

July 2018

TAPF NEWSLETTER



Updates by Tax & Accounting Professional Forum (TAPF)

PREFACE

Tax and Accounting Professional Forum (TAPF) is a group of Chartered Accountants, Financial Consultants and Other Professionals.

Reference to various new Laws & Government Policies and also time to time regular amendments & updates in various Laws, TAPF has developed a monthly news update system. This monthly news update system aims to provide needful & relevant information to various segments including Business Entities, Individuals, Foreign Investors, NRIs.

Though the information provided in this letter are prepared by qualified and well experienced professionals, however, TAPF hereby advise all it's readers to seek separate professional advise (as per the facts of matter) before acting on it's information.

DIRECT TAX UPDATES

INCOME TAX

Due Date for filing Income Tax Return extended from July 31, 2018 to August 31, 2018

Due date for ITR for individual not having tax audit, AOP, BOI and others liable to file ITR by July 31, 2018 can now file ITR by August 31, 2018.

CBDT has revised tax audit report

CBDT has revised the mandatory tax audit report Form 3CD, which is to be filed by certain taxpayers. An auditor will now have to furnish details related to GST sales, information on transactions, covered by transfer pricing provisions, cash transactions and transaction involving TDS.

Revised Tax Audit 3CD has 6 amendments and 9 insertions.

The summary of amendments are as under:

1. GSTIN to be mentioned.
2. Allowance under section 32AD is to be reported.
3. Deemed gain under section 32AD to be reported.
4. Clause (g) of section 43B (sum payable to Indian Railways for use of assets) has to be reported.
5. Cash receipts more than INR 2,00,000 under section 269ST is to be reported.
6. Details with respect to transactions not disclosed in TDS return/TCS return is to be reported.

The summary of insertions are as under:

1. 29A - Advance received on capital asset forfeited to be reported here.
2. 29B – Income of gifts exceeding INR 50,000 to be reported here.
3. 30A – Details about ‘Primary Adjustments’ in transfer pricing to be reported here as per section 92CE.
4. 30B – Limitation of interest deductions for borrowings from a AE upto 30% of EBITDA is to be furnished here.
5. 30C – Details of impermissible avoidance agreement to be furnished as referred in Section 96.

6. 36A – Dividend received under section 22(2)(e) is required to be reported here.
7. 42 – Details wrt Form 61 (details of no PAN Form 60 received), Form 61A (SFT) and For 61B (SRA) is to be provided here.
8. 43 – Details wrt CbC Reporting as referred to in section 286 is required to be reported.
9. 44 – Breakup of total expenditure in respect of GST registered and unregistered entities is required to be given.

(CA Reshu Agrawal)

INTERNATIONAL TAX UPDATE

International Taxation – July 2018 Updates – FCA Sulabh Lohia

(Delhi ITAT – No Section 195 TDS on air-freight paid by Logistic Company on Indian Client's behalf)

Delhi ITAT deletes Sec. 40(a)(i) disallowance of Rs. 120 cr. for airfreight payments made by assessee (a logistic and Cargo handling company) without TDS to non-resident parties during AY 2014-15; Observes that assessee did not claim the airfreight as expenses in the P & L account as the payments were made on behalf of its Indian clients/customers (who reimbursed the amount to assessee); Further notes that assessee had paid air-freight to non-resident agents on actual basis based on bills directly issued by foreign airlines, also notes that the agents while accepting the payments merely acted as agents of the respective airlines; Furthermore, noting that the addition was made based on the tax audit report disclosing the amounts as inadmissible, ITAT clarifies that "The opinion of the Auditor is not conclusive because the issue shall have to be considered and decided as per Law.", moreover, notes that the assessee had filed the revised audit report subsequently to clarify the above position, relies on plethora of rulings including jurisdictional HC ruling in Cargo Linkers, co-ordinate bench ruling in Hah Logistics; Also notes that under the domestic Law (i.e. Sec. 44BBA) as well as under DTAA, the income received by non-resident airline/shipping companies or their Agents, are not taxable in India. -

Source Taxsutra

(FCA Sulabh Lohia)

INDIRECT TAX UPDATES

GST UPDATES

1) **Accommodation Services will be charged on Actual Transaction Value instead of Declared Tariff**

Accommodation Services will be charged on actual transaction value instead of declared Tariff vide Notification No. 13/2018 dated July 26, 2018.

