ACQUISORY

Solutions For Growth

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# Acquisory News Chronicle

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# VISION

About Future

Final Objective / Goal

Path to Achievement

Risks / Problems

Solutions

Risk Management

Process

Achievement

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# Model GST Law – A Tax Law Transformation


***A comprehensive indirect tax regime which will change the face of the taxation system in India. A much awaited tax law transformation Goods and Service tax (GST) as introduced for the first time by the Government of India is all set to take its launch. The state wise VAT, the central excise, the service tax, all will be integrated into one legislation, known as Goods and Service Tax Act, 2016 ('GST Act 2016'). The GST Act 2016 has been for the first time made public in June 2016 by the Indian Government. The government is planning to introduce the Act w.e.f. 1st April, 2017 and proposes to pass the 122nd Constitutional Amendment bill, 2014 in the upcoming monsoon session of the parliament***

The much awaited reform Goods and Service Tax Act 2016 will change the fundamental of Indian Taxation. The state wise VAT, the central excise, the service tax, all will be integrated into one legislation, known as Goods and Service Tax Act, 2016 ('GST Act 2016'). The GST Act 2016 has been for the first time made public in June 2016 by the Indian Government. The government is planning to introduce the Act w.e.f. 1st April, 2017 and proposes to pass the 122nd Constitutional Amendment bill, 2014 in the upcoming monsoon session of the parliament. By amalgamating a large number of Central and State taxes into a single tax, it would mitigate cascading or double taxation in a major way and pave the way for a common national market.

The framework of GST is characterized by a marked shift from the present origin based taxation to that of consumption based. It is proposed to be levied on a wide base of goods and services and is likely to subsume a majority of existing taxes – excise duty, service tax, VAT, Central Sales Tax (CST), purchase tax, octroy, local body tax etc. Only few services of public importance are kept outside the purview of GST. The regime is expected to have an equally conducive regulatory effect on Foreign Direct Investment (FDI), allowing foreign manufacturing companies to also be able to reap benefits and thereby, steadily build confidence in investing in India. The transition to GST may change the way business is done in India and is widely expected to boost the country's economy.

## *Background*

The Constitution (122nd Amendment) bill, 2014 was introduced in Lok Sabha on December 19, 2014 and was passed in the House on May 6, 2015. Further, it was referred to a Select Committee of Rajya Sabha on May 14, 2015. The Bill amends the Constitution to enable Parliament and State legislatures to frame laws on the imposition of the Goods and Service Tax (GST). Consequently, the GST subsumes various central indirect taxes including the Central Excise Duty, Countervailing Duty, Service Tax, etc. It also subsumes state value added tax, octroi and entry tax, luxury tax etc.

The idea behind GST is to subsume all existing central and state indirect taxes under one value added tax, which will be levied on all goods and services. No good or service is exempt, and there is no differentiation between a good or service, whether as an input or as finished product. Under GST, tax paid on inputs is deducted from the tax payable on the output produced. This input credit set off operates through the manufacturing and distribution stage of production. The tax is collected only at the place of consumption. This design addresses cascading of taxes.

***Implementation of GST in India will integrate the existing line of taxes like Central Excise, Service Tax, Sales Tax, Value Added Tax etc. into one tax i.e. GST. Thus it will help to reduce or eliminate the multiple taxes currently being levied on products and services.***

## *Key Features*

GST will create a single, unified Indian market to make the economy stronger. The basic aim of GST is to benefit the consumers as well as the Government, thus creating a win win situation for both. Some of the important features are-

***The GST shall have two components: one levied by the Centre (Central Goods and Service Tax) and other levied by States (State Goods and Service Tax)***. Rates for Central GST and Sate GST would be prescribed appropriately, reflecting revenue considerations and acceptability. This dual GST model would be implemented through multiple statutes. However, the basis features of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc. would be uniform across these statutes as far as practicable.

***Ending of Multiple Layer of taxes*** – Implementation of GST in India will integrate the existing line of taxes like Central Excise, Service Tax, Sales Tax, Value Added Tax etc. into one tax i.e. GST. This will help in avoiding multiple taxes currently being levied on products and services.

***Alleviation of Cascading taxation*** – Under the GST regime, the final tax would be paid by the consumer of the goods/services but there would be an input tax credit system in place to ensure that there is no cascading of taxes. GST would be levied only on the value added at every stage, unlike the present scenario wherein tax is also required to be paid on Tax in a few cases i.e. VAT is payable on Excise Duty.


***Development of National Economy*** – With the introduction of a uniform taxation law across states and different sectors in respect to indirect taxes under GST, would make it easier to supply goods and services hassle-free across the country. This will not only help in removing economic distortions, promote exports and bring about development of a common national market but will also enhance tax – to – gross domestic product ratio and thus help in promoting economic efficiency and sustainable long term economic growth.

***Increase in voluntary compliance*** – Under the GST regime, the process will be simple and articulate with a lessor scope for errors. As all the information will flow through the common GST network, it would make tax payment and compliances a regular norm with lessor scope for mistakes. It will only be upon the payment of tax, that the consumer will get credit for the taxes they pay on inputs. This will generate an automatic audit trail of value addition and income across the production chain, creating a unified base of tax potential that can be tapped. Thus the GST model will do away the need of the current patchwork of indirect taxes that are fractional.

***Reduction in litigation*** – Taxation under GST will reduce the litigation on account of clarity regarding the jurisdiction of taxation as against the present structure where there still exists an uncertainty regarding jurisdiction of taxation by the Centre and State. In the GST regime, with a single tax law in place, there would be smooth assessments as compared to the present multiple assessments in different tax laws.

***Efficient Administration by the Government*** - Presently, on account of multiplicity of taxes and their cascading effects, lack of integrated network, the administration of indirect taxes is a mammoth task for the government which also adds to the compliance & administration costs. Under the proposed GST regime, with unified tax rate, simple input tax credit mechanism and integrated GST Network, information would be readily available and administration of resources would be easy and efficient for the Government. There would be a single tax, reduced errors and litigations, thus resulting in reduced administration costs too.

***Will act as a Tax Booster for the Government*** - With a wider tax base, minimum floor rates, facility of seamless credit, the Goods & Services Tax would prove to be an efficient tax booster for the government. With ease of compliance and integrated network data, tax collection would be much easier for the government.

## GST Sectoral Impact

The impact of GST shall be on almost all the sectors of the industry. However, there shall be certain sectors which will be impacted more as compared to others. Following are the key sectors that may be impacted strongly by GST, with respect to their supply chain models.

### Pharmaceuticals

*Present Scenario* – Many pharmaceutical companies have pan India presence owing to the Clearing and Forwarding Agent (CFA) model of their supply chain. This model is applied to mitigate the CST cost applicable on interstate sale of goods, the input tax credit of which is not available at present. The structure has created procedural hassles in terms of non-availability of statutory documents on time and the restriction on free movement of goods across different states, thus giving rise to the procedural disputes with tax authorities in different states.

*GST Scenario* – under the Integrated Goods and Service Tax (IGST) there will be availability of input tax credit, eliminating the need of CFA agent in each state. This shall help in rationalizing the distribution centers in the supply chain. As GST shall be applicable to branch transfers, the issue of obtaining and issuing statutory forms could be done away with, thereby reducing litigations.

Further, companies may have to relook at their pricing policy from key perspectives, such as differential excise duty structure for active pharmaceutical ingredients and active formulations, and the current practice of MRP basis to levy tax.

### FMCG

*Present Scenario* – The model in FMCG sector is same as of the pharmaceutical, with depots across states to mitigate CST. Procurement of inputs is generally an interstate transaction, leading to the CST levy, which in turn increases the cost of procurement, since diverse products are manufactured in the sector.

*GST Scenario* – with the availability of IGST credit on interstate procurements under GST, there is possibility of reducing the procurement cost and companies can accordingly rationalize their pricing policy.

**_Telecom_**

_Present Scenario_ – The supply chain network comprises of branch warehouses, normally spread in each state/circle of the telecom operator. The industry incurs significant cost in acquiring infrastructure facilities like towers and telecommunication equipment. The VAT applicable on such equipment is not available as input tax credit against the service tax payable on services provided by telecom operators. Dual taxation in certain states is a dampener for this fiercely competitive sector.

_GST Scenario_ – with full input tax credit being proposed, operators can expect reduced cost of procurements. The current service tax payable on output services is expected to increase. With telecom services being an important utility for the end customer, operators may need to look into their pricing, so as to avoid passing on the increased tax cost to the end customer.

**_Automotive_**

_Present Scenario_- In the automotive industry there are several inputs used in manufacturing of automobiles that are subject to a lower VAT rate of 4 to 5 percent, as compared to VAT rate on the final product. Manufacturers prefer their ancillaries to be situated in the same state so as to not only help manage the supply chain cost, but also in mitigating the extra cost of CST on which no input tax credit is available.

_GST Scenario_ – With full input tax credits on interstate transactions being made available under GST, automobile manufacturers can scout for alternative options for sourcing ancillaries, wherein the supply chain cost is not the key determinant. The additional levies can be subsumed under GST and should be of value to the end customer.

**_Real Estate_**

_Present Scenario_- In this sector the tax is levied aggressively, with multiple taxes being levied at various levels, such as service tax, VAT, stamp duty etc. Non-availability of input tax credits has led to a cascading tax impact, which directly affects the end customer.

_GST Scenario_ – The GST regime is expected to resolve many of the issues inherent in this sector in terms of multiple taxes and availability of tax credits. However, in this industry both goods and services are used for providing the end product (known as works contract), thus leads to double taxation i.e. VAT and service tax of some portion of the consideration.

## *Conclusion*

For a economy like India which is still a developing one, it is imperious to be globally more competent and utilise its resources efficiently. The taxation policies should be defined in such a manner so as to maximise the economic efficiencies and minimise distortions & impediments towards resource utilisation, capital formation and international trade. In totality, implementation of comprehensive GST regime in India is expected to lead to efficient allocation of factors of production thus, leading to economic gains, increased exports, enhanced economic welfare and returns to factors of production viz, land labour cost and capital.

The implementation of GST in India will not only contribute to the nation's GDP and develop a Common National Market across borders but will also impact various business areas like pricing, costing, margins, supply chain management, tax compliances/incentives, IT systems etc. Also the GST reform is likely to serve as a crucial enabler for the ‘Make in India’ campaign. With a importance of state boundaries and the cascading impact of taxes diminishing in making supply chain decisions it can serve as an opportunity for a company to carve a new and an efficient operating model to give it that distinctive servicing advantage.

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# Indian Accounting Standards – A Paradigm shift

*"Ministry of Corporate Affairs (MCA) notified the Companies (Indian Accounting Standards) Rules, 2015 through notification dated 16th February, 2015 and set the road map for the implementation of the Indian Accounting Standards for class of companies other than banking, insurance and non banking finance companies and now in 2016 the Ministry has implemented the road map for the implementation of Indian Accounting Standards for banks, insurance companies and non banking finance companies."*

## Background

Indian Accounting Standards (Ind – AS) in India accounting standards were issued under the supervision and control of Accounting Standard Board (ASB), which was constituted as a body in the year 1977. The Ind – AS are on the same lines as of International Financial Reporting Standards (IFRS). National Advisory Committee on Accounting Standards (NACAS) recommended these standards to the Ministry of Corporate Affairs (MCA). Accordingly, after the implementation of Companies Act, 2013 the Ministry notified the 39 Ind – AS. The same were to be applied to the Companies of Financial Year 2015-16 voluntarily and from 2016-17 on a mandatory basis.

## Applicability

The Ministry of Corporate Affairs (MCA) through its notification dated 16th February, 2015 announced the Companies (Indian Accounting Standards) Rules, 2015 for phase wise revised roadmap for adoption and applicability of all 39 Indian Accounting Standards for companies other than Banking Companies, Insurance Companies and Non Banking Financial Companies (NBFCs).

Rule 4 of the Companies (Indian Accounting Standards) Rules, 2015 has specified the classes of companies which shall comply with the Ind – AS in preparation of their financial statements and auditors of such companies while preparing their audit report. Financial Statements shall have same meaning as defined in Section 2(40) of the Companies Act, 2013.

| *Phase I – Obligation to Comply with Ind – AS from 1st April 2016* | *Phase II – Mandatory Compliance of Ind – AS from 1st April, 2017* |
|---|---|
| **In accordance with clause (ii) of sub-rule (1) of Rule 4 of the Companies (Indian Accounting Standards) Rules, 2015, the following companies to comply with Ind – AS w.e.f. April, 2016:**<br>**a. Companies listed/in process of listing on Stock exchanges in India or Outside India having net worth of Rs. 500 Crores or more;**<br>**b. Unlisted Companies having net worth of Rs. 500 Crores or more;**<br>**c. Holding, subsidiary, joint venture or associate companies of above.** | **In accordance with clause (iii) of sub-rule (1) of Rule 4 of the Companies (Indian Accounting Standards) Rules, 2015, the following companies to comply with Ind – AS w.e.f. 1st April, 2017:**<br>**a. Companies listed/in process of listing on Stock Exchanges in India or Outside India having net worth of less than Rs. 500 Crores;**<br>**b. Unlisted Companies having net worth of Rs. 250 Crores or more but less than Rs. 500 Crores;**<br>**c. Holding, Subsidiary, Associate and Joint Venture of above.** |

**Net Worth shall be calculated in accordance with the stand-alone financial statements of the company as on 31-03-2014 or the first audited financial statements for accounting period which ends after that date. Further, "net worth" shall have the meaning assigned to it in clause (57) of Section 2 of the Companies Act, 2013.**

Thus, from April 2017 Ind – AS shall apply to all listed companies irrespective of their net worth whereas the unlisted companies shall be required to comply with Ind – AS only if their net worth is equal to or exceeding Rs. 250 Crores. In other words, the companies meeting the above threshold for the first time as on 31st March, 2018 shall apply Ind – AS for the financial year 2018-19 onwards.

