that has to be followed by taxpayers in response to an arrear demand from the AO.

CORPORATE LAW

(I) Important Changes as per Companies (Amendment) Bill, 2015 passed in May 2015

- ✧ Existing provisions required a private company to have a minimum paid up share capital of Rs. 1 lakh, and a public company to have Rs.5 lakh. With the amendment, this minimum requirement of paid up share capital is done away with.
- ✧ Affixation of Common seal was earlier mandatory, now with the amendment it has become optional.
- ✧ The requirement of obtaining a Certificate of Commencement of Business made applicable to even private companies, has now been omitted.
- ✧ For execution of Bills of Exchange & issue of Share certificate, common seal was mandatory earlier. Now with the amendment, the use of common seal is optional. Where a company doesn't have a common seal, the authorization u/sec 22(2) and the issue of share certificate shall be made by any two directors, or by a director along with the company secretary, if appointed.
- ✧ New provision inserted providing punishment for accepting deposits in violation of the provisions of the Act.

- ✧ Earlier MGT-14 filed by a company as per the provisions of section 179(3) for Board Resolution was available for public inspection, has been amended barring public inspection of such documents.
- ✧ A new proviso inserted providing that no company shall declare dividend unless previous year carry over losses and depreciation not provided for in previous year or years is set off against the profits of the company for the current year.
- ✧ The reporting of fraud committed by the employees against the company is now suitably amended to provide limits within which it is to be reported to the Audit Committee or the Board, or the Central Government as may be prescribed. Where it is not reported to the Central Government, the same should be disclosed in the Board Report.
- ✧ Companies with paid up capital of Rs.10 crore or more where required to get the shareholders approval through a special resolution for related party transaction. The amended provisions have removed the requirement of special resolution and now an ordinary resolution is sufficient.
- ✧ Such ordinary resolution also is not required where the related party transaction is between a holding company and its subsidiary, whose accounts is consolidated and has been placed before the shareholders for their approval.
- ✧ In exercise of the powers conferred by sub-section (2) of section 1 of the Companies (Amendment) Act, 2015 (21 of 2015), the Central Government hereby appoints the 29th May, 2015 as the date on which the provisions of sections 1 to 12 and 15 to 23 of the said Act shall come into force.

[NOTIFICATION [F.NO.1/6/2015-CL.V], DATED 29-5-2015]

(II) Companies (Incorporation) Amendment Rules, 2015

- ✧ eForm INC 21 is omitted. Company having share capital could earlier commence the business and exercise its borrowing powers only after filing a declaration in eForm INC-21 and particulars of the registered office address with the concerned RoC. Rule 24 providing for the same is now omitted.
- ✧ eForm INC-13 (Memorandum of Association) and eForm INC-16 (License u/sec 8(1) of the Companies Act, 2013) is replaced with revised eForms.

(III) MCA Notification to exempt private companies u/s 462 of the Companies Act 2013

- ✧ MCA Notification dated 06.06.2015 exempts one person company, dormant companies, small companies and private companies (having paid up share capital less than One Hundred Crore Rupees) from the limit of “twenty companies” for rotation of auditors.

FEMA

Liberalised Remittance Scheme (LRS) for resident individuals.

- ✧ AD banks may now allow remittances by a resident individual up to USD 250,000 per financial year for any permitted current or capital account transaction or a combination of both. Any remittance in excess of the limit will require RBI permission.
- ✧ Certain exceptions like medical treatment, studies abroad and emigration is provided.
- ✧ Persons other than individuals can make remittances as per limits prescribed.
- ✧ While making the above remittances, such persons (other than individuals) shall submit to the concerned AD branch a declaration to the effect that the limits and conditions relating to the remittances have been complied with.

Review of Foreign Direct Investment Policy

- ✧ The definition of Non-Resident Indian in FDI Policy is amended to include OCI card holders and PIO card holders and also providing that for the FDI purposes the non-repatriable investment by NRIs under Schedule 4 of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations **will be deemed to be domestic investment at par with the investment made by residents.**
- ✧ The above decision is in effect from 18th June 2015.