2) **Services supplied by Individual DSAs to Banks/NBFCs are taxable under RCM**

CBIC has notified that the services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP to banks/ non-banking financial company (NBFCs) are taxable under Reverse Charge Mechanism (RCM). Notification No. 15/2018.

3) **Major Relief for Textile Sector wrt refund of unutilized input tax credit**

CBIC has notified that the refund of unutilized input tax credit shall be allowable, where the input tax credit has accumulated on supplies received on or after 1st August, 2018 on account of rate of tax on inputs higher than the rate of output supplies, in respect of the specified goods. However, accumulated unutilized input tax credit after payment of tax for and upto July, 2018 on supplies received up to 31st July 2018 shall be lapsed.

4) **Reduction in GST Rates**

- Washing machine, mixers, water coolers, vacuum cleaner, refrigerators and TV with screen size below 27 inches - (GST Rate reduction from 28% to 18%).
- Paints, Varnishes - (GST rate reduction from 28% to 18%).
- Rakhi (without precious materials) - These are now exempted goods.

5) **GST @ 5% on supply of foods and drinks to Institutions on contractual basis**

The CBIC has rationalized entry relating to the composite supply of food and drinks in the restaurant, mess, canteen, eating joints and such supplies to institutions (educational, office, factory, hospital) on contractual basis at GST rate of 5%.

6) **E-commerce companies to face tax audit over GST refund issue**

The anti-profiteering authority has ordered audit of major e-commerce companies like Flipkart, Amazon and Snapdeal, to find out whether they have refunded the excess GST collected from the consumers.

7) **Domino's lands in trouble for not passing on GST cuts**

Pizza chain Domino's has got caught in the crosshairs of anti-profiteering authorities for not passing on a cut in goods and services tax to consumers. Anti-profiteering provisions make it compulsory for companies to pass on any benefits from a lower GST rate to consumers.

8) **GST Tribunal (GSTAT) will come into effect soon**

GST Tribunal (GSTAT) will come into effect soon, providing a higher judicial forum for businesses to redress disputes under the new tax framework. The GST Council approved creation of the tribunal with a national bench in Delhi and three regional benches in Chennai, Kolkata and Mumbai.

9) **Simplified Provision regarding the filing of GST Returns**

The GST Council has recommended simplified provision regarding the filing of returns. Taxable persons having annual turnover below Rs 5 crores shall have the option to file single quarterly returns with monthly payments. The format for filing the quarterly returns too has been simplified and 2 forms by the names of Sahaj and Sugam have been designed for this purpose. Besides, the Council has simplified the procedure for filing of nil returns. These could be filed under the new system by sending SMS. The new system is expected to be implemented from 1st January, 2019.

10) **Others**

i) Union Finance minister said that the 28% category of goods in under GST is being phased out and the bracket currently covers mostly luxury items or sin goods. The tax on other items as cement, air-conditioners, large screen televisions and a handful of others could also be reduced as revenues rise.

ii) The Goods and Service Tax Council would exclusively consider issues related to micro, small and medium enterprises taxpayers at its 29th meeting scheduled for August 4, a finance ministry official said.

iii) **Changes related to Exemptions**

Notification No. 14/2018 –Central Tax (rate) has been issued to amend Notification No. 12/2017-CT (rate) 28th June, 2017dated which provides list of services exempted from payment of whole of GST under the CGST Act, 2017 and IGST Act, 2017.

A. Scope of exemption widen

- a. Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India up to 30th September, 2018. Now extended up to 30th September, 2019.
- b. Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India upto 30th September, 2018. Now extended up to 30th September, 2019.

B. New exemptions

- a. Services by Electricity distribution utilities for construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agricultural use.
- b. Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.
- c. Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators.
- d. Services by an unincorporated body or a non-profit entity registered under any law, to its own members against consideration in the form of membership fee upto an amount of Rs 1000/- per member per year.

(CA Puneet Goel)

FEMA UPDATES

FEMA FAQ SERIES

Miscellaneous Forex Facilities

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.

Q 1. Who is an Authorized Dealer (AD)?

Ans. An Authorised Dealer (AD) is any person specifically authorized by the Reserve Bank under Section 10(1) of FEMA, 1999, to deal in foreign exchange or foreign securities (the list of ADs is available on www.rbi.org.in) and normally includes banks.

