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**DREAMS
DON'T WORK
UNLESS
YOU DO**

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ARTICLE

Angel Tax Abolished – Partial Relief for Start Ups

DIPP in its recently issued notification, which is effective 11th April 2018, does not require start-ups to be incorporated on or after 1 April 2016 for the purpose of exclusion from angel tax provisions. The notification has introduced procedural guidelines to be followed to avail a tax holiday and seek exclusion from angel tax by start-ups. In the context of exclusion of start-ups from fair valuation rules for issue of shares, DIPP has notified twofold conditions to be fulfilled for obtaining IMB approval.

Fugitive Economic Offenders (FEO) Ordinance, 2018 – Apprehend The Defaulters

The Fugitive Economic Offenders Ordinance, 2018^o. was approved by the union cabinet and then promulgated by the President on April 21st, 2018. This ordinance is brought with a clearly defined approach in mind that is to make sure that no economic offender can leave the country and even if they leave their assets can be seized and confiscated by the government without any hiccups, for this reason, the ordinance vests many special powers to the courts and the directors.

LEGAL UPDATES

- *MCA extends the last date of filing of financials prepared in accordance with the Indian Accounting Standards upto 31st May, 2018* - MCA has issued the circular for Relaxation of additional fees and extension of last date of filing of Form AOC-4 XBRL E-Forms using Ind AS under the Companies Act, 2013. The Ministry on the basis of the recommendations received from various stakeholders, has decided to extend the last date of filing of financials prepared in accordance with the Indian Accounting Standards upto 31st May, 2018.
- *Monitoring of Foreign Investment limits in listed Indian companies- Revised system applicable from 18.05.2018* - SEBI vide its circular dated 27th April, 2018 has clarified that the new system for monitoring foreign investment limits in listed Indian companies shall be made operational on May 18, 2018. Also, the deadline for the companies to provide the necessary data to the depositories has been extended to May 15, 2018.
- *Government Amends Income Tax Rules, Withdraws Exemption of Transport Allowance of Rs. 1,600 pm-* Central Board of Direct Taxes (CBDT) has notified the Income Tax (Third Amendment) Rules, 2018 wherein the Government has withdrawn the exemption of Transport Allowance of Rs. 1,600 pm to the salaried class.

Angel Tax Abolished – Partial Relief for Start Ups

“ Department of Industrial Policy and Promotion has announced “waiver conditions” for “Angel tax”. Start-ups from now on may avail of the tax concession only if total investment, including funding from angel investors (those who make the initial equity investment) does not exceed Rs.10 crores. ”

Boost for Entrepreneurs

RELIEF FOR STARTUPS
DIPP to consider registration of startups set up pre-2016
No tax levied on ventures recognised by DIPP under Startup India

PAUSE ON CASES
Income tax department has asked officers not to take precipitate action
Action to be taken only after first set of appeals decided in appellate cases
This will establish validity of law

ANGEL TAX
Levied on equity infusion at a value more than fair market value
The extra amount is treated as income from other sources and taxed

Image Credit : economictimes.indiatimes.com

The recent development by DIPP has finally given some relief to Indian Startups. The relaxation has been given to a contentious tax rule and allowed startups set up after April 1, 2016 to qualify for tax exemptions if their total funding is less than Rs 10 crore and their revenue is less than Rs 25 crore.

The Government has also put in place a mechanism for such companies to secure exemption from the ‘angel tax’ with retrospective effect and avail tax incentives under its startup policy.

Startups are of great significance for any economy as they are collectively a major emerging source of revenue and employment. Many governments from across the world have been going out of their way to facilitate entrepreneurial dreams. India took initiative to support startups by means of its flagship ‘Make in India’ programme. A plethora of other schemes viz ‘Startup India’ has been launched, but the “Angel tax” haunts startups and angel investors. The issue took a serious turn last year when several startups faced scrutiny from Income Tax department with regard to capital raised at very high valuations.

Angel Tax Abolished – Partial Relief for Start Ups

What is Angel Tax?

The concept of 'Angel Tax' was first introduced under the Finance Act 2012. Simply put, the angel tax is a tax levied on investments made by external angel investors in startups or Hedging companies. Angel tax is applicable on the capital raised by unlisted companies from individuals against an issue of shares in excess of the fair market value. Such income has been classified as 'income from other sources' under Section 56 (viib) of the Income Tax Act. For example, if a startup whose shares are valued at INR. 100 and receives INR 150 from investors for the same then INR 50 will be subject to angel tax at the rate of 30.9%. This was targeted to tackle possible money laundry through high premium on shares.



Background

In 2016, the Central Board of Direct Taxes (CBDT) issued circulars to exempt eligible startups from angel taxes, even if the funding raised by a startup was in excess of fair market value. But this was not as lucrative as it seemed to be. Whether a startup is innovative or not, currently depends on a certification by the Department of Industrial Policy and Promotion (DIPP). This has led to several companies not being incubated inside government registered incubators or eligible for government grants. To be recognized as startup, as per government norms, it must not be older than seven years and must have an annual turnover that does not exceed INR 25 Crore. Most of the startups still had to pay angel taxes as most were not officially recognised as startups.

DIPP's move- Boom for startups which are born after April, 2016

Department of Industrial Policy and Promotion vide notification G.S.R.364(E) dated 11th April, 2018 superceding notification no. G.S.R. 501(E) has specified conditions for availing the "Angel tax" exemption on shares issued by start-ups over the fair market value. The notification has set out major relief to the start-ups following the stickling conditions to be recognised as "Start-up". DIPP has also constituted a broad-based inter-ministerial board to look into the applications for claiming the tax exemptions.

Who will be qualify as a "Startup"?

