



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

- Lok Sabha passes the Taxation Laws (Amendment) Bill, 2019.
- Non-compete fees received by a non-resident, not taxable in the absence of a PE in India

INDIRECT TAX

Amendments, Notifications & Court Rulings

- Simplification of GSTR-9 and 9C
- Further extension in due dates to furnish GSTR-9 and GSTR-9C

Circulars

- New Circular issued for the refund process under GST
- Document Identification Number (DIN) on Departmental communications now mandatory

Advance Rulings

- Taxability of supply of stores to foreign going vessels
- Activity of development and sale of land
- Reverse charge on ocean freight in respect of goods imported

RBI NOTIFICATIONS

Amendments and Notifications

- Foreign Exchange Management (Deposit) (Third Amendment) Regulations, 2019
- Foreign Exchange Management (Manner of Receipt and Payment) (Amendment) Regulations, 2019

MCA NOTIFICATIONS

Amendments and Notifications

- Jurisdiction of Union territory of Jammu and Kashmir and Union territory of Ladakh
- Jurisdiction of Regional Director, North Region Directorate, Headquarter at New Delhi

MCA Rules:

- Companies (Meetings of Board and its Powers) Second Amendment Rules, 2019

MCA Circulars:

- Relaxation of additional fee

DIRECT TAX

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- Lok Sabha passes the Taxation Laws (Amendment) Bill, 2019.
- Non-compete fees received by a non-resident, not taxable in the absence of a PE in India

1. Lok Sabha passes the Taxation Laws (Amendment) Bill, 2019.

The long wait of the domestic companies for the much-needed reduction in the corporate income-tax rates finally ended on 20th September 2019. The government finally offered the reduction in corporate tax rates which will act as a stimulus for the Indian corporate sector. Understanding the urgency of the matter, the government passed the Taxation Laws (Amendment) Ordinance, 2019 ('Ordinance'), as the parliament was not in session. When the parliament convened for the winter session, the government introduced the Taxation Laws (Amendment) Bill, 2019 ('Bill'), in the Lok Sabha to replace the Ordinance. Though, the bill proposed several amendments as per the demands of the various stakeholders to dissuade any ambiguity. These amendments pertain to the Income Tax Act 1961 and the Finance Act 2019. The bill was passed by the Lok Sabha after some minor amendments. There was a typographical error in the section 115JB of the bill which has been corrected and now the reduced MAT will be applicable from the AY 2020-21.

Source: Taxation Laws (Amendment) Bill, 2019 [Bill No. 362-C of 2019] as passed by Lok Sabha on December 2, 2019.

2. Non-compete fees received by a non-resident, not taxable in the absence of a PE in India

The ambiguity over the tax treatment of non-compete fees in case of a non-resident has now finally been clarified. As per the latest ruling from the Mumbai Bench of The Income Tax Appellate Tribunal, non-compete fees received by a non-resident individual taxpayer will only be taxable if that non-resident has a permanent establishment anywhere in India. Moreover, just because a non-resident individual holds shares in Indian companies, he/she can not be said to have a permanent establishment in India. Therefore, any non-compete fees received by him/her will not be subject to taxation in India.

Source: ITO (Intl. Tax) vs. Mr. Prabhakar Raghavendra Rao [ITA No. 3985/Mum/2018] dated November 6, 2019.

INDIRECT TAX

Notifications

1. Simplification of GSTR-9 and 9C

In its bid to simplify the process of filing of Annual GST Return (GSTR-9) and the Reconciliation Statement (GSTR-9C), some important announcements have been made.

- Now, for the FY 2017-18 and 2018-19, the assessee does not need to split the input tax credit into inputs, input services, and capital goods.
- Moreover, the HSN level information pertaining to the outward and inward supplies will not be required for both the years.
- Also, there is no need to show the debit and credit note adjustments separately.
- The expense wise reconciliation with the Profit and Loss Account in the GSTR-9C has been made optional.