However, the roadmap for implementation of Indian Accounting Standards for commercial Banks, Insurance Companies and NBFCs was announced on 18th January, 2016 and the implementation schedule was provided.

(i) Banks (excluding Urban Cooperative Banks and Regional Rural Banks), All-India Term-lending Refinancing Institutions (i.e. Exim Bank, NABARD, NHB and SIDBI) to adopt Accounting Standards for Periods beginning from 01/04/18 onwards for preparation of financial statements.

(ii) NBFCs with net worth of Rs. 500 crore and more to adopt Accounting Standards for Periods beginning from 01/04/18 onwards for preparation of financial statements.

(iii) NBFCs that are listed or in the process of being listed and having net worth of less than Rs. 500 crores to adopt Accounting Standards for periods beginning from 01/04/19 onwards for preparation of financial statements.

(iv) Unlisted NBFCs having net worth between Rs. 250 crores and Rs 500 crores to adopt Accounting Standards for Periods beginning from 01/04/19 onwards for preparation of financial statements.

(v) Holding subsidiary, Joint Venture or associate companies of (iii) and (iv) above to adopt Accounting Standards for Periods beginning from 01/04/19 onwards for preparation of financial statements.

These Ind AS are converged with International Financial Reporting Standards (IFRS). Minimum carve outs have been made in order to address country specific requirements.

**Principles of Ind – AS**

The entities general purpose financial statements give information about performance, position and cash flow that is useful to a range of users in making financial decisions. These users include shareholders, creditors, employees and the general public.

A complete set of financial statements under Ind – AS includes the following:

- Balance Sheet at the end of the period
- Statement of profit and loss for the period
- Statement of changes in equity for the period
- Statement of cash flows for the period; notes, comprising a summary of significant accounting policies and other explanatory information
- Comparative financial information in respect of the preceding period as specified
- Balance Sheet as at the beginning of the preceding period when an entity applies an accounting policy retrospectively or makes a retrospective restatement of items in its financial statements, or when it reclassifies items in its financial statements having an impact on the balance sheet as at the beginning of the preceding period.

India has chosen a path of International Financial Reporting Standards (IFRS) convergence rather than adoption. Hence, Ind – AS are primarily based on the IFRS issued by the International Accounting Standards Board (IASB). However, there are also certain general differences between Ind – AS and IFRS:

• The transitional provisions given in each of the standards under IFRS have not been given in Ind-AS, since all transitional provisions related to Ind – AS, wherever considered appropriate, have been included in Ind – AS 101, First – Time Adoption of Indian Accounting Standards, corresponding to IFRS 1, First time adoption of Indian Accounting Standards, corresponding to IFRS – 1, First time Adoption of International Financial Reporting Standards

• Different terminology is used in Ind-AS when compared to IFRS, e.g. the term 'balance sheet' is used instead of 'statement of financial position' instead of 'statement of comprehensive income'.

## Brief Analysis of Indian Accounting Standards

***Standards related to Financial reporting and disclosures***

| | |
|---|---|
| *Ind – AS : 101* | *First Time Adoption of Indian Accounting Standards* |
| *Ind-AS : 1* | *Presentation of Financial Statements* |
| *Ind-AS : 7* | *Statement of Cash flows* |
| *Ind-AS : 8* | *Accounting policies, changes in accounting estimates and errors* |
| *Ind-AS : 10* | *Events after the reporting period* |
| *Ind-AS : 105* | *Non-current assets held for sale and discontinued operations* |
| *Ind-AS : 113* | *Fair Value Measurement* |
| *Ind-AS : 108* | *Operating Segments* |
| *Ind-AS : 24* | *Related Party Disclosure* |
| *Ind-AS : 27* | *Separate financial statements* |
| *Ind-AS : 33* | *Earnings per share* |
| *Ind-AS : 34* | *Interim financial reporting* |
| *Ind-AS : 40* | *Investment property* |

## Ind – AS : 101 – First Time Adoption of Indian Accounting Standards

An entity moving from Indian GAAP to Ind – AS needs to apply the requirements of Ind – AS 101. It applies to an entity's first Ind – AS financial statements and the interim reports presented under Ind-AS 34, 'Interim Financial reporting', which are part of that period.

The basic requirement is for full retrospective application of all Ind-AS, effective at the reporting date. However, there are a number of optional exemptions and mandatory exceptions to the requirement of retrospective application.

## Ind-AS : 1 - Presentation of Financial Statements

This standard prescribes the basis for the presentation of general purpose financial statements in order to ensure comparability both with the entity's financial statements of previous periods and with those of other entities. It sets out overall requirements for the presentation of financial statements, guidelines for their structure and minimum requirements for their content.

The manner of presentation of financial statements prescribed in Ind-AS – 1 is quite different from the format prescribed in Schedule III of the Companies Act, 2013 like other comprehensive income, deletion of extraordinary items from the Statement of P&L etc.

## Ind-AS : 7 – Statement of Cash flows

The Statement of cash flows (cash flow statement) is one of the primary statements in financial reporting (along with the statement of profit and loss, the balance sheet and the statement of changes in equity). It presents the generation and use of 'cash and cash equivalents' by category (operating, investing and finance) over a specific period of time. It provides users with a basis to assess the entity's ability to generate and utilize its cash.

Bank overdraft now to be treated as part of cash and cash equivalents unlike earlier as financing activity as per AS-3. At the time of transition to IndAS, previous year's cash flow statement's financing activity may be reclassified if bank OD existed.

## Ind-AS : 8 – Accounting policies, changes in accounting estimates and errors

An entity follows the accounting policies required by Ind-AS relevant to the circumstances of the entity. However, for some situations, standards offer a choice. There are other situations where no guidance is given by Ind-AS. In these situations, management needs to select appropriate accounting policies.

Now, prior period errors need to be corrected retrospectively, if error is pertaining to previous year then reclassify the item to whom it relates, if error is pertaining to period other than previous year then restatement of opening asset, liability and equity of earlier reported period is to be done rather than disclosing in current financial statements

### Ind-AS : 10 – Events after the reporting period

Events after the reporting period are either adjusting events or non-adjusting events. Adjusting events provide further evidence of conditions that existed at the balance sheet date, for example, determining after the year end the consideration for assets sold before the year end. Non – adjusting events relate to conditions that arose after the balance sheet date – for example, announcing a plan to discontinue an operation after the year end.

Now, proposed dividend is no more to be accounted for, it should be disclosed and should be accounted for in the financial year in which it is declared. Hence, the total dividend for a particular year can be derived by extracting interim dividend paid for the year from the balance sheet plus proposed dividend from the notes to accounts.

### Ind-AS : 105 - Non-current assets held for sale and discontinued operations

Ind AS 105, 'Non-current assets held for sale and discontinued operations', is relevant when any disposal occurs or is planned including distribution of non-current assets to shareholders. The held-for-sale criteria in Ind AS 105 apply to non-current assets (or disposal groups) whose value will be recovered principally through sale rather than through continuing use. The criteria do not apply to assets that are being scrapped, wound down or abandoned.

Ind AS 105 defines a disposal group as a group of assets to be disposed of, by sale or otherwise, together as a group in a single transaction, and liabilities directly associated with those assets that will be transferred in the transaction.

### Ind-AS : 113 – Fair Value Measurement

Ind AS 113 defines fair value as 'The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date'. The key principle is that fair value is the exit price from the perspective of market participants who hold the asset or owe the liability at the measurement date. It is based on the perspective of market participants rather than the entity itself, so fair value is not affected by an entity's intentions towards the asset, liability or equity item that is being fair valued. Ind AS 113 addresses how to measure fair value but does not stipulate when fair value can or should be used.

### Ind-AS : 108 – Operating Segments

The identification of an entity's operating segments is the core determinant for the level of information included in the segment disclosures. Operating segments are components of an entity, identified based on the breakout of information contained in the internal reports that are regularly used by the entity's chief operating decision-maker (CODM) to allocate resources and to assess performance.

## *Ind-AS : 24 – Related Party Disclosure*

Under Ind AS 24, disclosures are required in respect of an entity's transactions with related parties. Related parties include the following:

- Parents
- Subsidiaries
- Fellow subsidiaries
- Associates of the entity and other members of the group
- Joint ventures of the entity and other members of the group
- Members of key management personnel of the entity or of a parent of the entity (and close members of their families)
- Persons with control, joint control or significant influence over the entity (and close members of their families)
- Post-employment benefit plans
- Entities (or any of their group members) providing key management personnel services to the entity or its parent

Where there have been related party transactions during the period, management discloses the nature of the relationship, as well as information about the transactions and outstanding balances, including commitments, necessary for users to understand the potential impact of the relationship on the financial statements. Disclosure is made by category of related party and by major type of transaction. Items of a similar nature may be disclosed in aggregate, except when separate disclosure is necessary for an understanding of the effects of related party transactions on the entity's financial statements.

Transaction with Key Managerial Personnel (KMP) of parent company needs to be disclosed.

## *Ind-AS : 27 - Separate financial statements*

This standard shall be applied in accounting for investments in subsidiaries, joint ventures and associates when an entity elects, or is required by law, to present separate financial statements.

Separate financial statements are those presented by a parent (that is, an investor with control of a subsidiary) or an investor with joint control of, or significant influence over, an investee, in which the investments are accounted for at cost or in accordance with Ind AS 109, 'Financial instruments'.

## Ind-AS : 33 – Earnings per share

Earnings per share (EPS) is a ratio widely used by financial analysts, investors and others to gauge an entity's profitability and to value its shares. EPS is normally calculated in the context of ordinary shares of the entity. Earnings attributable to ordinary shareholders are therefore determined by deducting from net income the earnings attributable to holders of more senior equity instruments.

## Ind-AS : 34 - Interim financial reporting

No Ind AS require an entity to publish interim financial statements. However, the publication of interim financial statements is required for listed entities under requirements of the listing agreement. For interim financial information, the entity needs to follow measurement and recognition principles laid down in this standard or the relevant Ind AS as applicable. For the purpose of disclosure, listed entities use the format as per the listing agreement.

## Ind-AS : 40 - Investment property

Certain properties are classified as investment properties for financial reporting purposes in accordance with Ind AS 40, 'Investment property', as the characteristics of these properties differ significantly from owner-occupied properties. It is the current value of such properties and changes to those values that are relevant to users of financial statements.

Investment property is property (land or a building, or part of a building or both) held by an entity to earn rentals and/or for capital appreciation. This category includes such property in the course of construction or development. Any other properties are accounted for as property, plant and equipment (PPE) or inventory in accordance with the following:

• Ind AS 16, 'Property, plant and equipment', if they are held for use in the production or supply of goods or services

• Ind AS 2, 'Inventories', as inventory, if they are held for sale in the ordinary course of business.

## *Standards providing guidance on financial statement line items*

| | |
|---|---|
| ***Ind-AS : 115*** | ***Revenue from contracts with customers*** |
| ***Ind-AS : 2*** | ***Inventories*** |
| ***Ind-AS : 12*** | ***Income Taxes*** |
| ***Ind-AS : 16*** | ***Property, plant and equipment*** |
| ***Ind-AS : 17*** | ***Leases*** |
| ***Ind-AS : 19*** | ***Employee benefits*** |
| ***Ind-AS : 102*** | ***Share based payment*** |
| ***Ind-AS : 20*** | ***Accounting for government grants and disclosure of government assistance*** |
| ***Ind-AS : 21 and Ind-AS : 29*** | ***Effects of changes in foreign exchange rates and financial reporting in hyperinflationary economies*** |
| ***Ind-AS : 23*** | ***Borrowing costs*** |
| ***Ind-AS : 36*** | ***Impairment of assets*** |
| ***Ind-AS : 37*** | ***Provisions, contingent liabilities and contingent assets*** |
| ***Ind-AS : 38*** | ***Intangible assets*** |

### *Ind-AS : 115 – Revenue from contracts with customers*

In May 2014, the Financial Accounting Standards Board (FASB) and IASB issued the converged standard on revenue recognition ASC 606 and IFRS 15, ‘Revenue from contracts with customers’. The MCA, while notifying the Ind AS, has chosen the IFRS 15 path, ensuring convergence with IFRS.

The standard contains principles that an entity will apply to determine the measurement of revenue and timing of when it is recognised. The underlying principle is that an entity will recognise revenue to depict the transfer of goods or services to customers at an amount it expects to be entitled to in exchange for those goods or services. The standard can significantly change how entities recognise revenue, especially those that currently apply industry-specific guidance. The standard will also result in a significant increase in the volume of disclosures related to revenue.

## *Ind-AS : 2 – Inventories*

Ind AS 2, 'Inventories', requires the cost for items that are not interchangeable or that have been segregated for specific contracts to be determined on an individual-item basis. The cost of other inventory items used is assigned by using either the first-in, first-out (FIFO) or weighted average cost formula. Last-in, first-out (LIFO) is not permitted. An entity uses the same cost formula for all inventories of similar nature and use to the entity. A different cost formula may be justified where inventories have a different nature or use. The cost formula used is applied on a consistent basis from period to period.

## *Ind-AS : 12 – Income Taxes*

Ind AS 12 deals only with taxes on income, comprising current tax and deferred tax.

Current tax expense for a period is based on the taxable and deductible amounts to be used for the computation of the taxable income for the current year. An entity recognises a liability in the balance sheet in respect of current tax expense for the current and prior periods to the extent unpaid. It recognises an asset if current tax has been overpaid.

