



EZYBIZ INDIA CONSULTING LLP

Redefining Consultancy

Monthly Newsletter

March, 2017

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Important Due Dates- March, 2017

10 th April, 2017	Excise Return for the month ended 31 st March, 2017.
15 th April, 2017	Provident Fund Payment for the month ended 31 st March, 2017.
21 st April, 2017	VAT Payment for the month ended 31 st March, 2017.
21 st April, 2017	ESI Payment and Return for the month ended 31 st March, 2017.
25 th April, 2017	Provided Fund Return for the month ended 31 st March, 2017.
25 th April, 2017	Service Tax Return for the period October 2016 to March 2017.
30 th April, 2017	Annual Return of PF for FY 2016-17.
30 th April, 2017	TDS/TCS Payment for the month/quarter ended 31 st March, 2017.

Major Changes in Income Tax Law w.e.f. 1-4-2017

1. Change in rate of presumptive income

For Non Cash Sales (through Digital, Online, cheque, Bank etc.) -Net Profit will be taken as **6%** of Turnover/Gross Receipt.

For Cash Sales - Net Profit will be taken as **8%** of Turnover/Gross Receipt.

2. TDS on Rent Paid by Individual/HUF(not subject to Tax Audit requirements) @ 5%, if Rent Paid Exceed Rs. 50000 Per month.

3. Change in Base year & Period of holding for Long Term Capital gain of Land & Buildings

Capital Gain in respect of Land & Buildings period reduced from 3 years to 2 years and Base year shifted from 01.04.1981 to 01.04.2001.

4. Sale of unquoted shares to be taxed at (deemed) fair value.

5. In case of absence of PAN of the buyer of specified goods **Rate of TCS will be twice of the rate or 5%**, whichever is higher.

6. Mandatory quoting of Aadhaar No for IT Return and PAN Application W.e.f. 01/07/17.

7. **Late fee on non-filing of IT return within due date:** From financial year 2017-18, if Return is not filed within due date, late fee of Rs.5000 for delay up to 31st December, and Rs. 10000 thereafter.

8. If Sec.12AA registered trusts modify their objects clause, they need to apply **within 30 days to CIT for approval.**

9. No person shall receive an amount of **two lakh rupees or more, by cash (Sec. 269ST).**

10. Limit for payment of expenses by cash (both, capital and revenue expenditure) reduced from **Rs.20000 to Rs.10000** per day in aggregate per person.

Direct Taxation News

➤ **Separate Wing To Probe Black Money & Benami Transactions**

CBDT to make separate wing to probe Benami, black money and issued warning against those who undertake Benami transactions as this would invite Rigorous Imprisonment (RI) of up to seven years under the normal I-T Act.

➤ **Statutory Notice to persons fails to respond queries of IT department**

Income Tax Department will issue statutory notices u/s 133(6) to all those who have failed to respond to its SMS and e-mail queries seeking explanation on bank deposits made after demonetization.

➤ **CBDT rolled out Prosecution Module under Income Tax Business Application.**

➤ **Operation Clean Money**

Income Tax Department identifies 17.92 Lakh persons whose tax profiles were not in line with the cash deposits made by them during the demonetization period.

➤ **CBDT to honour honest taxpayers**

CBDT to honour honest taxpayers "Honest and Compliant" taxpayers from across the country who have paid their Income Tax dues diligently over the years.

➤ **Investigation of suspicious deposits post-note ban**

CBDT issues new guidelines to officials investigating suspicious deposits post-note ban. It has asked Income Tax Department officials to even check CCTV footage at banks to detect fictitious cash transactions.

➤ **CBDT notifies new Income Tax Return Forms for AY 2017-18.**

The Central Board of Direct Taxes has notified Income-tax Return Forms (ITR Forms) for the Assessment Year 2017-18.

Major Changes

one page simplified ITR Form-1(Sahaj) is notified.

The existing ITR Forms ITR-2, ITR-2A and ITR-3 have been rationalized and a single ITR-2 has been notified in place of these three forms.

Consequently, ITR-4 and ITR-4S (Sugam) have been renumbered as ITR-3 and ITR-4 (Sugam) respectively.

The new ITR forms will continue having a column asking taxpayers to mandatorily mention their aadhaar number.

