

I. Income Tax

a. Draft Guidelines on General Anti Avoidance Rules (GAAR) released

After introducing the provisions for the GAAR in the Finance Act, 2012, the Government has introduced draft guidelines for the said rules. The Guidelines, formed by a Committee under the chairmanship of Director General of Income Tax (International Taxation), intend to lay down the principles in which GAAR would become applicable. The guidelines provide that GAAR should be applied above a threshold and only where one intends to take benefit of Double Taxation Avoidance Agreements.

b. Rectification of demand older than 4 yrs allowed u/s 154

After receiving complaints from several assesseees, the Central Board of Direct Taxes has finally allowed the Assessing Officer to rectify disputed arrear demands older than 4 years after due verification. Previously, demands raised but disputed by assessee on account of being already paid and/or settled by the courts had been uploaded by the income tax department to their Financial Accounting Software. This led to adjustment of any future refunds against that demand. Even on submission of documentary proof, the assessing officer was unable to make any rectification, since the period of limitation of four years had elapsed.

c. Exemption from deduction of tax

Settling a long standing debate, the Central Government has notified that no deduction of tax shall be made under section 194J in case of acquisition of software from resident where

- i) Transferor has acquired the same and further he is transferring without any modification.
- ii) Tax has been deducted previously on payment made to original developer or dealer under section 194J or 195.
- iii) Declaration has been obtained by transferee stating that tax been deducted previously along with PAN.

d. Applicability of Revised DTAA's with Norway and Nepal

The effective date for revised Double Taxation Avoidance Agreement with Norway and Nepal has been notified as April 1, 2012 and April 1, 2013. India had signed the revised DTAA with Norway and Nepal on February 2, 2011 and November 27, 2011.

e. PAN not required for Small Investors

In a recent judgment, Karnataka High Section has ruled that no deduction of tax can be made at higher rate of 20% under section 206AA for non-furnishing of PAN where the individual's taxable income is below taxable threshold.

This will bring a relief to a lot of small assesseees who were losing 20% of their income on account of not having PAN.

II. Corporate Laws

a. Extension of time in filing of annual return by Limited Liability Partnerships (LLPs)

As per section 35 of the LLP Act the prescribed time limit for filing of annual return is sixty (60) days for the financial year ended on 31st March, 2012. But due to ongoing process of

integration system of LLP with MCA21, the Ministry of Corporate Affairs has extended the statutory time limit by thirty (30) days to file annual return.

b. Reservation of name allowed to LLPs

Under Rule 18 name to be availed by a LLP should not be reserved. Now a proviso has been inserted stating that the name shall be reserved in case the No Objection Certificate is granted by the registered LLP or the Company.

Further, in case of LLPs with words like "Banks", "insurance", "banking", "venture capital", and words denoting professions like company secretary, chartered accountant, advocate and such alike words name approval from the Regulatory authority should be taken either at the time of incorporation or change of name of existing LLP.

III. Service Tax

a. New Service Tax regime w.e.f July 1, 2012

After the passing of Finance Act, 2012 by the Parliament and receiving the assent from the President of India, the Central Board of Excise & Customs (CBEC) has released the notifications, bringing the new service tax regime as proposed in the budget in effect from July 1, 2012.

As the readers might be aware, Finance Act, 2012 widened the scope of service tax by introducing negative list of services. Now, the services mentioned under negative list would be exempt from the service tax net as against the specified services being taxed previously.

Further, CBEC has modified the service tax rules, point of taxation rules and has passed several notifications clarifying and increasing the scope few of which are discussed below.

b. Scope of reverse charge extended

The scope of services which are covered under reverse charge has been extended. 'Reverse charge' means that the tax on the services is required to be paid by the service receiver and not the service provider. New services which have been brought under reverse charge net are

- Manpower Services
- Services provided by an arbitral tribunal, advocates, or by government or local authority
- Services of renting of motor vehicle designed to carry passengers

c. Service portion in execution of a works contract – Revised Rules w.e.f 01.07.2012.

The Ministry of Finance has notified the rules for Determination of Value of Service Portion in the execution of the Works Contract. These rules are notified through Service Tax (Determination of Value) Second Amendment Rules, 2012 which will be applicable from 1st July 2012.

d. 'Place of Provision Rules' notified

Government of India has notified the 'Place of Provision of Service Rules' which shall determine taxability of services when the services are exported or imported in India. Previous rules, 'Export of Service Rules, 2005' and 'Taxation of Services (Provided from outside India and Received in India) Rules, 2006' have been superseded by the 'Place of Provision of Service Rules, 2012'.



e. Services of foreign commission agent to exporter exempted from service tax

Services provided by a foreign commission agent to an exporter of goods have been exempted to service tax subject to conditions. The exporter would intimate the Asstt Commissioner or Deputy Commissioner before availing the exemption and would have to file quarterly return of the exemption availed also.

f. Rebate to exporters on service tax paid by them

After trying various options to simplify the procedure for refund of service tax paid by exporter, the Government of India has notified a simplified mechanism of rebate instead of refund.

As per the notified procedure, the Exporter can claim a flat rebate on the basis of percentage of FOB value of goods exported or on the basis of service tax actually paid. Refund for service tax actually paid will only be made if it exceeds the rebate by atleast 20%.