SERVICE TAX

Summary of changes made to service tax vide Finance Bill 2015 and the various dates on which they come into effect:

- A. With effect from 1st March 2015
- B. With effect from 1st April 2015
- C. With effect from date of enactment of Finance Bill i.e, 14th May 2015
- D. With effect from the date of notification 1st June 2015

A. Changes with effect from 1st March 2015:

- (i) Services of an AGGREGATOR made taxable from 01.03.2015. Shifting the liability of payment of service tax on aggregator of a service where service is provided under the brand name of the aggregator.
- (ii) SIMPLIFIED REGISTRATION PROCEDURE
- Order No. 1/15-ST, dated 28.2.2015, effective from 1.3.2015 has been issued, prescribing documentation, time limits and procedure for registration. Registration for single premises shall be provided in two days.
 - A provision for issuing digitally signed invoices is being added along with the option of maintaining of records in electronic form and their authentication by means of digital signatures.
- (iii) CERTAIN AMENDMENTS IN THE CENVAT CREDIT RULES.
- The period for taking Cenvat Credit is being extended from six months from the date of invoice to one year from the date of invoice.
 - Certain other changes are being made in the provisions of the Cenvat Credit Rules, 2004, which, *inter-alia*, include allowing Cenvat Credit on input and capital goods received directly by job workers, defining “export goods” for the purposes of rule 5, defining “exempt goods” for the purposes of Rule 6, making applicable the provision of rule 9(4) to importer dealers, authorizing imposition of restrictions on registered dealers under rule 12AAA, and provisions relating to recovery of credit wrongly taken and imposition of penalty. For details, the D.O. letter of J.S (TRU-I) may please be referred to.
- (iv) The scope of advance rulings is extended to resident firms as well.

B. Changes with effect from 1st April 2015

(i) SERVICES TAXABLE FROM 01.04.2015

Some of the relevant services are listed below:

- Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -
 - (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
 - (c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;

(f) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Act;

- Services by way of construction, erection, commissioning, or installation of original works pertaining to,-
 - (a) an airport, port;
- Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater, **will be limited only** to such cases where amount charged is upto Rs 1,00,000 for a performance. However, the exemption shall not apply to service provided by such artist as a brand ambassador.

(ii) **NEW EXEMPTIONS INSERTED FROM 01.06.2015 (Relevant services listed)**

- Service by a Common Effluent Treatment Plant operator for treatment of effluent
- Life Insurance service by Varistha Pension Bima Yojana
- All Ambulance services
- Admission to a museum, zoo, national park, wild life sanctuary, and a tiger reserve. These services when provided by the Government of Local Authority are already covered by the negative list.
- Service provided by exhibitor of movie to a distributor or an AOP consisting of exhibitor as one of its member
- Transport of export goods by road from the place of removal to a land customs station.

(iii) **CHANGE IN ABATEMENT RATES AND CONDITIONS THEREOF:**

Uniform rate of abatement on all modes of transport

- A uniform abatement of 70% is now being prescribed for transport by rail, road and vessel and Service Tax shall be payable on 30% of the value of such service subject to a uniform condition of non-availment of Cenvat Credit by service provider.

Lower abatement on other than economy class air travel passengers

- The abatement for classes other than economy air travel is being reduced and Service Tax is payable on 60% of the value of such higher classes.

Service tax payable on full value of consideration received by Chit Foreman

- Service Tax shall be paid by the chit fund foremen on the full consideration received by way of fee, commission or any such amount. They would be entitled to take Cenvat Credit as eligible to make such output tax payment.

(v) **AMENDMENT IN REVERSE CHARGE MECHANISM,-**

- Full reverse charge @100% will apply on **manpower supply and security service** provided by individual, HUF, partnership firm to a body corporate.

(vi) CENVAT CREDIT RULES :

Credit on reverse charge payment can be immediately taken

- Rule 4(7) is being amended to allow Cenvat Credit of Service Tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider. This change will come into effect from 1.4.2015.