Q 2. Who are authorized by the Reserve Bank to sell foreign exchange for travel purposes?

Ans. Foreign exchange can be purchased from any authorised person, such as an AD Category-I bank and AD Category II. Full-Fledged Money Changers (FFMCs) are also permitted to release exchange for business and private visits.

Q 3. How much foreign currency can be carried in cash for travel abroad?

Ans. Travellers going to all countries other than (a) and (b) below are allowed to purchase foreign currency notes / coins only up to USD 3000 per visit. Balance amount can be carried in the form of store value cards, travellerscheque or banker's draft. Exceptions to this are (a) travellers proceeding to Iraq and Libya who can draw foreign exchange in the form of foreign currency notes and coins not exceeding USD 5000 or its equivalent per visit; (b) travellers proceeding to the Islamic Republic of Iran, Russian Federation and other Republics of Commonwealth of Independent States who can draw entire foreign exchange (up-to USD 250,000) in the form of foreign currency notes or coins.

For travellers proceeding for Haj/ Umrah pilgrimage, full amount of entitlement (USD 250,000) in cash or up to the cash limit as specified by the Haj Committee of India, may be released by the ADs and FFMCs.

Q 4. How much Indian currency can be brought in while coming into India?

Ans. A resident of India, who has gone out of India on a temporary visit may bring into India at the time of his return from any place outside India (other than Nepal and Bhutan), currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25,000. A person may bring into India from Nepal or

Bhutan, currency notes of Government of India and Reserve Bank of India notes, in denomination not exceeding Rs.100. Any person resident outside India, not being a citizen of Pakistan and Bangladesh and also not a traveller coming from and going to Pakistan and Bangladesh, and visiting India may bring into India currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs. 25,000 while entering only through an airport.

Any person resident in India who had gone to Pakistan and/or Bangladesh on a temporary visit, may bring into India at the time of his return, currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs. 10,000 per person.

Q 5. How much foreign exchange can be brought in while visiting India?

Ans. A person coming into India from abroad can bring with him foreign exchange without any limit. However, if the aggregate value of the foreign exchange in the form of currency notes, bank notes or travellers cheques brought in exceeds USD 10,000 or its equivalent and/or the value of foreign currency alone exceeds USD 5,000 or its equivalent, it should be declared to the Customs Authorities at the Airport in the Currency Declaration Form (CDF), on arrival in India.

Q 6. Can one pay by cash full rupee equivalent of foreign exchange being purchased for travel abroad?

Ans. Foreign exchange for travel abroad can be purchased from an authorized person against rupee payment in cash below Rs.50,000/-. However, if the sale of foreign exchange is for the amount equivalent to Rs 50,000/- and above, the entire payment should be made by way of a crossed cheque/ banker's cheque/ pay order/ demand draft/ debit card / credit card / prepaid card only.

For more faqs kindly refer:

<https://www.rbi.org.in/Scripts/FAQView.aspx?Id=66>

(FCA Sulabh Lohia)

OTHER UPDATES

COMPANY LAW

Following changes will be applicable for new DSC obtained from 01/07/2018 Old DSC & tokens will work as it is

Video verification will be mandatory in class 2 DSC,(class 2 individual DSC mainly used for income Tax, PF, TDS,MCA, GST, etc)(Similar process currently applicable for Class 3 DSC, same process now will be applicable for Class 2 as well.

Aadhar Biometric DSC will not require to do video Verification as person is physically verified with aadhar biometric authentication.

USB Token'S CSP is getting upgraded and will be applicable from 01.07.2018, hence old tokens will not work for renewals.

LLP Partners should obtain DPIN before Appointment: MCA amends LLP Rules

The Ministry of Corporate Affairs (MCA) has amended the Limited Liability Partnership (LLP) Rules wherein it mandated that the partners should obtain a Designated Partner Identification Number (DPIN) before the appointment.

"Every individual, who intends to be appointed as a designated partner of an existing limited liability partnership, shall make an application electronically in Form DIR-3 under the Companies (Appointment and Qualifications of Directors) Rules, 2014 for obtaining DPIN under the Limited Liability Partnership Act,2008 and such DIN shall be sufficient for being appointed as designated partner under the Limited Liability Partnership Act,2008," the amended rule reads.

