



ACQUISORY

NEWS CHRONICLE

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We care more than others think is wise....

We dream more than others think is practical....

We expect more than others think is possible....

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(Knowledge Manager with Acquisory)



Wishes You a Very

HAPPY NEW YEAR
2017

May You
ACQUIRE
Good Luck!
Good Health!
Good Fortune!
& Good Times!



CONTENT

ARTICLES

<u>A NEW WAY AHEAD OF DEMONETIZATION – DIGITAL AND CASHLESS ECONOMY</u>	7
<u>START UP INDIA – PROGRESS SO FAR</u>	10
<u>NEWS UPDATES</u>	15
<u>CORPORATE</u>	15
<u>RESERVE BANK OF INDIA (RBI)</u>	16
<u>MINISTRY OF CORPORATE AFFAIRS (MCA)</u>	22
<u>SECURITIES EXCHANGE BOARD OF INDIA (SEBI)</u>	27
<u>TAXATION</u>	29
<u>OTHERS</u>	32



HIGHLIGHTS

Article

A New Way Ahead Of Demonetization – Digital And Cashless Economy

In the repercussion of the cancellation of the legal tender character of old INR 500 and INR 1000 notes, there has been a surge in the digital transactions through use of credit/debit cards and mobile phone applications/e-wallets etc. To further accelerate this process, the Central Government has come out with various incentive packages and measures for promotion of digital and cashless economy in the country. The government has come up with its flagship programme of Digital India to prepare India for a knowledge future.

Startup India – Progress so Far

It is seen that the last two years have seen a swing of initiatives and agendas announced by the government – starting with National Digital Literacy Mission with its worthwhile agenda of enabling one person in each Indian family to have digital skills, we have seen Swach Bharat Abhiyan, Make in India, Start up India and the more recent demonetization drive and the ‘Cashless India’ opportunity capturing the imagination of the country. But if one were to look forward to 2017 and beyond, it is probably a new agenda and horizon for start-ups and the fostering of a true entrepreneurial ecosystem in the country that will get India to the sustained 10% growth that is imperative to meet the collective aspirations of a billion Indians.

Legal Updates

Special Measures upto March 31, 2017 : Rationalisation of customer charges for Immediate Payment Service (IMPS), Unified Payment Interface (UPI) & Unstructured Supplementary Service Data (USSD)

Reserve Bank of India (RBI) has decided that all participating banks and Prepaid Payment Instrument (PPI) issuers shall not levy any charges on customers for transactions upto INR 1000 settled on the Immediate Payment Service (IMPS), USSD-based *99# and Unified Payment Interface (UPI) systems.

The above measures shall come into effect from January 1, 2017 and shall be applicable till March 31, 2017. In the intervening period, the Reserve Bank of India will facilitate a review of the charges under the aforesaid channels by the concerned stakeholders.

MCA notifies Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016

MCA - IBBI vide Notification dated 15th December, 2016 has notified the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 which shall come into force on the date of their publication in the Official Gazette. These Regulations shall apply to the liquidation process under Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016. An insolvency professional shall be eligible to be appointed as a liquidator if he, and every partner or director of the insolvency professional entity of which he is a partner or director, is independent of the corporate debtor. The fee payable to the liquidator shall form part of the liquidation cost and the liquidator shall be entitled to such fee and in such manner as has been decided by the committee of creditors before a liquidation order is passed under sections 33(1)(a) or 33(2).

Filing of Revised Income Tax Returns by the Tax Payers Post De-Monetisation of Currency

Central Board of Direct Taxes (CBDT) vide Press Release dated 14th December, 2016, has clarified that the provision to file a revised return of income u/s 139(5) of the Act has been stipulated for revising any omission or wrong statement made in the original return of income and not for resorting to make changes in the income initially declared so as to drastically alter the form, substance and quantum of the earlier disclosed income. It is brought to the notice of tax payers that any instance coming to the notice of Income-tax Department which reflects manipulation in the amount of income, cash-in-hand, profits etc. and fudging of accounts may necessitate scrutiny of such cases so as to ascertain the correct income of the year and may also attract penalty/prosecution in appropriate cases as per provision of law.

An abstract graphic composed of numerous overlapping squares and diamonds in various colors including yellow, orange, red, pink, blue, and green. The shapes are arranged in a dynamic, non-repeating pattern that fills the upper half of the page.

ARTICLES

A NEW WAY AHEAD OF DEMONETIZATION – DIGITAL AND CASHLESS ECONOMY



In the repercussion of the cancellation of the legal tender character of old INR 500 and INR 1000 notes, there has been a surge in the digital transactions through use of credit/debit cards and mobile phone applications/e-wallets etc. To further accelerate this process, the Central Government has come out with various incentive packages and measures for promotion of digital and cashless economy in the country. Digital India is a programme initiated to prepare India for a knowledge future.

The Digital India programme is a leading programme of the Government of India with a vision to transform India into a digitally empowered society and knowledge economy. “Faceless, Paperless, Cashless” is one of stated role of Digital India. As a part of promoting cashless transactions and converting India into less-cash society, various modes of digital payments are available such as Banking cards, USSD (the Unstructured Supplementary Service Data), AEPS (Aadhaar Enabled Payment System), UPI, Mobile wallets, Banks Pre-paid Cards, Points of Sale, Internet Banking, Mobile Banking and Micro ATMs.

Some of the incentives/measures taken by the Government are –

- The Central Government Petroleum PSUs has initiated to give incentive by offering a discount at the rate of 0.75% of the sale price to consumers on purchase of petrol/diesel if payment is made through digital means. The incentive scheme has the potential of shifting at least 30% more customer to digital means which will further reduce the cash requirement of nearly INR 2 lakh crore per year at the petrol pumps.

➤ In order to enhance the digital payment infrastructure in rural areas, the Central Government through National Bank for Agriculture and Rural Development (NABARD) will extend the financial support to eligible banks for deployment of 2 Point of Sale (POS) devices each in 1 Lakh villages with the population of less than 10,000. These POS machines are intended to be deployed at primary cooperative societies/milk societies/agricultural input dealers to facilitate agri-related transactions through digital means. This will further benefit farmers of one lakh village covering a total population of nearly 75 crore who will have facility to transact cashlessly in their villages for their agri needs.



➤ The Central Government through NABARD will also support Rural Regional Banks and Co-operative Banks to issue “Rupay Kisan Cards” to 4.32 crore Kisan Credit card holders to enable them to make digital transactions at POS machines/Micro ATMs /ATMs.

- Railway through its sub urban railway network shall provide incentive by way of discount upto 0.5% to customers for monthly or seasonal tickets from January 2017, if payment is made through digital means.
- All railway passengers buying online ticket shall be given free accidental insurance cover of upto INR 10 Lakh.
- For paid services e.g. catering, accommodation, retiring rooms etc. being offered by railways through its affiliated entities/corporations to the passengers, it will provide a discount of 5% for payment of these services through digital means. All the passengers travelling on railways availing these services may avail the benefit.
- Public sector insurance companies will provide incentive, by way of discount or credit, upto 10% of the premium in general insurance policies and 8% in new life policies of Life Insurance Corporation sold through the customer portals, in case payment is made through digital means.
- The Central Government Departments and Central Public Sector Undertakings will ensure that transactions fee/MDR charges associated with payment through digital means shall not be passed on to the consumers and all such expenses shall be borne by them. State Governments are being advised that the State Governments and its organizations should also consider to absorb the transaction fee/MDR charges related to digital payment to them and consumer should not be asked to bear it.



- Public sector banks are advised that merchant should not be required to pay more than INR 100 per month as monthly rental for PoS terminals/Micro ATMs/mobile POS from the merchants to bring small merchant on board the digital payment eco system.
- No service tax will be charged on digital transaction charges/MDR for transactions upto Rs.2000 per transaction.
- For the payment of toll at Toll Plazas on National Highways using Radio-frequency Identification (RFID) card/Fast Tags, a discount of 10% will be available to users in the year 2016-17.

