

# 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.

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## COMPANY LAW

### Amendments, Notifications & Court Rulings

- » Notification of Companies (Acceptance of Deposits) Amendment Rules, 2017
- » General Circular for withdrawal of General Circular No. 03/2017 dated April 27, 2017 regarding ‘Transfer of shares to IEPF Authority’
- » Clarification regarding applicability of Section 16 (1) (a) of the Companies Act, 2013 with reference to cases under corresponding provisions of Companies Act, 1956

## DIRECT TAX

### 1. Scope for taxation of money or property received without / inadequate consideration widened

The Finance Act, 2017 inserted clause (x) in sub-section (2) of Section 56 of the Income-tax Act, 1961(‘the Act’) so as to widen the scope of taxability of receipt of sum of money or property without/inadequate consideration.

Finance Act, 2017 inserted new section 50CA in the Act w.e.f April 01, 2018 to provide that where consideration for transfer of unquoted equity share of a company is less than the FMV of such share determined in accordance with the prescribed manner, the FMV shall be deemed to be the full value of consideration for the purposes of computing income under the head "Capital gains".

In view of this, it is proposed to amend the Rules to prescribe the method of valuation of unquoted equity share for the purpose of clause(x) of sub-section (2) of section 56 and section 50CA of the Act by taking into account the FMV of jewellery, artistic work, shares & securities and stamp duty value in case of immovable property and book value for the rest of the assets..

*Source: CBDT Press Release dated May 05, 2017.*

## 2. ICDS on Real Estate transactions along with the significant changes suggested in guidance note issued by ICAI

The Finance Minister constituted a committee comprising of experts from accounting field; departmental officers and representatives from Institute of Chartered Accountants of India (ICAI) to suggest the areas in respect of which further ICDS may be notified under the Act.

The Committee suggested notification of ICDS in respect of Real Estate Transactions and submitted a draft of the same. The draft ICDS submitted by the committee is based on the Guidance Note issued on Real Estate Transactions issued by ICAI. For the purposes of providing uniformity and certainty and harmonising the same with provisions of the Act, the committee suggested certain changes in draft ICDS.

*Source: CBDT Press release dated May 11, 2017.*

## 3. Lease rent from letting out buildings/developed space along with other amenities in an industrial park/SEZ to be treated as business income

In continuation of the Department's SLP against the Karnataka High Court Order of Velankani Information Systems Private Limited being dismissed by the Supreme Court, the CBDT has clarified through Circular 16/ 2017 that in case of an undertaking which develops, develops and operate or maintains and operates an industrial park/ SEZ notified in accordance with the scheme framed and notified by the government, the income from letting out of premises/developed space along with the facilities in an industrial park/SEZ is to be charged to tax under the head Profits and gains of business.

*Source: CBDT Circular No.16/2017.*

## 4. CBDT issues clarification on furnishing SFT and SFT Preliminary Response

Section 285BA of the Income-tax Act, 1961 requires furnishing of a statement of financial transaction (SFT) for transactions prescribed under Rule 114E of the Income-tax Rules, 1962. The due date for filing such SFT in Form 61A is 31st May 2017.

CBDT has issued a clarification dated 26th May, 2017 in stating that the registration of reporting person (ITDREIN registration) is mandatory only when at least one of the Transaction Type is reportable

The said clarification further states that a functionality "SFT Preliminary Response" has been provided on the e-Filing portal for the reporting persons to indicate that a specified transaction type is not reportable for the year.

*Source: CBDT Press release dated May 26, 2017.*

## 5. Due Date for furnishing statement of financial transaction been extended

The Last date for furnishing the statement of financial transactions under rule 114E(5) of the Income Tax Rules, 1962 (the rules) read with Section 285BA(1) of the Act for Assessment Year 2017-18 has been extended from 31st May 2017 to 30th June 2017.

