

## **I. Income Tax**

### **a. No TDS on Specified Payments to Banks**

The Central Government has notified that no tax is required to be deducted from January 01, 2013 on specified payments made to banks (except Foreign Banks) as listed in the second schedule of Reserve Bank of India Act, 1934. These payments include

- i. bank guarantee commission
- ii. cash management service charges
- iii. depository charges for DEMAT and warehousing charges for commodities
- iv. underwriting service charges
- v. clearing charges (MICR charges).
- vi. Credit card or debit card commission

This will become significant relief to assesseees as these payments were deducted by banks from the bank accounts without any deduction and the assessee were required to deposit tax on their own and then claim refund.

### **b. Bad debt can be claimed as business loss**

The Mumbai High Court has held in the case of Harshad J. Choksi that even if bad debt is not being allowed on account of non compliance of provisions of section 36(2), the same can be claimed as business loss under section 28 if the same is incidental to carrying on of business.

Section 36(2) provides for various conditions to claim deduction of bad debt, one of which is no deduction can be claimed unless such debt or part thereof has been shown as income in any previous years. Till now, it was interpreted to understand that where payments not claimed as income in previous years such as an advance, were written off as bad debt, they shall not be allowed as deduction.

However, the Court held that Section 28 is the charging section which provides taxability of profit and gains arising out of any business or profession. The words "profit and gains" used in section 28 has to be understood in ordinary commercial sense i.e. total receipts less expenses or losses incidental to such business.

### **c. Portfolio management fees is an allowable deduction**

Following its previous order, ITAT (Pune) has held in the case of KRA Holding & Trading (P) Ltd. that portfolio management fee is an allowable deduction while computing capital gain. In the earlier judgment, the honorable ITAT allowed the claim of the assessee referring to the principles laid down in AS-13, according to which expenditure of this kind is allowed to be loaded to the cost of acquisition of the securities.

### **d. No TDS on payment for supply of goods along with carriage charges**

In the case of Krishak Bharati Cooperative Ltd., the High Court of Gujarat held that assessee entering into contract for supply of gas and making payment in respect of the same along with some fixed transportation charges (not dependent on the consumption of quantity of gas) for supply of gas through pipe lines is not liable to deduct tax under section 194C. It was observed by the High Court that the agreement entered into was a supply agreement and the

transportation facility provided by the seller is merely a step towards execution of contract for sale of gas. Further there was no separate contract for the transportation/carriage of goods

## **II. Indirect Taxes**

### **a. Services exempt from the levy of Service Tax**

Services of life insurance business provided under following schemes have now been exempted from the whole of service tax:-

- i. Janashree Bima Yojana (JBY) or
- ii. Aam Aadmi Bima Yojana (AABY)

Further, CBEC has clarified that Service by way of transportation of milk by rail/vessel from one place in India to another, is covered by the exemption notification issued and applicable from the July 01, 2012.

Also, CBEC has clarified that in case of life insurance companies, the reminder letters/notices for renewal of premiums issued to the policy holders, shall not be taken as point of taxation, hence, service tax shall not be levied based on them.

### **b. Amendment required in Registration Certificate for assessee registered after July 1, 2012**

The service tax department has reinstated the complete of 120 services which had been removed previously. Those assessee who had registered with the department after July 01, 2012 under the 'Other than in the Negative List' (OTNL) category, are now required to amend the taxable service details online and opt for relevant description/s from the list of 120 services. After approval by the departmental officer, a new Registration Certificate (ST2) will be issued online displaying the list of services chosen by the assessee along with the new Accounting Codes. The existing registration number would remain unchanged.

## **III. MCA**

### **a. Companies Bill, 2011 passed by Lok Sabha**

The Lok Sabha approved the amendments to the Companies Bill, 2011 paving way for the new Bill to come into action soon. The Bill introduced in 2008 had been pending on account of various provisions disputed by the parties. The Bill, aimed at improving corporate governance, also contains provisions to strengthen regulations for corporates as well as auditing firms.

The Bill will now be considered by Rajya Sabha in the Budget Session.

### **b. Due date of Filing of Balance Sheet in XBRL Mode**

Due date of filing of Annual Financial Statements in XBRL Mode for the Financial year commencing on or after April 01, 2011 without any additional fee/penalty has been extended up to January 15, 2013 or within 30 days from the due date of AGM of the company, whichever is later.

### **c. Approval for Change in Name of Company/ LLP**

The Ministry of Corporate Affairs had inserted an additional requirement of approval from council/ regulator governing the profession of Chartered Accountant, Company Secretary, Cost Accountant, Architect etc. on registration of companies or LLPs where one of the objects is to

carry on the profession of such. Further, to above approval of the council/ regulator governing the profession shall also be obtained while seeking to change the name of an existing LLP.