Notification No. 56/2019-Central Tax dated November 14, 2019

2. Further extension in due dates to furnish GSTR-9 and GSTR-9C

Due dates for furnishing the Annual Returns in Form GSTR-9 and the reconciliation statement in Form GSTR-9C for the FY 2017-18 and 2018-19 has been extended. Now the new dates for submission of these forms in 31st December 2019 and 31st March 2020 respectively.

Removal of Difficulties Order 08/2019-Central Tax dated November 14, 2019

Circulars

1. New Circular issued for the refund process under GST

In order to clarify the doubts and apprehensions pertaining to the electronic refund process for GST, a circular has been issued. This new circular consolidates all the previously issued circulars and offers clarity regarding some key aspects, such as: -

- There is no need to physically submit the FORM GST RFD-01 or any supporting documents.
- The electronic issuance of the deficiency memo or acknowledgement has been made compulsory. The same must be issued within 15 days if the generation of the ARN.
- Deficiency memos can no longer be issued if the application has been received in the wrong jurisdiction electronically. It is the duty of the jurisdictional officer, who has wrongly received the application, to re-assign it to the correct jurisdiction officer. This process must be completed within 3 days of the generation of the ARN.
- Registered persons who are filing their GSTR-1 on a quarterly basis can apply for a refund either on a quarterly basis or by combining successive quarters.
- If a deficiency memo has been issued by an officer, then a fresh refund application is to be filed.

- Only an assigned central or sales tax officer can issue sanction orders and corresponding refund orders against the sanctioned refund amount, under all tax heads.

Circular No. 125/44/2019-GST dated November 18, 2019.

2. Document Identification Number (DIN) on Departmental communications now mandatory

Offering significant relief to all GST assesses, the GST department has made it mandatory that all written communication will now have a unique Document Identification Number (DIN). In absence of DIN, all notices or written communication will be de-facto null and void i.e. never have been issued. This notification will be applicable to all communications pertaining to summons, search authorizations, arrest memo, and inspection notices.

Circular No. 122/41/2019-GST dated November 5, 2019

Advance rulings

1. Taxation on store supplies to a foreign going vessel

Unless the store supplies have been exclusively marked for a location other than India, their supply to a vessel on way to a foreign country will invite taxation. It must be noted that warehoused goods have been exempted from taxation because their supply before clearance for home consumption is covered in Schedule III of the CGST Act. Thus, their supply cannot be treated as a supply of goods or services.

Shewratan Company Pvt Ltd (AAR West Bengal)

2. Activity of development and sale of land

The activities pertaining to the development and sale of land do not qualify for coverage under the Schedule II of the CGST Act. Thus, such activities will be treated as supply of services to the landowner and will, therefore, be taxable as per the prevailing GST provisions.

M/s Maarq Spaces Pvt Ltd (AAR Karnataka)

3. Reverse charge on ocean freight in respect of goods imported

The valuation adopted for the import of goods will no longer have an impact on the reverse charge mechanism. The importer will have to pay the IGST on the ocean freight at the prevailing rates as transportation of goods in a vessel from a non-taxable territory to a taxable territory amounts to import of goods.

M/s India Potash Limited (AAR Andhra Pradesh)

RBI Notifications

1. Foreign Exchange Management (Deposit) (Third Amendment) Regulations, 2019

On 13th November 2019, The Reserve Bank of India further introduced some new amendments in The Foreign Exchange Management (Deposit) (Third Amendment) Regulations, 2019. According to the new amendments, any individual who is a non-resident but has business interest in India, must open a Special Non-Resident Rupee Account (SNRR account). This account should be opened with an authorised dealer and must be used only for the purpose of completing bona fide transactions in rupees.