*Source: F.No.279/Misc./M-63/2017\_ITJ.*

## INDIRECT TAX

### 1. Excise – Amendment to Notification No. 12/2012-Central Excise dated March 17, 2012

Seeks to amend Notification No. 12/2012 Central Excise dated March 17, 2012 to extend time period for furnishing the final mega power project certificate from 60 to 120 months and extending the period of validity of security in the form of FD/BG from 66 to 126 months, in case of provisional mega power projects.

*Source: Vide Notification No. 08/2017 – CE dated May 16, 2017.*

### 2. Service Tax - Amendment in Mega Exemption Notification 25/2012 dated June 20, 2012

Seeks to amend notification No. 25/2012-ST dated 20.06.2012 to exempt life insurance services provided under 'Pradhan Mantri Vaya Vandana Yojana'.

*Source: Vide Notification No. 17/2017 - Service Tax dated May 04, 2017.*

### 3. Custom - Notification no. 21/17-Customs, dated May 22, 2017 (Exemption of import of cut & polished diamonds during period 9th March, 2012 to 1st March, 2017)

Seeks to exempt import duty on cut & polished diamonds during period 9th March, 2012 to 1st March, 2017 by the authorized agencies/offices in India of laboratories mentioned under para 4.74 of the Hand Book of Procedure.

*Source: Vide Notification No 21/2017-Cus, dated May 22, 2017.*

### 4. Custom - Amendment in Notification No. 12/2012-Customs dated March 17, 2012 (Extension of time period for furnishing of final Mega power project certificate and period of validity of security in case of provisional mega power projects)

Seeks to amend notification no. 12/2012-customs dated 17.03.2012 extending the time period for furnishing the final Mega power project certificate from 60 to 120 months and extending the period of validity of security in the form of FD/BG from 66 to 126 months, in case of provisional mega power projects.

*Source: Vide Notification No 20/2017- Cus, dated May 16, 2017.*

### 5. Custom - Amendment in Notification No. 101/2007-Customs dated September 11, 2007 – (Regarding extent of tariff concessions)

Seeks to amend notification No. 101/2007 – Customs dated 11th September 2007 to notify expanded schedule of tariff preferences under the India-Chile Preferential Trade Agreement (PTA).

*Source: Vide Notification No 19/2017- Cus, dated May 16, 2017.*

**6. Custom - Amendment in Notification No. 12/2012 dated March 17, 2012 – (Regarding effective rates of BCD on industrial grade palm stearin (crude, RBD or other)**

Seeks to amend notification No. 12/2012 dated 17.03.2012 so as to make effective rates of BCD on industrial grade palm stearin (crude, RBD or other) earlier classifiable under sub-heading 3823 11 now under 1511 90 30 consequent to the amendments carried out vide the Finance Act, 2017.

*Source: Vide Notification No 18/2017-Cus, dated May 9, 2017.*

**7. Custom - Amendment in Notification No. 63/1994-Customs (N.T) dated November 21, 1994 – (Notification of Valmikinagar in West Champaran District, Bihar as a Land Custom Station)**

Seeks to amend notification no. 63/94-Customs (N.T), dated 21.11.1994 to notify Valmikinagar, West Champaran Dist, and Bihar, as a Land Customs Station.

*Source: Vide Notification No 50/2017-Cus (NT), dated May 24, 2017.*

**8. Custom - Notification No. 49/2017-Customs (N.T) dated May 18, 2017 – (Rate of Exchange for conversion of foreign currency into INR w.e.f May 19, 2017)**

Seeks to make available rate of exchange for conversion of the foreign currency with effect from May 19, 2017.

*Source: Vide Notification No 49/2017-Cus (NT), dated May 18, 2017.*

**9. Custom – Amendment in Notification No. 84/2007-Customs (N.T) dated August 17, 2007 – (Notification to give effect to the amendments to Rules of Origin of India-Chile PTA)**

Seeks to amend Customs notification No. 84/2007-Customs (N.T.) dated 17th August, 2007 to give effect to amendments to Rules of Origin of India-Chile PTA.