A new column in Income Tax Return forms for assessment year 2017-18 for obtaining details on cash deposits made by an individual during the demonetisation period.

Indirect Taxation News

Service Tax

- CBEC has issued Master Circular providing the clarity and uniformity on the issue dealing with show cause notice, adjudication of proceedings and recovery.

(Circular No. 1053/02/2017-CX)

- **Ministry of Finance has withdrawn Service Tax Exemption to Education Institutions (w.e.f 01st April, 2017)**

Earlier provision for exemption was as under:
Services provided to or by an educational institution in respect of education exempted from service tax, by way of,-

- (a) auxiliary educational services; or
- (b) renting of immovable property;

Now, a proviso has been added as under:

“Provided that nothing contained in clause (b) of this entry shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent;”.

(Notification No. 10/2017-Service Tax, dated 08.03.2017)

- **Re-organisation of CBEC as CBIC**

Finance ministry approved the re-organisation of the indirect tax wing renaming the Central Board of Excise and Customs (CBEC) as the Central Board of Indirect Taxes and Customs (CBIC).

The CBIC will have 21 zones, 101 GST tax payer services commissionerates comprising 15 sub-commissionerates, 768 divisions, 3,969 ranges, 49 audit comm and 50 appeals Commissionerates.

GST

- **GST Migration Date Extended**

GST network has extended the date of enrolment for taxpayers under GST till 30th April, 2017.

- **GST Council meet in April to thrash tax rate**

The GST Council will meet in April to thrash tax rate for upto 5,000 commodities and services under GST.

Services will not be taxed more than 18 per cent under GST.

- **Change in the provision for determining the liability to pay tax in case of Services (Time of Supply of Services).**

a) If the invoice is issued within the period prescribed, the date of issue of invoices or the date of receipt of payment, whichever is earlier;

b) If the invoice is not issued within the period prescribed, the date of provision of services, or the date of receipt of payment, whichever is earlier;

c) The date on which the recipient shows the receipt of services in his books of accounts, in a case where aforesaid clause (a) or (b) does not apply.

- **CGST, SGST, IGST AND UTGST passed by the Lok Sabha;**

Major Changes In GST Bill:

- Non-Applicability of GST Law in the State of Jammu and Kashmir.
- Non-Chargeability of GST on Actionable Claims.
- Upper cap of GST fixed at 20% under CGST, and 40% in case of IGST Law.

Case Laws: Domestic Taxation

Direct Tax

- Profit/Loss arising out of Investment in Equity Participation is 'Revenue' in nature (*Principal CIT v. Industrial Finance Corporation of India Ltd:Delhi High Court.*)
- **Utilization of refund of TDS by company in liquidation would amount to contempt of court: Apex court**

Facts: Company in liquidation received money from National Highway Authority of India (NHAI) on account of acquisition of company's land. High Court had directed NHAI to deposit said amount with Registrar of High Court and NHAI deposited said amount after deducting TDS.

SC Decision: The Apex Court held that utilization of TDS refund would amount to Contempt of order of High Court, as refund was actually compensation in respect of land acquired from company and it was that amount which High Court wanted to protect by its order.

([2017] 79 taxmann.com 463 (SC))

- **No summons if no proceeding are pending**

No summons u/s 131(1) of the Income Tax Act can be issued, if no proceeding are pending.

(Jamnadas Madhavji And Co. And vs J.B. Panchal, Income-Tax Officer (HC of Bombay)

- Corporate veil can be lifted if Company is used as a means to evade tax.
(Ajay Surendra Patel Vs DCIT (Gujarat High Court)).

Indirect Tax

- **No appeal before CESTAT for appeals pending in other forums**

While filing appeal before CESTAT, parties to declare that such matter isn't pending in other forums.

(CIRCULAR NO.01(05)/ CIR/ CESTAT/ 2017, DATED 27-2-2017.)

- **Denial of Input Tax Credit** on the ground that the transactions were reflected in retail invoices and not tax invoices and therefore did not qualify for credit is not valid as the strict interpretation of Section 50(2) was unwarranted. Credit allowed. Revenue's appeal dismissed. *(J C Decaux Advertising I P Ltd. – Delhi High Court. January 9, 2017).*

- **CENVAT credit on modernization renovation is allowed**

CENVAT credit - input services used for setting up modernization renovation of a factory will be allowed even if not directly related.