An entity shall be considered as a Startup:

- i. if it is incorporated as a-
 - a. private limited company (as defined under Companies Act, 2013);
 - b. registered as a partnership firm (registered under section 59 of the Partnership Act, 1932);
 - c. incorporated as Limited Liability Partnership (under the Limited Liability Partnership Act, 2008);
- ii. seven years has not elapsed since the date of its incorporation or registration (in case of biotechnology sector, the period shall be up to ten years from the date of incorporation/ registration);
- iii. turnover of the entity for any financial year since incorporation/ registration has not exceeded INR 25 crores;
- iv. entity is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.

Angel Tax Abolished – Partial Relief for Start Ups

Provided that an entity formed by splitting up or reconstruction of an existing business shall not be considered a ‘Startup’. An entity shall cease to be a Startup on completion of seven years from the date of its incorporation/ registration or ten years, as the case may be, or if its turnover for any previous year exceeds Rupees 25 crore.

Who can avail tax exemption under clause (viib) of sub-section (2) of section 56 of the Act

“A Startup” can apply in **FORM 2** along with requisite documents to avail tax exemption if the following conditions are fulfilled:

- I.** the aggregate amount of **paid up share capital and share premium** of the startup after the proposed issue of shares does not exceed **ten crore rupees**,
- II.** the **investor/ proposed investor**, who proposed to subscribe to the issue of shares of the startup (hereinafter in this notification referred to as “investor”) has, —
 - a. the **average returned income of twenty-five lakh rupees or more** for the preceding three financial years; or
 - b. the **net worth of two crore rupees or more** as on the last date of the preceding financial year, and
 - c. the startup has obtained a **report from a merchant banker** specifying the fair market value of shares in accordance with Rule 11UA of the Income-tax Rules, 1962.

Tax benefit under Section 80- IAC of the Income Tax Act, 1962 (the act)

A Private Limited Company or Limited Liability Partnership **incorporated on or after 1st day of April 2016 but before 1st day of April 2021** can apply to the CBDT in **FORM 1** to avail certificate for claiming 100 per cent tax exemption under Section 80- IAC of the act on profits for any three consecutive years out of the initial 7 years of the start-up.

Conclusion

The abolition of the angel tax is a welcome move. However, The conditions specified in the notification increased the compliance burden on the start-ups as such they will have to file forms for claiming profit linked tax benefits and angel exemption in addition to registration with DIPP. Further, as the approval from Inter-Ministerial Board would specify details of proposed investors, every funding from a new investor would require fresh approvals from the Board. This would mean the majority of such investments get no relief those incorporated before April 1, 2016, are not eligible for such breaks and will therefore also not be eligible for exemption from the angel tax. The government however, further modifies the criteria they plan to set for clearance by the IMB for exemption from Section 56. If the criteria doesn't become relaxed, the start up dream will not become a reality. The need of the hour is to make the rules less, not more, onerous and bureaucratic and more transparent.

Industry experts opine that currently it as a partial relief only and fear that this might just slow down the entire process altogether. “This is definitely a good move by the government, which comes with a mechanism to help genuine startups. There is a procedural layer that has been introduced and we hope it works. The only caveat is that approvals should not too long and should not be cumbersome.

Fugitive Economic Offenders (FEO) Ordinance, 2018 – Apprehend The Defaulters

With the assent of the President of India, the Fugitive Economic Offenders (FEO) Ordinance, 2018 gets promulgated; the new law lays down the measure to empower Indian authorities to attach and confiscate the proceeds of crime associated with economic offenders and the properties of the economic offenders. The earlier legislation that empowered GoI to deal with economic offenders is largely an amalgamation of various laws, and is, therefore, riddled with procedural delays and loopholes.

These loopholes allowed big-ticket tax and loan defaulters to circumvent the law and delay, or indefinitely hold off, the confiscation of their assets against their debt. Moreover, laws such as the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, and the Prevention of Money Laundering Act, 2002, conceptualise the attaching of assets as a punitive measure, rather than as a deterrent.

“Fugitive Economic Offenders Ordinance preamble states - *A Bill to provide for measures to deter economic offenders from evading the process of Indian law by remaining outside the jurisdiction of Indian courts.*”



Need for Implementation of Ordinance

The need for the Ordinance had arisen as there have been many instances of economic offenders fleeing the jurisdiction of Indian courts, anticipating the commencement, or during the pendency, of criminal proceedings. The absence of such offenders from Indian courts has several deleterious consequences – first, it hampers investigation in criminal cases; second, it wastes precious time of courts of law, third, it undermines the rule of law in India. The existing civil and criminal provisions in law are not entirely adequate to deal with the severity of the problem.

In view of the above context, a Budget announcement was made by the Government in the Budget 2017-18 that the Government was considering to introduce legislative changes or even a new law to confiscate the assets of such absconders till they submit to the jurisdiction of the appropriate legal forum. Pursuant to the above announcement, the Fugitive Economic Offenders Bill, 2018 was introduced in Lok Sabha on the 12th March, 2018. The Fugitive Economic Offenders Bill, 2018 was listed for consideration and passing in Lok Sabha on many occasions after its introduction. The Lok Sabha has since been adjourned sine die and both the Houses of Parliament were prorogued on 6th April, 2018.

Fugitive Economic Offenders (FEO) Ordinance, 2018 – Apprehend The Defaulters

Defining Economic Offender

In order to address the deficiency in the present laws and lay down measures to deter economic offenders from evading the process of Indian law by remaining outside the jurisdiction of Indian courts, the Ordinance is being proposed. The Ordinance makes provisions for a Court ('Special Court' under the Prevention of Money-laundering Act, 2002) to declare a person as a Fugitive Economic Offender. A Fugitive Economic Offender is a person against whom an arrest warrant has been issued in respect of a scheduled offence and who has left India so as to avoid criminal prosecution, or being abroad, refuses to return to India to face criminal prosecution. A scheduled offence refers to a list of economic offences contained in the Schedule to this Ordinance. Further, in order to ensure that Courts are not over-burdened with such cases, only those cases where the total value involved in such offences is INR 100 crore or more, is within the purview of this Ordinance.