Further to above incentives provided, Government also announced new Yojana's post demonetization. As India move towards a digital and cashless economy, the Government announced two schemes lucky Grahak Yojana and Digi-Dhan Vyapar Yojana to give cash awards to consumers and merchants who utilize digital payment instruments for personal consumption expenditures. The prizes range from INR 1000 to INR 1 crore and the transactions permitted are from INR 50 to INR 3000 to keep the focus on the common man. The schemes will not only give a boost to cashless transactions, but will particularly bring the poor, lower middle class and small businesses into the digital payment fold, and new way of life.

Future of Cashless and Digital Economy

The year 2017 is an important milestone for India and would mark transition from a largely cash economy to a less cash and a more digital economy. But the buzzwords like "less cash", "cashless" and "digital" do not really convey the range and diversity of the transition. It is actually a transition to a new social and behavioral pattern. Migrating from a cash economy to a digital economy requires a big behavioral and social shift, and a recast of the whole mindset. Making gadgets available to the society will not help unless we bring about a social and behavioral transformation.

A surge in non-cash transactions through digital options such as mobile wallets and debit cards is a clear sign that India is gradually embracing the cashless economy, but it remains to be seen if this will continue when new currency notes come into circulation.

However, one of the major concerns would be digital security. It may be noted that to have a smooth transition to a digital economy, the government needs to have a policy of digital security. A strong digital security and low risk will enhance the spread of digital/cashless economy.

START UP INDIA – PROGRESS SO FAR

India Startup Story 2016

It is seen that the last two years have seen a swing of initiatives and agendas announced by the government – starting with National Digital Literacy Mission with its worthwhile agenda of enabling one person in each Indian family to have digital skills, we have seen Swach Bharat Abhiyan, Make in India, Start up India and the more recent demonetization drive and the ‘Cashless India’ opportunity capturing the imagination of the country. But if one were to look forward to 2017 and beyond, it is probably a new agenda and horizon for start-ups and the fostering of a true entrepreneurial eco-system in the country that will get India to the sustained 10% growth that is imperative to meet the collective aspirations of a billion Indians.



Though the start up movement in the country was given a tremendous boost a year ago with Start up India call, it was observed that Startups faced the fund crunch and saw shutting of seven out of top 10 startups. With 2015 saw a year of big ticket funding rounds, 2016 was a year of harsh reality for the country's startup ecosystem. This is a natural progression, When you look at the ecosystem, not more than 20% of the startups succeed. Two to three years after a startup's inception is a time when you see high mortality. There is too much competition, and only a few survive.



As India becomes a hub for ideation, brainstorming and experimentation, the country has huge potential to emerge from the prototyping phase to the manufacturing of technology-driven hardware all together. Already equipped with the talent pool, with the right access measures to infrastructure, tools and technologies, hardware and systems solutions can address the real business and consumer needs that are unique to India, making the country less dependent on product imports and giving an impetus to a culture of technology adoption.

Ultimately, local innovation will fuel the curve of digital growth or digitisation in India, because the problems of India are unique and their solutions will be found locally. A billion connected and smart devices, for a billion people, through smart ideas. Imagine that.

Measures taken by Government for Startups – 2016

I. Measures taken by Department of Industrial Policy and Promotion

1. Fund of Funds - For providing fund support for Startups, Government has created a 'Fund of Funds for Startups (FFS)' at Small Industries Development Bank of India (SIDBI) with a corpus of INR 10,000 crore.

The FFS shall contribute to the corpus of Alternate Investment funds (AIFs) for investing in equity and equity linked instruments of various Startups. The FFS is managed by Small Industries Development Bank of India (SIDBI) for which operational guidelines have been issued. In 2015-16, INR 500 crores was released towards the FFS corpus.

2. Credit Guarantee Fund for Startups

- Since debt funding for Startups is perceived as high risk activity, a Credit Guarantee Fund for Startups is being setup with a budgetary corpus of INR 500 crore per year, over the next four years, to provide credit guarantee cover to banks and lending institutions providing loans to Startups.
- Once rolled out, the scheme, in the lines of credit guarantee scheme for MSME, is likely to provide a huge impetus for enabling flow of much needed credit to the Startups which may run into several thousands of crores.

3. Relaxed Norms in Public Procurement for Startups

Provision has been introduced in the procurement policy of Ministry of Micro, Small and Medium Enterprises (Policy Circular No. 1(2) (1)/2016-MA dated March 10, 2016) to relax norms pertaining to prior experience / turnover for Micro and Small Enterprises. Department of Expenditure has issued a notification for relaxing public procurement norms in respect of medium enterprises by all central Ministries/Departments.



4. Tax Incentives:

- **3 Year Tax Exemption**

The Finance Act, 2016 (Section 80- IAC) has provision for Startups (Companies and LLPs) to get income tax exemption for 3 years in a block of 5 years, if they are incorporated between 1st April 2016 and 31st March 2019. To avail these benefits, a Startup must get a Certificate of Eligibility from the Inter-Ministerial Board.

- **Removal of Angel Tax:**

Tax exemption on investments made in excess of face value in the shares of a Startup company has been introduced on 14 June 2016.

- **Tax Exemption on Capital Gains:**

Section 54 EE has been introduced under the Finance Act, 2016 which provides for exemption of capital gain arising out of transfer of long term capital asset invested in a fund notified by Central Government. Section 54GB of Income Tax Act, 1961 has been amended to provide for exemption from tax on capital gains arising out of sale of residential house or a residential plot of land if the amount of net consideration is invested in equity shares of eligible Startups.

5. Legal Support and Fast-tracking Patent Examination at Lower Costs

A scheme for Startups IPR Protection (SIPP) for facilitating fast track filing of Patents, Trademarks and Designs by Startups has been introduced. The scheme provides for expedited examination of patents filed by Startups. This will reduce the time taken in getting patents. The fee for filing of patents for Startups has also been reduced up to 80%. Panels of facilitators for Patents and Trademark applications have been formed to facilitate the process of patent filing and acquisition.

The facilitators would provide legal guidance and handholding through the entire patent acquisition process free of cost.

6. Self-Certification based Compliance Regime

Compliance norms relating to Environmental and Labour laws have been eased in order to reduce the regulatory burden on Startups thereby allowing them to focus on their core business and keep compliance costs low. Ministry of Environment and Forests (MoEF) has published a list of 36 white category industries. Startups falling under the “White category” would be able to self-certify compliance in respect of 3 Environment Acts -

- The Water (Prevention & Control of Pollution) Act, 1974;
- The Water (Prevention & Control of Pollution) Cess (Amendment) Act, 2003
- The Air (Prevention & Control of Pollution) Act, 1981

Further, Ministry of Labour and Employment (MoLE) has issued guidelines to State Governments whereby Startups shall be allowed to self-certify compliance in respect of 6 Labour laws. These shall be effective after concurrence of States/UTs. The Acts are:

The Building and Other Constructions Workers’ (Regulation of Employment & Conditions of Service) Act, 1996.



- The Inter- State Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979
- The Payment of Gratuity Act, 1972
- The Contract Labour (Regulation and Abolition) Act, 1970
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- The Employees' State Insurance Act, 1948

So far 9 States have confirmed compliance to the advisory issued by Ministry of Labour and Employment (MoLE):

- Rajasthan
- Uttarakhand
- Madhya Pradesh
- Chhattisgarh
- Delhi
- Jharkhand
- Gujarat
- Chandigarh
- Daman & Diu

7. Setting up Incubators

- Under Atal Innovation Mission, Niti Ayog will set up Atal Incubation Centers (AICs) in public and private sector. NITI Aayog has received 3658 applications (1719 from academic institutions and 1939 from non-academic institution) for setting up Atal Incubation Centers (AICs) from both Public and Private sector organizations.
- Under the Mission, a grant-in-aid of INR 10 crore would be provided to scale up an existing incubator for a maximum of 5 years to cover the capital and operational costs in running the center. NITI Aayog has received 232 applications for providing scale up support for established incubation centers.