Deferred tax accounting seeks to deal with this mismatch. It is based on the temporary differences between the tax base of an asset or liability and its carrying amount in the financial statements.

Now, deferred tax asset/ liability are to be recognised from the balance sheet approach and not as per income statement approach as per AS-22. Extra efforts need to be provided for calculation of tax base of balance sheet items taking into consideration income computation and disclosure standards (ICDS) of the Income Tax Act, 1961.

## *Ind-AS : 16 - Property, plant and equipment*

Property, plant and equipment (PPE) is recognised when the cost of an asset can be reliably measured and it is probable that the entity will obtain future economic benefits from the asset.

PPE is measured initially at cost. Cost includes the fair value of the consideration given to acquire the asset (net of discounts and rebates) and any directly attributable cost of bringing the asset to working condition for its intended use (inclusive of import duties and non-refundable purchase taxes).

Now, all the fixed assets to be incorporated under PPE model. New component approach of accounting has been introduced which already existed in Schedule-II of the Companies Act, 2013. Further, future decommissioning, site restoration cost need to be accounted for at the time of capitalisation of the asset.

## Ind-AS : 17 – Leases

A lease gives one party (the lessee) the right to use an asset over an agreed period of time in return for payment to the lessor. Leasing is an important source of medium and long-term financing; and accounting for leases can have a significant impact on lessees' and lessors' financial statements.

Leases are classified as finance or operating leases at inception, depending on whether substantially all the risks and rewards of ownership transfers to the lessee. Under a finance lease, the lessee has substantially all of the risks and rewards of ownership. All other leases are operating leases. Leases of land and buildings are considered separately under Ind AS.

Lease hold land should specifically categorised as operating or finance lease, as the case may be. Earlier, land lease was specifically excluded from the scope of lease as per AS-19.

## Ind-AS : 19 – Employee benefits

Employee benefits are all forms of consideration given or promised by an entity in exchange for services rendered by its employees. These benefits include salary-related benefits (such as wages, profit-sharing, bonuses and compensated absences, such as paid holiday and long-service leave), termination benefits (such as severance and redundancy pay) and post-employment benefits (such as retirement benefit plans). Ind AS 19 is relevant for all employee benefits except for those to which Ind AS 102, share-based payments, applies.

Discounting rate for actuarial valuation should be market yield on government bond, however in case of subsidiaries, associates, joint ventures and branches domiciled outside India shall use market yield of high quality corporate bond as discounting rate. Further, actuarial gain or losses should be recognised in OCI as 'remeasurement'.

## Ind-AS : 102 – Share based payment

Ind AS 102 applies to all share-based payment arrangements. A share-based payment arrangement is defined as:

An agreement between the entity (or another group entity or any shareholder of any group entity) and another party (including an employee) that entitles the other party to receive:

• cash or other assets of the entity for amounts that are based on the price (or value) of equity instruments (including shares or share options) of the entity or another group entity, or

• equity instruments (including shares or share options) of the entity or another group entity.

## *Ind-AS : 20 - Accounting for government grants and disclosure of government assistance*

Government grants are recognised when there is reasonable assurance that the entity will comply with the conditions related to them and that the grants will be received.

Grant relating to asset can only be treated as setting up by deferred income not by adjustment with the cost of asset. Further, subsidised rate of government loan should be treated as grant for the amount of difference between the initial recognized amount of loan as per IndAS-109: Financial Instrument (Discounted cash flow of loan with market interest rate) less proceeds of loan.

## *Ind-AS : 21 and Ind-AS : 29 – Effects of changes in foreign exchange rates and financial reporting in hyperinflationary economies*

When there is a change in functional currency of either the reporting entity or a significant foreign operation, Ind AS 21 requires disclosure of that fact and the reason for the change in functional currency along with disclosure of the date of change in functional currency. The effect of a change in functional currency is accounted for prospectively.

The financial statements of a foreign operation that has the currency of a hyperinflationary economy as its functional currency are first restated in accordance with Ind AS 29, 'Financial reporting in hyperinflationary economies'. All components are then translated to the presentation currency at the closing rate at the end of the reporting period. Disclosure regarding the duration of the hyperinflationary situation existing in the economy needs to be provided.

The benefit under Para-46 and 46A (exchange difference relating to translation of foreign currency monetary item relating to depreciable asset can be added / deducted from the cost of asset or it can be accumulated in "Foreign Currency Monetary Item Translation Difference Account" ) can be avail by the company upto the date of convergence to IndAS, after that benefit can't be availed because the same has been specifically excluded from the scope of IndAS-21( para-7AA .)

## *Ind-AS : 23 - Borrowing costs*

Under Ind AS 23, 'Borrowing costs', borrowing costs directly attributable to the acquisition, construction or production of a qualifying asset are to be capitalised. An entity shall recognize other borrowing costs as an expense in the period in which it incurs them.

Borrowing costs are interest and other costs that an entity incurs in connection with the borrowing of funds.

Interest expenses should be calculated as per effective interest rate method as per IndAS-109: Financial Instrument: Recognition and Measurement.

## *Ind-AS : 36 - Impairment of assets*

Nearly all assets–current and non-current–are subject to an impairment test to ensure that they are not overstated on the balance sheet.

The basic principle of impairment is that an asset may not be carried on the balance sheet above its recoverable amount. Recoverable amount is defined as the higher of the asset's fair value less costs of disposal and its value in use. Fair value less costs of disposal is the price that would be received to sell upon disposal of an asset in an orderly transaction between market participants at the measurement date, less costs of disposal. Guidance on fair valuing is given in Ind-AS 113, 'Fair value measurement'. Value in use requires management to estimate the future pre-tax cash flows to be derived from the asset and discount them using a pre-tax market rate that reflects current assessments of the time value of money and the risks specific to the asset.

## *Ind-AS : 37 - Provisions, contingent liabilities and contingent assets*

A liability is a 'present obligation of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits'. A provision falls within the category of liabilities and is defined as 'a liability of uncertain timing or amount'.

Now, provision needs to be discounted using discount rate of pre tax rate that reflects the current market assessment. Contingent asset needs to be disclosed in financial statement which is not required as per earlier GAAP AS-29. Constructive obligation need to be accounted for, etc.

## *Ind-AS : 38 - Intangible assets*

An intangible asset is an identifiable non-monetary asset without physical substance. The identifiable criterion is met when the intangible asset is separable (that is, when it can be sold, transferred or licensed), or where it arises from contractual or other legal rights.

The useful life period is not specifically mentioned in the IndAS, however, earlier AS-26 clearly provide the maximum useful life of 10 years for amortisation.

## *Business acquisition and consolidation*

| | |
|---|---|
| *Ind-AS: 103* | *Business Combinations* |
| *Ind-AS : 110* | *Consolidated financial statements* |
| *Ind-AS : 111* | *Joint arrangements* |
| *Ind-AS : 112* | *Disclosure of interest in other entities* |
| *Ind-AS : 28* | *Investment in associates and joint ventures* |

### *Ind-AS: 103 – Business Combinations*

Business combinations occur in a variety of structures. Ind AS 103, 'Business combinations', focusses on the substance of the transaction, rather than the legal form. The overall result of a series of transactions is considered if there are a number of transactions among the parties involved. For example, any transaction contingent on the completion of another transaction may be considered linked. Judgement is required to determine when transactions should be linked.

All business combinations within Ind AS 103's scope are accounted for using the acquisition method. The acquisition method views a business combination from the perspective of the acquirer and can be summarised in the following steps:

- Identify the acquirer
- Determine the acquisition date
- Recognise and measure the identifiable assets acquired, liabilities assumed and any non-controlling interest in the acquire
- Recognise and measure the consideration transferred for the acquiree
- Recognise and measure goodwill or a gain from a bargain purchase (as capital reserve)

### *Ind-AS : 110 - Consolidated financial statements*

Ind AS 110's objective is to establish principles for presenting and preparing consolidated financial statements when an entity controls one or more entities. Ind AS 110 sets out the requirements for when an entity needs to prepare consolidated financial statements, defines the principles of control, explains how to apply the principles of control and explains the accounting requirements for preparing consolidated financial statements

The key principle in the standard is that control exists, and consolidation is required, only if the investor possesses power over the investee, has exposure to variable returns from its involvement with the investee and has the ability to use its power over the investee to affect its returns.

The core principle is that a consolidated entity presents a parent and its subsidiaries as if they are a single economic entity.

### *Ind-AS : 111 - Joint arrangements*

A joint arrangement is a contractual arrangement where at least two parties agree to share control over the activities of the arrangement. Unanimous consent towards decisions about relevant activities between the parties sharing control is a requirement in order to meet the definition of joint control.

Joint arrangements can be joint operations or joint ventures. The classification is principle based and depends on the parties' exposure in relation to the arrangement.

### *Ind-AS : 112 - Disclosure of interest in other entities*

Ind AS 112 provides for extensive disclosures on consolidated financial statements. The key disclosures required are outlined below:

• Significant judgements and assumptions in determining control, joint control or significant influence, the type of joint arrangement when the arrangement is through separate vehicles to be disclosed

• Disclosure by the investment entity about significant judgements and assumptions it made in determining that it is an investment entity

• To understand the composition of the group, interest that non-controlling interests have in the group's activities and cash flows in the interest in subsidiaries

• For each unconsolidated subsidiary, an investment entity shall disclose the subsidiary's name, the principal place of business (and country of incorporation if different from the principal place of business) of the subsidiary, and the proportion of ownership interest held by the investment entity and, if different, the proportion of voting rights held

•An entity having interest in joint arrangement and associates shall disclose information that enables users of its financial statements to evaluate the following:

- The nature, extent and financial effects of its interests in joint arrangements and associates, including the nature and effects of its contractual relationship with the other investors with joint control of, or significant influence over, joint arrangements and associates

- The nature of, and changes in, the risks associated with its interests in joint ventures and associates

• An entity having interest in unconsolidated structured entities shall disclose information that enables users of its financial statements:

- To understand the nature and extent of its interests in unconsolidated structured entities
- To evaluate the nature of, and changes in, the risks associated with its interests in unconsolidated structured entities

## *Ind-AS : 28 - Investment in associates and joint ventures*

Ind AS 28, 'Investments in associates and joint ventures', requires that interests in such entities are accounted for using the equity method of accounting. An associate is an entity in which the investor has significant influence, but which is neither a subsidiary nor a joint venture of the investor. Significant influence is the power to participate in the financial and operating policy decisions of the investee, but not to control those policies. It is presumed to exist when the investor holds at least 20% of the investee's voting power. It is presumed not to exist when less than 20% is held. These presumptions may be rebutted. A joint venture is a joint arrangement where the parties have joint control and have rights to the arrangement's net assets.

## *Financial Instruments*

| | |
|---|---|
| *Ind-AS : 109* | *Financial instruments* |
| *Ind-AS : 32, Ind-AS : 107 and Ind-AS : 109* | *Financial instruments (presentation and disclosures)* |

## *Ind-AS : 109 - Financial instruments*

Classification, recognition and measurement principles and certain disclosure requirements for financial instruments are addressed in three standards:

• Ind AS 107, 'Financial Instruments: Disclosure', which deals with disclosures

• Ind AS 32, 'Financial Instruments: Presentation', which deals with distinguishing debt from equity and with guidance on netting of financial instruments

• Ind AS 109, 'Financial Instruments', which contains requirements for recognition and measurement

The objective of the three standards is to establish requirements for all aspects of accounting for financial instruments, including distinguishing debt from equity, netting, recognition, derecognition, measurement, hedge accounting and disclosures.

The standards' scope is broad. The standards cover all types of financial instruments, including receivables, payables, investments in bonds and shares, borrowings and derivatives. They also apply to certain contracts to buy or sell non-financial assets (such as commodities) that can be net-settled in cash or another financial instrument.

## *Ind-AS : 32, Ind-AS : 107 and Ind-AS : 109 - Financial instruments (presentation and disclosures)*

Ind AS 107 sets out disclosure requirements that are intended to enable users to evaluate the significance of financial instruments for an entity's financial position and performance, and to understand the nature and extent of risks arising from those financial instruments to which the entity is exposed. All entities that have financial instruments are affected–even simple instruments such as borrowings, accounts payable and receivable, cash and investments.

Disclosures are required to be made for the risks including credit risk, liquidity risk and market risk. Further, Ind AS 107 and Ind AS 113 require disclosure of a three-level hierarchy for fair value measurement as well as some specific quantitative disclosures for financial instruments at the lowest level in the hierarchy.

The disclosure requirements apply to all entities and not just to banks and financial institutions.
Ind AS 109 requires detailed qualitative and quantitative disclosures in relation to impairment.

Ind AS 32 includes presentation requirements and rules for liability, equity, compound financial instruments and offsetting financial asset and financial liability.

Now, balance sheet should specifically disclose the financial asset and liability. Note that, IndAS-109 is meant for recognition and measurement criteria of financial instrument where as IndAS-32 is for presentation of financial instrument. Now, as per IndAS-109, derivative financial Instrument like call options, interest rate swap derivatives, commodities derivatives, etc. is to be accounted for.

## Industry Specific Standards

| | |
|---|---|
| Ind-AS : 104 | Insurance Contracts |
| Ind-AS : 106 | Exploration for and evaluation of mineral resources |
| Ind-AS : 114 | Regulatory deferral accounts |
| Ind-AS : 41 | Agriculture |

## Ind-AS : 104 – Insurance Contracts

Insurance contracts are contracts where an entity accepts significant insurance risk from another party (the policyholder) by agreeing to compensate the policyholder if the insured event adversely affects the policyholder. The risk transferred in the contract must be insurance risk, which is any risk except for financial risk.