The Fugitive Economic Offenders Ordinance, 2018, inter alia provides for–

- (i) making an application before the Special Court for a declaration that an individual is a fugitive economic offender;
- (ii) attachment of the property of a fugitive economic offender and proceeds of crime;
- (iii) issue of a notice by the Special Court to the individual alleged to be a fugitive economic offender;
- (iv) confiscation of the property of an individual declared as a fugitive economic offender or even the proceeds of crime;
- (v) disentitlement of the fugitive economic offender from defending any civil claim; and
- (vi) appointment of an Administrator to manage and dispose of the confiscated property under the Act.

The Fugitive Offender Bill 2018



If at any point of time in the course of the proceeding prior to the declaration, however, the alleged Fugitive Economic Offender returns to India and submits to the appropriate jurisdictional Court, proceedings under the proposed Act would cease by law. All necessary constitutional safeguards in terms of providing hearing to the person through counsel, allowing him time to file a reply, serving notice of summons to him, whether in India or abroad and appeal to the High Court have been provided for.

Merits of FEO Ordinance

The FEO Ordinance may have some merits. First, only economic offences that total or exceed Rs 100 crore in value are within its purview, safeguarding small and medium enterprises from being scapegoated or unjustly accused. In all likelihood, to be able to commit an offence above Rs 100 crore, the accused would be a well-established enterprise.

Second, even though not foolproof, the provision of a centrally-appointed director who bears the burden of proof, and judicial oversight in the form of a special court can significantly reduce corruption, misuse and harassment.

Fugitive Economic Offenders (FEO) Ordinance, 2018 – Apprehend The Defaulters

Third, the FEO Ordinance empowers GoI to seize not only domestic assets of an accused, but also foreign assets and “**benami**” properties. One controversial provision here is that GoI can also seize properties other than those suspected to be obtained through proceeds of crime. But, rather than being an after-the-fact, punitive measure, confiscation of assets envisaged in this Ordinance is to deter economic offenders from absconding, or to coerce ‘fugitive’ offenders to submit to the jurisdiction of an Indian court. Finally, to tackle the loopholes and procedural delays, the FEO Ordinance restructures, codifies and brings together various legislations into one comprehensive law. The onus is now on GoI to ensure that its implementation is fair and safeguards against undue harassment of legitimate businessmen. From Fear to Fair Alongside improving India’s ‘ease of doing business’, GoI needs to place equal emphasis on reducing India’s ‘fear of doing business’.

We are increasingly moving towards an inquisitorial — as opposed to an accusatory — system of justice, where media trials and political propaganda declare an individual guilty until proven innocent in a court of law.

Discretion and ambiguity in legislation are two possible pathways to corruption. So, Parliament must ensure that this law is as airtight and unambiguous as possible. The Law needs to be crafted very meticulously so as to ensure that the lines between evidence and coincidence, causation and correlation, are not blurred. The Law shouldn’t be embarking on a wild-goose chase and brand businessmen as crooks or absconders — just because there are a few bad instances

In that context, maybe it’s time for us to restore an accusatorial system of justice, and perhaps include offences under the Prevention of Money Laundering Act (PMLA) and other laws pertaining to economic wrongdoing in the bailable category.

Impact

It is expected that a special forum will be created for expeditious confiscation of the proceeds of crime, in **India / abroad**. This would possibly pave way for return to India to submit to the jurisdiction of Courts in India to face the law in respect of scheduled offences.

Since the proposed law would utilise the existing infrastructure of the Special Courts constituted under under the Prevention of Money-laundering Act, 2002 and the threshold of scheduled offence is high at Rs. 100 crores or more, no additional expenditure is expected on the enactment of the Bill.

The Bill is expected to re-establish the Rule of Law with respect to the Fugitive Economic Offenders as they would be forced to return to India to face trial for scheduled offences. This would also help the banks and other financial institutions to achieve higher recovery from financial defaults committed by such fugitive economic offenders, improving the financial health of such institutions.

RBI Revises of Foreign Portfolio Investors (FPIs) Investment Limits

RBI vide Circular dated 6th April, 2018 has revised the Investment Limits for Foreign Portfolio Investors (FPIs).

Following are the revised investment limits:

The limit for FPI investment in Central Government securities (G-secs) would be increased by 0.5% each year to 5.5% of outstanding stock of securities in 2018-19 and 6% of outstanding stock of securities in 2019-20.

The limit for FPI investment in State Development Loans (SDLs) would remain unchanged at 2% of outstanding stock of securities.

The overall limit for FPI investment in corporate bonds will be fixed at 9% of outstanding stock of corporate bonds. All the existing sub-categories under the category of corporate bonds will be discontinued and there would be a single limit for FPI investment in all types of corporate bonds.

Directions would be applicable with immediate effect.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11241&Mode=0>

RBI modifies Comprehensive Guidelines on Derivatives

RBI vide Notification dated 6th April, 2018 has modified the comprehensive guidelines on derivatives, it has now been decided that stand-alone plain vanilla forex options (without attached structures) purchased by clients will be exempt from the 'user suitability and appropriateness' norms, and the regulatory requirements will be at par with forex forward contracts.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11242&Mode=0>

RBI prohibits dealing in Virtual Currencies (VCs)

RBI vide Notification dated 6th April, 2018, it has been decided that, with immediate effect, entities regulated by the Reserve Bank shall not deal in VCs or provide services for facilitating any person or entity in dealing with or settling VCs. Such services include maintaining accounts, registering, trading, settling, clearing, giving loans against virtual tokens, accepting them as collateral, opening accounts of exchanges dealing with them and transfer / receipt of money in accounts relating to

purchase/ sale of VCs.