8. Setting up of Startup Centers and Technology Business Incubators (TBIs)

14 Startup Centres and 15 Technology Business Incubators are to be setup collaboratively by Ministry of Human Resource Development (MHRD) and the Department of Science and Technology (DST). Out of the 14 Startup Centers, 10 have been approved. Once MHRD releases its share of INR 25 lakhs each for the Startup centers, the Startup centers would be supported by DST by December, 2016. The target of sanctioning 15 TBIs is expected to be achieved by December 2016.

9. Research Parks

7 Research Parks will be set up as per the Startup India Action Plan. Out of these 7, IIT Kharagpur already has a functional Research Park. Further, DST will establish 1 Research Park at IIT Gandhinagar and the remaining 5 shall be set up by Ministry of Human Resource Development (MHRD) at IIT Guwahati, IIT Hyderabad, IIT Kanpur, IIT Delhi and IISc Bangalore.



II. Measures taken by Ministry of Corporate Affairs

Relaxations for companies, including start-ups have been provided through changes in various rules notified under Companies Act, 2013, and include the following: -

- a) the upper limit on the acceptance of deposits has been enhanced to 35% of net worth instead of earlier 25%;
- b) allowing start-ups to issue Employee Stock Options to promoters working as employees;
- c) increasing the limits with regard to sweat equity that can be issued by a company from 25% of paid up capital to 50% of paid up capital;

Seamless availability of names and quicker incorporation: - The name availability guidelines have been amended to allow the companies to select innovative names. The process of making the names available has been entrusted to a dedicated “Central Registration Centre” (CRC), whereby names are being approved within next business day. CRC is also handling incorporation/ registration of companies. Incorporation is being done in a day when the applicant opts for filing integrated incorporation form known as SPICe.

Exemptions under section 462 granted to four classes of companies – private companies, Government companies, Nidhis and charitable companies, exempting such companies from various compliances and other requirements of the Companies Act, 2013. The exemptions provided to private companies have reduced the compliance burden on start-ups.



LEGAL UPDATES



1. Aadhaar-based Authentication for Card Present Transactions

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/170 DPSS.CO.PD No.1421/02.14.003/2016-17 dated 2nd December, 2016 on a review, has decided to extend the time for deployment of Aadhaar-enabled devices till June 30, 2017. However, banks may continue to make necessary arrangements, including changes as host-end, network level and device readiness, as required to ensure adherence to above instructions. Further, it is also clarified that the instructions contained in earlier circular are for deployment of new card acceptance infrastructure. As regards enablement of existing card acceptance infrastructure for processing payment transactions using Aadhaar-based biometric authentication, the timeline will be advised in due course. This directive is issued under Section 10(2) read with Section 18 of Payment and Settlement Systems Act 2007 (Act 51 of 2007).

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10760&Mode=0>

2. Card Not Present transactions – Relaxation in Additional Factor of Authentication for payments upto INR 2000/- for card network provided authentication solutions


Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/172

DPSS.CO.PDNo.1431/02.14.003/2016-17 dated 6th December, 2016 on a review, it has decided the Additional Factor of Authentication (AFA) requirement for transactions upto INR 2000/- for online Card Not Present (CNP) transactions for the 'payment authentication solutions' provided by authorised card networks with the participation of respective card issuing and acquiring banks is being relaxed, subject to:

Only authorised card networks shall provide such payment authentication solutions with participation of card issuing and acquiring banks, Customer consent shall be taken while making this solution available to them,

The relaxation for AFA under such solutions shall be applicable for card not present transactions for a maximum value of INR 2,000/- per transaction across all merchant categories. Banks and card networks are free to facilitate their customers to set lower per transaction limits,

Beyond the transaction limit of INR 2000/-, the card not present transaction has to necessarily be processed as per the extant instructions with mandatory AFA; even for transaction values below this limit, the customer may choose to make payment using other forms of AFA as hitherto,



Suitable velocity checks (i.e., how many such small value transactions will be allowed in a day / week / month) may be put in place by banks/card networks as considered appropriate,
No change in the existing chargeback process.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10766&Mode=0>

3. Requirement of customer due diligence and need for maintenance of records

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/173 DBR.AML.BC.No.44/14.01.001/2016-17 dated 6th December, 2016, it has been decided that operation in dormant accounts with banks may be allowed after due diligence as per risk category of the customer. 'due diligence' would mean ensuring genuineness of the transaction, verification of the signature and identity etc.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10767&Mode=0>

4. Reserve Bank of India Act, 1934 – Section 42(1A) Withdrawal of the Incremental CRR

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/174 DBR.No.Ret.BC.46/12.01.001/2016-17 dated 7th December, 2016, it has been decided to withdraw the requirement of incremental CRR, effective the fortnight beginning December 10, 2016.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10768&Mode=0>

5. Amendment to Master Direction (MD) on KYC

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/176 DBR.AML.BC. No. 18/14.01.001/2016-17 dated 8th December, 2016 has made amendment to Master Direction on (Know Your Customer (KYC)).

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10770&Mode=0>

6. Amendment to Master Direction on Know Your Customer

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/176 DBR.AML.BC. No. 18/14.01.001/2016-17 dated 8th December, 2016 has made amendment to Master Direction on (Know Your Customer (KYC)).

It has been decided to allow One Time Pin (OTP) based e-KYC subject to certain restrictions
All Scheduled Commercial Banks (SCBs) are required to invariably upload the KYC data pertaining to all new individual accounts opened on or after January 1, 2017, with Central KYC Records Registry. SCBs are, however, allowed time upto February 1, 2017 for uploading date in respect of accounts opened during January 2017. REs other than SCBs are to upload the KYC data pertaining to all new individual accounts opened on or after from April 1, 2017, with CKYCR.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10771&Mode=0>

7. Security and Risk Mitigation measure - Technical Audit of Prepaid Payment Instrument issuers

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/178 DPSS.CO.OSD.No.1485/06.08.005/2016-17 dated 9th December, 2016 has notified special measures for Prepaid Payment Instruments (PPIs) to facilitate adoption of digital payments.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10772&Mode=0>



8. Preservation of CCTV recordings

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/181 DCM (Plg) No. 1712/10.27.00/2016-17 dated 13th December, 2016 has issued notice stating that in order to facilitate identification of people abetting circulation of counterfeit notes, banks are advised to cover the banking hall/area and counters under CCTV surveillance and recording and to preserve the recording. The banks are further advised to preserve CCTV recordings of operations at bank branches and currency chests for the period from November 08 to December 30, 2016, until further instructions are provided by the requisite Authorities.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10775&Mode=0>

9. Distribution of Relief/Savings Bonds

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/182 IDMD.PDRD.No.08/03.64.00/2016-17 dated 13th December, 2016, has decided to allow Standalone PDs to distribute Relief/Savings bonds under non-core activities, as brokers of authorized entities, subject to adherence to terms and conditions listed in Master Direction on Relief/Savings Bonds.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10776&Mode=0>

10. Compliance to provisions of Master Direction on Know Your Customer (KYC)

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/183 DBR.AML.BC.48/14.01.01/2016-17 dated 15th December, 2016, has advised all the Regulated Entities (REs) to strictly comply with the extant instructions stipulated in the Master Direction on Know Your Customer (KYC). In respect of 'Small Accounts', the prescribed limits/conditions shall not be breached and compliance therewith shall be strictly monitored. Further, BSBD

Accounts (PMJDY accounts are akin to BSBDAs), which are not KYC compliant accounts are to be treated as 'Small Accounts' and are subjected to the limitations applicable to such accounts. It is further clarified that provisions of Section 67 of the MD are subject to the exemptions granted to Government, Consular office etc., as provided in Income Tax Rule 114 B.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10777&Mode=0>

11. Special Measures upto March 31, 2017 : Rationalisation of customer charges for Immediate Payment Service (IMPS), Unified Payment Interface (UPI) & Unstructured Supplementary Service Data (USSD)

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/185 DPSS CO.PD.No.1516/02.12.004/2016-17 dated 16th December, 2016 it has now been decided that all participating banks and Prepaid Payment Instrument (PPI) issuers shall not levy any charges on customers for transactions upto INR 1000 settled on the Immediate Payment Service (IMPS), USSD-based *99# and Unified Payment Interface (UPI) systems. The above measures shall come into effect from January 1, 2017 and shall be applicable till March 31, 2017. In the intervening period, the Reserve Bank of India will facilitate a review of the charges under the aforesaid channels by the concerned stakeholders.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10779&Mode=0>

12. Special measures upto March 31, 2017: Rationalisation of Merchant Discount Rate (MDR) for transactions upto ₹ 2000/-

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/184 DPSS.CO.PD.No.1515/02.14.003/2016-17



dated 16th December, 2016, with the withdrawal of legal tender characteristics of existing INR 500/- and INR 1000/- Bank Notes (Specified Bank Notes – SBN), in order to facilitate wider acceptance of card payments, the following special measures for debit card transactions (including for payments made to Government), are being introduced for a temporary period:

For transactions upto INR 1000/-, MDR shall be capped at 0.25% of the transaction value.

