

April 2018

TAPF NEWSLETTER



*Updates by **Tax & Accounting Professional Forum (TAPF)***

PREFACE

Tax and Accounting Professional Forum (TAPF) is a group of chartered accountant and other professionals. Reference to recent government policies, frequent changes in the laws and implementation of the new laws, TAPF observed need of awaring the business entities as well as individuals with regard to time to time relevant changes under various laws.

All the articles published herein are provided by the professionals who have expertise in their areas. In this journal, our team has incorporated various changes in relation to April month of 2018.

DIRECT TAX UPDATES

INCOME TAX

The ITR in respect of income earned during the period 01-04-2017 to 31-03-2018 i.e. FY 2017-18 is to be filed by July 31, 2018 or September 30, 2018 for Individual and companies respectively. The Central Board of Direct Taxes (CBDT) has notified the Income-tax Return (ITR) Forms applicable for the same. The new forms include the changes made by the Finance Act, 2017 in the Income-tax Act, 1961.

This year the ITR forms seek lot of new information from taxpayers who opted for presumptive taxation scheme, in respect of capital gains from unlisted shares, transactions with registered and unregistered suppliers under GST, so on and so forth.

Brief of the additional details required to be filed in the new forms are as under:

- Detailed calculation of salary and house property income.
- Details of secured/ unsecured loan, fixed asset, capital account even in case of presumptive return.
- Reporting of sum taxable as Gift for all assessee including Individual/HUF.
- Additional details required for assessee claiming DTAA relief.
- Detailed information for capital gain exemption claimed is required.
- Mandatory to enter GST number of the assessee
- Details of GST paid or refund claimed by the assessee during the year.
- Detail of business transaction with registered and unregistered supplier under GST in case of companies.
- Details of foreign bank account in case of non-resident.
- Break-up of payment and receipt of foreign currency made by companies.
- Requirement to provide ownership information in case of unlisted companies.

- Highest rate of depreciation for any block now restricted to 40%.
- Additional details in relation to annual receipt, registration of trust, utilization of surplus for the object required to be furnished.

Further to above, the Finance Act, 2017 levies new fees if assessee does not furnish the return of income on the due dates prescribed under Section 139(1) [i.e. July 31, 2018 or September 30, 2018 for FY 2017-18 as the case may be depending on constitution of assessee].

The amount of such late filing fees shall be:

- A. Rs. 5,000 if return is furnished after the due date but before December 31 of the assessment year [Rs. 1,000 if total income is up to Rs. 5 lakhs].
- B. Rs. 10,000, in any other case.

After introducing this new provision, the assessee shall now be required to pay the late filing fees under section 234F along with interest under section 234A, 234B and 234C before filing of return of income. The Income-tax Dept. shall not be required to initiate the penalty

proceedings separately to levy such fees on late filers.

Relevant changes have been incorporated in the new ITR forms wherein a new row is added to enable the assessee to fill the details of late filing fees.

(CA Reshu Agrawal)

INTERNATIONAL TAX UPDATE

International Taxation – April 2018 Updates

(Delhi High Court: Sec 195 – TDS Inapplicable On Reimbursements – Absent Privity of Contract With Service-Provider)

Delhi HC dismisses Revenue's appeal, holds that no tax was deductible u/s 195 on payment made by assessee (Organizing Committee Hero Honda World Cup) to Federation of International Hockey (FIH) during AY 2010-11 towards reimbursement of expenses relating to Hockey World Cup event; Notes Revenue's contention that payout to FIH also included commission which was per se taxable and thus TDS u/s 195 was applicable; Observes that 'The lower Appellate Authorities, after considering the submissions, clearly held that the record would indicate that the assessee had no privity of contract

with the service provider', thus holds that no question of law arises for its consideration. Also, upholds ITAT order deleting addition u/s 68, notes that AO conducted first level of inquiry to obtain PAN, bank account details and other particulars relating to identity or creditors; Noting that AO did not further exert himself to obtain any more information/document from banks, holds that assessee had discharged the initial burden of establishing identity and credit worthiness of creditors and genuineness of transactions.-
Source Taxsutra

(Delhi ITAT: Godaddy's Internet Domain Receipts Fall Under Trademark Services Limb U/s 9 - Taxable As Royalty)