Ind AS 104, 'Insurance contracts', applies to all issuers of insurance contracts whether or not the entity is legally an insurance company. It does not apply to accounting for insurance contracts by policyholders.

Disclosure is particularly important for information relating to insurance contracts. Ind AS 104 has two main principles for disclosure. Entities need to disclose the following:

- Information that identifies and explains the amounts in its financial statements arising from insurance contracts
- Information that enables users of its financial statements to evaluate the nature and extent of risks arising from insurance contracts

## Ind-AS : 106 - Exploration for and evaluation of mineral resources

Ind AS 106, 'Exploration for and evaluation of mineral resources', addresses the financial reporting for the exploration for and evaluation of mineral resources. It does not address other aspects of accounting by entities engaged in the exploration for and evaluation of mineral reserves (such as activities before an entity has acquired the legal right to explore or after the technical feasibility and commercial viability to extract resources have been demonstrated).

## Ind-AS : 114 - Regulatory deferral accounts

Regulatory deferral account balances arise when an entity provides goods or services to customers at a price or rate that is subject to rate regulation.

The standard permits the rate regulated entity to account for ‘regulatory deferral account balances’ in accordance with the previous GAAP in its initial adoption and the subsequent financial periods.

## Ind-AS : 41 – Agriculture

Agricultural activity is defined as the managed biological transformation and harvest of biological assets (living animals and plants) for sale or for conversion into agricultural produce (harvested product of biological assets) or into additional biological assets.

The biological assets are categorised into consumable biological assets and bearer biological assets. Consumable biological assets are those that are to be harvested as agriculture produce or sold as biological assets. Bearer biological assets are those other than consumable biological assets. Bearer biological assets are not agricultural produce but, rather, are held to bear produce.

All biological assets other than bearer plants are usually measured at fair value less costs to sell, with the change in the carrying amount reported as part of profit or loss from operating activities. Bearer plants are measured in accordance with Ind AS 16, ‘Property, plant and equipment’.

### Crux

Before transition to Ind-ASs, company needs to evaluate all the notified Ind-ASs areas and find out appropriate transactions which need to be assessed for accounting treatment or presentation. The important factor to be considered here is that IndAS-101 which governs the transition area does not provide any exemption to presentation area. Therefore, in Ind-ASs, presentation has an equal prominent role with accounting treatment. Now, both the accountants as well as the auditors have to be prepared for more challenging times ahead of the new version of accounting and presentation of financial statements.

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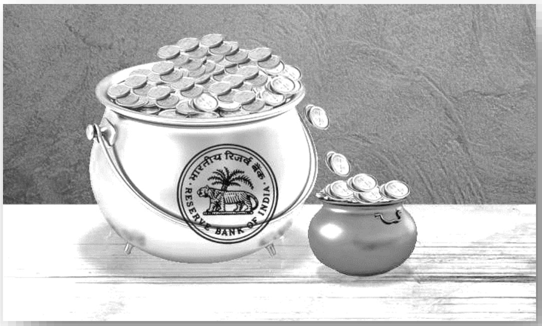
**Corporate**

**RBI** **MCA** **SEBI**

***CORPORATE***

## ***RBI***



### *1. RBI to simplify and rationalise the process of registration of new NBFCs*

***Reserve Bank of India [RBI] vide Press Release dated 17th June, 2016 has simplified the process of registration of new Non-Banking Financial Companies [NBFCs]. In order to make the process of registration of new NBFCs smoother and hassle free, the application form for registration of new NBFCs and the checklist of documents to be submitted have been revised.*** The number of documents to be submitted by the NBFC applicants has been reduced from existing set of 45 documents to 7-8 in the revised process.

Secondly, from now onwards, there would be two different types of applications for non-deposit taking NBFCs (NBFC-ND) based on Sources of Funds & Customer Interface as follows:

Type I - NBFC-ND not accepting public funds1/ not intending to accept public funds in the future and not having customer interface2/ not intending to have customer interface in the future.

Type II - NBFC-ND accepting public funds/ intending to accept public funds in the future and/or having customer interface/intending to have customer interface in the future.

The processing of cases for Type I - NBFC-ND applicants would be on fast track mode. As these companies will not have access to public fund and will not have customer interface, they will be subjected to less intensive scrutiny / due diligence. However, CoR issued to Type I - NBFC-ND companies will be conditional. These companies will be prohibited from accessing public funds and having customer interface. In case these companies intend to avail public fund or intend to have customer interface in the future, they are required to take approval from Reserve Bank of India, Department of Non-Banking Regulation.

Following forms have been revised and uploaded on the RBI website-

a. Application form

b. Documents required for registration as Type I - NBFC-ND

c. Documents required for registration as Type II - NBFC-ND (including new applications of NBFC-MFI, NBFC-factor, NBFC-IDF)

Application form has been changed in the online COSMOS Application of the Reserve Bank of India, except in the case of CIC-ND-SIs where a separate application form has been prescribed.

The application form mentioned above shall be applicable to new applications of Type I - NBFC-ND and Type II - NBFC-ND (including NBFC-MFI, NBFC-Factor and NBFC-IDF).

Furthermore, with the aim to centralize the process, the application for new NBFCs may be submitted to Central Office, Department of Non-Banking Regulation directly.

It is further advised that the checklists mentioned are indicative and not exhaustive. The Reserve Bank, may, if necessary, call for any further documents to satisfy itself on the eligibility of the company seeking registration as NBFC. In the event of the Reserve Bank calling for further documents in addition to those mentioned in the checklist, the applicant company must respond within a stipulated time of one month.

*"Public funds" shall include funds raised either directly or indirectly through public deposits, commercial paper, debentures, inter-corporate deposits and bank finance but excludes funds raised by issue of instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue as defined in Regulatory Framework for Core Investment Companies issued vide Notification No. DNBS (PD) CC.No. 206/03.10.001/2010-11 dated January 5, 2011.*

*"Customer interface" means interaction between the NBFC and its customers while carrying on its NBFI business as defined in Non-Systemically Important Non-Banking financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 issued vide Notification No. DNBR. 008/CGM (CDS) -2015 dated March 27, 2015.*

## *2. Review of Reporting Requirements under Basel III Capital Regulations*

***Reserve Bank of India (RBI) vide Notification RBI/2015-16/428 DBR.BP.BC.No.105/21.06.001/2015-16 dated 23rd June, 2016 reviewed the reporting requirements under Basel III Capital Regulations.***

In terms of the extant instructions contained in the Master Circular DBR.No.BP.BC.1/21.06.201/2015-16 dated July 1, 2015 on Basel III Capital Regulations, banks are required to submit a report to the Chief General Manager-In-Charge, Department of Banking Regulation, Reserve Bank of India, Mumbai, giving the details of the debt raised, including the terms of the issue with a copy of the offer document soon after the issue is completed. he above measures were intended to ensure that the debt/capital raised by banks in India are in compliance with Basel III Capital Regulations. However, as more than three years have since been elapsed from the date of implementation of Basel III Capital Regulations in India, it is expected that the systems and processes in this regard have stabilized.

Accordingly, on a review of the extant instructions, it has been decided that banks need not submit a copy of the offer document to Reserve Bank of India, as hitherto. Banks shall however, report to the Principal Chief General Manager, Department of Banking Regulation, Reserve Bank of India, Mumbai, the details of the debt raised as per the format prescribed below duly certified by the compliance officer of the bank.

The compliance with the Basel III Capital regulations will continue to be examined by our Department of Banking Supervision, in course of the supervisory evaluation.

***https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10455&Mode=0***

### *3. Implementation of Indian Accounting Standards (Ind AS)*

Reserve Bank of India (RBI) vide Notification No. RBI/2015-16/429 DBR.BP.BC.No.106/21.07.001/2015-16 dated 23rd June, 2016 has directed the banks to submit Proforma Ind AS Financial Statements, for the half year ended September 30, 2016 latest by November 30, 2016 to the Principal Chief General Manager, Department of Banking Regulation, Central Office, Reserve Bank of India, Mumbai.

The Proforma Ind AS Financial Statements shall include the following:-

(a) Balance Sheet including Statement of Changes in Equity

(b) Profit and Loss Account

(c) Notes

***https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10456&Mode=0***

### *4. RBI Permits Start-Ups to Open Currency Account Abroad*

***Reserve Bank of India (RBI) vide Circular No. 77 [(2)/10(R)] dated 23rd June, 2016 has allowed startups with an overseas subsidiary to open foreign currency accounts abroad to credit foreign exchange earnings from exports and sales made by them.*** The balances held in such accounts, to the extent they represent exports from India, shall be repatriated to India within the period prescribed for realization of exports, in Foreign Exchange Management (Export of Goods and Services) Regulations, 2015 dated January 12, 2016, as amended from time to time.

***https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10457&Mode=0***

### *5. Permitting writing of options against contracted exposures by Indian Residents*

Reserve Bank of India (RBI) vide Circular No. 78 dated 23rd June, 2016 has given permission to resident exporters and importers of goods and services to write (sell) standalone plain vanilla European call and put option contracts against their contracted exposure, i.e. covered call and covered put respectively, to any AD Cat-I bank in India subject to operational guidelines.

***https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10458&Mode=0***

### *6. Format of Statutory Auditors' Certificate (SAC) to be submitted by NBFCs*

Reserve Bank of India (RBI) vide Notification No. RBI/2015-16/433 DNBS (PPD) CC.No./04/66.14.001/2015-16 dated 23rd June, 2016 has introduced a uniform format of Statutory Auditor Certificate (SAC) to be submitted by all Non Banking Financial Companies (NBFCs) every year to the effect that they continue to engage in the business of NBFI requiring it to hold a CoR under Section 45-IA of the RBI Act.

The NBFC would need to fill in the information, as applicable, in COSMOS. Thereafter, the SAC needs to be scanned and uploaded in COSMOS https://cosmos.rbi.org.in under the menu Upload Returns > Statutory Auditors Certificate.

***https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10460&Mode=0***

### *7. Master Direction - Reserve Bank of India (Financial Statements of All India Financial Institutions - Presentation, Disclosure and Reporting) Directions, 2016*

Reserve Bank of India (RBI) vide Notification No. RBI/DBR/2015-16/26 Master Direction DBR.FID.No.108/01.02.000/2015-16 dated 23rd June, 2016 has issued the master direction for All India Financial Institutions (AIFIs) regulated by Reserve Bank of India viz. EXIM Bank, NABARD, NHB and SIDBI with effect from the quarter ended December 2016.

These Directions shall be called the Reserve Bank of India (Financial Statements of All India Financial Institutions - Presentation, Disclosures and Reporting) Directions, 2016.

***https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10461&Mode=0***

### 8. External Commercial Borrowings (ECB) – Approval Route cases

Reserve Bank of India (RBI) vide A.P. (DIR Series) Circular No. 80 dated 30th June, 2016 has rationalized the process of giving External Commercial Borrowing (ECB) approval as provided under the Master Direction No.5 dated January 1, 2016 on External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers, in respect of ECB cases coming under the approval route.

It has been decided that ECB proposals received in the Reserve Bank above a certain threshold limit (refixed from time to time) be placed before the Empowered Committee. The Reserve Bank will take a final decision in the cases taking into account the recommendation of the Empowered Committee.

***https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10472&Mode=0***

### *9. Quarterly reporting system- Foreign branches/ subsidiaries/ joint ventures/ associates of Indian banks*

Reserve Bank of India (RBI) vide Notification No. RBI/2015-16/435 DBS.CO.PPD.15123/11.01.021/2015-16 dated 30th June, 2016 in reference to the circular DBS.CO.PP.BC 11/11.01.005/2007-08 dated March 24, 2008 on Quarterly reporting system-foreign branches/ subsidiaries/ joint ventures/ associates of Indian banks in terms of which they were required to submit quarterly return for reporting of profit and asset size of overseas operations of the bank, it has now been decided to discontinue the submission of the said return with effect from June 30, 2016.

***https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10467&Mode=0***

### *9. Master Direction – Operational Guidelines for Primary Dealers*

Reserve Bank of India (RBI) vide Notification No. RBI/IDMD/2016-17/29

Master Direction IDMD.PDRD.01/03.64.00/2016-17 dated 1st July, 2016 has issued the Master Direction with regard to the Operational guidelines for primary dealers.

In 1995, the Reserve Bank of India (RBI) introduced the system of Primary Dealers (PDs) in the Government Securities (G-Sec) Market.

The objectives of the PD system are to strengthen the infrastructure in G-Sec market, development of underwriting and market making capabilities for G-Sec, improve secondary market trading system and to make PDs an effective conduit for open market operations (OMO). As on June 30, 2015, there are seven standalone PDs and thirteen banks authorized to undertake PD business departmentally.

Thus in this regard, The Reserve Bank of India has, from time to time, issued a number of guidelines/instructions to the Primary Dealers (PDs) with respect to their operations. The Master Direction incorporates the updated guidelines/instructions/circulars on the subject. A list of circulars finding reference in this Master Direction is enclosed in Annex-XIV and XV. The Direction will be updated from time to time as and when fresh instructions are issued. The banks undertaking PD activities departmentally should follow the extant guidelines applicable to the banks on capital adequacy requirements and risk management.

**https://rbidocs.rbi.org.in/rdocs/content/pdfs/29MDPD010716_AN.pdf**

### *10. Master Directions on Frauds – Classification and Reporting by commercial banks and select FIs*

Reserve Bank of India (RBI) vide Notification No. RBI/DBS/2016-17/28 DBS.CO.CFMC.BC.No.1/23.04.001/2016-17 dated 1st July, 2016 has issued Master Direction on Frauds – Classification and Reporting by commercial banks and select FIs.

