



The key amendments introduced in statutes, policies and procedures in respect of Direct Tax, Indirect Tax, Corporate Laws & Accounting Standards, Ministry of Corporate Affairs, Reserve Bank of India & Directorate General of Foreign Trade related matters are summarized hereunder.

DIRECT TAX

Amendments, Notifications & Court Rulings

- » CBDT notifies reconstituted Task Force for drafting a New Direct Tax Legislation
- » Conversion of compulsory convertible preference shares into equity shares is not “transfer”
- » Bangalore Tribunal holds capital gains arising from buy-back of options as long term considering holding period from date of grant

INDIRECT TAX

Amendments, Notifications & Court Rulings

- » Circular No. 71/45/2018-GST dated October 26, 2018
- » Notification No. 58/2018-Central Tax dated October 26, 2018
- » Notification No. 59/2018-Central Tax dated October 26, 2018
- » Notification No. 60/2018-Central Tax dated October 30, 2018
- » Notification No. 61/2018-Central Tax dated November 5, 2018

COMPANY LAW

Amendments, Notifications & Court Rulings

- » General Circular in relation of additional fees and extension of last date of filing of Forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013
- » Notification of Companies (Registered Valuers and Valuation) Fourth Amendment Rules, 2018
- » Notification of the Companies (Amendment) Ordinance, 2018

MCA, RBI & DGFT Notifications

- » Relaxation of additional fees and extension of last date of in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013
- » National Financial Reporting Authority (NFRA) Rules, 2018
- » Companies (Registered Valuers and Valuation) Fourth Amendment Rules, 2018

- » Partial Credit Enhancement to Bonds Issued by Non-Banking Financial Companies and Housing Finance Companies
- » Amendment in the para 4.32(i) of Chapter 4 and in para 6.01(a) of Chapter-6 of FTP 2015-2020

DIRECT TAX

1. CBDT notifies reconstituted Task Force for drafting a New Direct Tax Legislation

In order to review the Income-tax Act, 1961 and to draft a new direct tax law in consonance with the economic needs of the country, a Task Force was constituted by the Government of India in November, 2017.

In partial modification of the earlier order, the Government has appointed Shri Akhilesh Ranjan, Member (Legislation), CBDT as Convenor of the Task Force. Other members of the Task Force remain unchanged.

The Task Force shall submit its report to the Government by February 28, 2019.

Source: CBDT Press Release dated November 26, 2018

2. Conversion of compulsory convertible preference shares into equity shares is not “transfer”

In a recent ruling in the case of Periar Trading Company Private Limited vs ITO, Mumbai Tribunal has clarified conversion of compulsory convertible preference shares (‘CCPS’) into equity shares is not transfer. The dispute involved in this case pertains to tax year prior to insertion of specific provision in the Income Tax Law which exempts such conversion.

The assessee in the present case was engaged in the business of investment activities. The assessee during the previous year 2011-12 relevant to AY 2012-13 was holding convertible preference shares which got converted into equity shares.

Assessing Officer made an addition on account of such conversion treating the same as transfer as defined in section 2(47) of the Income tax Act and computed capital gains taking into consideration the difference between the cost of acquisition of CCPS and market value of equity shares on the date of conversion.

The Tribunal held that conversion of CCPS into equity shares cannot be regarded as an exchange, barter or swapping of one form of shares for other form. Rather, it is a case where the original shares (CCPS) ceased to exist upon its conversion into other form of shares (equity), not constituting a “transfer” and, hence, does not attract capital gains.

Source: Periar Trading Company Private Limited vs ITO [ITA No. 1944/Mum/2018 dated November 9, 2018]

3. Bangalore Tribunal holds capital gains arising from buy-back of options as long term considering holding period from date of grant

The assessee had transferred options held for more than three years from the date of grant under an Option Transfer Agreement and considered the gains arising from such transfer as Long-Term Capital Gains (LTCG). As per the Income Tax Act, 1961 ('the Act') capital gains arising from an asset held for more than 36 months preceding the date of transfer is considered as long-term capital gains except in case of certain specified capital assets where a shorter duration is prescribed.