As per the present law, to constitute an LLP in India, it require two Designated Partners with proper DPINs. At least one designated partner must have DSC (Digital Signature Certificate).

DIR-6

MCA has revised the version of the eForm **DIR - 6** (Intimation of change in particulars of Director to be given to the Central Government), which is now available at Company Forms Download page w.e.f 26th July, 2018. Further, updating of Email ID and Mobile number in DIR-6 has been temporarily disabled till further notice, as the updated information is being captured through the eForm DIR - 3KYC. Stakeholders may kindly take note and are advised to check the latest version before filing

DIR-3 KYC

As part of updating its registry MCA would be conducting KYC of all Directors of all companies annually through a new eform viz. DIR-3 KYC.

Accordingly, every Director who has been allotted DIN on or before 31st March, 2018 and whose DIN is in Approved status would be mandatorily required to file form DIR 3 KYC on or before 31st August, 2018.

While filling the form, the unique Personal Mobile Number and Personal E mail ID would have to be mandatorily indicated and would be duly verified by One Time Password (OTP).

The form should be filed by every Director using his own DSC and should be duly certified by a practicing professional (CA/CS/CMA)

Filing of DIR 3 KYC would be mandatory for Disqualified Directors also.

Documents Required:

1. DSC of Director duly registered;
2. Self-attested PAN card;
3. Self-attested Aadhar card with updated Mobile number with UIDAI;
4. Self attested Electricity Bill, Mobile Bill, and Bank Statement of Director (latest by 2 Months) of his / her present address;
5. Latest Passport size photo:
6. DIN declaration cum KYC.

DIR 3 KYC will be deploy from 10.07.2018. This form should be filed by every Director using his/ her own DSC and should be duly certified by practicing professional.

After expiry of the due date by which the KYC form is to be filed, the MCA21 system will mark all approved DINs (allotted on or before 31st March 2018) against which DIR 3 KYC form has been filed as Deactivated with reason as Non- filing of DIR 3 KYC.

After the due date filing of DIR 3 KYC in respect of such deactivated DINs shall be allowed upon payment of a specified fee only, without prejudice to any other action that may be taken.

Satisfaction of Charge - Companies Act, 2013

The Ministry of Corporate Affairs (MCA) has notified the Companies (Registration of Charges) Amendment Rules, 2018 wherein the time period for filing the CHG-4 for satisfaction of charge has been amended. Now, Companies have an extra-time for filing the satisfaction of charge with MCA.

It is provided that a company or charge holder shall within a period of three hundred days from the date of the payment or satisfaction in full of any charge registered under Chapter VI, give intimation of the same to the Registrar in Form No.CHG-4 along with the fee.

FREQUENTLY ASKED QUESTION

1. What is the last day to file DIR-3 KYC for directors whose DIN has been allotted on or before 31st March 2018 ?

31st August 2018 is the last date to file DIR-3 KYC **by** every Director who has been allotted DIN on or before 31st March, 2018 and whose DIN is in 'Approved' status.

2. Is it compulsory to file DIR-3 KYC ?

Yes, its mandatory to be filed by all Director who has been allotted DIN on or before 31st March, 2018 and whose DIN is in 'Approved' status

EVEN DISQUALIFIED DIRECTORS NEED TO FILE FORM DIR-3 KYC

3. What if someone failed to file form DIR-3 KYC on due time?

After expiry of the due date by which the DIR-3 KYC form is to be filed, the MCA21 system will mark all approved DINs (allotted on or before 31st March 2018) against which DIR-3 KYC form has not been filed as '**Deactivated**' with reason as '*Non-filing of DIR-3 KYC*'.

4. Can the DIR-3 KYC be filed after 31st August 2018?

Yes, *After the due date* filing of DIR-3 KYC in respect of such deactivated DINs shall be allowed upon payment of a specified fee only, without prejudice to any other action that may be taken by the MCA.

(Himani Saxena – MBA Finance)

Due Dates in August 2018

S. No.	Particulars	Due Date
1.	GSTR-1 for the month July 2018*	August 10, 2018
2.	GSTR-3B for the month June 2018	August 20, 2018
3.	Income Tax return for the FY 2017-18	August 31, 2018

*Return of outward supply whose turnover exceeds 1.5 crore.

(CA Saurabh Jain)