For transactions above INR 1000/- and upto INR 2000/-, MDR shall be capped at 0.5% of the transaction value.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10780&Mode=0>

13. Exchange facility to foreign citizens

Reserve Bank of India (RBI) vide Circular No. RBI/2016-17/186 A.P. (DIR Series) Circular No. 22 dated 16th December, 2016, it has been decided that the instructions contained in the A.P. (DIR Series) Circular No. 20 dated November 25, 2016 shall continue to be in force till December 31, 2016 i.e. permitting foreign citizens to exchange foreign exchange for Indian currency notes up to a limit of INR 5000/- per week.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10781&Mode=0>

14. Withdrawal of Legal Tender Character of existing INR 500/- and INR 1000/- Bank Notes (Specified Bank Notes) - Deposit of Specified Bank Notes (SBNs) into bank accounts

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/189 DCM (Plg) No.

1859/10.27.00/2016-17 dated 19th December, 2016 it has been decided to place certain restrictions on deposits of SBNs into bank accounts while encouraging the deposits of the same under the Taxation and Investment Regime for the Pradhan Mantri Garib Kalyan Yojana, 2016. Tenders of SBNs in excess of INR 5000 into a bank account will be received for credit only once during the remaining period till December 30, 2016.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10784&Mode=0>

15. Withdrawal of Legal Tender Character of existing INR 500/- and INR 1000/- Bank Notes (Specified Bank Notes) - Deposit of Specified Bank Notes (SBNs) into bank accounts- Modification

Reserve Bank of India (RBI) vide Notification no. RBI/2016-17/191 DCM (Plg) No. 1911/10.27.00/2016-17 dated 21st December, 2016 has notified to withdraw the provisions of the earlier circular issued on 19-12-2016 relating to deposit of more than INR 5,000/- only once in remaining days till 30-12-2016. The Withdrawal of Legal Tender Character of existing INR 500/- and INR 1000/- Bank Notes (Specified Bank Notes) at sub para (i) and (ii) will not apply to fully KYC compliant accounts.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10790&Mode=0>



16. Procedural Guidelines for Servicing the Sovereign Gold Bonds

Reserve Bank of India (RBI) vide Notification no. RBI/2016-17/193 IDMD No.1569/14.04.050/2016-17 dated 23rd December, 2016 it has been decided to issue Procedural Guidelines to the “Receiving Offices” (in case of bonds held in the form of stock certificates in RBI’s books) and Depositories/Depository Participants (in case of dematerialized bonds), in addition to entrusting them with the responsibility of performing certain functions relating to servicing of the bonds.

The Procedural Guidelines are given in Annex I. The Guidelines are issued in exercise of the powers conferred under Section 29(2) of the GS Act 2006, to the Receiving Offices, Depositories/Depository Participants, as directions to persons dealing in government securities, to facilitate servicing of the bonds issued under the various Sovereign Gold Bond schemes. Any non-compliance shall invite penal provisions under Section 30 of the Act.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10792&Mode=0>

17. Purchase and sale of securities other than shares or convertible debentures of an Indian company by a person resident outside India

Reserve Bank of India (RBI) vide Circular No. RBI/2016-17/197 A.P. (DIR Series) Circular No.23 dated 27th December, 2016 as amended from time to time, in terms of which, eligible investors, viz., SEBI registered Foreign Institutional Investors (FIIs), Qualified Foreign Investors (QFIs), registered Foreign Portfolio Investors (FPIs) and long term investors registered with SEBI, may purchase securities indicated in Schedule 5 on repatriation basis and subject to such terms and conditions as may be specified by the SEBI and the Reserve Bank from time to time. With a view to providing flexibility in regard to

the manner in which non-convertible debentures/bonds issued by Indian companies can be acquired by FPIs, it has now been decided to allow them to transact in such instruments either directly or in any manner as per the prevalent/approved market practice.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10800&Mode=0>

18. Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances (Corrected)

Reserve Bank of India (RBI) vide Notification no. RBI/2016-17/198

DBR.No.BP.BC.49/21.04.048/2016-17 dated 28th December, 2016 has revised the Circular with regard to Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to advances.

It has been decided to:

(i) Provide 30 days, in addition to the 60 days provided vide the abovementioned circular, in the following categories of loans:

(a) Running working capital accounts (OD/CC)/crop loans, with any bank, the sanctioned limit whereof is INR1 crore or less;

(b) Term loans for business purposes, secured or otherwise, the original sanctioned amount whereof is ₹1 crore or less, on the books of any bank or any NBFC, including NBFC (MFI). This shall include agriculture loans.

The above dispensation will apply to dues payable between November 1, 2016 and December 31, 2016.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10801&Mode=0>



19. Closure of the scheme of exchange of Specified Bank Notes (SBNs) at banks on December 30th 2016- Accounting

Reserve Bank of India (RBI) vide Notification no. RBI/2016-17/201 DCM (Plg) No.2103/10.27.00/2016-17 dated 30th December, 2016 has issued the Circular with regard to closure of the facility of exchange of SBNs as at the close of business on December 30, 2016, all banks should report information on collection of SBNs on December 30, 2016 itself at email. Banks should make arrangements to gather the information from all its branches accordingly. All bank branches (other than those of DCCBs) who have accumulated SBNs as at the close of business on December 30, 2016 are required to deposit the same in any Issue Office of the Reserve Bank or a currency chest on December 31, 2016 itself. SBNs cannot form part of banks' cash balances from the close of business as on December 31, 2016.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10804&Mode=0>

20. Cash withdrawal from ATMs – Enhancement of daily limits

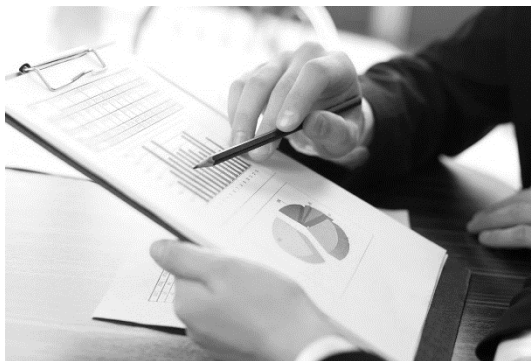
Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/204 DCM (Plg) No. 2142/10.27.00/2016-17 dated 30th December, 2016 has increased the cash withdrawal daily limits from ATMs. On a review of the position, the daily limit of withdrawal from ATMs has been increased (within the overall weekly limits specified) with effect from January 01, 2017, from the existing INR 2500/- to INR 4500/- per day per card. There is no change in weekly withdrawal limits. Such disbursements should predominantly be in the denomination of INR 500.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10807&Mode=0>

21. Facility for exchange of Specified Bank Notes (SBNs) during Grace Period – Verification of KYC and Account details

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/205 DCM (Plg) No.2170/10.27.00/2016-17 dated 31st December, 2016 has provided facility for exchange of Specified Bank Notes (SBNs) during Grace period alongwith verification of KYC and Account details. The facility will remain open for residents from January 2, 2017 to March 31, 2017 and for NRIs from January 2, 2017 to June 30, 2017.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10808&Mode=0>



1. Revision of E-forms

Forms SPICe, SPICe MoA, CHG-1, CHG-4, CHG-9 are likely to be revised on MCA21 Company Forms Download page w.e.f 7th December, 2016.