Consequently, the assessee invested the capital gains in notified bonds issued by Rural Electrification Corporation Limited (REC Bonds) and claimed exemption under Section 54EC of the Act which is applicable only for LTCG.

The Tax Authority argued that the period of holding of the options for computation of capital gains cannot be counted from the date of grant of options since prior to the vesting date, the Taxpayer could not have exercised any right.

The Tribunal observed that vesting and exercise of options were not relevant in the assessee's case since the options were transferred without any exercise and since the period of holding of the options was long term, the gains need to be considered as LTCG and also allowed the Taxpayer's claim for exemption under Section 54EC.

Source: Shri N R Ravikrishnan vs. ACIT [ITA No. 2348/Bang/2018 dated October 31, 2018]

INDIRECT TAX

1. Clarification on issues pertaining to registration as a casual taxable person & recovery of excess Input Tax Credit distributed by an Input Service distributor

The amount of advance tax which a CTP is required to deposit while obtaining registration should be calculated after considering the due eligible ITC. Further, in case of long running exhibitions (more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person.

Where the ISD distributes excess credit to one or more recipients, the recipient unit(s) who has received excess credit may deposit the said excess amount voluntarily along with interest. If not done voluntarily, necessary proceedings may be initiated against the said unit(s). ISD would also be liable to a general penalty.

Source: Vide Circular No.71/45/2018-GST dated October 26, 2018

2. Seeks to notify the taxpayers whose registration has been cancelled on or before September 30, 2018, as class of persons who shall furnish final return in FORM GSTR-10 till December 31, 2018

The Central Government, on the recommendations of the Council notified the persons whose registration has been cancelled by the proper officer on or before September 30, 2018, as the class of persons who shall furnish the final return in FORM GSTR-10 of the said rules till December 31, 2018.

Source: Vide Notification No.58/2018-Central Tax dated October 26, 2018

3. Seeks to extend the time limit for furnishing the declaration in FORM GST ITC-04 for the period from July, 2017 to September, 2018

CBIC extends the time limit for furnishing the declaration in FORM GST ITC-04 in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to September, 2018 till December 31, 2018.

Source: Vide Notification No. 59/2018-Central Tax dated October 26, 2018

4. Seeks to make amendments to the CGST Rules, 2017

Central Government has made amendments in the CGST Rules, 2017, in the following areas:

- Insertion of rules relating to Examination of Goods and Services Tax Practitioners
- Rule 109A with respect to Appointment of Appellate Authority
- Insertion of rules relating to Procedure for recovery of dues under existing laws.
- FORM GST REG-16 (Application for Cancellation of Registration)
- FORM GSTR-4 (Quarterly return for registered person opting for composition levy)
- FORM GST PMT-01
- FORM GST APL-04 (Order of Appellate Authority or Appellate Tribunal)
- Insertion of FORM GST DRC-07A (Summary of the order creating demand under existing laws)
- Insertion of FORM GST DRC-08A (Amendment/Modification of summary of the order creating demand under existing laws)

Source: Vide Notification No. 60/2018-Central Tax dated October 30, 2018

5. Seeks to exempt supply from PSU to PSU from applicability of provisions relating to TDS

Central Government on recommendations of the council exempts supply from PSU to PSU by inserting the below proviso in the notification 50/2018-Central Tax, dated the 13th September, 2018:

“Provided further that nothing in this notification shall apply to the supply of goods or services or both from a public sector undertaking to another public

sector undertaking, whether or not a distinct person, with effect from the 1st day of October, 2018.”

Source: Vide Notification No. 61/2018-Central Tax dated November 5, 2018

COMPANY LAW

1. General Circular in relation of additional fees and extension of last date of filing of Forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013

The MCA, vide its General Circular dated October 29, 2018, has relaxed the additional fees and extended the last date of filing of Forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) upto December 31, 2018.