(Sankei Giken (India) Pvt. Ltd. Vs CCE, Delhi (CESTAT Chandigarh))

- Limitation period of one year is not applicable for claiming refund of Excise taxes paid under protest.
(High Court of Punjab and Haryana in the case of CCEC Chandigarh-1 Vs. Ind. Swift Lands Ltd.)

International Taxation

➤ **Revised India-Singapore Tax Treaty**

India's revised tax treaty with Singapore, aimed at checking round tripping of funds, has come into force. The principal clause allowing levy of capital gains tax on investments routed through Singapore will come into force from April 1.

The 10 APAs signed in the past one week pertain to sectors like telecom, pharma, banking and finance, steel, retail and information technology

➤ **100% Foreign Direct Investment (FDI) in insurance broking**

Govt considering allowing 100% Foreign Direct Investment (FDI) in insurance broking with a view to giving a boost to the sector at present, allows 49%

➤ **FDI Policy on home care product**

The government will consider the demands made by foreign retailers for allowing nonfood items such as home care products under the foreign direct investment (FDI) policy.

➤ **Global Communication facility provided to company's agent is not liable to taxed as FTS**

Payments made by the agents to the concerned foreign assessee, for using the facility of Net Communication System, developed by the assessee for smooth functioning of its international shipping business would not be classified as fees for technical services and would not be chargeable as income under Income Tax.

(DIT vs. A. P. Moller Maersk, Supreme Court of India)

➤ **Trade Facilitation Agreement**

CBEC chairman said pinning hopes on global Trade Facilitation Agreement (TFA) in goods to boost India's trade flows implementing the deal would not be a problem for India.

➤ **CBDT signs 10 more unilateral APAs with taxpayers**

The Central Board of Direct Taxes (CBDT) has signed 10 more unilateral advance pricing agreements (APAs) with Indian taxpayers as it looks to reduce litigation by providing certainty in transfer pricing.

➤ **Singapore DTAA: India notifies third Protocol**

Singapore was the largest foreign direct investor into India for the period April 2015 to March 2016, and one of the biggest portfolio investors in Indian markets.

The Third Protocol preserves the existing tax exemption on capital gains for shares acquired before April 1, 2017, while providing a transitional arrangement for shares acquired on or after April 1, 2017.

In order to provide certainty to investors, investments in shares made before April 1, 2017 have been grandfathered subject to fulfilment of limitation of benefits clause.

The Third Protocol also inserts Article 9(2) in the DTAA which would facilitate "relieving of economic double taxation in transfer pricing cases.

Regulatory News

Company Law

➤ **Amendment to the Companies (Indian Accounting Standards) Rules, 2015**

The Central Government, in consultation with the National Advisory Committee on Accounting Standards has amended the Companies (Indian Accounting Standards) Rules, 2015 which shall be effective from 01.04.2017.

The amended rules contain the foll. Matters:

- i) "Treatment of vesting and non-vesting conditions.
- ii) Share-based payment transactions with a net settlement feature for withholding tax obligations
- iii) "Transitional provisions Effective dates
- iv) "Accounting for a modification of a share-based payment transaction that changes its classification from cash-settled to equity-settled
- v) "Changes in liabilities arising from financing activities
(*N/No. G.S.R. 258(E) dated 17.03.2017*)

➤ **Form 3 has to mandatorily filed before filing of Form 8 and Form 11**

MCA has given instructions to stakeholders to ensure that Form 3 (Information with regard to Limited Liability Partnership agreement and changes, if any, made therein) has been mandatorily filed for initial agreement before filing of Form 8 (Statement of Account & Solvency) and Form 11 (Annual Return of Limited Liability Partnership (LLP)).

➤ **Companies to disclose details of SBN (Specified bank notes) in balance sheet**

MCA Notified that Companies to disclose details of SBN (Specified bank notes) in balance sheet held and transacted during demonetization period from 08-11-2016 to 30-12-2016 in a specified format.