Regulated entities which already provide such services shall exit the relationship within three months from the date of this circular.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11243&Mode=0>

RBI issues Circular on Liberalised Remittance Scheme (LRS) for Resident Individuals – daily reporting of transactions

RBI vide Circular dated 12th April, 2018 has decided to put in place a daily reporting system by AD banks of transactions undertaken by individuals under LRS, which will be accessible to all the other ADs.

All AD Category-I banks are required to upload daily transaction-wise information undertaken by them under LRS at the close of business of the next working day. In case no data is to be furnished, AD banks shall upload a 'Nil' report. AD banks can upload the LRS data as CSV file (comma delimited), by accessing XBRL site through the URL <https://secweb.rbi.org.in/orfsxbml/> as hitherto.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11255&Mode=0>

RBI updates Master Direction – Know Your Customer (KYC) Direction, 2016

RBI vide Notification dated 20th April, 2018 has issued the updated Master Direction on Know Your Customer (KYC). The provisions of these Directions shall apply to every entity regulated by RBI more specifically "Non-profit organisations" (NPO) which means any entity or organisation that is registered as a trust or a society under the Societies Registration Act, 1860 or any similar State legislation or a company registered under Section 8 of the Companies Act, 2013, except where specifically mentioned otherwise. Also, the directions shall apply to those branches and majority owned subsidiaries of the regulated entities (Res) which are located abroad, to the extent they are not contradictory to the local laws in the host country.

https://rbidocs.rbi.org.in/rdocs/notification/PDFs/18MDKYC_D8E68EB13629A4A82BE8E06E606C57E57.PDF

RBI issues Circular for Changes affecting operational aspects of FPI investments in debt

RBI vide its Circular dated 27th April, 2018 has announced the changes to operational aspects of FPI investments in debt:

a. Revision of minimum residual maturity requirement - The minimum residual maturity requirement for Central Government securities (G-secs) and State Development Loans (SDLs) categories stands withdrawn.

b. Revision of security-wise limit - cap on aggregate FPI investments in any Central Government security stands revised to 30% of the outstanding stock of that security.

c. Online Monitoring of G-Sec utilization Limits - With Clearing Corporation of India Ltd. (CCIL) commencing online monitoring of utilisation of G-sec limits, it has been decided to discontinue the auction mechanism with effect from June 1, 2018. Utilisation of FPI limits shall be monitored online thereafter.

d. Concentration limit - Investment by any FPI (including investments by related FPIs), in each of the three categories of debt, viz., G-secs, SDLs and corporate debt securities, shall be subject to the following concentration limits:

(i) Long-term FPIs: 15% of prevailing investment limit for that category.

(ii) Other FPIs: 10% of prevailing investment limit for that category.

e. Single/Group investor-wise limit in corporate bonds - Investment by any FPI, including investments by related FPIs, shall not exceed 50% of any issue of a corporate bond. In case an FPI, including related FPIs, has invested in more than 50% of any single issue, it shall not make further investments in that issue until this stipulation is met.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11266&Mode=0>

Rationalisation of all-in-cost for ECB under all tracks and Rupee Denominated Bonds (RDBs)

RBI vide its circular dated 27th April, 2018 it has been decided, in consultation with the Government of India, to further rationalise and liberalize the ECB guidelines as under:-

a. Rationalisation of all-in-cost for ECB under all tracks and

Rupee Denominated Bonds (RDBs)

With a view to harmonising the extant provisions of Foreign Currency and Rupee ECBs and RDBs, it has been decided to stipulate a uniform all-in-cost ceiling of 450 basis points over the benchmark rate. The benchmark rate will be 6 month USD LIBOR (or applicable benchmark for respective currency) for Track I and Track II, while it will be prevailing yield of the Government of India securities of corresponding maturity for Track III (Rupee ECBs) and RDBs.

b. Revisiting ECB Liability to Equity Ratio provisions: It has been decided to increase the ECB Liability to Equity Ratio for ECB raised from direct foreign equity holder under the automatic route to 7:1. This ratio will not be applicable if total of all ECBs raised by an entity is up to USD 5 million or equivalent.

c. Expansion of Eligible Borrowers' list for the purpose of ECB: It has been decided to permit:

Housing Finance Companies, regulated by the National Housing Bank, as eligible borrowers to avail of ECBs under all tracks. Such entities shall have a board approved risk management policy and shall keep their ECB exposure hedged 100 per cent at all times for ECBs raised under Track I.

Port Trusts constituted under the Major Port Trusts Act, 1963 or Indian Ports Act, 1908 to avail of ECBs under all tracks. Such entities shall have a board approved risk management policy and shall keep their ECB exposure hedged 100 per cent at all times for ECBs raised under Track I.

Companies engaged in the business of Maintenance, Repair and Overhaul and freight forwarding to raise ECBs denominated in INR only.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11267&Mode=0>



MCA UPDATES

MCA issues notice for Temporary suspension of issuance of allotment of new DINs for Designated Partners/Partners of LLPs

MCA has issued a notice on its website w.r.t Temporary suspension of issuance of allotment of new DINs for Designated Partners / Partners of LLPs is being extended till further notice. A suitable message would be posted on the portal after revised DIR-3 is made available for filing purposes for issuance of new DPIN / DINs for Partners of proposed LLPs. Stakeholders may kindly take note and plan accordingly. Earlier MCA has reengineered the whole process of allotment of DIN by allotting DIN to individuals only at the time of their appointment as Directors (If they do NOT possess a DIN) in companies and process for allotment of DPIN for LLP were kept on hold till 31-03-2018. Further, DIR-3 (Application for Director Identification Number) is applicable for the allotment of DIN to individuals in respect of existing companies only and shall be filed by the existing company in which the proposed Director is to be appointed.

Insolvency and Bankruptcy Board of India signs a Memorandum of Understanding with the Indian Institute of Corporate Affairs to collaborate for research and publication, advancement of knowledge, capacity building, awareness and advocacy initiatives among others.