**d. New Form 68 for rectification of mistakes**

The Ministry of Corporate Affairs has introduced electronic mode of filing application of rectification in Form 68 for rectification of mistakes in the Form 1, 1A & 44. Such is to be filed within a period of 180 days from the effective date.

**e. Filing of Cost Audit Reports and Compliance Reports**

The Ministry of Corporate Affairs has extended the last date of filing of Cost Audit Reports and Compliance Reports for the year 2011-12 (including the overdue reports of any Previous Year(s)) with the Central Government in the XBRL mode, without any penalty, by January 31, 2013 or within 180 days from the close of the Company's Financial Year to which the reports relates, whichever is later.

**IV. FEMA/RBI/SEBI**

**a. RBI extends deadline for issuance of CTS-2010 cheques to March 31, 2013**

The Reserve Bank of India has extended the deadline for banks to issue new cheques with uniform security features till March 31, 2013 to ensure withdrawal of non-Cheque Truncation System (CTS) 2010 Standard cheques and replace them with CTS-2010 Standard cheques.

**b. ECB Norms relaxed for Successful bidders of 2G spectrum**

RBI has eased the norms for External Commercial Borrowing availed by the successful bidders of 2G spectrum. The successful bidders of the 2G Spectrum making the upfront payment are allowed to avail long-term ECB under automatic route for refinancing the upfront payment made out of Rupee loans availed of from domestic lenders

The successful bidders are also allowed to avail ECB from their ultimate parent company without any maximum ECB liability-equity ratio subject to the condition that the lender holds minimum paid-up equity of 25 per cent in the borrower company, either directly or indirectly.

The successful bidders are also allowed to avail short term foreign currency loan in the nature of Bridge Finance under the 'automatic route' for the purpose of making upfront payment towards 2G spectrum allocation and replace the same with a long term ECB under the automatic route.

**V. DVAT**

**a. Re-extension of due date of furnishing Form DVAT 51 & Central Declaration Forms**

Due date for furnishing of reconciliation return in form DVAT-51 and for furnishing declaration forms 'C', 'E-I' or 'E-II', 'F', 'I', 'J' and 'H' has been again re-extended up to February 28, 2013 for all quarters of the year 2011-12.

**b. Payment of tax on monthly basis by Quarterly Dealers**

Dealers having 'Quarter' as tax period and having net tax liability exceeding Rupees One lakh during the last financial year or current financial year, now would have to deposit tax on monthly basis.

The tax for the month of October 2012 and November 2012 was liable to be submitted till December 21, 2012.

**c. Security Waiver for registration with DVAT up to March 31, 2013**

The Department of Trade & Taxes has re-extended the benefit of registration under the DVAT Act without furnishing any security for the dealers who apply for registration with the department upto the March 31, 2013.

**d. Online submission of Goods Movement detail (Form T-2)**

The Department of Trade and Taxes has made it mandatory for the Dealers to submit the details of Invoice and Goods Receipt Note in on-line Form T-2 in respect of all goods received from outside Delhi, (i.e., Interstate Purchases, Imports and Stock Transfers etc.) before the goods physically enter the boundary of Delhi).

The same had to come with effect from January 01, 2012. However, this date has been further extended to February 01, 2013.



**Relevant due dates for the month of January 2013****Income Tax**

7th January	Deposit TDS/ TCS deducted/ collected during the month ended December 31, 2012.
15th January	Last date of filing of TDS/TCS return for the quarter ended December 31, 2012.

**Service Tax**

5th/6th January	Deposit Service Tax liability of corporate/other assesses for the month ended December 31, 2012.
-----------------	--------------------------------------------------------------------------------------------------

**Excise Duty**

5th January	Deposit Excise duty liability for the month ended December 31, 2012.
10th January	Submit return of Excise Duty for liability for the month ended December 31, 2012.

**DVAT**

21st January	Deposit DVAT/CST (All Monthly Dealers and Quarterly Dealers having Tax liability of Rs.1Lac per annum)for the month ended December 31, 2012.
25th January	Submit monthly/quarterly return in electronic form for month/quarter ended December 31, 2012.
28th January	Deposit monthly/quarterly return in manual form for the month/quarter ended December 31, 2012.
28th January	Last date for deposit of audited financial statements for the year ended March 31,2012

**Labour Law**

15th January	Deposit Employee's & Employer's contributions to provident fund for the month ended December 31, 2012.(Including Grace period:- January 20, 2013)
21st January	Deposit ESI dues for the month ended December 31, 2012.
25th January	Submit return of Provident Fund for the month ended December 31, 2012.

**MCA**

15th January	File Financial Statements for FY 2011-12 in XBRL mode in Form 23AC and 23ACA without additional fee.
31st January	Last date for filing of Cost Compliance Reports and Cost Audit Reports for the FY 2011-12.