Source: http://www.mca.gov.in/Ministry/pdf/NoticeAndCircularGC_30102018.pdf

2. Notification of Companies (Registered Valuers and Valuation) Fourth Amendment Rules, 2018

The MCA, vide its Notification dated November 13, 2018, has amended the Companies (Registered Valuers and Valuation) Rules, 2017. With this Notification, MCA has prescribed the Eligibility, Qualification and Experience for registration as Valuer.

Source: http://www.mca.gov.in/Ministry/pdf/Companies Registered Valuers 4Amdt Rules_13112018.pdf

3. Notification of the Companies (Amendment) Ordinance, 2018

The President of India has promulgated an Ordinance dated November 02, 2018, to further amend the Companies Act, 2013. The following changes come into effect from such Ordinance date:

- Enlarging the jurisdiction of Regional Director (“RD”) by enhancing the pecuniary limits up to which they can compound offences
- Vesting in the Central Government the power to approve the alteration in the financial year of a Company
- Re-introduction of provision for declaration of commencement of business
- Non-maintenance of registered office to trigger strike off of Company
- Holding of Directorships beyond permissible limits to trigger disqualification of such Directors

Source: [http://www.mca.gov.in/Ministry/pdf/NotificationCompanies\(Amendment\) Ordinance_05112018.pdf](http://www.mca.gov.in/Ministry/pdf/NotificationCompanies(Amendment) Ordinance_05112018.pdf)

MCA, RBI & DGFT Notifications

1. Relaxation of additional fees and extension of last date of in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013

Keeping in view the requests received from various stakeholders seeking extension of time for filing of financial statements for the financial year ended 31.03.2018 on account of various factors, it has been decided to relax the additional fees payable by companies on e-forms AOC-4, AOC (CFS) AOC-4 XBRL and e- Form MGT-7 upto 31.12.2018, wherever additional fee is applicable.

Source: http://www.mca.gov.in/Ministry/pdf/NoticeAndCircularGC_30102018.pdf dated October 29, 2018

2. National Financial Reporting Authority (NFRA) Rules, 2018

In exercise of the powers conferred under sub-sections (2) and (4) of section 132, sub-section (1) of section 139 and sub-section (1) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government makes the rules.

Source: http://www.mca.gov.in/Ministry/pdf/NFRARules2018_13112018.pdf dated November 13, 2018

3. Companies (Registered Valuers and Valuation) Fourth Amendment Rules, 2018

In exercise of the powers conferred by section 247 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the rules further to amend the Companies (Registered Valuers and Valuation) Rules, 2017.

Source: http://www.mca.gov.in/Ministry/pdf/CompaniesRegisteredValuers4AmdtRules_13112018.pdf dated November 13, 2018

4. Partial Credit Enhancement to Bonds Issued by Non-Banking Financial Companies and Housing Finance Companies

It has now been decided to allow banks to provide partial credit enhancement (PCE) to bonds issued by the systemically important non-deposit taking non-banking financial companies (NBFC-ND-SIs) registered with the Reserve Bank of India and Housing Finance Companies (HFCs) registered with National Housing Bank.

Source: <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT70A855600A7FED42F389A3111865E6E910.PDF> dated November 02, 2018

5. Amendment in the para 4.32(i) of Chapter 4 and in para 6.01(a) of Chapter-6 of FTP 2015-2020

In exercise of powers conferred by Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government makes the amendments in the Foreign Trade Policy 2015-2020 with immediate effect.

Source: <http://dgft.gov.in/sites/default/files/Notification%2043%20of%202015-20%20English.pdf> dated November 05, 2018



**CORPORATE CATALYST
INDIA PVT LTD**

www.cci.in

Head Office

Times Square, Fourth Floor, Block B Sushant Lok 1, Gurgaon 122 002 INDIA Tel : +91 124 4333 100

Fax: +91 124 4333 101

National Offices: Ahmedabad, Bengaluru, Chennai, Gurgaon, Hyderabad, Kochi, Mumbai, New Delhi

National Affiliates: Chandigarh, Jaipur, Jammu, Kolkata, Lucknow, Ludhiana and Pune

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