



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.

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## DIRECT TAX

### 1. Admissibility of expenditure incurred by a firm on Keyman Insurance Policy in case of Partner

The Punjab and Haryana High Court in case of M/s Ramesh Steels, ITA no. 437 of 201, vide judgement dated February 2, 2016 held that, “the said policy when obtained to secure the life of the partner to safeguard the firm against a disruption of the business is equally for the benefit of the partnership business which may be affected as a result of premature death of a partner. Thus the premium on the Keyman Insurance Policy of partner of the firm is wholly and exclusively for the purpose of business and is allowable as business expenditure.”

Further, taking into account the Explanation to clause (10D) of section 10 of the Act and CBDT Circular no. 762 dated February 18, 1998, Courts have held that a Keyman Insurance Policy is not confined to a policy taken for an employee but also extends to an insurance policy taken with respect to life of another person who is connected in any manner whatsoever with the business of the assessee.

In view of this, it is settled position that in case of a firm, premium paid by the firm on Keyman Insurance Policy of a partner, to safeguard the firm against a disruption of the business, is admissible expenditure u/s 37 of the Act.

*Source: Circular No. 38/2016 Dated November 22, 2016*

### 2. Taxation and Investment Regime for Pradhan Mantri GaribKalyanYojana, 2016

In order to tax black money post demonetisation, the government has, on November 26, 2016, introduced in Lok Sabha "The Taxation Laws (Second Amendment) Bill, 2016" (the Bill) proposing to tax income in the form of cash or deposit in bank, post office or RBI. The Scheme namely "Taxation and Investment Regime for Pradhan MantriGaribKalyanYojana, 2016" is proposed in the Bill.

The main features of the Scheme are:

#### 1) Tax, Surcharge and Penalty

Tax on Income declared	30% of Income
Surcharge	33% of Tax
Penalty	10% of Income
<b>Therefore, Total effective tax rate</b>	<b>49.90% of Income</b>

#### 2) Interest Free Deposit

The Bill also provides that 25 percent of Income declared is to be deposited in Interest free Deposit withdrawable after four years under “Pradhan Mantri GaribKalyan Deposit Scheme, 2016”

### 3. There would be no transfer of immovable property, unless a registered sale deed is executed

There was an agreement for purchase of land which was not carried out and matter was taken to Court, where parties entered into settlement for transfer of plot. Fact remains that no legal document having effect of transfer of immovable property was placed before Appellate Authority. Under the provisions of Transfer of Property Act, 1882 unless a registered sale deed is executed, title of immovable property cannot pass. Agreement to sale is not a transaction of immovable property but only a promise to enter into another agreement relating to sale of immovable property. Hence, it is evident that there was no sale of property in dispute for the reason that no sale deed was placed before Revenue authorities so as to claim capital gain.

Legends

Act – Income Tax Act, 1961

CBDT – Central Board of Direct Taxes

u/s – Under Section

## INDIRECT TAX

### 1. Goods & Service Tax - GSTN portal get activated from 08/11/2016, for registration under GST for the various states

Enrollment process of the existing tax payers for the smooth functioning of GST Regime has been started from November 8, 2016 in a phased manner.

Other states will be covered as under:

S. No	States Covered	Start Date	End Date
1.	Paducherry, Sikkim	08/11/2016	23/11/2016
2.	Maharashtra, Goa, Daman and Diu, Dadra and Nagar Haveli, Chhattisgarh	14/11/2016	30/11/2016
3.	Gujarat	15/11/2016	30/11/2016
4.	Odisha, Jharkhand, Bihar, West Bengal, Madhya Pradesh, Assam, Tripura, Meghalaya, Nagaland, Arunachal Pradesh, Manipur, Mizoram	30/11/2016	15/12/2016
5.	Uttar Pradesh, Jammu and Kashmir, Delhi, Chandigarh, Haryana, Punjab, Uttarakhand, Himachal Pradesh, Rajasthan	16/12/2016	31/12/2016
6.	Kerala, Tamil Nadu, Karnataka, Telangana, Andhra Pradesh	01/01/2017	15/01/2017
7.	Enrolment of Taxpayers who are registered under Central Excise Act/ Service Tax Act but not registered under State VAT	01/01/2017	31/01/2017
8.	Delta All Registrants (All Groups)	01/02/2017	20/03/2017

**2. CBEC has come up with the Revised Model GST Law, Draft I-GST Law & Draft GST Compensation Law**

For details kindly refer the site – [cbec.gov.in](http://cbec.gov.in) – GST Tab – Revised GST Laws

**3. Service Tax - Amendment in Place of Provision of Services Rules 2012 – Place of Provision of Services (Amendment) Rules, 2016 – w.e.f. December 1, 2016**

**Rule 3 of POS will be read as under henceforth:**

The place of provision of a service shall be the location of the recipient of service.