MCA vide Press Release dated 10th April, 2018 has announced that IBBI signed a Memorandum of Understanding (MoU) today with the Indian Institute of Corporate Affairs (IICA). IBBI and IICA have signed a Memorandum of Understanding to collaborate for research and publication, advancement of knowledge, capacity building, awareness and advocacy initiatives on the basis of reciprocity, best effort, mutual benefit and frequent interactions.

MCA notifies Companies (Share Capital and Debentures) Amendment Rules, 2018

MCA vide Notification dated 10th April, 2018 has issued Companies (Share Capital and Debentures) Amendment Rules, 2018. The amendment has been made w.r.t. Every certificate

shall specify the shares to which it relates and the amount paid-up thereon and shall be signed by two directors or by a director and the company secretary, wherever the company has appointed company secretary.

http://www.mca.gov.in/Ministry/pdf/SharecapitalRule2018_11042018.pdf

MCA revises version of e-forms

MCA has revised the version of e-forms - Form 20B (Filing annual return by a company having a share capital with the Registrar), Form DPT - 3 (Return of Deposits), Form CHG-1 (Application for registration of creation, modification of charge (other than those related to debentures) and Form MGT - 7 (Form for filing annual return by a company) with immediate effect. Stakeholders are advised to check the latest version before filing Stakeholders are advised to download the latest version before filing. Form- wise date of last version change is available at on the website of MCA.



MCA UPDATES

MCA designates 9th Court of Additional District & Session Judge at Kanpur, U.P as Special Court for the State of U.P for speedy trial of offences punishable with imprisonment of two years or more

MCA has issued Notification regarding designation of special court for the State of Uttar Pradesh. in exercise of the powers conferred by Section 435(1) of the Companies Act, 2013, the MCA with the concurrence of the Chief Justice of the High Court of Allahabad, U.P, hereby designates the 9th Court of Additional District & Session Judge at Kanpur, U.P as Special Court for the State of U.P, for the purpose of providing speedy trial of offences punishable with imprisonment of two years or more under the Section 435(1)

http://www.mca.gov.in/Ministry/pdf/Notification2304_25042018.pdf

MCA extends the last date of filing of financials prepared in accordance with the Indian Accounting Standards upto 31st May, 2018

MCA has issued the circular for Relaxation of additional fees and extension of last date of filing of Form AOC-4 XBRL E-Forms using Ind AS under the Companies Act, 2013. The Ministry on the basis of the recommendations received from various stakeholders, has decided to extend the last date of filing of financials prepared in accordance with the Indian Accounting Standards upto 31st May, 2018 from its original date 31st March, 2018 (earlier extended upto 30th April, 2018). Every Company, including listed entities, having net worth of more than Rs. 500 Crores and their subsidiary, holding & associate companies are required to prepare their financials on IndAS basis for the year 2016-2017.

http://www.mca.gov.in/Ministry/pdf/Circular042704_27042018.pdf

SEBI to place system for monitoring of Foreign Investment Limits in listed Indian Companies

SEBI vide Circular dated 5th April, 2018 has decided to put in place a new system for monitoring the foreign investment limits. The architecture of the system has been explained in the Annexure A of the circular.

The new system for monitoring foreign investment limits in listed Indian Companies shall be made operational on May 1, 2018.

https://www.sebi.gov.in/legal/circulars/apr-2018/monitoring-of-foreign-investment-limits-in-listed-indian-companies_38575.html

SEBI issues Master Circular for Debenture Trustees

SEBI vide Circular dated 9th April, 2018 has issues Master Circular for Debenture Trustees. The Master Circular is a compilation of all the existing / applicable circulars issued by the Market Intermediaries Regulation and Supervision Department of SEBI to Debenture Trustees. Efforts have been made to incorporate applicable provisions of existing circulars issued by other Departments of SEBI relevant to Debenture Trustees.

https://www.sebi.gov.in/legal/master-circulars/apr-2018/master-circular-for-debenture-trustees-dts_38608.html

SEBI issues clarification on clubbing of investment limits of foreign Government/ foreign Government related entities

SEBI vide Circular dated 10th April, 2018 has issued clarification on clubbing of investment limits of foreign Government/foreign Government related entities. The clarifications have been sought w.r.t. investment limit for foreign Government/ foreign Government related entities registered as Foreign Portfolio Investors (FPI); it is clarified that The purchase of equity shares of each company by a single FPI or an investor group shall be below ten percent of the total paid up capital of the company.

https://www.sebi.gov.in/legal/circulars/apr-2018/clarification-on-clubbing-of-investment-limits-of-foreign-government-foreign-government-related-entities_38616.html

SEBI prescribes norms Know Your Client

Requirements for Foreign Portfolio Investors (FPIs)

SEBI vide Circular dated 10th April, 2018 has prescribed the norms for Know Your Client Requirements for Foreign Portfolio Investors (FPIs). It has been decided to make the changes w.r.t. Identification and Verification of Beneficial Owners (BOs), prescribed the format for reporting of BOs etc.

<https://www.sebi.gov.in/legal/circulars/apr-2018/know-your-client-requirements-for-foreign-portfolio-investors-fpis-38618.html>

SEBI issues Circular for Performance disclosure post consolidation/ Merger of Schemes

SEBI vide Circular dated 12th April, 2018 has decided to standardize the disclosure of performance of schemes post-merger.

https://www.sebi.gov.in/legal/circulars/apr-2018/performance-disclosure-post-consolidation-merger-of-schemes_38674.html

SEBI issues Guidelines for issuance of debt securities by Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs)

SEBI vide Circular dated 13th April, 2018 has prescribed the guidelines for issuance of debt securities in the prescribed manner:

The compliances required to be made with respect to Companies Act, 2013 or any filing to be made to Registrar of Companies in terms of the ILDS Regulations, shall not apply to REITs/InvITs for issuance of debt securities unless specifically provided in this circular.