2. Filing of Offline Challans with IEPF Authority under Companies Act

Ministry of Corporate Affairs (MCA) vide Circular No. 13/2016 dated 5th December, 2016, MCA has made it mandatory to deposit the amount in IEPF through online challans only and all Challans for IEPF will be generated online only. Further Form IEPF-1 mentioning SRN No. of Challan generated online can only be accepted. All Companies transferring the amount to IEPF are requested to ensure that the process mentioned above is followed. The offline challans will not be accepted by MCA from 15th December, 2016.

http://www.mca.gov.in/Ministry/pdf/GCircular_06122016.pdf

3. Relaxation of additional fees on Annual filing upto 31.12.2016 – in the State of J&K

Ministry of Corporate Affairs (MCA) vide Circular No. 14/2016 dated 7th December, 2016, MCA it has been decided to relax the additional fees payable by the companies having registered offices in the State of Jammu and Kashmir on e-forms AOC-4, AOC (CFS), AOC-4 XBRL and e-Form MGT-7 upto 31.12.2016, wherever additional fee is applicable.

http://www.mca.gov.in/Ministry/pdf/General_Circular_14-2016_07122016.pdf

4. Companies (Transfer of Pending Proceedings) Rules, 2016

Ministry of Corporate Affairs (MCA) vide Notification G.S.R(E) dated 07th December, 2016 notified the Companies (Transfer of Pending Proceeding) Rules, 2016.

These rules shall come into force with effect from the 15th December, 2016, except rule 4, which shall come into force from 1st April 2017.

The Rule 3 is Transfer of pending proceedings relating to cases other than Winding up states that All proceeding under the Act, including proceedings relating to arbitration, compromise, arrangements and reconstruction, other than proceedings relating to winding up on the date of coming into force of these rules shall stand transferred to the Benches of Tribunal exercising respective territorial jurisdiction.



Provided that all those proceedings which are reserved for orders for allowing or otherwise of such proceedings shall not be transferred.

Rule 4 Pending proceeding relating to Voluntary Winding up states that all applications and petitions relating to voluntary winding up of companies pending before a High Court on the date of commencement of this rule, shall continue with and dealt with by the High Court in accordance with provisions of the Act.

5. Notification regarding enactment of certain provisions of the Companies Act, 2013

MCA vide Notification S.O.(E) dated 7th December, 2016 appoints 15.12.2016 as appointed date on which certain provisions of the companies Act, 2013 shall come into force.

In exercise of the powers conferred by sub-section (3) of section of the Companies act, 2013, the Central Government hereby appoints the 15.12.2016 on which Clause (23) of section 2, clause (c) and (d) of sub-section (7) of section 7, sub-section (9) of section 8, section 48, section 66 and some other sections shall come into force.

http://www.mca.gov.in/Ministry/pdf/commencementnotif_08122016.pdf

6. Revision of Forms

MCA has revised the version of e-forms : Form INC-18 (Application to Regional director for conversion of section 8 company into company of any other kind), Form DIR-3 (Application for allotment of Director Identification Number) and Form MGT-14 (Filing of Resolutions and agreements to the Registrar) are likely to be revised on MCA portal with effect from 17th Dec' 2016.

7. MCA issues Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

The Ministry of Corporate Affairs has issued the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 which shall be come into force with effect from 15th December, 2016. Through these Rules, detailed procedure, process, fees, forms, documentation relating to Compromise, Arrangements and Amalgamations, winding up are prescribed and also on the proposed manner in which the pending proceedings are to be transferred.

http://www.mca.gov.in/Ministry/pdf/compromisesrules2016_15122016.pdf

8. MCA Notifies National Company Law tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016

MCA vide Notification dated 15th December, 2016 has notified the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016 which shall come into force on the date of their publication in the Official Gazette of India. An application to the Tribunal to confirm a reduction of share capital of a company shall be in Form No. RSC-1 and shall be accompanied with the prescribed fees and documents. The Tribunal shall, within fifteen days of submission of the application, give notice, or direct that notice be given to the Central Government, Registrar of Companies, SEBI, & creditors of the company for seeking their representations and objections, if any.

<http://www.mca.gov.in/Ministry/pdf/NCLTRules2016.pdf>



9. MCA notifies Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016

MCA - IBBI vide Notification dated 15th December, 2016 has notified the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 which shall come into force on the date of their publication in the Official Gazette. These Regulations shall apply to the liquidation process under Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016. An insolvency professional shall be eligible to be appointed as a liquidator if he, and every partner or director of the insolvency professional entity of which he is a partner or director, is independent of the corporate debtor. The fee payable to the liquidator shall form part of the liquidation cost and the liquidator shall be entitled to such fee and in such manner as has been decided by the committee of creditors before a liquidation order is passed under sections 33(1)(a) or 33(2).

[http://ibbi.gov.in/Law/IBBI%20\(Liquidation%20Process\)%20Regulations,%202016%2015%20DEC.pdf](http://ibbi.gov.in/Law/IBBI%20(Liquidation%20Process)%20Regulations,%202016%2015%20DEC.pdf)

10. MCA notifies withdrawal of E-Forms

MCA has notified that the Existing INC-2 (One Person Company- Application for Incorporation) and INC-7 (Application for Incorporation of Company (Other than OPC)) eforms are likely to be withdrawn from the MCA portal shortly. Only SPICe forms (Simplified Proforma for Incorporating a Company electronically) viz. SPICe (INC-32), SPICe eMoA (INC-33) and SPICe eAoA (INC-34) are applicable for incorporation of all companies including Section 8 Companies (except Part I companies). A revised version of INC-7 shall be made available after a few days which shall be applicable only for Part I

companies. The effective date of these changes will be published on the MCA portal.

11. National Company Law Tribunal (Amendment) Rules, 2016

Ministry of Corporate Affairs (MCA) vide Notification No. G.S.R (E) dated 20.12.2016 has issued National Company Law Tribunal (Amendment) Rules, 2016.

Through this amendment, provision for Presentation of joint petition has been inserted which provide that the Bench may permit more than one person to join together and present a single petition if it is satisfied, having regard to the cause of action and the nature or relief prayed for, that they have a common interest in the matter. Such permission shall be granted where the joining of the petitioners by a single petition is specifically permitted by the Act. Further, Rule 38A has been inserted to provide Multiple remedies, which states that a petition shall be based upon a single cause of action and may seek one or more reliefs provided that the reliefs are consequential to one another. After Rule 68, the Rule 68A Application to cancel variation of rights under sub-section (2) of section 48 shall be inserted. This rule also covers the set of documents to be accompanied with the application form in Form No NCLT-1. Further, Form No. NCLT-3C is newly inserted. The Amendment Rules shall come into force on the date of their publication in the Official Gazette.

[http://www.mca.gov.in/Ministry/pdf/NCLT\(Amendment\)Rules_21122016.pdf](http://www.mca.gov.in/Ministry/pdf/NCLT(Amendment)Rules_21122016.pdf)



12. Delegations of Powers to Regional Directors under section 458 of CA, 2013

MCA vide Notification No. S.O.(E) dated 19.12.2016 has issued notification regarding Delegations of Powers to Regional Directors under section 458 of CA, 2013. Through this notification the Central Government (Ministry of Corporate Affairs) has delegated its power and functions vested under the certain sections of the Companies Act, 2013 to Regional Director Mumbai, Kolkata, Chennai, New Delhi, Ahmedabad, Hyderabad and Shilong subject to the condition that the Central Government may revoke such delegation of powers or may itself exercise the powers under the said sections. This notification shall come into force with effect from the date of its publication in the Official Gazette

13. MCA revises E-Forms

MCA has revised the version of e-forms : Form IEPF-5 (Application to the Authority for claiming unpaid amounts and shares out of Investor Education and Protection Fund (IEPF)), Form CG-1 (Form for filing application or documents with Central Government), Form PAS-3 (Return of allotment), Form MSC-1 (Application to Registrar for obtaining the status of dormant company), Form MGT-14 (Filing of Resolutions and agreements to the Registrar), Form AOC-4 (Form for filing financial statement and other documents with the Registrar) are likely to be revised on MCA portal with effect from 24th December, 2016. All the stake holders are advised to check the latest version of the form before filing.