Provided that in case of services other than online information and database access or retrieval services, where, the location of the service receiver is not available in the ordinary course of business, the place of provision shall be the location of the provider of service.

*Source: Notification No. 46/2016-Service Tax dated November 9, 2016*

**4. Service Tax -Amendment in Mega Exemption Notification services received from a provider of service located in a non- taxable territory w.e.f. December 1, 2016**

Entry number 34 will be read as under henceforth:

Services received from a provider of service located in a non- taxable territory by –

- a) Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
- b) an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities; or
- c) a person located in a non-taxable territory;

“Provided that the exemption shall not apply to online information and database access or retrieval services received by persons specified in clause (a).

*Source: Notification No. 47/2016-Service Tax dated November 9, 2016*

**5. Service Tax -Amendment in Service Tax Rules 1994 w.e.f. December 1, 2016**

- i) This notification prescribes that the person located in non-taxable territory providing online information and database access or retrieval services to ‘non-assesse online recipient’, as defined therein, is liable to pay service tax and the procedure for payment of service tax.

Note: ‘non-assesse online recipient’, information and database access or retrieval services, has been defined in the said notification.

- ii) Clause (d)(i) sub-clause G will be read as follows:

In relation to any taxable service other than online information and database access or retrieval services, provided or agreed to be provided by any person which is located in a non-taxable territory and received by any person located in the taxable territory, the recipient of such service.”

- iii) New Clause H has been inserted as follows:

In relation to services provided or agreed to be provided by way of online information and database access or retrieval services, by any person located in a non-taxable territory and received by any person in the taxable territory other than non-assesse online recipient, recipient of such service.

- v) Amendments has been introduced in Rule 4 & 4A w.r.t. online information and database access or retrieval services stating registration in form ST- 1A & Grant of Registration in Form ST- 2A and manner of issuing invoice.
- vi) Amendment has been inserted so as to include Form ST- 3A for the purpose of filing of service tax return w.r.t. online information and database access or retrieval services
- vii) Detail Formats of Form ST- 1A, ST- 2A and ST- 3A has been given in the said notification

*Source: Notification No. 48/2016-Service Tax dated November 9, 2016*

## **6. Service Tax - Amendment to Notification 30/2016 – ST dated June 20, 2016**

This Notification seeks to amend the earlier notification, in order to put compliance liability of service tax payment and procedure on to the service provider located in the non-taxable territory with respect to online information and database access or retrieval services provided in the taxable territory to ‘non-assesse online recipient’.

*Source: Notification No. 49/2016 –ST dated November 9, 2016*

## **7. Service Tax -Amendment to Notification 30/2012 – ST dated September 16, 2016**

This Notification seeks to amend the earlier notification, so as to provide exclusive jurisdiction to LTU-Bangalore with respect to online information and database access or retrieval services provided or agreed to be provided by a person located in non-taxable territory and received by a ‘non-assesse online recipient’.

*Source: Notification No. 50/2016 –ST dated November 9, 2016*

## **8. Service Tax -Withdrawal of exemption from service tax on cross border B2C OIDAR (online information and database access or retrieval) services.**

This notification seeks to withdraw service tax exemption on cross border B2C OIDAR services provided online/electronically from a non-taxable territory to consumers in taxable territory in India. Notification also provide the clarification on the terms used in it, person responsible to pay tax under normal circumstances and under reverse charge mechanism. (For Detail list of 25 items kindly refer the circular)

## **9. Excise - Exemption granted to Point of Sale Devices**

This notification Seeks to exempt Point of Sale (POS) devices and goods required for its manufacture from central excise duty till 31st March, 2017

*Source: Notification No. 35 – CE dated November 28, 2016*

## 10. Custom - Introduction of Deferred Payment of Import Duty Rules, 2016

This notification seeks to introduce Deferred Payment of Import Duty Rules, 2016 and contains details provisions. Importers certified under Authorized Economic Operator programme as AEO (Tier-Two) and AEO (Tier-Three) are included in the class of importers to make deferred payment of duty.

*Source: Notification No. 134/2016-Cus (NT), dated November 2, 2016 & 135//2016-Cus (NT), dated November 2, 2016*

## CORPORATE LAWS

### 1. Notification on Amendment to Schedule II of the Companies Act, 2013

The MCA vide Notification dated November 17, 2016 has amended the Schedule II of the Companies Act, 2013. With this amendment the following changes would come into effect:

Now for Intangible assets, the relevant Indian Accounting Standards (Ind AS) shall apply. Further where a Company is not required comply with the Indian Accounting Standards (Ind AS), it shall comply with the relevant accounting standards under Companies (Accounting Standards) Rules, 2006.

*Source: Notification by Ministry of Corporate Affairs dated November 18, 2016*



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