All other provisions of ILDS Regulations shall apply to REITs/InvITs subject to there being no conflict with REIT Regulations and/or InvIT Regulations or circulars issued thereunder. In case of conflict, provisions of REIT Regulations

and/or InvIT Regulations or circulars issued thereunder shall prevail over ILDS Regulations.

<https://www.sebi.gov.in/legal/circulars/apr-2018/guidelines-for-issuance-of-debt-securities-by-real-estate-investment-trusts-reits-and-infrastructure-investment-trusts-invits-38693.html>

NSE issues circular w.r.t. XBRL based Compliance filings for Listed Companies

NSE has issued a circular w.r.t XBRL based Compliance filings for Listed Companies at NSE. All Listed Companies are required to submit periodical compliance filings to Stock Exchanges within the prescribed timelines as laid down in SEBI Listing Regulations. NSE has decided to introduce XBRL based compliance filing mechanism featuring identical and homogenous compliance data structures between Stock Exchanges / MCA. This will help listed companies to use the compliance data generated in XBRL format in other Stock Exchange to upload in NSE. Alternatively, submit compliance information in NSE and generate compliance data in XBRL format for further use.

https://www.nseindia.com/content/equities/NSE_Circular_1304_2018.pdf

NSE introduces New service for Listed Companies – Insider Trading Compliance Monitoring Module (ITCM)

NSE has made available new service to listed companies so as to enable Compliance Officer to check the trading done by its employees, employees in the group companies and connected persons in the securities of the company. With this service, Compliance Officer can cross verify submissions/declarations made by the employees and identify any discrepancies in the disclosure / disclosure not made by the employees, if any, and remain compliant with SEBI (PIT) Regulations, 2015. Listed companies desirous of availing this service are required to submit an undertaking to the Exchange, confirming that a requisite consent / No Objection Certificate from the concerned Employees / Connected persons for sharing their PAN is duly submitted to the Compliance Officer and affirming that the Exchange may retrieve the trade data of such Employees from

the trading systems of the Exchange and provide the data to the Compliance Officer. Additionally, the listed company is required to provide the Exchange with the necessary approvals from the Board authorizing Compliance Officer for sharing the PAN of Employees of the Company, its subsidiaries, associate companies and Connected Persons with Exchange. The Exchange will provide the trading information on Daily, Weekly, Monthly, Quarterly and Adhoc basis as per the individual needs of the listed entities. Exchange invites all Listed Companies to register for the service which will commence from April 20, 2018. For the first 6 months i.e. till September 30, 2018, the service will be free of cost and thereafter, it shall be a chargeable service.

SEBI issues Circular for Strengthening the Guidelines and Raising Industry Standards for RTA, Issuer Companies and Bankers to an Issue

SEBI vide its circular provides the guidelines for Strengthening and raising standards for RTA, Issuer Companies and Banker to an issue. SEBI constituted a Committee on “Strengthening the Guidelines and Raising Industry Standards for RTAs”, which included representatives from RTAs, Issuer Companies, Depositories and Banker to Issue. The objective of the Committee was to suggest guidelines to streamline and strengthen the procedures and processes with regard to handling and maintenance of records, transfer of securities and payment of dividend/interest/redemption by the RTAs, Issuer Companies and Bankers to Issue. The guidelines as annexed to this Circular cover the following broad areas Provisions with respect to Payment of Dividend/interest/redemption/redemption, Provisions with respect to Transfer/Transmission/Correction of errors etc and Compulsory internal audit of RTAs. Further, RTAs, Bankers to issue, and the Issuer Companies can put in place more stringent internal checks and controls if they so desire. These guidelines issued through this circular shall be effective with immediate effect except where a time frame has been prescribed in the guidelines itself.

https://www.sebi.gov.in/legal/circulars/apr-2018/strengthening-the-guidelines-and-raising-industry-standards-for-rta-issuer-companies-and-banker-to-an-issue_38749.html



SEBI UPDATES

Monitoring of Foreign Investment limits in listed Indian companies- Revised system applicable from 18.05.2018

SEBI vide its circular dated 27th April, 2018 has clarified that the new system for monitoring foreign investment limits in listed Indian companies shall be made operational on May 18, 2018. Also, the deadline for the companies to provide the necessary data to the depositories has been extended to May 15, 2018.

https://www.sebi.gov.in/legal/circulars/apr-2018/amendment-to-sebi-circular-no-imd-fpic-cir-p-2018-61-dated-april-5-2018-on-monitoring-of-foreign-investment-limits-in-listed-indian-companies_38813.html

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https://www.sebi.gov.in/legal/circulars/apr-2018/strengthening-the-guidelines-and-raising-industry-standards-for-rta-issuer-companies-and-banker-to-an-issue_38749.html

CBDT notifies Income Tax Return Forms for Assessment Year 2018-19

Ministry of Finance vide Press Release dated 5th April, 2018 has notified Income Tax Return Forms (ITR Forms) for the Assessment Year 2018-19. For Assessment Year 2017-18, a one page simplified ITR Form-1(Sahaj) was notified. For Assessment Year 2018-19 also, a one page simplified ITR Form-1(Sahaj) has been notified. This ITR Form-1 (Sahaj) can be filed by an individual who is resident other than not ordinarily resident, having income upto Rs.50 lakh and who is receiving income from salary, one house property / other income (interest etc.). Further, the parts relating to salary and house property have been rationalised and furnishing of basic details of salary (as available in Form 16) and income from house property have been mandated.

ITR Form-2 has also been rationalised by providing that Individuals and HUFs having income under any head other than business or profession shall be eligible to file ITR Form-2. The Individuals and HUFs having income under the head business or profession shall file either ITR Form-3 or ITR Form-4 (in presumptive income cases).