14. Companies (removal of names of companies from the Register of Companies) Rules 2016 dt 26.12.2016

Ministry of Corporate Affairs (MCA) vide Circular dated 26th December, 2016 has issued Companies (Removal of Names of Companies from Registrar of Companies) Rules, 2016. These rules shall come into force on the date of their publication in the official gazette.

http://www.mca.gov.in/Ministry/pdf/Rules_28122016.pdf

15. Removal of names of companies from the Register of Companies- clarification regarding availability of Form STX on MCA-21 portal

Ministry of Corporate Affairs (MCA) vide Circular No. 16/2016 dated 26th December, 2016 has issued clarification regarding availability of Form STK on MCA 21 portal.

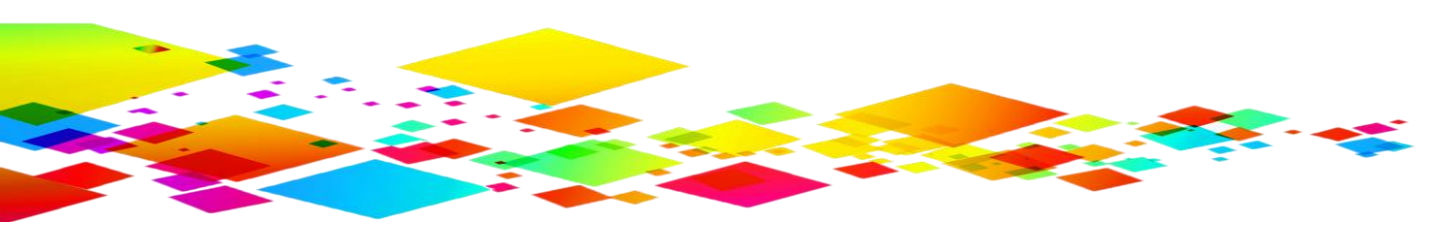
This Ministry has commenced provisions of sections 248 to 252 of the companies act, 2013 w.r.t. removal of names of companies from the Register of Companies today and notified relevant rules simultaneously. However, e-Form STK – 2 prescribed under the said rules, for making application to tie Registrar of Companies for removal of name of the company from the register of companies, is under development and would be deployed in some time.

[http://www.mca.gov.in/Ministry/pdf/General Circular 16 2016 26122016.pdf](http://www.mca.gov.in/Ministry/pdf/General_Circular_16_2016_26122016.pdf)

16. Notification- Commencement of sections 248 to 252 of Companies Act, 2013

Ministry of Corporate Affairs (MCA) vide Notification dated 26th December, 2016 has notified the commencement of provisions of Section 248 to 252 (Removal of Names of Companies From the Registrar of Companies) of the Companies Act, 2013.

http://www.mca.gov.in/Ministry/pdf/Notification_28122016.pdf



17. MCA notifies Companies (Incorporation) Fifth Amendment Rules, 2016

MCA has notified the Companies (Incorporation) Fifth Amendment Rules, 2016 which shall come into force on 1st January, 2017. Through these Rules, Form INC-2 is deprecated and Form INC-7 shall be used for incorporating Part I Companies and companies with more than seven subscribers only. The revised INC-7 shall be made available on the portal for filing purposes w.e.f 15th January 2017. For incorporating OPCs and Companies (with up to seven subscribers), only SPICe (INC-32) should be used henceforth. The filing fee for SPICe has also been reduced from INR 2000 to INR 500 and number of resubmissions from three to two. Further, Form INC-22 shall not be required to be filed in case the proposed company maintains its registered office at the given correspondence address.

[http://mca.gov.in/Ministry/pdf/5th_Amendment Rules 29122016.pdf](http://mca.gov.in/Ministry/pdf/5th_Amendment_Rules_29122016.pdf)



1. Spread Margin Benefit

Securities Exchange Board of India (SEBI) vide Circular no. SEBI/HO/CDMRD/DRMP/CIR/P/2016/130 dated 5th December, 2016 it has been decided that margin benefit on spread positions shall be entirely withdrawn latest by the start of tender period or the start of the expiry day, whichever is earlier.

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1480672789311.pdf

2. Master Circular 2016 for Depositories

Securities Exchange Board of India (SEBI) vide Circular No. SEBI/HO/MRD/DP/CIR/2016/134 dated 15th December, 2016 has issued Master Circular for Depositories.

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1481795514063.pdf

3. Master Circular for Stock Exchange and Clearing Corporation

Securities Exchange Board of India (SEBI) vide Circular No. SEBI/HO/MRD/DP/CIR/P/2016/135 dated 16th December, 2016 has issued Master Circular for Stock Exchange and Clearing Corporation.

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1481881927761.pdf

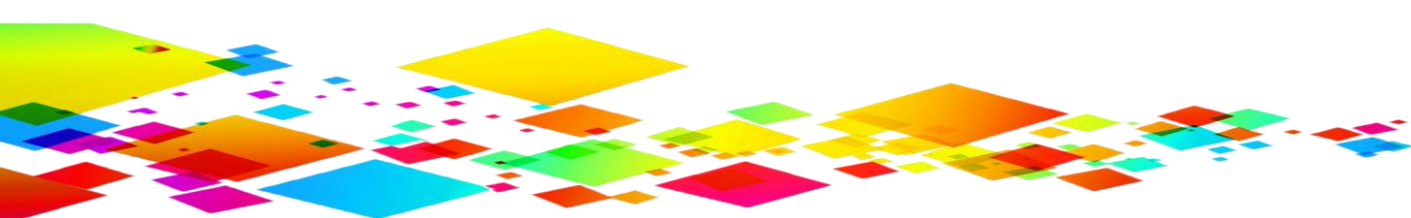
3. SEBI issues Guidelines for public issue of units of REITs

SEBI has issued detailed guidelines for public issue of units of REITs (Real Estate Investment Trusts). The guidelines prescribe the appointment of merchant banker to carry out the obligations relating to the issue and filing of offer document. The draft offer document shall be filed with the Board and the designated stock exchanges in accordance with REIT Regulations. The Lead merchant Banker shall submit a due diligence certificate to the board as per Form A and Form B of Annexure I.

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1482144526306.pdf

4. System-driven Disclosures in Securities Market

Securities Exchange Board of India (SEBI) vide Circular No. CFD/DCR/CIR/2016/139 dated 21st December, 2016, with an intend to streamline the System-driven Disclosures in Securities Market, has now decided that the depositories shall provide the transaction data of promoters/promoter group on a daily basis directly to the stock exchanges for dissemination of the necessary disclosures. Earlier, as per the SEBI circular dated December 01, 2015 the Depositories provide daily trade data of the promoters/promoter group to the Registrar and Share Transfer Agents (RTAs) and the RTAs provide the necessary information to the stock exchanges for dissemination of disclosures to the public in terms of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and SEBI (Prohibition of Insider Trading) Regulations, 2015.



Other requirements of SEBI circular dated December 01, 2015 on the same subject will remain in force.

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1482319214113.pdf

5. Filing of Forms PAS-4 and PAS-5 in case of issuance of debt securities on private placement basis

Securities Exchange Board of India (SEBI) vide Circular No. SEBI/HO/IMD/DF1/CIR/P/2016/140 dated 23rd December, 2016, it has been decided that with immediate effect, Forms PAS-4 and PAS-5 shall be filed with SEBI in soft copy in PDF Format only, in a compact disc as a part of green initiative.