These directions are issued with a view to providing a framework to banks enabling them to detect and report frauds early and taking timely consequent actions like reporting to the Investigative agencies so that fraudsters are brought to book early, examining staff accountability and do effective fraud risk management. These directions also aim to enable faster dissemination of information by the Reserve Bank of India (RBI) to banks on the details of frauds, unscrupulous borrowers and related parties, based on banks' reporting so that necessary safeguards / preventive measures by way of appropriate procedures and internal checks may be introduced and caution exercised while dealing with such parties by banks.

***https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10477&Mode=0#4***

### *11. Master Directions on Relief/Savings Bonds*

Reserve Bank of India (RBI) vide Notification No. RBI/IDMD/2016-17/30 IDMD.CDD No.2989/13.01.299/2016-17 dated 1st July, 2016 has issued Mater Directions on Reliefs/Savings Bonds.

The directions facilitate availability of all the current operative instructions on the above subject at one place and will be updated suitably and simultaneously whenever there is a change in the rules/regulations or there is a change in the policy.

***https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10479&Mode=0#MD***

### *12. Master Direction - on Risk Management and Inter-Bank Dealings*

Reserve Bank of India (RBI) vide Notification No. RBI/FMRD/2016-17/31

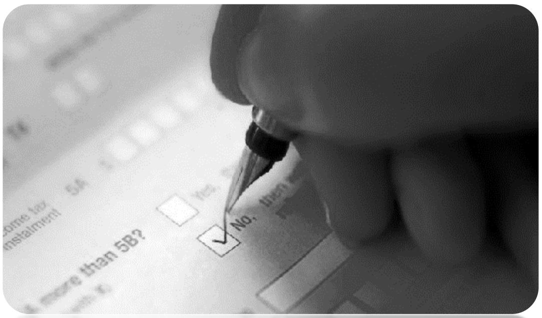
FMRD Master Direction No. 1/2016-17 dated 7th July, 2016 has issued the Master Direction on risk management with regard to Foreign Exchange Derivative Contracts, Overseas Commodity & Freight Hedging, Rupee Accounts of Non-Resident Banks and Inter-Bank Foreign Exchange Dealings etc.

Within the contours of the Regulations, the Reserve Bank issues directions to Authorised Persons under Section 11 of the Foreign Exchange Management Act (FEMA), 1999. These directions lay down the modalities as to how the foreign exchange business has to be conducted by the Authorised Persons with their customers / constituents with a view to implementing the regulations framed.

Instructions issued in respect of Foreign Exchange Derivative Contracts, Overseas Commodity & Freight Hedging, Rupee Accounts of Non-Resident Banks and Inter-Bank Foreign Exchange Dealings etc. have been compiled in this Master Direction.

**https://rbidocs.rbi.org.in/rdocs/content/pdfs/MD3105072016_A.pdf**

## MCA



### 1. National Company Law Tribunal (NCLT) Notified – CLB dissolved

The Ministry of Corporate Affairs (MCA) has issued notification for Constitution of the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) under Sections 408 and 410 respectively of the Companies Act, 2013 with effect from 1st June, 2016. With the constitution of the NCLT, the Company Law Board constituted under the Companies Act, 1956 stands dissolved. Initially, NCLT will have eleven Benches, two at New Delhi and one each at Ahmedabad, Allahabad, Bengluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai.

### 2. Government Constitutes Benches of National Company Law Tribunal

The Ministry of Corporate Affairs (MCA) vide Notification dated 1st June, 2016, hereby notifies the constitution of Benches of National Company Law Tribunal in accordance with the powers conferred by sub-section (1) of section 419 of the Companies Act, 2013 (18 of 2013). http://www.mca.gov.in/Ministry/pdf/Notification_02062016_I.pdf

### 3. 29 Company Law provisions made effective from 1st June, 2016

The Ministry of Corporate Affairs (MCA) vide Notification dated 1st June, 2016 has made the following provisions of the Companies Act, 2013 notified w.e.f. 1st June, 2016, the same are related to the National Company Law Tribunal working:

| S.No. | Section |
|---|---|
| 1. | Sub-section (7) of section 7 [except clause (c) and (d)] |
| 2. | Second proviso to sub-section (1) of section 14 |
| 3. | Sub-section (2) of section 14 |
| 4. | Sub-section (3) of section 55 |
| 5. | Proviso to Clause (b) of sub-section (1) of section 61 |
| 6. | Sub-sections (4) to (6) of section 62 |
| 7. | Sub-sections (9) to (11) of section 71 |
| 8. | Section 75 |
| 9. | Section 97 |
| 10. | Section 98 |
| 11. | Section 99 |
| 12. | Sub-section (4) of section 119 |
| 13. | Section 130 |
| 14. | Section 131 |
| 15. | Second proviso to sub-section (4) and sub-section (5) of section 140 |
| 16. | Sub-section (4) of section 169 |
| 17. | Section 213 |
| 18. | Sub-section (2) of Section 216 |
| 19. | Section 218 |
| 20. | Section 221 |

| | |
|---|---|
| **21.** | **Section 222** |
| **22.** | Sub-sections (5) of section 224 |
| **23.** | Sections 241, 242 [except clause (b) of sub-section (1), clause (c) & (g) of sub-section (2)], 243, 244, and 245 |
| **24.** | Reference of word 'Tribunal' in sub-section (2) of section 399 |
| **25.** | Sections 415 to 433 (both inclusive) |
| **26.** | Sub-section (1)(a) and (b) of section 434 |
| **27.** | Sub-section (2) of section 434 |
| **28.** | Section 441 |
| **29.** | Section 466 |

***4. New Versions of Forms NDH-2, FC-3, MSC-3, INC-24, INC-3, CHG-8, CHG-9 and SH-9***

The Ministry of Corporate Affairs has modified the e-Forms and new version of e-forms NDH-2 (Application for extension of Time for Nidhi Companies), FC-3 (Annual accounts along with the list of all principal places of business in India established by foreign company), MSC-3 (Return of dormant companies), INC-24 (Application for approval of Central Government for change of name), INC-3 (One Person Company- Nominee consent form), CHG-8 (Application to Central Government for extension of time for filing particulars of registration of creation / modification / satisfaction of charge OR for rectification of omission or misstatement of any particular in respect of creation/ modification/satisfaction of charge), CHG-9 (Application for registration of creation or modification of charge for debentures or rectification of particulars filed in respect of creation or modification of charge for debentures) and SH-9 (Declaration of Solvency) w.e.f. 12th June, 2016.

***5. LLP: Amendment in Forms 2 Form-3, Form-4 & Form-11***

The Ministry of Corporate Affairs (MCA) vide Notification dated 10th June, 2016 has made amendment to Form 2 (Incorporation document and subscriber's statement), Form 3 (Information with regard to limited liability partnership agreement and changes, if any, made therein), Form 4 (Notice of appointment, cessation, change in name/ address/designation of a designated partner or partner. and consent to become a partner/designated partner) and Form 11 (Annual Return of Limited Liability Partnership (LLP)) of Limited Liability Partnership Rules, 2009. These rules may be called the Limited Liability Partnership (Second Amendment) Rules 2016.

***6. Amendment in rules for acceptance of Deposit by Companies***

The Ministry of Corporate Affairs (MCA) vide Notification dated 29th June, 2016 has made amendment in the rules for acceptance of Deposits by Companies. These rules may be called Companies (Acceptance of Deposits) Amendment Rules, 2016.

***http://www.mca.gov.in/Ministry/pdf/Rules_30062016.pdf***

### *7. Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2016*

The Ministry of Corporate Affairs (MCA) vide Notification dated 30th June, 2016 has made amendment to the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014. The amended rules may be called as Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2016.

The Key Managerial Personnel Namely Chief Executive Officer (CEO), Company Secretary (CS) and Chief Financial Officer (CFO) are now being omitted to file Return of appointment of Managerial Personnel under Form MR 1.

***http://www.mca.gov.in/Ministry/pdf/AmendmentRules_01072016.pdf***

### *8. Relaxation in Rules for Appointment of Statutory auditor - Companies (Removal of Difficulties) Third Order, 2016.*

The Ministry of Corporate Affairs (MCA) vide Notification dated 30th June, 2016 has made amendment to the Rules for appointment of statutory auditor under section 139 of the Companies Act, 2013.

It is observed that the difficulties have arisen regarding compliance with the provisions of third proviso to sub-section (2) of section 1 39 in so far as they relate to the period within which companies would comply with provisions of sub-section (2) of section 139 of the said Act;

Now, therefore, in exercise of the powers conferred by sub-section ('l) of section 470 of the companies Act, 2013 (18 of 2013), the central Government hereby makes the following Order to remove the above said difficulties, namely:- Companies (Removal of Difficulties) Third Order, 2016. lt shall be deemed to have come into force from lst April, 2014.

In the Companies Act, 2013, in section '139, in sub-section (2), for the third proviso, the following proviso shall be substituted, namely:-

"Provided also that every company, existing on or before the commencement of this Act which is required to comply with the provisions of this sub-section, shall comply with requirements of this sub-section within a period which shall not be later than the date of the first annual general meeting of the company held, within the period specified under sub-section (1) of section 96, after three years from the date of commencement of this Act.".

## SEBI

### 1. Know Your Client (KYC) norms for ODI subscribers, transferability of ODIs, reporting of suspicious transactions, periodic review of systems and modified ODI reporting format

Securities Exchange Board of India (SEBI) vide Circular No. CIR/IMD/FPI&C/59/2016 dated June 10, 2016 has amended the KYC norms for ODI subscribers, transferability of ODIs, reporting of suspicious transactions, periodic review of systems and has also modified ODI reporting format.

Securities and Exchange Board of India (SEBI) has tightened its Know-Your-Client (KYC) and disclosure rules on issue of Participatory Notes (P-notes), to curb misuse of the investment route used by foreign investors not registered in India. These shall take effect from July 1.

The following provisions with regard to the norms relating to the issuance and transfer of ODIs have been modified:

a. Applicability of Indian KYC/AML norms for client Due Diligence With regards to KYC of ODI subscribers, ODI Issuers shall now be required to identify and verify the beneficial owners (BO) in the subscriber entities, who hold in excess of the threshold as defined under Rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 i.e. 25 % in case of a company and 15 % in case of partnership firms/ trusts/ unincorporated bodies. ODI issuers shall also be required to identify and verify the person(s) who control the operations, when no beneficial owner is identified based on the aforesaid materiality threshold. The following clarifications have been made:

The definition of the term "Beneficial Owner" shall be asper sub-rule (3) of Rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005.

The KYC documentation to be obtained by ODI Issuers from each of such ODI subscribers in respect of beneficial owner who holds above the threshold limits in such ODI subscriber, should be as per the Annexure provided.

- The materiality threshold to identify the beneficial owner should be first applied at the ODI subscriber level and look through principle shall be applied to identify the beneficial owner of the material shareholder/ owner entity.

- Where no material shareholder/owner entity is identified in the ODI subscriber using the materiality threshold, the identity and address proof of the relevant natural person who holds the position of senior managing official of the material shareholder/owner entity should be obtained.

- ODI Issuer shall ensure that any transfer of offshore derivative instruments issued by or on its behalf is carried out subject to the following conditions:

i. such offshore derivative instruments are transferred only to persons in accordance with Regulation 22 (1) of SEBI (Foreign Portfolio Investors) Regulations, 2014; and

ii. prior consent of the foreign portfolio investor is obtained for such transfer, unless the person to whom the offshore derivative instruments are to be transferred to are pre-approved by the foreign portfolio investor.

- The ODI issuers shall be required to maintain with them the KYC documents as prescribed above at all times and should be made available to SEBI on demand.

b. KYC Review – it is clarified that in the case of existing ODI Subscriber, the KYC review should be done within three years for low risk clients and one year for all other clients.

c. Suspicious Transactions Report - ODI Issuers shall be required to file suspicious transaction reports, if any, with the Indian Financial Intelligence Unit, in relation to the ODIs issued by it.

d. Reporting of complete transfer trail of ODIs – it has been decided that in the monthly reports on ODIs all the intermediate transfers during the month would also be required to be reported.

e. Reconfirmation of ODI positions - ODI Issuers shall be required to carry out reconfirmation of the ODI positions on a semiannual basis.

f. Periodic Operational Evaluation - ODI Issuers shall be required to put in place necessary systems and carry out a periodical review and evaluation of its controls, systems and procedures with respect to the ODIs. A certificate in this regard should be submitted on an annual basis to SEBI by the Chief Executive Officer or equivalent of the ODI Issuer. The said certificate should be filed within one month from the close of every calendar year.

***http://www.sebi.gov.in/cms/sebi_data/attachdocs/1465796415786.pdf***

## *2. SEBI – Press Release*

Securities Exchange Board of India (SEBI) vide Press Release 116/2016 dated 17th June, 2016 had took the following decisions:

***A. Consultation Paper for "Amendments to the SEBI (Portfolio Managers) Regulations, 1993 pursuant to introduction of Section 9A in the Income Tax Act, 1961"***

Pursuant to the announcement by Hon'ble Finance Minister in Union Budget 2015-16, Income Tax Act, 1961 has been amended by inserting Section 9A in the Act (popularly known as 'Safe Harbour Norms'). This section inter-alia provides that fund management activity carried out through an Eligible Fund Manager located in India acting on behalf of an Eligible Investment Fund (overseas fund) shall not constitute business connection in India of such fund subject to the fund and the fund manager meeting certain specified conditions mentioned therein, including registration of the Eligible Fund Manager with SEBI as a portfolio manager or investment adviser. With a view to laying down an enabling framework for Eligible Fund Managers, SEBI Board has approved bringing out a consultation paper proposing certain changes in the Portfolio Managers Regulations on the following points:

1) Insertion of a separate Chapter II-A "Eligible Fund Managers" which will apply to Eligible Fund Managers exclusively pertaining to their activities as portfolio managers to Eligible Investment Funds.