(N/no. G.S.R.308(E) dated 30thMarch, 2017)

➤ **MCA vide Notification dated 30th March, 2017 amended Companies (Audit and Auditors) Amendment Rules, 2017 (N/no.G.S.R.307(E) dated 30thMarch, 2017)**

RBI/FEMA

➤ **Foreign resident or entities other than FPI/FII/FVCI may contribute foreign capital in LLP**

A person resident outside India (other than a citizen of Pakistan or Bangladesh) or an entity incorporated outside India (**other than an entity in Pakistan or Bangladesh**), not being a Foreign Portfolio Investor or Foreign Institutional Investor or Foreign Venture Capital Investor registered in accordance with SEBI guidelines, may contribute foreign capital either by way of capital contribution or by way of acquisition / transfer of profit shares in the capital structure of an LLP under FDI. (*Notification No. FEMA.385/2017-RB dated 03.03.2017*)

➤ **RBI has extended the time for receipt of comments/ suggestions/ feedback on draft Master Directions on issuance and operation of pre-paid payment instruments (PPIs) in India till April 15, 2017.**

Regulatory News

SEBI

➤ **Modification in format of letter of offer**

SEBI in consultation with market participants has decided to revise the time period for which information is required to be filed with SEBI, in line with the provisions relating to maintenance of records under the Companies Act, 2013. The format and the instructions of the LOO shall also be modified.

(Cir.no. SEBI/HO/CFD/DCRI/CIR/P/2017/ 22)

➤ SEBI is evaluating the category of benchmarks being currently used to compare the returns of mutual fund (MF) schemes.

➤ SEBI has issued circular for **Redressal of complaints against Stock Brokers** and Depository Participants through SEBI Complaint Redress System (SCORES).

➤ **SEBI issued guidelines for mutual fund advertisements**, allowing use of celebrities to increase awareness of the Rs. 17.9 lakh crore industry. The regulator also tweaked the performance disclosure requirement.

➤ **Clarification regarding Record Date**

SEBI clarified that the “Relevant Date” for the purpose of computing pricing for issuance of shares to a select group of shareholders or shareholders of unlisted companies pursuant to such schemes shall be the date of Board meeting in which the scheme is approved.

(Cir.no. CFD/DIL3/CIR/2017/26)

Other News

➤ **Reduction in admin charges by EPFO**

The Employees’ Provident Fund Organisation (EPFO) has decided to reduce administrative charges to 0.65 per cent of total wages.

➤ CA guilty of professional misconduct as he failed to highlight suspicious book entries during audit.

(HC of Delhi. ICAI vs. CA G.S.Johar.)

➤ **President Pranab Mukherjee has given assent to the Maternity Benefit (Amendment) Act, 2017:**

- Women employees will now be able to get paid maternity leave of 26 weeks.
- The new law makes it mandatory for every establishment with fifty or more employees to have the facility of creche within a prescribed distance.

➤ **Audit of impact of note ban**

The Comptroller and Auditor General of India (CAG) plans to audit the impact of note ban and the affect it has had on government tax revenues, said CAG Shashi Kant Sharma.

➤ Govt. considering allowing **100% Foreign Direct Investment (FDI) in insurance broking** with a view to giving a boost to the sector at present, allows 49%.

➤ **New TM Govt Fees**

E-Filing New TM Govt Fees Rs.4500 for individual/ startup/ Small Business. For Others Rs.9000. Physical filing Fees Rs.5000 for individual/ startup/ Small Business and for Others Rs.10000.

About Us

EZYBIZ India is a Consulting and business outsourcing firm founded by alumni of EY in order to provide one window solution to Taxation, Regulatory, Transaction advisory and Accounting need of clients in India and abroad.

We have team of Chartered Accountants, Company Secretaries and finance professionals and provide services to proud mix of Indian and multinational clients like Corporates, LLPs, Firms, subsidiaries of Foreign Companies, Branch office, Liaison Office, HNIs, NRIs and Expatriates.

Some of our foreign clients are from Netherland, USA, Turkey, UAE and Japan.

OUR SERVICES

- *Business set up and Registrations [BO, LO, WOS, Public/Pvt. Ltd Co., LLPs, GST etc]*
- *Direct Tax Advisory and compliance*
- *Indirect Tax Advisory and compliance*
- *Business Restructuring (M&A, Slump sale, Amalgamation etc)*
- *Regulatory advisory and compliance (ROC, FEMA, RBI & SEBI)*
- *Tax Assessment and Litigation service*
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