

## **I. Income Tax**

### **a. India inks DTAA with Mozambique to avoid double taxation**

India signed a Double Taxation Avoidance Agreement (DTAA) with Mozambique detailing the taxation of the income earned in India and Mozambique. The DTAA incorporates provisions for effective exchange of information and assistance in collection of taxes between tax authorities of the two countries in line with internationally accepted standards. The DTAA includes the exchange of banking information and incorporates the anti-abuse provisions to ensure that the benefits of the agreement are availed of by the genuine residents of the two countries.

The agreement will provide tax stability to the residents of India and Mozambique and facilitate mutual economic cooperation as well as stimulate the flow of investment, technology and services between India and Mozambique.

### **b. Tolerance band of "+/-5%" u/s 92C is not a standard deduction under Transfer Pricing**

In a recent judgement, the ITAT, Hyderabad held that the +/-5% tolerance band as mentioned in Sec. 92C is not a standard deduction. If the arithmetic mean of the comparable results under Transfer Pricing research falls within the tolerance band, then there should not be any adjustment. If it exceeds the said tolerance band, actual working is to be taken for determining the Arm's Length Price without giving deduction of 5%. It further held,

- Use of current year data is preferred over multi year data
- Company with 20 times turnover cannot be said to be a comparable company.

## **II. Corporate Laws**

### **a. Complete process of incorporation of company within 24 hours**

Ministry of Company Affairs (MCA) has provided a facility to incorporate a company within 24 hours by providing approval of incorporation applications forms online, provided the e-forms 1A 1, 18, 32 and e-form for Memorandum of Association(MOA) and Articles of Association (AOA) have been certified by the practicing professional regarding the correctness of the information and declarations given by the subscribers, the application shall be processed electronically and the digital certificate of incorporation shall be issued immediately online by the Registrar of Companies.

To achieve this, MCA has made changes in Form 1A which is used to get the approval for a new name or change in name of the existing company by adding an option of automatic approval through certification of the name by a practicing professional such as Chartered Accountants and Company Secretaries.

### **a. Due date of filing of Financial Statements in XBRL extended**

The due date for filing financial statements for the prescribed companies in XBRL format has been extended till November 30, 2011. Further, now, any of the prescribed professionals including chartered accountants can certify the financial statements. Previously, the filings were to be made by September 30, 2011 and needed to be certified by Statutory Auditors only.

### **b. Integration of DIN and DPIN**

MCA has integrated the Director's Identification Number (DIN) which is issued for people who wish to be directors for a company with Designated Partnership Identification Number (DPIN) which is issued for people who wish to be partners in a Limited Liability Partnership with effect

from July 9, 2011. Consequently, no fresh DPIN will be issued and existing DPIN and DIN can be used interchangeably. DPIN shall be cancelled if a person also holds DIN.

**c. On-line approval from central Government for interested Contracts**

MCA has simplified the procedure of obtaining approval from Central Government by companies for entering into certain contracts in which a particular director of a company is interested. Now the approval can be taken by filing an online application in a prescribed e-form duly certified by the practicing professional along with the payment of prescribed fees, provided the proposed contract has been approved by the shareholders in the general meeting of the company by passing a special resolution.

**d. Procedure for rectification of register of charges, transfer of registered office from one state to another of the Companies Act, 1956 simplified.**

In order to simplify the procedures and cut timelines, the MCA has decided to delegate the work relating to rectification of register of charges under Section 141 of the Companies Act, 1956, confirmation of shifting of registered office from one state to another state and consequent alteration to Memorandum of Association of the company from the Central Government to the respective Registrar of Companies under whose jurisdiction the Registered Office of the company is situated. The petitions filed with the Company Law Board and pending as on the effective date of notification shall be transferred to respective Registrar of Companies.

**e. Waiver of approval of Central Government for payment of remuneration to professional managerial person by companies having no profits or inadequate profits**

MCA has waived the requirement of central government approval in case listed companies and their subsidiaries companies, which are not having profits or having inadequate profits, pays remunerations exceeding Rs.4 lakh p.m. to professional managerial person, who has no interest in the capital or any relation with the directors of the company and having a graduate level qualification with expert and specialized knowledge in the field of his profession.

**f. Proposed guidelines for conversion of Section 25 companies to an ordinary company or for strike off their names**

MCA proposed guidelines for Section 25 companies (Non-profit organizations/companies which receive contributions from all sections of the society in the form of donations, contributions, etc. for the furtherance of the charitable, philanthropic activities or for such other useful objects) for their conversion to an ordinary company or to struck off their name from the register of members in companies Act 1956 on the fulfillment of specified conditions. Presently, Central Government is empowered revoke licenses granted to these companies.