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1482490367327.pdf

6. Continuous disclosures and compliances by REITs

SEBI vide Circular No. CIR/IMD/DF/146/2016 dated 29th December, 2016 has provided under Regulation 23 of the SEBI (Real Estate Investment Trusts) Regulations, 2014 ('the REIT Regulations') prescribe disclosures to be made by a REIT to the Stock Exchange(s) where its units are listed. The said disclosures, inter-alia, include disclosures for financial as well as non-financial information. With reference to the aforesaid Regulations, the requirements for disclosure of financial information and pertinent compliances

on continuous basis and the requirements for disclosure of non-financial information and pertinent compliances on continuous basis are prescribed in separate Annexures.

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1483009219503.pdf

TAXATION



1. Directions under section 119 of the Income-tax Act, 1961

Central Board of Direct Taxes (CBDT) vide Circular No. 40/2016 dated 9th December, 2016, it has been clarified that reopening of cases u/s 147 of the Act is feasible only when the Assessing Officer "has reason to believe that any income chargeable to tax has escaped assessment for any assessment year" and not merely on the basis of any reason to suspect. Mere increase in turnover, because of use of digital means of payment or otherwise, in a particular year cannot be a sole reason to believe that income has escaped assessment in earlier years. Hence, Assessing Officers are advised not to reopen past assessments in cases merely on the ground that the current year's turnover has increased.

<http://www.incometaxindia.gov.in/communications/circular/circular402016.pdf>

2. Procedure for the purposes of furnishing and verification of Form 27BA for removing of default of short collection and/or Non-Collection of Tax Source

Central Board of Direct Taxes (CBDT) vide Notification No. 12/2016 dated 8th December,


2016 has prescribed the procedure with regard to furnishing/verification of Form 27BA to remove TDS payments default. Furnishing of Form 27BA in electronic shall be enabled with effect from 15th January, 2017.

http://www.incometaxindia.gov.in/communications/notification/notification_12_16_.pdf

3. Filing of Revised Income Tax Returns by the Tax Payers Post De-Monetisation of Currency

Central Board of Direct Taxes (CBDT) vide Press Release dated 14th December, 2016, has clarified that the provision to file a revised return of income u/s 139(5) of the Act has been stipulated for revising any omission or wrong statement made in the original return of income and not for resorting to make changes in the income initially declared so as to drastically alter the form, substance and quantum of the earlier disclosed income. It is brought to the notice of tax payers that any instance coming to the notice of Income-tax Department which reflects manipulation in the amount of income, cash-in-hand, profits etc. and fudging of accounts may necessitate scrutiny of such cases so as to ascertain the correct income of the year and may also attract penalty/prosecution in appropriate cases as per provision of law.

<http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/566/Filing-Revised-Income-Tax>Returns-Tax-Payers-Post-De-Monetisation-Currency-14-12-2016.pdf>



4. Cabinet approves protocol amending the agreement between India and Tajikistan for avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

Ministry of Finance vide Press Release dated 14th December, 2016 has approved the protocol amending the agreement between India and Tajikistan for avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

The protocol, after it enters into force, will enable sharing of information exchanged under Double Taxation Avoidance Agreement, DTAA with other law enforcement agencies for non tax purposes.

5. Government decides to reduce the existing rate of deemed profit under section 44AD of the Income Tax Act in respect of amounts/receipts through banking channel/digital means

Ministry of Finance, vide Press Release dated 19th December, 2016 it has been decided to reduce the existing rate of deemed profit of 8% under section 44AD of the Act to 6% in respect of the amount of total turnover or gross receipts received through banking channel / digital means for the financial year 2016-17. However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act, shall continue to apply in respect of total turnover or gross receipts received in cash.

6. Payments towards Tax, Penalty, Surcharge and Deposit under PMGKY 2016 in Old Demonetised Currency allowed till 30th December, 2016.

Ministry of Finance, vide Press Release dated 22nd December, 2016 has decided that up to 30.12.2016, the payment towards tax, surcharge, penalty and deposit under the Pradhan Mantri Garib Kalyan Yojana (PMGKY), can be made in Old Bank Notes of INR 500 and INR 1,000 denomination issued by the RBI.

The Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana (PMGKY), 2016 has commenced on 17th December, 2016 and is open for declarations upto 31st March, 2017. The payment of tax, surcharge and penalty under the Scheme is to be made through challan ITNS- 287 and the deposits are to be made in the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016.

7. Clarifications on Indirect Transfer provisions under the Income Tax Act, 1961

Central Board of Direct Taxes (CBDT) vide Circular No. 41/2016 has issued Frequently asked Questions (FAQs) on Indirect Transfer provisions under the Income Tax Act, 1961.

Under the indirect transfer provisions contained in section 9(1Xi) of the Income Tax Act, 1961 (.Act'), all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India or through the transfer of a capital asset situate in India, shall be deemed to accrue or arise in India.

http://www.incometaxindia.gov.in/communications/circular/circular41_2016.pdf

8. Reporting Cash Transactions under Rule 114E of Income –Tax Rules, 1962.

Ministry of Finance, vide Press Release dated 23rd December, 2016 Rule 114E of Income-Tax Rules, 1962, for furnishing Statement of Financial Transactions (SFT) came into force with effect from 1st April, 2016. Any person who is liable for audit under section 44AB of the Income-Tax Act, 1961 is required to furnish a statement in respect of transaction at serial no. 11 of Rule 114E(2) relating to receipt of cash payment exceeding INR 2,00,000/- (Rupees Two Lakh) for sale of goods or service. Doubts were raised if such



transactions are required to be aggregated for reporting.

The norms of aggregation contained in sub-rule 3 of Rule 114E have been amended vide CBDT's Notification No. 91/2016 dated 6th October, 2016; clearly indicating that the said transactions did not require aggregation and the reporting requirement under SFT for this purpose is on receipt of cash payment exceeding Rupees Two Lakh for sale of goods or services per transaction.

9. Payments towards Tax, Penalty, Surcharge and Deposit under PMGKY 2016 in Old Demonetised Currency.

Ministry of Finance (Department of Revenue) has announced that the Payments towards Tax, Penalty, Surcharge and Deposit under Pradhan Mantri Garib Kalyan Yojana (PMGKY) 2016 can be made in Old Demonetised Currency of INR 500 and INR 1000 up to 30.12.2016. The Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana (PMGKY), 2016 has commenced on 17th December, 2016 and is open for declarations up to 31st March, 2017. The payment of tax, surcharge and penalty under the Scheme is to be made through challan ITNS- 287 and the deposits are to be made in the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016.

<http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/574/Press-Release-PMGKY-22-12-2016.pdf>

10. India and Singapore Sign a Third Protocol for Amending the Double Taxation Avoidance Agreement (DTAA).

Ministry of Finance vide Press Release dated 30th December, 2016 has amended Double Taxation Avoidance Agreement (DTAA) between India and

Singapore.

India and Singapore have amended the DTAA for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income, by signing a Third Protocol today. This is in line with India's treaty policy to prevent double non-taxation, curb revenue loss and check the menace of black money through automatic exchange of information, as reflected in India's recently revised treaties with Mauritius and Cyprus and the joint declaration signed with Switzerland.

The India-Singapore DTAA at present provides for residence based taxation of capital gains of shares in a company.



OTHER

1. Government of India takes policy decisions to encourage cashless/electronic transactions

Ministry of Finance vide Press Release dated 5th December, 2016 has announced that the government has taken policy decisions to encourage cashless/electronic transactions.

In its endeavour on moving towards the electronic payments, the Central Government Ministries/Departments have been crediting the salary and other payments for the majority of its employees electronically, direct into the designated bank accounts of the employees. Given the progress made in banking technology, it is assumed that each employee would be in possession of a Debit/ATM card linked to his/her bank account. Ensuring and encouraging Government Employees to maximise the usage of Debit cards for personal related transactions instead of cash would go a long way serving with the employees serving as 'ambassadors' for the digital push and also motivate, encourage the general public in taking-up the cause.