2) Procedure for an existing SEBI registered Portfolio Manager to function as an Eligible Fund Manager

3) Procedure for registration of an existing foreign based fund manager desirous of relocating to India or a fresh applicant to function as an Eligible Fund Manager

4) Obligations and Responsibilities of Eligible Fund Managers

5) Non applicability of certain provision of Portfolio Managers Regulations on Eligible Fund Managers, such as:

a. High Water Mark Principle regarding calculation of fees, disclosure of fees;

b. Obligation to act in a fiduciary capacity;

c. Audit of overseas fund;

d. Entering into agreement between the portfolio manager and overseas fund;

e. Reporting requirements in respect of overseas fund;

f. Minimum investment requirements (i.e. INR 25 Lakhs), etc.

**B. *Consultation Paper for "Amendments to the SEBI (Real Estate Investment Trusts) Regulations, 2014"***

SEBI notified the SEBI (Real Estate Investment Trusts) Regulations, 2014 on September 26, 2014. With a view to smoothen the process of registration of REIT with SEBI and also the process of launching of the offer, SEBI Board has approved bringing out a consultation paper proposing certain changes and providing some clarification in the REIT Regulations on the following points:

1) Removing the restriction on the SPV (only in case of such SPV being a Holding Company) to invest in other SPVs holding the assets

2) Change in the number of sponsors

3) Rationalization of compliance with respect to Related Party Transactions (RPTs) requirements

4) Aligning minimum public holding requirement with SCRR

5) Allowing REITs to invest up to 20%, in under construction assets

6) Responsibilities of trustee and its associates.

***C. SEBI Annual Report 2015-16***

The Board considered and approved the SEBI Annual Report 2015-16. In compliance with Section 18(2) of SEBI Act, 1992, the same Annual Report would be submitted to the Central Government.

## ***3. Consultation Paper on Amendments to SEBI (Portfolio Managers) Regulations, 1993 Pursuant to Introduction of Section 9A in The Income Tax Act, 1961***

***Securities Exchange Board of India [SEBI] has issued Consultation paper on Amendments to be made to SEBI (Portfolio Managers) Regulations, 1993 pursuant to the introduction of Section 9A in the Income Tax Act, 1961.***

In the present budget of 2015-16 the Income Tax Act, 1961 was amended by the insertion of Section 9A – Safe Harbour Norms - This section inter-alia provides that fund management activity carried out through an Eligible Fund Manager located in India acting on behalf of an Eligible Investment Fund shall not constitute business connection in India of such fund subject to the fund and the fund manager meeting certain specified conditions mentioned therein.

Thus in order to enable Eligible fund Managers to manage Eligible Invetsment Fund as envisaged under the provisions of Section 9A of the Income Tax Act, 1961, amendments to SEBI (Portfolio Managers) Regulations, 1993 are proposed.

***http://www.sebi.gov.in/cms/sebi_data/attachdocs/1466505732926.pdf***

### *4. Press Release on Electronic book mechanism for issuance of debt securities on private placement basis*

Securities Exchange Board of India (SEBI) vide Press Release no. 118/2016 dated 30th June, 2016 has informed all the issuers of debt securities and market participants that they shall mandatorily make issuance of debt securities private placement offer only through the Electronic Book Mechanism (EBM) for their issuances with effect from July 01, 2016.

SEBI had issued a circular dated April 21, 2016, wherein the use of an Electronic Book Mechanism (EBM) had been made mandatory from July 01, 2016 for issuance of debt securities on private placement basis in the primary market with an issue size of Rs. 500 crores and above, inclusive of the green shoe option.

The circular stated that the EBM shall be provided by the recognized stock exchanges. Pursuant to this, BSE and NSE have been granted approval by SEBI to act as an Electronic Book Provider (EBP) and both these exchanges have informed that they have brought such EBM into operation and the platform is ready for issuance of debt securities on private placement basis.

For issues, having issuance size below Rs. 500 crores, inclusive of green shoe option, if any, the issuer shall disclose the details to the Electronic Book Provider and/ or to the information repository for corporate debt market.

### *5. Frequently Asked Questions (FAQs) on SEBI (Foreign Portfolio Investors) Regulations, 2014*

Securities Exchange Board of India (SEBI) has issued the Frequently Asked Questions (FAQs) on SEBI (Foreign Portfolio Investors) Regulations, 2014. These FAQs are prepared with a view to guide market participants on SEBI (Foreign Portfolio Investors) Regulations, 2014.

***http://www.sebi.gov.in/cms/sebi_data/attachdocs/1467282054952.pdf***

### *6. Revised Formats for Financial Results & Ind-AS Implementation by Listed Entities*

Securities Exchange Board of India (SEBI) vide Circular dated 5th July, 2016 has revised the formats for Financial Results and Implementation of Indian Accounting Standards (Ind-AS) by Listed Entities.

**Formats:**

1. The existing formats prescribed in SEBI Circular dated November 30, 2015 for Unaudited/Audited quarterly financial results i.e. Statement of Profit and Loss and the Unaudited/Audited Half-Yearly Balance Sheet to be submitted by the listed entities, with the stock exchanges,

shall continue till the period ending December 31, 2016.

For the period ending on or after March 31, 2017, the formats for Unaudited/Audited quarterly financial results i.e. Statement of Profit and Loss and the Unaudited/Audited HalfYearly Balance Sheet to be submitted by the Listed Entities, with the stock exchanges, shall continue till the period ending December 31, 2016. For the period ending on or after March 31, 2017, the formats for Unaudited/Audited quarterly financial results i.e. Statement of Profit and Loss and the Unaudited/Audited HalfYearly

Balance Sheet to be submitted by the Listed Entities, with the stock exchanges,

shall be as per the formats for Balance Sheet and Statement of Profit and Loss (excluding notes and detailed sub-classification) as prescribed in Schedule III to the Companies Act, 2013. However, Banking Companies and Insurance Companies shall follow the formats as prescribed under the respective Acts/Regulations as specified by their Regulators.

2. Until Companies (Indian Accounting Standards) Rules, 2015 ('Ind-AS Rules') become applicable, the listed entities shall adopt Companies (Accounting Standards) Rules, 2006 ('AS Rules') as prescribed by the Ministry of Corporate Affairs ('MCA').

**Implementation of Ind-AS during the first year:**

in order to facilitate smooth transition during the first year of Ind-AS implementation, the following relaxations are being given to the listed entities to which IndAS Rules are applicable from the accounting period beginning on or after April, 1, 2016:

**For Quarter ending June 30, 2016 and September, 2016**

- Timeline for submitting financial results extended by one month. The results for the quarter ending June 30, 2016 and September 30, 2016 may be submitted by September 14, 2016 and December 14, 2016 respectively.
- For the quarter ending June 30, 2016, Ind-AS compliant financial results for the corresponding quarter ended June 30, 2015 shall be provided. For the quarter ending September 30, 2016, Ind-AS compliant financial results for the corresponding year to date / quarter ended September 30, 2015 shall be provided. However, in such cases, limited review or audit of the same is not mandatory.
- For the quarter ending June 30, 2016, submission of Ind-AS compliant financial results for the preceding quarter and previous year ended March 31, 2016is not mandatory. For the quarter ending September 30, 2016, submission of Ind-AS compliant financial results and Balance Sheet for the previous year ended March 31, 2016 is not mandatory. However, in case the entities intend to submit these results, the same may be without limited review or audit.

**For the quarter ending December 31, 2016:**

- The submission of Ind-AS compliant financial results for the previous year ended March 31, 2016 is not mandatory.
- In case a listed entity chooses to provide Ind-AS comparatives for the period mentioned above to facilitate comparison, the same shall be subjected to limited review or audit.

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1467712561526.pdf

## DIPP

### *1. Consolidated FDI Policy Circular – Effective from 7th June, 2016*

Department of Industrial Policy and Promotion(DIPP), Ministry of Commerce and Industry Government of India has released the Consolidated FDI Policy (Effective from June 07, 2016).

The present consolidation subsumes and supersedes all Press Notes/Press Releases/Clarifications/Circulars issued by DIPP, which were in force as on June 06, 2016 and reflects the FDI Policy as on June 07, 2016.This Circular accordingly will take effect from June 07, 2016 and will remain in force until superseded in totality or in part thereof. Reference to any statute or legislation made in this Circular shall include modifications, amendments or re-enactments thereof.

***http://dipp.nic.in/English/policies/FDI_Circular_2016.pdf***

### *2. Radical changes in FDI policy regime; Most sectors on automatic route for FDI*

The Government of India vide Press Release dated 20th June, 2016 has liberalized the FDI regime with the objective of providing major impetus to employment and job creation in India. Now most of the sectors would be under automatic approval route, except a small negative list. With these changes, India is now the most open economy in the world for FDI.

The Government has decided to introduce a number of amendments in the FDI Policy. Changes introduced in the policy include increase in sectoral caps, bringing more activities under automatic route and easing of conditionalities for foreign investment. These amendments seek to further simplify the regulations governing FDI in the country and make India an attractive destination for foreign investors. The following are the amendments made in the sectors:

#### *1. Radical Changes for promoting Food Products manufactured/produced in India*

It has now been decided to permit 100% FDI under government approval route for trading, including through e-commerce, in respect of food products manufactured or produced in India.

#### *2. Foreign Investment in Defence Sector up to 100%*

Foreign investment beyond 49% has now been permitted through government approval route, in cases resulting in access to modern technology in the country or for other reasons to be recorded. The condition of access to ‘state-of-art’ technology in the country has been done away with.

- FDI limit for defence sector has also been made applicable to Manufacturing of Small Arms and Ammunitions covered under Arms Act 1959.

#### *3. Review of Entry Routes in Broadcasting Carriage Services*

FDI policy on Broadcasting carriage services has also been amended. New sectoral caps and entry routes are as under:

| Sector/Activity | New Cap and Route |
|---|---|
| **5.2.7.1.1**<br>**(1)Teleports(setting up of up-linking HUBs/Teleports);**<br>**(2)Direct to Home (DTH);**<br>**(3)Cable Networks (Multi System operators (MSOs) operating at National or State or District level and undertaking upgradation of networks towards digitalization and addressability);**<br>**(4)Mobile TV;**<br>**(5)Headend-in-the Sky Broadcasting Service(HITS)** | **100%**<br><br>**Automatic** |
| **5.2.7.1.2 Cable Networks (Other MSOs not undertaking upgradation of networks towards digitalization and addressability and Local Cable Operators (LCOs))** | |
| **Infusion of fresh foreign investment, beyond 49% in a company not seeking license/permission from sectoral Ministry, resulting in change in the ownership pattern or transfer of stake by existing investor to new foreign investor, will require FIPB approval** | |

***4. Pharmaceutical***

The extant FDI policy on pharmaceutical sector provides for 100% FDI under automatic route in greenfield pharma and FDI up to 100% under government approval in brownfield pharma. With the objective of promoting the development of this sector, ***it has been decided to permit up to 74% FDI under automatic route in brownfield pharmaceuticals and government approval route beyond 74% will continue.***

***5. Civil Aviation Sector***

(i) The extant FDI policy on Airports permits 100% FDI under automatic route in Greenfield Projects and 74% FDI in Brownfield Projects under automatic route. FDI beyond 74% for Brownfield Projects is under government route.

(ii) With a view to aid in modernization of the existing airports to establish a high standard and help ease the pressure on the existing airports, ***it has been decided to permit 100% FDI under automatic route in Brownfield Airport projects.***

(iii) As per the present FDI policy, foreign investment up to 49% is allowed under automatic route in Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline and regional Air Transport Service.

***It has now been decided to raise this limit to 100%, with FDI up to 49% permitted under automatic route and FDI beyond 49% through Government approval. For NRIs, 100% FDI will continue to be allowed under automatic route.*** However, foreign airlines would continue to be allowed to invest in capital of Indian companies operating scheduled and non-scheduled air-transport services up to the limit of 49% of their paid up capital and subject to the laid down conditions in the existing policy.

***6. Private Security Agencies***

The extant policy permits 49% FDI under government approval route in Private Security Agencies. ***FDI up to 49% is now permitted under automatic route in this sector and FDI beyond 49% and up to 74% would be permitted with government approval route***.

***7. Establishment of branch office, liaison office or project office***

For establishment of branch office, liaison office or project office or any other place of business in India if the principal business of the applicant is Defence, Telecom, Private Security or Information and Broadcasting, it has been decided that approval of Reserve Bank of India or separate security clearance would not be required in cases where FIPB approval or license/permission by the concerned Ministry/Regulator has already been granted.

***8. Animal Husbandry***

As per FDI Policy 2016, FDI in Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture and Apiculture is allowed 100% under Automatic Route under controlled conditions. It has been decided to do away with this requirement of 'controlled conditions' for FDI in these activities.