Other than the standard business interest, the term business interest for this matter will comprise of following transactions in Rupee: -

- Investments made in India in accordance to the regulations of the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 dated October 17, 2019 and Foreign Exchange Management (Debt Instruments) Regulations, 2019;
- Trade credit transactions and lending under External Commercial Borrowings (ECB) framework in accordance with Foreign Exchange Management (Borrowing and Lending) Regulations, 2018;
- Import and export of goods and services in accordance with the Foreign Exchange Management Act 1999;
- Business related transactions outside International Financial Service Centre (IFSC) by IFSC units at GIFT city like administrative expenses in INR outside IFSC, INR amount from sale of scrap, government incentives in INR, etc.
- The SNRR account opened by individuals should carry the nomenclature of the business for which it was opened and is being operated. The tenure of the SNRR account will be the same as the tenure of the contract or the duration of the business of the account holder. The maximum period for the SNRR account has been capped at 7 years.
- The Indian bank with which the SNRR Account has been opened may at its discretion decide as to whether it should maintain a separate SNRR account for every transaction category or single SNRR Account for an individual residing outside India and is engaged in multiple categories of transactions. But the second option must be used only if the banker is able to identify different transactions and segregate them category-wise.
- If any amount is payable to a non-resident nominee from the account of a deceased account holder, that amount shall be payable to the non-resident nominee's NRO/NRE account with an authorised bank or an authorised dealer in India. The amount can also be remitted through standard banking channels.

Source: https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=11736&fn=5&Mode=0 dated November 13, 2019

2. Foreign Exchange Management (Manner of Receipt and Payment) (Amendment) Regulations, 2019

The Reserve Bank of India notified the Foreign Exchange Management (Manner of Receipt and Payment) (Amendment) Regulations, 2019 further amending the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016.

The followings amendments has been introduced:-

- A new Regulation 2(v) related to “SNRR account” has been inserted;
- Regulation 4(1)(ii) related to “Manner of Receipts in certain cases” has been substituted;
- A new Regulation 4(3) has been inserted, namely:-
 - “Payment may also be received in rupees by a person resident in India from SNRR Account of person resident outside India after ensuring that the underlying transactions are in conformity with the provisions of the Foreign Exchange Management Act, 1999 and the rules, regulations and directions issued thereunder.”
 - A new Regulation 6(2)(iv) and (v) related to “Manner of Payment in certain cases” has been inserted.

Source: https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=11737&fn=5&Mode=0 dated November 13, 2019

Ministry of Corporate Affairs (MCA) Rules, Notifications & Circulars (from October 26, 2019 to November 25, 2019)

MCA Notifications:

1. Jurisdiction of Union territory of Jammu and Kashmir and Union territory of Ladakh

From 31st October 2019 onwards, the Registrar of Companies (ROC), Jammu will have jurisdiction over the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh pertaining to the following matters: -

- Registration of companies and discharging the functions under the Companies Act, 2013;
- Adjudication of Penalties

Source: http://www.mca.gov.in/Ministry/pdf/J&KNotificationSect396_30102019.pdf dated October 30, 2019.

http://www.mca.gov.in/Ministry/pdf/J&KAdjNotification_30102019.pdf dated October 30, 2019.

2. Jurisdiction of Regional Director, North Region Directorate, Headquarter at New Delhi

Regional Director, North Region Directorate, Headquarter at New Delhi shall have Jurisdiction to Union territory of Jammu and Kashmir and Union territory of Ladakh w.e.f. October 31, 2019.

Source: http://www.mca.gov.in/Ministry/pdf/J&KNotification_30102019.pdf dated October 30, 2019.

MCA Rules:

Companies (Meetings of Board and its Powers) Second Amendment Rules, 2019

Prior approval of the company's shareholders is required before entering into the following transactions: -

- If the sale, purchase or supply of goods, directly or through an agent, amounts to more than 10 percent of the annual turnover of the company.
- If the sale or purchase of any property of any kind, directly or through an agent, amounts to more than 10% of the net worth of the company.
- If the supply or purchase of any services, directly or through an agent, amounts to more than 10 percent of the annual turnover of the company.

Source: http://www.mca.gov.in/Ministry/pdf/Comp2Amndt_18112019.pdf 2019 dated November 18, 2019.

MCA Circulars:

Relaxation of additional fee

Offering relaxation to the companies from paying additional fee, Ministry or Corporate Affairs has now extended the last date of filing for E-Form AOC-4, AOC-4 (CFS) and AOC-4 XBRL to 30th November 2019 and E-Form MGT-7 to 31st December 2019.

Source: http://www.mca.gov.in/Ministry/pdf/GeneralCircular_29102019.pdf dated October 29, 2019.



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