All Ministries/Departments are requested to encourage their employees to make use of Debit Cards for personal related transactions instead of cash. Ministries/Departments should liaise with their accredited banks and set-up special camps to facilitate obtaining of and ensure that all its employees are in possession of Debit Cards. Ministries/Departments may also issue similar advisories to their attached/subordinate offices, PSUs, Autonomous Bodies etc.

2. Any Payment above INR 5,000 to Suppliers, contractors, grantee/loanee institutions etc by Government Departments to be now made through e-Payment to attain the goal of complete digitization of Government payments.

Ministry of Finance vide Press Release dated 5th December, 2016 has reviewed the existing limit of INR 10,000/- (INR Ten Thousand only) prescribed regarding e-payment to Suppliers etc. It has now been decided to lower this threshold limit from INR 10,000 to INR 5,000 (INR Five Thousand only).

3. Government waives service tax charged while making payments through credit card, debit card, charge card or any other payment card; waiver limited to payments up to INR 2,000 in a single transaction

Ministry of Finance vide Press Release dated 8th December, 2016 has announced that with a view to promote digital transactions and encourage merchant establishments to accept such card payments, Government has waived service tax on such amount charged while making payments through credit card, debit card, charge card or any other payment card. However, this waiver is limited to payments upto two thousand rupees only (INR 2000) in a single transaction.

4. New Passport Rules Notified

Ministry of External Affairs vide Press Release dated 23rd December, 2016 has eased out the process of issue of passport.

PROOF OF DATE OF BIRTH

As per the extant statutory provisions of the Passport Rules, 1980, all the applicants born on or after 26/01/1989, in order to get a passport, had to, hitherto, mandatorily submit the Birth Certificate as the proof of Date of Birth (DOB). It has now been decided that all applicants of passports can submit any one of the following documents as the proof of DOB while submitting the passport application:



(i) Birth Certificate (BC) issued by the Registrar of Births & Deaths or the Municipal Corporation or any other prescribed authority whosoever has been empowered under the Registration of Birth & Deaths Act, 1969 to register the birth of a child born in India;

(ii) Transfer/School leaving/Matriculation Certificate issued by the school last attended/recognized educational board containing the DOB of the applicant;

(iii) PAN Card issued by the Income Tax Department with the DOB of applicant;

(iv) Aadhar Card/E-Aadhar having the DOB of applicant;

(v) Copy of the extract of the service record of the applicant (only in respect of Government servants) or the Pay Pension Order (in respect of retired Government Servants), duly attested/certified by the officer/in-charge of the Administration of the concerned Ministry/Department of the applicant, having his DOB;

(vi) Driving licence issued by the Transport Department of concerned State Government, having the DOB of applicant;

(vii) Election Photo Identity Card (EPIC) issued by the Election Commission of India having the DOB of applicant;

(viii) Policy Bond issued by the Public Life Insurance Corporations/Companies having the DOB of the holder of the insurance policy.

Report of the Inter Ministerial Committee

A three-member Committee comprising of the officials of the Ministry of External Affairs and the Ministry of Women and Child Development was constituted to examine various issues pertaining to passport applications where mother/child has insisted that the name of the father should not be mentioned in the passport and also relating to passport issues to children with single parent and to adopted children. The Report of the Committee has been accepted by the Minister of External Affairs.

The following policy changes have been made

inter-alia on the basis of the recommendations of this Committee:

(i) The online passport application form now requires the applicant to provide the name of father or mother or legal guardian, i.e., only one parent and not both. This would enable single parents to apply for passports for their children and to also issue passports where the name of either the father or the mother is not required to be printed at the request of the applicant.

(ii) The total number of Annexes prescribed in the Passport Rule, 1980, has been brought down to 9 from the present 15. Annexes A, C, D, E, J, and K have been removed and certain Annexes have been merged.

(iii) All the annexes that are required to be given by the applicants would be in the form of a self declaration on a plain paper. No attestation/swearing by/before any Notary/Executive Magistrate/First Class Judicial Magistrate would be henceforth necessary.

(iv) Married applicants would not be required to provide Annexure K or any marriage certificate.

(v) The Passport application form does not require the applicant to provide the name of her/his spouse in case of separated or divorced persons. Such applicants for passports would not be required to provide even the Divorce Decree.

(vi) Orphaned children who do not have any proof of DOB such as Birth Certificate or the Matriculation Certificate or the declaratory Court order, may now submit a declaration given by the Head of the Orphanage/Child Care Home on their official letter head of the organization confirming the DOB of the applicant.

(vii) In case of children not born out of wedlock, the applicant for the passport of such children should submit only Annexure G while submitting the passport application.

(viii) In case of issue of passport to in-country domestically adopted children, submission of the registered adoption deed would no longer be required. In the absence of any deed to this effect,



the passport applicant may give a declaration on a plain paper confirming the adoption.

(ix) Government servants, who are not able to obtain the Identity Certificate (Annexure-B)/ No-Objection Certificate (Annexure-M) from their concerned employer and intend to get the passport on urgent basis can now get the passport by submitting a self-declaration in Annexure-‘N’ that he/she has given prior Intimation letter to his/her employer informing that he/she was applying for an ordinary passport to a Passport Issuing Authority.

(x) Sadhus/ Sanyasis can apply for a passport with the name of their spiritual Guru mentioned in the passport application in lieu of their biological parent(s) name(s) subject to their providing of at least one public document such as Election Photo Identity Card (EPIC) issued by the Election Commission of India, PAN card, Adhar Card, etc wherein the name of the Guru has been recorded against the column(s) for parent(s) name(s).

Necessary notifications would be soon published in the Official Gazette to give effect to these changes. Instructions are also being issued to the Passport Issuing Authorities in India and abroad on these revised regulations.

The Ministry of External Affairs expects that the above changes in the Passport Rules would further ease the process for passport applicants in getting their Passport. At the same time, it would enable this Ministry to continue to deliver passport related services to the citizens in a timely, transparent, more accessible, reliable manner and in a comfortable environment through streamlined processes and committed, trained and motivated workforce.

5. ESIC – Salary limit for ESI Applicability increased to INR 21,000.-

Ministry of Labour And Employment has notified the Employees’ State Insurance (Central) Third Amendment Rules, 2016 which shall come

into force from 1st day of January, 2017. The amendment in the Rule 50 of Employees’ State Insurance (Central) rules 1950 stands amended w.e.f January 01, 2017 to increase the threshold ceiling limit from INR 15,000 to INR 21,000 as mentioned under sub clause (b) of clause (9) of section 2 of Employees’ State Insurance Act.

<http://esic.nic.in/backend/writereaddata/file/1e1207c7c4a23e8f08d0a15b10af6d8b.pdf>

6. Fresh guidelines on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 issued by DoPT

Ministry of Women and Child Development, Department of Personnel & Training (DoPT) vide Press Release dated 28th December, 2016 has issued fresh guidelines regarding Sexual Harassment of Women at Workplace vide their Office Memorandum dated 22.12.2016. According to the O.M., following have to be observed by the ministries/departments and Internal Complaints Committees:

(i) Brief details of the implementation of the Sexual Harassment of Women at Workplace Act including the number of cases received and disposed shall form a part of the Annual Report of all ministries/ departments and authorities there under.

(ii) The enquiry of cases must be completed within 30 days and under any circumstances within 90 days from the date of the complaint.

(iii) The ministries/ departments etc. have to keep a watch on the complainant so as to ensure that she is not victimized in any manner because of her having filed the complaint. The aggrieved woman has been given further option to send representation to the Secretary or head of the organization in case she feels that she is being victimized because of her complaint. The concerned authority will be required to dispose of this complaint within 15 days.



(iv) All ministries/ departments etc. are now required to submit a monthly progress report to the Ministry of Women and Child Development so that the progress can be monitored.

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