***9. Single Brand Retail Trading***

It has now been decided to relax local sourcing norms up to three years and a relaxed sourcing regime for another five years for entities undertaking Single Brand Retail Trading of products having 'state-of-art' and 'cutting edge' technology.

| Sectors/Activities | Amendments |
|---|---|
| **Food Products manufactured/produced in India** | - 100% FDI under government approval route for trading, including through e-commerce, in respect of food products manufactured or produced in India. |
| **Defence Sector** | - 100 % FDI under government approval<br>- applicable to Manufacturing of Small Arms and Ammunitions covered under Arms Act 1959. |
| **Broadcasting Carriage Services**<br><br>**(1)Teleports(setting up of up-linking HUBs/Teleports);**<br>**(2)Direct to Home (DTH);**<br>**(3)Cable Networks (Multi System operators (MSOs) operating at National or State or District level and undertaking upgradation of networks towards digitalization and addressability);**<br>**(4)Mobile TV;**<br>**(5)Headend-in-the Sky Broadcasting Service(HITS)**<br>**Cable Networks (Other MSOs not undertaking upgradation of networks towards digitalization and addressability and Local Cable Operators (LCOs))** | - 100% Automatic<br>- Infusion of fresh foreign investment, beyond 49% in a company not seeking license/permission from sectoral Ministry, resulting in change in the ownership pattern or transfer of stake by existing investor to new foreign investor, will require FIPB approval |
| **Pharmaceutical** | - 74% FDI under automatic route in brownfield pharmaceuticals and government approval route beyond 74% |
| **Civil Aviation Sector** | - 100% FDI under automatic route in Brownfield Airport projects.<br>- 100%, with FDI up to 49% permitted under automatic route and FDI beyond 49% through Government approval for Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline and regional Air Transport Service |

| | |
|---|---|
| **Private Security Agencies** | - 49% FDI permitted under automatic route in this sector and FDI beyond 49% and up to 74% would be permitted with government approval route |
| **Animal Husbandry** | - FDI in Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture and Apiculture is allowed 100% under Automatic Route under controlled conditions.<br>- It has been decided to do away with this requirement of 'controlled conditions' for FDI in these activities. |
| **Single Brand Retail Trading** | - Relaxation of local sourcing norms up to three years and a relaxed sourcing regime for another five years for entities undertaking Single Brand Retail Trading of products having 'state-of-art' and 'cutting edge' technology. |

## TAXATION

### 1. Clarifications regarding amendment in Section 206C of Finance Act, 2016

The Ministry of Finance, Department of Revenue, Central Board of Direct Taxes (CBDT) vide Circular No. 22 dated 8th June, 2016 has provided clarifications with regard to amendment in Section 206C of the Finance Act, 2016.

Section 206C of the Income-tax Act, 1961 (hereafter referred to as 'Act'), prior to amendment by Finance Act, 2016, provided that the seller shall collect tax at source at specified rate from the buyer at the time of sale of specified items such as alcoholic liquor for human consumption, tender leaves, mineral being coal or lignite or iron ore etc. It also provided for collection of tax at source at the rate of one per cent on sale in cash of bullion exceeding 2 lakh rupees and jewellery exceeding 5 lakh rupees.

In order to reduce the cash transactions in sale of goods and services. Finance Act 2016 has expanded the scope of section 206C (1 D) to provide that the seller shall collect tax at the rate of one per cent from the purchaser on sale in cash of any goods (other than bullion and jewellery) or providing of any services (other than payment on which tax is deducted at source under Chapter XVII-B) exceeding two lakh rupees. So far as sale of Jewellery and bullion is concerned, the provisions of sub-section (1D) of section 206C prior to its amendment by the Finance Act 2016 shall continue to apply. Further, with a view to bring high value transactions within the tax net, it has been provided in sub- section (1 F) of section 206C of the Act that the seller who receives consideration for sale of a motor vehicle exceeding ten lakh rupees, shall collect one per cent of the sale consideration as tax from the buyer. Any person who obtains in any sale. the goods of the nature specified in sub-section (I D) or (IF) of section 206C is a buyer. The seller for the purposes of collection of tax under section 206C shall be —

(i) A Central Government or a state Government,

(ii) Any local authority, or corporation or authority established under any Central, State or Provincial Act,

(iii) Any company, firm or cooperative society,

(iv) An individual or Hindu undivided family who is liable to audit as per provisions of section 44AB during the financial year immediately preceding the financial year in which the goods are sold or the services are provided.

The amendments brought in section 206C by Finance Act. 2016 are applicable form 1st June 2016.

In this regard a number of queries have been received about the scope of the provisions and the procedure to be followed.

***http://www.incometaxindia.gov.in/Communications/Circular/Circular222016.pdf***

## 2. Simplification of procedure for Form 15G & 15H

The Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Notification dated 9th June, 2016 has provided clarification with regard to simplification of procedure for Form 15G & 15H.

The existing provisions of section 197A of the Income-tax Act, 1961 (The Act) inter alia provide that tax shall not be deducted, if the recipient of certain payment on which tax is deductible furnishes to the payer a self-declaration in Form No. 15H/15H in accordance with provision of the said Section. The manner at filing such declarations and the particulars have been laid down in Rule 29C of the Income-tax Rules, 1962 (The Rules). The rule provides for the procedures, formats and standards for the purposes of furnishing and verification of declaration and allotment of Unique Identification Number in pursuance of the same.

The clarifications have been sought with respect to the following issues:

(a) Due date for quarterly uploading of 15G/H declarations by payers on e-filing portal.

(b) The manner for dealing with Form 15G/15H received by payer during the period from 01.10.2015 to 31.03.2016.

Thus, it is hereby specified that:

The due date for quarterly furnishing 15G/15H declarations received by payer from 01.04.2016 onwards shall be as given below:

| Date of ending of the quarter of the financial year | Due Date |
|---|---|
| **30th June** | 15th July of the Financial Year |
| **30th September** | 15th October of the Financial Year |
| **31st December** | 15th January of the Financial Year |
| **31st March** | 30th April of the Financial Year immediately following the financial year in which declaration is made. |

The payer shall furnish 15G/15H declarations received during the period from 01.10.2015 to 31.03.2016 on e-filing portal http://incometaxindiaefiling.gov.in in the given format on or before 30th June, 2016.

### 3. CBDT Notifies Tax Exemption to Startups from 'Rigour' of Section 56(2)(viib) of Income Tax Act

The Central Board of Direct Taxes (CBDT) vide Notification No. 45/2016 dated 14th June, 2016 has notified tax exemption on investments above fair market rate for startups. The exemption is provided to startups from the 'rigour' of section 56(2)(viib) of Income Tax Act .

In exercise of the powers conferred by the clause (ii) of the proviso to clause (viib) of sub-section (2) of section 56 of the Income-tax Act, 1961 (43 of 1961), the Central Government, hereby notifies the ‘classes of persons’ for the purposes of the said clause as being the ‘person’ defined under sub-section (31) of section 2 of the said Act, being resident, who make any consideration exceeding the face value for issues of shares of a ‘startup’ company.

Explanation. – For the purposes of this notification, “startup” shall mean a company in which the public are not substantially interested and which fulfills the conditions specified in the notification of the Government of India, Ministry of Commerce and Industry. Department of Industrial Policy and Promotion, number G.S.R. 180(E), dated the 17th February, 2016, published in the Gazette of India, Extraordinary, part II, section 3, sub-section (i), dated the 18th February, 2016.

*Section 56(2)(viib) - Income from other sources.*

*In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes, shall be chargeable to income-tax under the head “Income from other sources”, namely :—*

*(viib) where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares:*

*Provided that this clause shall not apply where the consideration for issue of shares is received—*

*(i) by a venture capital undertaking from a venture capital company or a venture capital fund; or*

*(ii) by a company from a class or classes of persons as may be notified by the Central Government in this behalf.*

### 4. No TDS on Section 10(23DA) payment received by securitisation trust

**Notification No. 46/2016-Income Tax - (17/06/2016) -** Central Government hereby notifies that no deduction of tax under Chapter XVII of the said Act shall be made on the payments of the nature specified in clause (23DA) of section 10 of the said Act received by any securitisation trust as defined in clause (d) of the Explanation to section 115TC of the Income Tax Act, 1961.

### 5. No TDS on payment to payment systems company authorized by RBI

**Notification No. 47/2016-Income Tax - (17/06/2016) -** Central Government hereby notifies that no deduction of tax under Chapter XVII of the said Act shall be made on the payments of the nature specified below, in case such payment is made by a person to a bank listed in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934), excluding a foreign bank, or to any payment systems company authorised by the Reserve Bank of India under Sub-section (2) of Section 4 of the Payment and Settlement System Act, 2007

(51 of 2007), namely:-

(i) bank guarantee commission;

(ii) cash management service charges;

(iii) depository charges on maintenance of DEMAT accounts;

(iv) charges for warehousing services for commodities;

(v) underwriting service charges;

(vi) clearing charges (MICR charges) including interchange fee or any other similar charges by whatever name called charged at the time of settlement or for clearing activities under the Payment and Settlement Systems Act, 2007;

(vii) credit card or debit card commission for transaction between merchant establishment and acquirer bank.

### *6. Furnishing Annual Information Return- Rules for registration, due diligence & information maintenance.*

***Notification No. 48/2016-Income Tax - (21/06/2016) -*** Central Government with respect to registration of persons, due diligence and maintenance of information, and the Central Board of Direct Taxes for matters relating to statement of reportable accounts, hereby make the Income–tax (15th Amendment) Rules, 2016 further to amend the Income-tax Rules, 1962.

***http://www.incometaxindia.gov.in/communications/notification/notification482016.pdf***

### *7. CBDT Clarification on Threshold Limit of tax audit U/s. 44AB & 44AD*

The Ministry of Finance through its Press Release dated 20th June, 2016 has said that small businesses with a total turnover of up to Rs 2 crore will not be required to get their accounts audited if they opt for the presumptive taxation scheme.

Section 44AB of the Income-tax Act (‘the Act’) makes it obligatory for every person carrying on business to get his accounts of any previous year audited if his total sales, turnover or gross receipts exceed one crore rupees. However, if an eligible person opts for presumptive taxation scheme as per section 44AD(1) of the Act, he shall not be required to get his accounts audited if the total turnover or gross receipts of the relevant previous year does not exceed two crore rupees. The higher threshold for non-audit of accounts has been given only to assessees opting for presumptive taxation scheme under section 44AD.

### *8. Amendment in Rule 114H of Income-tax Rules, 1962*

The Ministry of Finance vide Press Release dated 22nd June, 2016 has made amendment in Rule 114H of Income Tax Rules, 1962. In order to provide sufficient time to the reporting Financial Institutions for completing the due diligence procedure in respect of other reportable account referred to in Rule 114H (3)(d)(ii), which is high value account as on 31st December, 2015, the timeline specified for review of pre-existing individual account has been extended from 30th June, 2016 to 31st December, 2016. The timeline in case of U.S. reportable account which is low value account as on the 30th June, 2014, shall continue to be 30th June, 2016.

Similarly, in respect of other reportable account referred to in Rule 114H(5)(e)(i), timeline specified for review of pre-existing entity account has been extended from 30th June, 2016 to 31st December, 2016. The timeline in case of a U.S. reportable account shall continue to be 30th June, 2016.

### *9. Establishment of Fund of Funds for funding support to Start-ups*

The Ministry of Finance vide Press Release dated 22nd June, 2016 has approved the establishment of "Fund of Funds for Startups" (FFS) at Small Industries Development Bank of India (SIDBI) for contribution to various Alternative Investment Funds (AIF), registered with Securities and Exchange Board of India (SEBI) which would extend funding support to Startups. This is in line with the Start up India Action Plan unveiled by Government in January 2016.

The corpus of FFS is Rs.10,000 crore which shall be built up over the 14th and 15th Finance Commission cycles subject to progress of the scheme and availability of funds. An amount of Rs.500 crore has already been provided to the corpus of FFS in 2015-16 and Rs.600 crore earmarked in the 2016-17. The Fund is expected to generate employment for 18 lakh persons on full deployment.

A corpus of Rs. 10,000 crore could potentially be the nucleus for catalyzing Rs. 60,000 crore of equity investment and twice as much debt investment. This would provide a stable and predictable source of funding for Start up enterprises and thereby facilitate large scale job creation.

### *10. Cabinet approves Protocol amending the Agreement for avoidance of double taxation and prevention of fiscal evasion with Belgium*

The Ministry of Finance vide Press Release dated 22nd June, 2016 has approved the amendment to the Agreement between India and Belgium for avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income.

The amendment in the Protocol will broaden the scope of the existing framework of exchange of tax related information between the two countries, which will help curb tax evasion and tax avoidance. The Protocol will also revise the existing treaty provisions on mutual assistance in collection of taxes.

### *11. Revised Procedure for online submission of TDS/TCS statement*

The Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Notification No. 11/2016 dated 22nd June, 2016 has revised the procedure for online submission of statement of deduction of tax under section 200 (3) and statement of collection of tax under section 206C (3) of the Income Tax Act, 1961 read with rule 31A(5) and rule 31AA (5) of the Income Tax Rules 1962.

***http://www.incometaxindia.gov.in/communications/notification/notification112016n.pdf***

### *12. Relaxation from deduction of tax at higher rate U/s. 206AA (Requirement to furnish Permanent Account Number)*

The Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Notification dated 24th June, 2016 has made amendment to the Income Tax Rules, 1962 by insertion of new Rule 37BC with regard to relaxation from deduction of tax at higher rate under Section 206AA of the Income Tax Act, 1961.

"37BC. Relaxation from deduction of tax at higher rate under section 206AA.- (1) In the case of a non-resident, not being a company, or a foreign company ( hereafter referred to as 'the deductee') and not having permanent account number the provisions of section 206AA

shall not apply in respect of payments in the nature of interest, royalty, fees for technical services and payments on transfer of any capital asset, if the deductee furnishes the details and the documents specified in sub-rule (2) to the deductor.

