



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 extends due date for filing of income tax returns and tax audit reports in Union Territories of Jammu and Kashmir and Ladakh
- Clarification in respect of option exercised under section 115BAA of the Income-tax Act, 1961
- CBDT amends rules relating to interest income computation for secondary transfer pricing adjustments
- CBDT exempts from TDS certain cash payments by Authorised Dealer and Full-Fledged Money Changer

INDIRECT TAX

Amendments, Notifications & Court Rulings

- Restriction on claiming Input Tax Credit for Invoices not appearing in GSTR 2A
- Optional filing of Annual Return
- Due date for filing return in Form GSTR-1

Circulars

- GST on Goods imported under lease
- Taxability of Airport Levies

Advance rulings

- Taxability of reimbursement of expenses paid by employees
- Taxability of Back-end support service
- Resale of food products cannot be classified as restaurant services

MCA NOTIFICATIONS

Amendments and Notifications

- Data Bank Notification Relating to IICA

MCA Rules:

- Companies (Appointment and Qualification of Directors) Rules, 2014
- Companies (Creation and Maintenance of databank of Independent Directors) Rules, 2019

MCA Circulars:

- Relaxation of additional fee

DIRECT TAX

1. CBDT extends due date for filing of income tax returns and tax audit reports in Union Territories of Jammu and Kashmir and Ladakh

CBDT has extended the due date for filing of income tax returns and tax audit reports to November 30, 2019 in respect of Union Territory of Jammu and Kashmir and Union Territory of Ladakh.

Source: CBDT order u/s 119 of the Income Tax Act, 1961 [F.No. 225/306/2019-ITA-II] dated October 31, 2019.

2. CBDT issues clarification in respect of option exercised under section 115BAA of the Income-tax Act, 1961

CBDT has clarified that, any domestic company who has exercised the option to pay tax at lower rate of 22% under section 115BAA in the Income-tax Act, 1961 shall –

- Not be allowed to claim set off of any brought forward loss on account of additional depreciation for an assessment year for which the option has been exercised and for any subsequent assessment year.
- Not be allowed tax credit of MAT paid by the company.

Source: CBDT Circular No. 29 /2019 [F.No. 142/20/2019-TPL] dated October 2, 2019.

3. CBDT amends rules relating to interest income computation for secondary transfer pricing adjustments

CBDT has amended rules relating to interest income computation for secondary transfer pricing adjustments, providing clarity in following cases

- In relation to the time limits for repatriation where the primary transfer pricing adjustment has been determined by an APA/MAP
- Timeline from when the interest on excess money or part thereof shall be chargeable
- Exchange rate in relation to an international transaction denominated in foreign currency
- The reference to ‘excess money’ has been amended to ‘excess money or part thereby’ thereby, providing the option of partial repatriation of such excess money

Source: CBDT [Notification No.76 /2019/ F.No.370142/12/2017-TPL] dated September 30, 2019.

4. CBDT exempts from TDS certain cash payments by Authorised Dealer and Full-Fledged Money Changer

CBDT has exempted from TDS under Section 194N of the Income-tax Act, 1961 certain cash payments by Authorised Dealer and Full-Fledged Money Changer pertaining to purchase of foreign currency for specific purposes and disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS), where separate bank accounts have been maintained in respect of such withdrawals..

Source: CBDT [Notification No. 80/2019/F. No. 370142/12/2019-TPL (Part 2)] dated October 15, 2019.

INDIRECT TAX

Notifications

1. Restriction on claiming Input Tax Credit for Invoices not appearing in GSTR 2A

Input tax credit in respect of invoices not uploaded by the supplier in GSTR-1 can only be availed by the recipient to the extent of 20 percent of the overall eligible credit reflecting in GSTR-2A.

Notification No. 49/2019 Central Tax dated October 09, 2019

2. Optional filing of Annual Return

Optional filing of annual return has been prescribed for the FY 2017-18 and FY 2018-19 for registered persons having aggregate turnover up to INR 2 Crore.

Notification No. 47/2019 Central Tax dated October 09, 2019

3. Due date for filing return in Form GSTR-1

Due dates to file quarterly GSTR-1 for the quarters ending December 31, 2019 and March 31, 2020 have been prescribed as January 31, 2020 and April 30, 2020 respectively. For monthly filings for the month of October 2019 to March 2020, due date has been prescribed as 11th day of the succeeding month.