**g. Revised Limits for prescribed remuneration under section 314 (1)(b) and Section 314 (1B)**

MCA lays down that for the purposes of section 314(1)(b) the total monthly remuneration shall be at least Rupees Fifty Thousand. Prior to the amendment the total monthly remuneration stood at a minimum of Rupees Ten Thousand. Further, for the purposes of Section 314(1B) the total monthly remuneration shall be at least Rupees Two Lakhs and Fifty Thousand. Prior to the amendment, the total monthly remuneration stood at a minimum of Twenty Thousand.

### **III. FEMA/RBI/SEBI**

#### **a. RBI allows refinance for FCCB redemptions**

The Reserve Bank of India has thrown a lifeline to Indian companies facing difficulty in meeting the redemption obligations of existing foreign currency convertible bonds (FCCBs) by allowing them to obtain refinance such FCCBs under automatic route. This refinancing would be subject to certain terms and conditions including

- Purpose of ECB/FCCB should be clearly mentioned as 'Redemption of outstanding FCCB'
- Restructuring of FCCBs involving change in the exiting conversion price is not permissible

Proposals for restructuring of FCCBs without change in conversion price will, however, be considered under the approval route depending on the merits of the proposal.

#### **b. LLPs can be a member of stock exchange**

SEBI has permitted Limited Liability Partnerships (LLPs) to get admitted as members of stock exchanges by stating the fact that LLPs are a body corporate and would be considered similar to Limited Liability Companies and partnership firms. Further, membership would be granted only upon the LLP satisfying the conditions laid down in the Securities Contract Regulation Rules, 1956 to the extent they apply to LLPs.

#### **c. Relaxation on the restrictions on change of name of listed companies**

Considering the fact that many businesses have a long gestation period and the revenue stream often delayed, SEBI has amended its previous circular regarding the requirements to be fulfilled for change of name of a listed company. As per the circular, now a company having at least 50% of the amount in the new activity/ project, i.e., fixed assets, capital advances and work in progress can also proceed with the change of name.

Previously, a company could only change to a name where atleast 50% of the total revenue in the preceding 1 year period was on account of the new activity suggested by the new name.

### **IV. Custom, Excise & Service Tax**

#### **a. E-payment of customs duty made mandatory for importers paying duty of Rs 1 lakh or more**

In order to reduce the transaction cost of the importers and expedite the time taken for customs clearance, the CBEC has made e-payment of duty mandatory for the importers paying an amount of Rs.1,00,000 or more per transaction. The date from which the E - payment will be made mandatory will be notified separately at a later date.

#### **b. New quarterly return form – Form ER-8**

CBEC has introduced a new quarterly return form ER-8 for assesses clearing goods by paying excise duty @ 1% ad valorem as imposed in the Budget 2011-12 by withdrawing exemption from central excise duty on 130 items.

**c. Registration of manufacturer/ job Worker of readymade garments and Textile made-ups**

A period of 30 days from July 28, 2011 has been specified for the purpose of registration under Central Excise by the Job workers who are authorized by the manufacturer of the readymade garments and textile made-ups for discharge of the liabilities under the Excise Laws.

**d. Association of Dyeing units exempted from service tax net**

Central Government exempts services provided by an association of dyeing units in relation to the project of common facility set-up for treatment and recycling of effluents and solid waste discharged by dyeing units, with financial assistance from the central or state government from the whole of service tax leviable thereon under section 66 of the Finance Act.

**V. Delhi Value Added Tax**

**a. Two new banks are authorised for E-payments**

Department of Value added tax has included Canara Bank and Bank of Baroda in the already provided scheme for payment of tax, interest, penalty or any other dues under the DVAT Act, 2004, through electronic payment.

This will increase the options and make it easier for the traders to make the payments in a timely manner.

**Relevant due dates for the month of August 2011****Income Tax**

8th August Deposit TDS/TCS deducted/collected during the month ended July 31, 2011

**Service Tax**

5th/6th August Deposit Service Tax liability of corporate assesses for the month ended July 31, 2011

**Excise Duty**

5th/6th August Deposit Excise duty liability for the month ended July 31, 2011

10th August Submit return of Excise Duty for liability for the month ended July 31, 2011

**DVAT**

25th August Deposit VAT/ CST for the month ended July 31, 2011

25th August Submit monthly return in electronic form for the month ended July 31, 2011.

28th August Deposit monthly return in manual form for the month/ quarter ended July 31, 2011. (Mandatory affix Annexure 2A and Annexure 2B with the return)

**Labour Law**

16th August Deposit Employee's & Employer's contributions to provident fund for the month ended July 31, 2011 (grace of 5 days)

23rd August Deposit ESI dues for the month ended July 31, 2011

25th August Submit return of Provident Fund for the month ended July 31, 2011