(2) The deductee referred to in sub-rule (1), shall in respect of payments specified therein, furnish the following details and documents to the deductor, namely :-

(i) name, e-mail id, contact number;

(ii) address in the country or specified territory outside India of which the deductee is a resident;

(iii) a certificate of his being resident in any country or specified territory outside India from the Government of that country or specified territory if the law of that country or specified territory provides for issuance of such certificate;

(iv) Tax Identification Number of the deductee in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which the deductee is identified by the Government of that country or the specified territory of which he claims to be a resident.

***http://www.incometaxindia.gov.in/communications/notification/notification532016.pdf***

### *13. Clarification Regarding Amendment in Section 206C of the Income Tax Act - TCS on Sale of good/Services only if Cash Receipt exceeds 2 Lakh*

The Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Circular No. 23/2016 date 24th June, 2016 has provided clarification with regard to the amendment in Section 206C of the Income Tax Act, 1961.

It has been clarified that no tax collection at source shall be levied if the cash receipt does not exceed two lakhs rupees' even if the sale consideration exceeds two lakh rupees. Further, it has also been clarified that under Section 206C(1D), the tax is required to be collected at source on cash component of the sales consideration and not on the whole of sales consideration.

***http://www.incometaxindia.gov.in/communications/circular/circular232016.pdf***

### *14. Govt. Amends Income Tax Rules to End Uncertainty over GAAR*

Government has amended income tax rules to end uncertainty over GAAR (General Anti-Avoidance Rule) that is set to kick in from April 1, 2017.

### *15. CBDT issues new set of FAQs to clarify queries regarding Income Declaration Scheme, 2016.*

The Central Board of Direct Taxes (CBDT) has since received further queries from stakeholders seeking clarifications about various provisions of the Scheme. The issues raised have been examined and a further set of eleven FAQs have been issued vide Circular No.25 of 2016 dated 30th June, 2016. The circular inter alia provides clarifications on issues such as confidentiality of information disclosed in the declaration, allowability of TDS credit against declared income, enquiry in respect source of income and payment of tax and initiation of enquiry against third parties on the basis of information furnished in the declaration.

An issue regarding the advantage of declaring undisclosed income and assets under the Scheme vis-à-vis declaration of the same as current income for Assessment Year 2017-18 was also raised. In this regard it has been clarified that declaration of undisclosed income and assets as current income for Assessment Year 2017-18 would attract prosecution for false verification and also cannot explain acquisition of undisclosed assets in the past years. Attention of taxpayers has also been drawn to the comprehensive data-mining programme launched by the Department which will provide pin-pointed information about transactions undertaken by the taxpayer and the year to which the same relate.

***http://www.incometaxindia.gov.in/communications/circular/circular252016.pdf***

### *16. Government Notifies Rules regarding Fair market value and reporting requirement for Indian concern - Indirect transfer provisions - section 9(1) of the Income-tax Act, 1961*

The Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Notification No. 55/2016 dated 28th June, 2016 has notified the rules regarding the Fair Market Value and reporting requirement for Indian concern with regard to Indirect transfer provisions – Section 9(1) of the Income Tax Act, 1961.

Under section 9 of the Income-tax Act, 1961 (the Act), any income arising from transfer of any share of or interest in a foreign company or entity that derives its

value substantially from the assets located in India, is deemed to accrue or arise in India.

For this purpose, following were to be prescribed:

- the manner of computation of fair market value (FMV) of Indian and global assets of the foreign company or entity,

- determination of income attributable to assets situated in India, and

- information or documents required to be maintained and furnished by the Indian concern under section 285 of the Act.

The draft rules in this regard were formulated and placed in public domain on 23.05.2016 for comments from stakeholders and general public. After due consideration of the comments received, the Government has notified the Rules vide S.O. No. 2226 (E) dated 28.06.2016. These rules will be applicable from the date of publication in the Official Gazette, i.e.; 28.06.2016. The rules and formulation thereof is part of the Government's continuing effort at providing predictable, transparent and fair tax regime.

***http://www.incometaxindia.gov.in/communications/notification/notification552016.pdf***

### *17. CBDT notifies rules for Foreign Tax Credit*

The Ministry of Finance, Central Board of Direct Taxes (CBDT) vide Notification No. 54/2016 dated 27th June, 2016 has notified the rules for Foreign Tax Credit. They shall be effective from 1st day of April, 2017.

In the Income-tax Rules, 1962 (hereinafter referred to as the said rules), after rule 127, rule 128 shall be inserted, namely Foreign Tax Credit and also in the said rules in Appendix-II, after Form No.66, the Form 67 shall be inserted, namely Statement of income from a country or specified territory outside India and Foreign Tax Credit.

***http://www.incometaxindia.gov.in/communications/notification/notification542016.pdf***

### *18. Extension of time limit for taking central excise registration of an establishment by a jeweler*

The Ministry of Finance vide Press Release dated 1st July, 2016 has extended the time limit for taking central excise registration of an establishment by a jeweller up to 31.07.2016.

The liability for payment of central excise duty will be with effect from 1st March, 2016. However, assessee jewellers may make payment of excise duty for the months of March, 2016; April 2016 and May, 2016 along with the payment of excise duty for the month of June, 2016 upto the extended date of 31.07.2016.

### *19. Income Computation and Disclosure Standards (ICDS) notified under Section 145 (2) of the Income -tax Act, 1961 to be applicable from 1stApril, 2016*

The Ministry of Finance vide Press Release dated 6th July, 2016 has said that Income Computation and Disclosure Standards (ICDS) will now be applicable from the current fiscal year as against 2015-16 notified earlier. It has been decided that the ICDS shall be applicable from 1.4.2016 i.e. previous year 2016-17 (Assessment Year 2017-18).

***http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/490/Press-Release-Applicability-of-Income-Computation-06-07-2016.pdf***

## SERVICE TAX


### 1. Service Tax Exemption on the Legal Services provided by Senior Advocates.

The Central Board of Excise & Customs (CBEC), Ministry of Finance, vide Notification No. 32 dated 6th June, 2016 has exempted the services of Senior advocates by way of legal services to- (i) any person other than a business entity; or (ii) a business entity with a turnover up to rupees ten lakh in the preceding financial year.

http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st32-2016.pdf

### 2. Business entity liable to service tax on services provided by senior advocates

The Central Board of Excise & Customs (CBEC), Ministry of Finance, vide Notification No. 33 dated 6th June, 2016 has amended the Service Tax Rules, 1994, wherein it has now been provided that in relation to service provided or agreed to be provided by a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a or a firm of advocates, and the senior advocate is providing such services, the recipient of such services, which is the business entity who is litigant, applicant, or petitioner, as the case may be.

http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st33-2016.pdf

### 3. Extent of payment of service tax by a business entity as a recipient of services provided by senior advocates.

The Central Board of Excise & Customs (CBEC), Ministry of Finance, vide Notification No. 34 dated 6th June, 2016 has amended the notification No. 30/2012-Service Tax dated 20th June, 2012, so as to prescribe extent of payment of service tax by a business entity as a recipient of services provided by senior advocates.

*http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st34-2016.pdf*

### 4. Exporters claiming Service Tax Refund to file additional documents

The Ministry of Finance, Central Board of Excise and Customs vide Circular No. 195/05/2016 dated 15th June, 2016 clarification with regard to speedy disbursal of pending refund claims of exporters of service under rule 5 of the Cenvat Credit Rules, 2004 has been made.

Applicability of the Scheme – it has been clarified that the scheme is applicable only to service tax registrants who are exporters of services, with respect to refund claims under rule 5 of the CENVAT Credit Rules, 2004, which have been filed on or before 31-3-2015, and which have not been disposed of as on the date of the issue of the circular No. 187/6/2015-Service Tax dated 10th November, 2015. As clarified therein, claims which have been remanded are out of the purview of this scheme.

Additional documents to be submitted (i.e. in addition to those required to be filed along with the claim)

It had been clarified in the circular that the decision to grant provisional payment is an administrative order and not a quasi-judicial order and should not be subjected to review.

There is thus no reason to treat either the certificate or the provisional payment with fear or suspicion.

The certificate has to be furnished by the statutory auditor in the case of companies, and from a chartered accountant in the case of assesses who are not companies, in the prescribed format. The phrase “statutory auditor” will refer to the auditor who prepares the financial statements under the Companies Act 2013. The certificate cannot be furnished by a Cost and Management Accountant or a Company Secretary. In the case of companies, it cannot be furnished by a Chartered Accountant who is not the statutory auditor.

It is clarified once again that as long as the four points which are contained in Annexure-1 to the circular dated 10-11-2015 are present, the certificate should not be rejected on the ground of any disclaimers which the auditor has to give, owing to the Guidance Notes.

### *5. CBEC: Krishi Kalyan Cess Only on Services Rendered, Billed from June 1*

Central Board of Excise and Customs (CBEC) has issued a notification granting exemption from Krishi Kalyan Cess (KKC) for services rendered and invoiced on or before May 31.

## OTHERS

### 1. Indian Patent Office Issues Guidelines for Startups

Indian Patent Office has issued guidelines for facilitators and startups with respect to filling and processing of applications for patent, designs and trademarks aiming to encourage budding entrepreneurs and boost innovation.

**http://www.ipindia.nic.in/Whats_New/Guidelines_Startups_09June2016.pdf**

### 2. Premature Closure of PPF Account

The Ministry of Finance vide Notification dated 18th June, 2016 has provided that subscribers of Public Provident Fund (PPF) can prematurely close deposit scheme after completing five years for reasons such as higher education or expenditure towards medical treatment.

*In the Public Provident Fund Scheme, 1968, in paragraph 9, for sub-rule 3(C), the following sub-paragraph shall be substituted, namely:-*

*" 3(C) A subscriber shall be allowed premature closure of his account or the account of a minor of whom he is a guardian, on a written application to the Accounts Office, on any of the following grounds, namely*

*(i) that the amount is required for the treatment of serious ailments or life threatening diseases of the account holder, spouse or dependent children or parents, on production of supporting documents from competent medical authority.*

*(ii) that the amount is required for higher education of the account holder or the minor account holder, on production of documents and fee bills in confirmation of admission in a recognised institute of higher education in India or abroad:*

*Provided that such premature closure shall be allowed only after the account has completed five financial years.*

Provided further that premature closure under this sub-paragraph shall be subject to deduction of such amount which shall be equivalent to one percent less interest on the interest rates as applicable from time to time in the table payable on the deposits held in the account from the date of opening of the account till the date of such premature closure.

### 3. Cabinet approves the National Apprenticeship Promotion Scheme

The Union Cabinet vide Press Release dated 5th July, 2016 has approved the National Apprenticeship Promotion Scheme.

The Scheme would be implemented by Director General of Training (DGT) under Ministry of Skill Development and Entrepreneurship (MSDE). It provides for incentivizing employers to engage apprentices. 25% of the total stipend payable to an apprentice would be shared with employers directly by Government of India. It is for the first time a scheme has been designed to offer financial incentives to employers to engage apprentices. In addition, it also supports basic training, which is an essential component of apprenticeship training. 50% of the total expenditure incurred on providing basic training would be supported by Government of India.

The Scheme has an outlay of Rs. 10,000 crore with a target of 50 lakh apprentices to be trained by 2019-20.

The Scheme will catalyze the entire apprenticeship ecosystem in the country and it will offer a win-win situation for all stakeholders. It is expected to become one of the most powerful skill-delivery vehicle in the country.

**Background:**

Apprenticeship Training is considered to be one of the most efficient ways to develop skilled manpower for the country. It provides for an industry led, practice oriented, effective and efficient mode of formal training. The National Policy of Skill Development and Entrepreneurship, 2015 launched by the Prime Minister focuses on apprenticeship as one of the key components for creating skilled manpower in India. The present scheme also aims to achieve the objective as stated in the National Policy, 2015. The policy proposes to work pro-actively with the industry including MSME to facilitate tenfold increase opportunities in the country by 2020-20.

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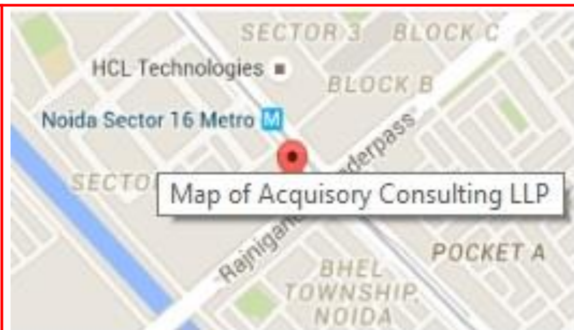
| **Noida [Head Office]**<br>**Unit 1116, 11th Floor**<br>**WTT, C 1, Sector 16 Noida**<br>**Office Phone:**<br>**+91 120 614 3000**<br>**Fax: +91 120 6143033** | <br> |
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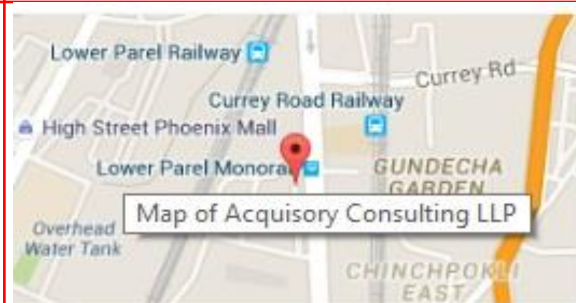
| **Mumbai**<br>**Peninsula Business Park, 19th**<br>**Floor, Tower B, Lower Parel,**<br>**Mumbai- 400013**<br>**Office Phone: +91 22 6124 6124**<br>**Fax: +91 22 6124 6101** | <br> |

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