Notification 45/2019-Central Tax and 46/2019-Central Tax both dated October 09, 2019

Circulars

1. GST on Goods imported under lease

Goods imported under lease, on a temporary basis are exempted from IGST subject to the condition that the importer furnishes a bond and guarantees to re-export the goods within 3 months of the expiry of the period for which they were supplied.

Circular No. 113/32/2019-GST dated October 11, 2019

2. Taxability of Airport Levies

Airport levies in the form of "Passenger Service Fee (PSF) and User Development Fees (UDF)" are charged by airport operator but collected by the airlines as pure agent. Hence, GST in respect of such fee collected is to be paid by the airport operator, not the airlines

Circular No. 115/34/2019-GST dated October 11, 2019

Advance rulings

1. Taxability of reimbursement of expenses paid by employees

Reimbursements are for the services of an employee in the course of employment and shall neither be supply of goods nor supply of services in terms of Schedule III to CGST Act. Hence, the amount reimbursed to employee will not be liable to GST

M/s Alcon Consulting Engineers (India) Pvt. Ltd (AAR Karnataka)

2. Taxability of Back-end support service

Various back-end support services provided to a foreign party shall be classifiable as 'support services' and as there is no third person involved in providing services to foreign party, service provider shall not be treated as intermediary.

M/s Fulcrum Info Services LLP (AAR Karnataka)

3. Resale of food products cannot be classified as restaurant services

Restaurant is a place where food is "prepared in the premises and served". Where ready to eat items are sold and mere facility to consume the food items at the premises is provided, the same cannot be classified as restaurant services

M/s Square One Homemade Treats (AAR Kerala)

MCA Notifications:

Data Bank Notification Relating to IICA

MCA has constituted Indian Institute of Corporate Affairs at Manesar, Haryana ("IICA or Institute") as an institute to create and maintain a data bank containing names, addresses and qualifications of persons who are "eligible and willing to act as Independent Director (ID)", for the use of the company making the appointment of such directors.

Source: http://www.mca.gov.in/Ministry/pdf/NotificationIICA_22102019.pdf dated October 22, 2019.

MCA Rules:

Companies (Appointment and Qualification of Directors) Rules, 2014

MCA has extended the last date of filing of DIR-3 KYC-WEB for the Financial Year 2019-20 up to October 14, 2019. Thereafter, the DIN of all directors (who have not filed DIR-3 KYC-WEB for the said Financial Year) shall get deactivated.

The DIN will only be activated after filing of DIR-3 KYC-WEB on the MCA Portal with a fees of INR 5,000/-.

Source: http://www.mca.gov.in/Ministry/pdf/Companies4thAmendRules_30092019.pdf dated September 30, 2019

Companies (Creation and Maintenance of databank of Independent Directors) Rules, 2019

1. Every individual who is desirous to be appointed as ID in any Company or is ID in any Company shall enrol himself/herself in the data bank for one year, five years or lifetime.
2. All the individuals appointed as Independent Directors and other individuals willing to be appointed as Independent Directors shall have to pass the OPSAT which shall be conducted by IICA.

Exclusion: OPSAT shall not be applicable to individuals who have served as director or key managerial personnel in a listed public company or in an unlisted public company having a paid-up share capital of rupees ten crore or more, for a period of ten years or more, as on the date of inclusion of his/her name in the databank.

Source: http://www.mca.gov.in/Ministry/pdf/CmpInpdtDirectorsRules_22102019.pdf dated October 22, 2019

MCA Circulars:

Relaxation of additional fee

1. MCA has extended the last date of filing of Form IEPFA-1A and IEPFA-2 upto December 31, 2019 and November 30, 2019 respectively.
2. MCA has extended the last date of filing of Form CRA-4 (Cost Audit Report) for Financial Year 2018-19 upto December 31, 2019.

Source: http://www.mca.gov.in/Ministry/pdf/GeneralCircular1_25102019.pdf dated October 25, 2019, http://www.mca.gov.in/Ministry/pdf/GeneralCircular_25102019.pdf dated October 25, 2019



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