Clarification regarding applicability of standard deduction to pension received from the former employer

CBDT has clarified that the pension received by a taxpayer from his former employer is taxable under the head “Salaries”. The Finance Act, 2018 has amended Section 16 of the Income-tax Act, 1961 (“the Act”) to provide that a taxpayer having income chargeable under the head “Salaries” shall be allowed a deduction of Rs 40,000/- or the amount of salary, whichever is less, for computing his taxable income. Accordingly, any taxpayer who is in receipt of pension from his former employer shall be entitled to claim a deduction of Rs 40,000/- or the amount of pension, whichever is less, under Section 16 of the Act.

Roll-out of e-Way Bill system for Intra-State movement of goods in the States of Andhra Pradesh, Gujarat, Kerala, Telangana and Uttar Pradesh from

15th April, 2018.

Ministry of Finance vide Press Release dated 10th April, 2018 has announced that e-Way Bill system for Intra-State movement of goods would be implemented from 15th April, 2018 in the following States:-

- (i) Andhra Pradesh
- (ii) Gujarat
- (iii) Kerala
- (iv) Telangana
- (v) Uttar Pradesh

With the roll-out of e-Way Bill system in these States, it is expected that trade and industry will be further facilitated insofar as the transport of goods is concerned, thereby eventually paving the way for a nation-wide single e-Way Bill system. Trade and industry and transporters located in these States may obtain registration/ enrolment on e-Way Bill portal namely <https://www.ewaybillgst.gov.in> at the earliest without waiting for the last date.

Government Amends Income Tax Rules, Inserts New Column for Transgenders in PAN Application Form

Central Board of Direct Taxes (CBDT) has introduced a new column for Transgenders in PAN Application Form i.e., Form 49A and Form 49AA by amending the Income Tax Rules, 1962.

Government Amends Income Tax Rules, Withdraws Exemption of Transport Allowance of Rs. 1,600 pm

Central Board of Direct Taxes (CBDT) has notified the Income Tax (Third Amendment) Rules, 2018 wherein the Government has withdrawn the exemption of Transport Allowance of Rs. 1,600 pm to the salaried class.

CBDT notifies the Protocol amending the Double Taxation Avoidance Convention (DTAC) between India and Kazakhstan.

Ministry of Finance vide Press Release dated 13th April, 2018 has notified the Protocol to amend the existing Double Taxation Avoidance Convention (DTAC) between India and Kazakhstan.

Salient features of the Protocol are as under:

(i) The Protocol provides internationally accepted standards for effective exchange of information on tax matters. Further, the information received from Kazakhstan for tax purposes can be shared with other law enforcement agencies with the authorisation of the competent authority of Kazakhstan and vice versa.

(ii) The Protocol inserts a Limitation of Benefits Article, to provide a main purpose test to prevent misuse of the DTAC and to allow application of domestic law and measures against tax avoidance or evasion.

(iii) The Protocol inserts specific provisions to facilitate relieving of economic double taxation in transfer pricing cases. This is a taxpayer friendly measure and is in line with India's commitment under Base Erosion and Profit Shifting (BEPS) Action Plan to meet the minimum standard of providing Mutual Agreement Procedure (MAP) access in transfer pricing cases.

(iv) The Protocol replaces the existing Article on Assistance in Collection of Taxes with a new Article to align it with international standards.

Requirement for obtaining PAN card u/s 139A of IT Act, 1961 eased for corporate assesseees

Ministry of Finance vide Press Release dated 14th April, 2018 has announced that In case of a company, an application for incorporation, allotment of Permanent Account Number (PAN) and allotment of Tax Deduction and Collection Account Number (TAN) may be made through a Common Application Form submitted to the Ministry of Corporate Affairs (MCA). In these cases, the Certificate of Incorporation (COI) issued by MCA contains a mention of both PAN and TAN.

Finance Act, 2018 amended section 139A of the Income-tax Act, 1961 removed the requirement of issuing PAN in the form of a laminated card. Hence, it is clarified that PAN and TAN mentioned in the COI issued by MCA shall also be treated as sufficient proof of PAN and TAN for the said company assesseees.

Six more states to roll out intra-State e-way bills from April 20

Ministry of Finance vide Press Release dated 18th April, 2018 has announced that e-Way Bill system for intra-State movement of goods would be implemented from 20th April, 2018 in the following States:-

Bihar
Jharkhand
Haryana
Himachal Pradesh
Tripura
Uttarakhand

With the roll-out of e-Way Bill system in these States, it is expected that trade and industry will be further facilitated insofar as the transport of goods is concerned, thereby eventually paving the way for a nation-wide single e-Way Bill system. Trade and industry and transporters located in these States may obtain registration/enrolment on e-Way Bill portal namely <https://www.ewaybillgst.gov.in> at the earliest without waiting for the last date.

Government clarifies the in-built security features of the Electoral Bonds

Random Serial Number, invisible to the naked eye, present on the Bond not linked to any party transaction or cannot be used for tracking the transactions SBI does not share the serial number with anybody, including the Government and users

Ministry of Finance vide Press Release dated 17th April, 2018 has clarified the in-built security features of the Electoral Bonds. The Government notified the scheme of Electoral Bonds on Jan. 02, 2018. Electoral Bond is a bearer instrument in the nature of a Promissory Note.

The Purchaser is allowed to buy electoral bond (s) only on due fulfillment of all the extant KYC norms and by making payment from a bank account. The Bond does not carry the name of payee or any other details by which the buyer can be identified. Likewise no detail of political party depositing the bonds is noted on the electoral bonds. Thus, any particular bond cannot be identified or associated with any particular buyer or political party deposits it.



TAXATION UPDATES

The Electoral Bonds have some built in security features to eliminate chances of forgery or presentation of fake bonds. These include a random serial number invisible to the naked eye.

This number is not noted by the SBI in any record associated with buyer or political party depositing a particular electoral bond. It is, thus not linked to any party transaction when the Bank issues a bond to the buyer. As such the number is not being used or can be used to track the donation or the buyer.

SBI does not share the serial number with anybody, including the Government and users.