C. Changes with effect from the date of enactment of Finance Bill i.e, 14th May 2015

- ✧ Insertion of new definition to specify the term “**government**” [section 65 B (26A)]
- ✧ Insertion of a **new Explanation** in the **definition of service** [section 65 B (44)]
 - An Explanation is being inserted in the definition of “service” to specifically state the intention of the legislature to levy Service Tax on activities undertaken by chit fund foremen in relation to chit, and lottery distributors and selling agents, in relation to lotteries. [section 65 B (44)].
 - Further, an explanation is being added in entry (i) of section 66D to specifically state that these activities are not covered by the Negative List.
- ✧ Insertion of an illustration to explain the scope of exempt service.
 - Section 66F (1) prescribes that unless otherwise specified, reference to a service shall not include reference to any input service used for providing such services. An illustration is being incorporated in this section to exemplify the scope of this provision.
- ✧ Amendment in the definition of the term “**consideration**” in section 67
 - All reimbursable expenditure or cost incurred and charged by the service provider in the course of providing a taxable service shall be liable to service tax.
 - Any amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as the case may be, the discount received, that is the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets is liable to service tax.
- ✧ Amendments in **PENALTY PROVISIONS** of sections 73, 76 and 78 providing rationalization of penalty, recovery proceedings on self assessed tax not paid, omission of waiver of penalty even if reasonable cause is shown.

D. With effect from the date notified after the enactment of the Finance Bill, 2015 01.06.2015

- The **rate of Service Tax** is being increased from 12% subsuming both Cesses to 14%.
- **Negative List** - The changes proposed in the Negative List in Section 66 D are as follows:
 - ✧ Admission to entertainment event or access to amusement facility becomes taxable.
 - ✧ Service for production or manufacture of alcoholic liquor for human consumption become taxable
 - ✧ Services provided by the Government or local authority to a business entity to be made taxable (Not yet notified)
 - ✧ Job work in relation to alcoholic liquor for human consumption also made taxable
 - ✧ Additional new list of exempted services
 - right to admission to exhibition of film, circus, dance or theatrical performances including drama, or ballet;
 - recognized sporting event; and
 - admission to other events where the consideration for admission is upto Rs. 500;
 - ✧ Amendments in alternative rates of service tax provided for air travel agent, insurance service, money changing service and service provided by a lottery distributor and selling agent in rule 6(7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules.
 - ✧ For Restaurant services, where air conditioning or central hearing is in any part of the establishment, service tax @ 14% on 40% of the bill value will apply. The effective new rate will be 5.6% on the gross bill value.

CENVAT CREDIT RULES

- ✧ From 1st March 2015, credit can be taken on Cesses paid on inputs & capital goods and input services received on or after 01.03.2015, balance 50% on capital goods received during FY2014-15, and utilized against Excise Duty payment by a Manufacturer effective 30.04.2015.
- ✧ Clarification issued regarding Cenvat Credit in transit sale through dealer on the possibilities to send the goods directly to the consignee from manufacturer/ importer by the dealer and who can avail cenvat credit on the goods procured.

[CBEC Circular 1003/10/2015-CX, Dated: May 05, 2015]

VALUE ADDED TAX

- ✧ Input Tax Credit reversal imposed at the rate of 3 per cent on the inter-state sale of goods, which was introduced with effect from 11.11.2013 will be withdrawn. Clause (c) under Section 19(5) of TNVAT Act, 2006 will henceforth be withdrawn to enable the dealers to claim Input Tax Credit on the inter-State sale of goods without 'C' form. This measure will eliminate additional burden on the dealers effecting inter-State sale of goods without 'C' form.
- ✧ All existing dealers who are statutorily required to file monthly returns in the relevant Form I,K,L,J and Form 1 and new dealers registering for obtaining TIN shall file the return electronically. [Circular No.21/2015 D3/32639/2014 dated 25-05-2015]

***“Thinking is the capital, Enterprise is the way, Hard Work is the solution”
- Dr.A.P.J.Abdul Kalam***

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