Delhi ITAT accepts Revenue's stand that receipts from domain name registration, by assessee (US based company acting as accredited domain name registrar authorized by Internet Corporation for assigned names and numbers ('ICANN')) is taxable as royalty for AY 2013-14. Since, assessee is not tax resident of US and India-US treaty benefits are not claimed, ITAT examines royalty definition under Explanation 2 of Sec 9(1)(vi) of the Income Tax Act; Rejects assessee's stand that the total income from domain registration

service was not taxable in India since none of assessee's employees visited India, all services were provided from outside India and that the amount did not fall under the ambit of 'royalty' definition under the Act; Rules that 'the rendering of services for domain registration is rendering of services in connection with the use of an intangible property which is similar to trademark.' Hold that amount fall under the ambit of Clause (vi) read with Clause (iii) of Explanation 2 of Sec 9(1); Relies on SC ruling in Satyam Infoway Ltd, Delhi HC ruling in Tata Sons Ltd and Bombay HC ruling in Rediff Communications Ltd, Delhi HC Ruling in Asia Satellite Telecommunications Co Ltd -
Source Taxsutra

(CA Sulabh Lohia)

INDIRECT UPDATES

GST UPDATE

Central Board of Indirect Taxes and Customs 'CBIC' clarified that Letter of Undertaking 'LUT' for FY 2018-19 shall be deemed to be accepted on generation of Application Reference Number 'ARN'.

The Ministry of Finance has clarified that Schools up to Higher Secondary Level supplied Food directly to Students are exempted from GST and GST rate on the supply of food and drinks in a mess or canteen in an educational institution attracts GST at 5% without Input Tax Credit 'ITC'.

The taxpayers as identified by the Goods and Services Tax Network 'GSTN' on the basis of electronic audit trail, who could not complete the process of filing of TRAN-1 (Original or Revised) on or before 27th December, 2017 due to IT glitch, shall be provided the facility to complete the filing of TRAN-1 upto 30th April, 2018 and further filing of GSTR-3B, which could not be filed for such TRAN-1 shall be completed by 31st May, 2018.

CBIC has clarified issues regarding "Bill To Ship To" for e-Way Bill under the Goods and Services Tax 'GST' regime.

E-way bill no. on Invoice is sufficient. Its printout not must. Number available on sms or otherwise are also valid.

Procedure for interception, detention, release/ seizure of goods & vehicle without e-way bill has been provided.

CBIC introduces IT Grievance Redressal Mechanism for grievances of taxpayers due to technical glitches on GST Portal.

No need for Composition Suppliers to furnish data of Inward supplies from registered persons in 4A of Table 4 of GSTR-4 for the Q4 of FY 2017-18.

Facility to apply for Advance Ruling has been enabled on GST Portal.

GST portal has enabled the functionality to revoke or cancel the GST registration.

E-Way Bill:

Applicability of e-way bill for intra state supplies in various states:

S No.	States	Applicability
1.	Karnataka	April 01, 2018
2.	Andhra Pradesh, Gujarat, Kerala, Telangana and Uttar Pradesh	April 15, 2018
3.	Bihar, Jharkhand, Haryana, Himachal Pradesh, Tripura & Uttarakhand	April 20, 2018
4.	Arunachal Pradesh, Madhya Pradesh, Meghalaya, Sikkim & Pondicherry	April 25, 2018
5.	Maharashtra	May 30, 2018

(CA Puneet Goel)

FEMA UPDATES

(March 13, 2018 – A.P. (DIR Series) Circular No.20 of Reserve Bank of India 'RBI' – Discontinuance of Letters of Undertaking (LoUs) and Letters of Comfort (LoCs) for Trade Credits

Attention of Authorised Dealer Category - I (AD Category - I) banks is invited to 'External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers' (Master Direction), as amended from time to time, on the issuance of LoUs/ LoCs/ guarantees for Trade Credits for imports into India under delegated powers of AD banks.

On a review of the extant guidelines, it has been decided to discontinue the practice of issuance of LoUs/ LoCs for Trade Credits for imports into India by AD Category -I banks with immediate effect. Letters of Credit and Bank Guarantees for Trade Credits for imports into India may continue to be issued subject to compliance with the provisions contained in Department of Banking Regulation on "Guarantees and Co-acceptances", as amended from time to time.

(April 12, 2018 – A.P. (DIR Series) Circular No.23 of Reserve Bank of India 'RBI' – Liberalised

Remittance Scheme (LRS) for Resident Individuals – daily reporting of transactions

Currently, transactions under Liberalised Remittance Scheme (LRS) are being permitted by AD banks based on the declaration made by the remitter. The monitoring of adherence to the limit is confined to obtaining such a declaration without independent verification, in the absence of a reliable source of information.

In order to improve monitoring and also to ensure compliance with the LRS limits, it has been decided to put in place a daily reporting system by AD banks of transactions undertaken by individuals under LRS, which will be accessible to all the other ADs.

Accordingly, from the date of issue of this circular, all AD Category-I banks are required to upload daily transaction-wise information undertaken by them under LRS at the close of business of the next working day. In case no data is to be furnished, AD banks shall upload a 'Nil' report.