*Source: Vide Notification No 48/2017-Cus (NT), dated May 16, 2017.*

**10. Custom – Notification No. 47/2017-Customs (N.T) dated May 15, 2017 – (Fixation of tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Sliver)**

Seeks to fix Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Sliver

*Source: Vide Notification No 47/2017-Cus (NT), dated May 15, 2017*

**11. Custom – Amendment in Notification No. 62/1994-Customs (N.T) dated November 21, 1994 – (Notification to allow unloading of imported goods and loading of export goods at Dharma Port, Odisha)**

Seeks to amend the Customs notification No. 62/1994–Customs (N.T), dated 21.11.1994 to allow unloading of imported goods and loading of export goods or any class of such goods at Dharma Port, Odisha.

*Source: Vide Notification No 44/2017- Cus (NT) - dated May 11, 2017.*

**12. Custom – Notification No. 23/2017-Customs (ADD) dated May 16, 2017 – (Notification to levy definitive ADD on imports of Aluminium Foil originating in or exported from China PR)**

Seeks to levy definitive anti-dumping duty on imports of Aluminium Foil originating in or exported from China PR.

*Source: Vide Notification No 23/2017- Cus (ADD)- dated May 16, 2017.*

**13. Custom – Notification No. 21/2017-Customs (ADD) dated May 16, 2017 – (Notification to levy definitive ADD on imports of Amoxicillin originating in or exported from China PR)**

Seeks to levy definitive anti-dumping duty on import of Amoxicillin originating in or exported from China PR for a period of five years (unless revoked, superseded or amended earlier) in pursuance of final findings of the Directorate General of Anti-Dumping and Allied Duties.

*Source: Vide Notification No 21/2017- Cus (ADD)- dated May 16, 2017.*

**14. Custom – Circular No. 16/2017 dated May 2, 2017 – (Monitoring of export obligation fulfilment under EPCG and Advance Authorization Schemes)**

Seeks to direct initiation of action in case of non-submission of Export Obligation Discharge Certificate within the time period stipulated in the relevant Customs notifications to safeguard revenue.

*Source: Vide Circular No 16/2017- dated May 2, 2017.*

## COMPANY LAW

**1. Notification of Companies (Acceptance of Deposits) Amendment Rules, 2017**

The MCA vide Notification dated May 11, 2017 has amended the Companies (Acceptance of Deposits) Rules, 2014. With this notification following changes would come into effect:

The companies may accept deposits without deposit insurance contract till the March 31, 2018 or till the availability of deposit insurance product, whichever is earlier

*Source: [http://mca.gov.in/Ministry/pdf/Companies Acceptance of Deposits \\_12052017.pdf](http://mca.gov.in/Ministry/pdf/Companies%20Acceptance%20of%20Deposits_12052017.pdf)*

**2. General Circular for withdrawal of General Circular No. 03/2017 dated April 27, 2017 regarding ‘Transfer of shares to IEPF Authority’**

The MCA vide General Circular No. 05/2017 dated May 16, 2017 has withdrawn the General Circular No. 03/2017 dated April 27, 2017 regarding ‘Transfer of shares to IEPF Authority’.

*Source: [http://mca.gov.in/Ministry/pdf/Circular\\_16052017.pdf](http://mca.gov.in/Ministry/pdf/Circular_16052017.pdf)*

### 3. Clarification regarding applicability of Section 16 (1) (a) of the Companies Act, 2013 with reference to cases under corresponding provisions of Companies Act, 1956

The MCA vide General Circular No. 04/2017 dated May 16, 2017 has clarified the applicability of Section 16 (1) (a) of the Companies Act, 2013 with reference to cases under corresponding provisions of Companies Act, 1956.

Source: [http://mca.gov.in/Ministry/pdf/Circular04\\_2017\\_17052017.pdf](http://mca.gov.in/Ministry/pdf/Circular04_2017_17052017.pdf)



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