

I. Income Tax

a. Thin capitalization rules ruled out by ITAT

The Income Tax Appellate Tribunal has ruled out the application of thin capitalization rules in India. ITAT has held that there is no specific provision under the I-T Act which provides for computation of profits attributable to the Indian arm of a foreign enterprise. Hence, the income is to be computed under normal accounting principles and in terms of general provisions of the Act.

Thin capitalization rules exist in countries like US, Poland, etc. where beyond a specified debt to equity ratio, excess interest paid is disallowed.

b. Retrospective application of recent amendment in Sec 40(a)(ia)

The Finance Act, 2010 had amended Sec 40(a)(ia) wherein expenditure on which tax has been deducted but deposited after the due date before filing of return was allowed as expenditure in the previous year itself. The ITAT has held that the amendment is curative in nature and is applicable retrospectively.

II. Service Tax

a. Exemption to Packaged/Canned Software

Treating packaged/canned software as goods, the service tax on sale of such software has been made exempt subject to payment of applicable excise duty/custom duty on such software. The exemption comes into effect from Dec 21, 2010 and will provide relief to the software industry including distributors of such software avoiding double taxation of the same.

b. Exemption to management, maintenance and repair of Infrastructure service

Extending the scope of its previous notification, the Central Government has now exempted service tax on the taxable service of 'Management, Maintenance or Repair' of roads, bridges, tunnels, dams, airports, railways and transport terminals. The exemption will be effective retrospectively from July 27, 2009.

c. Exemption to prescribed agricultural insurance schemes

The Central Government has exempted general insurance business provided under the Weather based Crop Insurance scheme or Modified National Agricultural Scheme from the whole of service tax. The exemption is applicable only in the case of schemes approved by the Government and implemented by Ministry of Agriculture.

d. Tax on services of transportation of goods by rail deferred once again

The Government has deferred the withdrawal of exemption of service tax on transportation of goods by rail to April 1, 2011. The Government had initially set July 1, 2010 as the date of withdrawal of such exemption which was deferred previously till January 1, 2011.

e. Input Credit on service of supply of food to factory workers disallowed

In a recent judgment, CESTAT, Chennai has denied the input credit for service tax paid on Outdoor Catering Service employed by the manufacturer for supplying lunch and meals to the workers employed in the factory in respect of finished excisable goods. Per the judgment, input credit can only be availed for those services which have a nexus with the process of manufacturing. The judgment may have serious financial ramifications on all manufacturing units if the view is endorsed by the higher courts.



III. Excise and Customs

a. Scope of exemption notifications exempting Uttarakhand and Himachal Pradesh from excise

The benefit of the excise duty exemption under the notifications Nos.49/2003-CE and 50/2003-CE both dated June 10, 2003 which provided full exemption from excise duties to goods cleared from eligible industrial units in the states of Uttarakhand and Himachal Pradesh for a period of ten years from the date of commencement of commercial production which commence commercial production before the cut-off date, that is, on or before March 31, 2010 would continue to be available to eligible industrial units even after 'modifications' or 'additions'. However, the period of exemption would continue to remain ten years and would not be extended on account of such modifications or additions. Modification may include start of new products, increased in installed capacity, installation of fresh plant or machinery in the same unit which is availing the benefit of such exemption notification.

b. New facility of Online application of IEC

Directorate General of Foreign Trade (DGFT) has introduced additional facility for enabling members of trade to file their IEC (Importer-Exporter Code) applications 'on-line' with effect from January 1, 2011 with an objective of reducing transaction cost and time. IEC is required to be obtained by each entity prior to making any import or export of goods.

IV. Corporate Laws

a. Re-launch of Easy Exit Scheme

Considering requests from the corporate sector, the Ministry has decided to re-launch the "Easy Exit Scheme, 2011" for all companies which may be defunct and are desirous of getting their names struck off from the Register of Companies. The scheme allows an easy simplified route to closure of those companies which are not functioning anymore. As per the normal provisions of Companies Act, for closure of a company, approval from a high court was required to be taken which proved to be a lengthy process.

Under the scheme, any company interesting in getting their names removed simply needs to apply in the prescribed form and deposit of small fee. The scheme would only be available from January 1, 2011 and till January 31, 2011.

b. Period of finalization of financial statements defined for NBFCs

As per the previous directions by RBI, NBFCs are required to submit a Certificate from statutory auditor with respect to the position of the company as on March 31 of every year within one month of finalization of financial statements. The RBI has now further directed that NBFCs (both deposit accepting and non-deposit accepting) shall finalise their balance sheet within 3 months of end of financial year and submit the said Certificate within the time period mentioned above or latest by December 30th of such year.

c. KYC norms in respect of Mutual Fund Investors

Know-Your-Customer, or KYC, norms have now been made mandatory for all mutual fund investors irrespective of the amount invested with effect from January 1, 2011. Basic requirements of such investor are that the investor must furnish an address proof and a valid PAN number.



Relevant due dates for the month of January, 2011**Income Tax**

7th January	Deposit TDS/TCS deducted/collected during the month of December, 2010
15 th January	Submission of quarterly TDS returns for quarter ending December, 2010
30 th January	Furnish Form 16A to all non-salary deductions made in the quarter ended December 31, 2010.

Service Tax/Excise Duty

5th/6th January	Deposit Service Tax / Excise Duty liability for the month/quarter ending December, 2010.
10th January	Submit return of Excise Duty for liability for the month/quarter ending December, 2010.
15th January	Submit quarterly returns of excise duty of First stage and Second stage Registered dealers.
15th/16th January	Deposit Excise duty liability of SSI units for the month ending December, 2010.
20th January	Submit return of Excise duty liability of SSI units for the quarter ending December, 2010.

DVAT

25th January	Submit monthly/quarterly return in electronic form for month/quarter ended December 31, 2010
28th January	Submit monthly/quarterly return in manual form for month/quarter ended December 2010

Labour Law

15th January	Deposit Employee's & Employer's contributions to provident fund for the month of December 2010 (grace of 5 days).
21st January	Deposit ESI dues for the month of December 2010
25th January	Submit return of Provident Fund

Corporate Laws

31st January	Furnish prescribed form for closure of company under 'Easy Exit Scheme, 2011'
--------------	---