Clarification on the manner of filing the Quarterly Return by Composition Dealers in FORM GSTR-4

Finance Ministry has clarified that Composition Dealers need not furnish details of inward supplies from registered supplier in FORM GSTR - 4.

Doubts are being raised about the manner of filing the quarterly return by composition dealers in FORM GSTR-4. In particular, there is a doubt with respect to the instruction at Sl. No. 10 appended to the said FORM which reads as below:

For the tax periods July, 2017 to September, 2017 and October, 2017 to December, 2017, serial 4A of Table 4 shall not be furnished.

In this regard, it is hereby clarified that since auto-population of the details of the inward supplies including supplies on which tax is to be paid on reverse charge is not taking place, taxpayers who have opted to pay tax under the composition levy shall not furnish the data in serial number 4A of Table 4 of FORM GSTR-4 for the tax periods January, 2018 to March, 2018 and subsequent tax periods.

President Promulgates Fugitive Economic Offenders Ordinance

With the assent of the President of India, the Fugitive Economic Offenders Ordinance, 2018 gets promulgated. The New Law lays down the measures to empower Indian authorities to attach and confiscate the proceeds of crime associated with economic offenders and the properties of the economic offenders. The need for the Ordinance has arisen as there have been instances of economic offenders fleeing the jurisdiction of Indian courts,

anticipating the commencement, or during the pendency, of criminal proceedings. The absence of such offenders from Indian courts has several deleterious consequences - first, it hampers investigation in criminal cases; second, it wastes precious time of courts of law, third, it undermines the rule of law in India. In order to address the deficiency in the present laws and lay down measures to deter economic offenders from evading the process of Indian law by remaining outside the jurisdiction of Indian courts, the Ordinance is being proposed. The Ordinance makes provisions for a Court ('Special Court' under the Prevention of Money-laundering Act, 2002) to declare a person as a Fugitive Economic Offender.

<http://pib.nic.in/PressReleaseDetail.aspx?PRID=1529875>

Roll-out of e-Way Bill system for Intra-State movement of goods in the States / Union Territory of Arunachal Pradesh, Madhya Pradesh, Meghalaya, Sikkim and Puducherry from 25th April, 2018

Ministry of Finance vide Press Release dated 23rd April, 2018 It is hereby informed that e-Way Bill system for Intra-State movement of goods would be implemented from 25th April, 2018 in the following States/ Union Territory:-

- (i) Arunachal Pradesh
- (ii) Madhya Pradesh
- (iii) Meghalaya
- (iv) Sikkim
- (v) Puducherry

With the roll-out of e-Way Bill system in these States / Union Territory, it is expected that trade and industry will be further facilitated insofar as the transport of goods is concerned, thereby eventually paving the way for a nation-wide single e-Way Bill system. Trade and industry and transporters located in these States/Union Territory may obtain registration /enrollment on e-Way Bill portal namely <https://www.ewaybillgst.gov.in> at the earliest without waiting for the last date.

Maharashtra Postpones E-Way Bill Rollout to 31st May

Maharashtra government has postponed the implementation of the e-way bill regime till May 30.



OTHER UPDATES

DIPP redefines the definition of Startups

Ministry of Commerce and Industry, Department of Industrial Policy and Promotion (DIPP) vide Notification dated 11th April, 2018 has redefined the meaning of Startups.

An entity shall be considered as a Startup:

- i. Upto a period of seven years from the date of incorporation/registration, if it is incorporated as a private limited company (as defined in the Companies Act, 2013) or registered as a partnership firm (registered under section 59 of the Partnership Act, 1932) or a limited liability partnership (under the Limited Liability Partnership Act, 2008) in India. In the case of Startups in the biotechnology sector, the period shall be upto ten years from the date of its incorporation/ registration.
- ii. Turnover of the entity for any of the financial years since incorporation/ registration has not exceeded Rs. 25 crore
- iii. Entity is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.

Provided that an entity formed by splitting up or reconstruction of an existing business shall not be considered a 'Startup'.

http://dipp.nic.in/sites/default/files/Startup_Notification11April2018_0.pdf

President Promulgates Criminal Law (Amendment) Ordinance

President has promulgated Criminal Law Amendment Ordinance, 2018 to amend Protection of Children from Sexual Offences Act to pave way for death penalty to those found guilty of raping children upto the age of 12 years.

Glossary

CBDT	Central Board of Direct Taxes	MCA	Ministry of Corporate Affairs
CBEC	Central Board of Excise & Customs	MoU	Memorandum of Understanding
CGST	Central Goods and Service Tax	MSME	Micro Small and Medium Enterprises
DIN	Director Identification Number	NCLAT	National Company Law Appellate Tribunal
CA 2013	Companies Act 2013	NCLT	National Company Law Tribunal
FPI	Foreign Portfolio Investors	NBFC	Non Banking Financial Company
FRDI	Financial Resolution & Deposit Insurance	NPA	Non-Performing Assets
FDI	Foreign Direct Investment	NRI	Non resident Indian
GST	Goods and Services Tax	OTP	One Time Password
GIC	GST Implementation Committee	OCI	Overseas Citizens of India
ICDS	Income Computation and Disclosure Standards	PAN	Permanent Account Number
IGST	Integrated Goods and Services Tax	PIO	Person of Indian Origin
ITC	Input tax Credit	RBI	Reserve Bank Of India
IFRS	International Financial Reporting Standards	ROC	Registrar of Companies
ITR	Income Tax Return	SEBI	Securities and Exchange Board of India
IBC	Insolvency and Bankruptcy Code	TAN	Tax Account Number
IPs	Insolvency Professionals	UTGST	Union Territory Goods and Service Tax
Ind AS	Indian Accounting Standards	VAT	Value Added Tax
IBBI	Insolvency and Bankruptcy Board of India	IEPF	Investor Education and Protection Fund
IUs	Information Utilities	ISD	Input Service Distributer

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