FEMA FAQ SERIES

ACCOUNTS IN INDIA BY NON-RESIDENTS

Reserve Bank of India (RBI) has addressed on certain questions under the FAQs section. These FAQs attempt to put in place the common queries that users have on the subject in easy to understand language. However, for conducting a transaction, the Foreign Exchange Management Act, 1999 (FEMA) and the Regulations made or directions issued thereunder may be referred to.

Q1. What are the accounts that a tourist visiting India can open?

Answer: An NRO (current/ savings) account can be opened by a foreign national of non-Indian origin visiting India, with funds remitted from outside India through banking channel or by sale of foreign exchange brought by him to India. The balance in the NRO account may be paid to the account holder at the time of his departure from India provided the account has been maintained for a period not exceeding six months and the account has not been credited with any local funds, other than interest accrued thereon.

Q2. What is an SNRR account? How is it different from a NRO account?

Answer: Any person resident outside India, having a business interest in India, can open a Special Non-Resident Rupee Account (SNRR account) with an authorised dealer for the purpose of putting through bona fide transactions in rupees which are in conformity with the provisions of the Act, rules and regulations made thereunder. The features of the SNRR account are:

- a. The SNRR account will carry the nomenclature of the specific business for which it is opened and not earn any interest.
- b. The debits/ credits and the balances in the account should be incidental and commensurate with the business operations of the account holder.
- c. Authorised Dealers are required to ensure that all the operations in the SNRR account are in accordance with the provisions of the Act, rules and regulations made thereunder.
- d. The tenure of the SNRR account should be concurrent to the tenure of the contract/ period of operation/ the business of the account holder and in no case should exceed seven years. No operations are permissible in the account after seven years from the date of opening of the account.
- e. The operations in the SNRR account should not result in the account holder making available foreign

exchange to any person resident in India against reimbursement in rupees or in any other manner.

- f. The balances in the SNRR account can be repatriated outside India.
- g. Transfers from any NRO account to the SNRR account are not permitted.
- h. All transactions in the SNRR account will be subject to payment of applicable taxes in India.
- i. SNRR account may be designated as resident rupee account on the account holder becoming a resident.
- j. The amount due/ payable to non-resident nominee from the account of a deceased account holder, will be credited to NRO account of the nominee with an authorised dealer/ authorised bank in India.
- k. Opening of SNRR accounts by Pakistan and Bangladesh nationals and entities incorporated in Pakistan and Bangladesh requires prior approval of Reserve Bank.

The SNRR can be held only as a non-interest earning account, while an NRO account can earn interest. While the

balances in a NRO account are non-repatriable (except for current income and to the extent permissible for NRIs/ PIOs under FEMA 13(R)), SNRR is a repatriable account.

Q3. Can persons resident in Nepal and Bhutan have accounts in India?

Answer: Persons resident in Nepal and Bhutan can open Indian rupee accounts with an authorised dealer in India.

For more faqs kindly refer:

<https://www.rbi.org.in/Scripts/FAQView.aspx?Id=52>

(CA Sulabh Lohia)

OTHER UPDATES

COMPANY LAW

Allotment of PAN and TAN to the company shall be made at the time of incorporation of company. The Certificate of Incorporation now includes PAN and TAN alongwith CIN. Requirement of issuing PAN in the form of a laminated card has been removed.

Every applicant, who intends to be appointed as director of an existing company shall make an application electronically in Form DIR-3, to the Central Government for allotment of a Director Identification Number (DIN) along with such fees as provided under the Companies (Registration Offices and Fees) Rules, 2014.

Provided that in case of proposed directors not having approved DIN, the particulars of maximum three directors shall be mentioned in Form No. INC-32 (SPICe) and DIN may be allotted to maximum three proposed directors through Form.

Accounting Standard 22 or Indian Accounting Standard 12 relating to deferred tax asset or deferred tax liability had been relaxed for some specified companies.

Share Certificate mandatorily need to be signed by atleast two directors. In case of an One Person Company, it shall be sufficient if the certificate is signed by a director and the company secretary or any other person authorized by the Board for the purpose.

(Himani Saxena)

Ind-AS

Reserve Bank of India (RBI) through its press release deferred the implementation of Indian Accounting Standards (Ind AS) by one year for scheduled commercial banks i.e. 2019-20 would be the first year of Ind AS with 2018-19 as the comparative year.

Due Dates in May 2018

S. No.	Particulars	Due Date
1.	TDS Deposit for the month of April 2018	May 07, 2018
2.	GSTR-1 for the month March 2018*	May 10, 2018
3.	GSTR-3B for the month April 2018	May 20, 2018
4.	TDS Return for the period Jan-Mar	May 31, 2018
5.	ROC-Form 11 (Annual Return of LLP)	May 30, 2018

*Return of outward supply whose turnover exceeds 1.5 crore.

(CA Saurabh Jain)