IV. Excise & Customs**a. Option for furnishing of Bank Guarantee for exemption to Mega/ Ultra mega power projects**

Exemption from Excise Duty, Customs Duty is being provided to the items used in Mega/ Ultra Mega power generation plants. Until the issue of final certificate from the Joint Secretary to the Government of India in the Ministry of Power for such projects, now bank guarantee can also be furnished for an amount of the excise duty/ Customs Duty as the case may be for exemption to be claimed. Earlier, the option for Fixed Deposit was only available.

b. Simplified procedure for refund of CENVAT Credit availed for Exports

The Ministry of Finance in suppression of an earlier notification issued a fresh notification revising the procedure for claiming refund. The new notification revised the form to be filed for claiming refund. Further, requirement of certificate from the auditor of the concern has been inserted. Also, the refund has been made subject to the procedure, safeguards, conditions and limitations as specified in the notification.

V. Delhi Value Added Tax**a. Online issue of C Forms**

Delhi Government has provisions for online issue of C Forms where specified dealers can now apply and obtain declaration or certificates electronically through website of Department of Trade & Taxes, Delhi in specified manner without any payment of fees. These forms can now be downloaded from the website. This will be a welcome step for all dealers as it will ease the process and improve control as well.

b. Time limit for filing Quarterly DVAT Return

All dealers who filed half yearly or annually return till last year will be required to file quarterly returns from April 1, 2012. For smooth transition, department has extended the due date in the following manner for all such assesseees:

Category of Dealers	Due date for online filing of return	Due date for submission of hardcopy of return
Dealers with odd TIN i.e ending with 1, 3, 5, 7 and 9	4 th August, 2012	7 th August, 2012

Dealers with even TIN i.e ending with 2, 4, 6 and 8	11 th August, 2012	14 th August, 2012
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c. Time limit reduced for revising DVAT Return

Assessee can now revise their DVAT return within 12 months following the year of such tax period for which original return was filed. It is also provided that for the years 2008-09, 2009-10 & 2010-11 except for those returns which were required to file in 2011-12 can be revised till December 31, 2012, if required.

d. Time limit for filing DVAT 51 extended

Delhi Government has re extended time limit for filing DVAT 51 for 1st, 2nd and 3rd quarter for the year 2011-12 has been extended to September 30, 2012 and for 4th quarter for the year 2011-12 has been extended to December 31, 2012.

e. Changes in Tax Rate

Several goods has been exempted from DVAT ambit, like stationery, boxes, sacred items for pooja, blood bags, tricycles, kites, several cosmetics. Similarly items for which there is increase in DVAT rate are unmanufactured tobacco and gutaka, UPS, plastic cups and glasses.

f. Lesser credit of input tax in case of central sale against C Form

DVAT Act 2004 has been amended w.e.f. June 18, 2012 to restrict input tax credit on local purchases utilized for making interstate sales u/s 8(1) of the CST Act (i.e., at a concessional rate of tax against Form C) by the prescribed percentage. These provisions would not be applicable to interstate sales not falling u/s 8(1), such as, interstate sales without Form C, Form I, etc.

VI. FEMA/SEBI/RBI

a. ECB allowed for repayment of rupee loans

In a bid to improve the foreign currency liquidity, RBI has allowed Indian Companies to obtain ECB to pay of rupee loans obtained from domestic banks. However, only companies having consistent foreign exchange earnings have been allowed. Companies interested in availing such ECB will need to obtain prior approval from RBI. The total ceiling for a company has been set at 50 per cent of the average annual export earnings realized during the last three financial years.

b. RBI extends the 2 per cent interest subsidy scheme by another year

RBI has extended the interest subvention of 2% on pre-shipment and post-shipment rupee export credit from April 1, 2012 to March 31, 2013 on the labour-oriented and small scale sectors to cushion them from slowdown in markets like the US and Europe.

c. Modification in format of Annual Return

Reserve Bank of India (RBI) has modified the format of the "Annual Return on Foreign Liabilities and Assets" (Annual Return) which is required to be submitted by all the Indian companies which have received Foreign Direct Investment (FDI) and / or made FDI abroad (i.e., overseas investment) in the previous year(s) including the current year. The Annual Return is required to be filed by July 15 every year.

Relevant due dates for the month of July 2012**Income Tax**

7 th July	Deposit TDS/TCS deducted/collected during the month ended June 30, 2012.
7 th July	Submission of Declaration for no TCS Collected.
15 th July	Submission of Quarterly Statement of TDS/TCS for the Quarter ended June 2012.
31 st July	Due date of filling return for assesseees whose accounts are not required to be audited.

Service Tax

5 th /6 th July	Deposit Service Tax liability of corporate assesseees for the month ended June 30, 2012.
5 th /6 th July	Deposit of Service Tax Liability of Proprietorship. Partnership and Individual assesseees for the quarter ended June 30, 2012.

Excise Duty

5 th /6 th July	Deposit Excise duty liability for the month ended June 30, 2012.
10 th July	Submit return of Excise Duty for liability for the month ended June 30, 2012.

DVAT

25 th July	Deposit VAT/ CST for the month/quarter ended June, 2012.
25 th July	Submit monthly/quarterly return in electronic form for month/quarter ended June 30, 2012.*
28 th July	Submit monthly/quarterly return in manual form for month/quarter ended June 30, 2012.*
28 th July	Filing of Refund Claims by Diplomats, bodies and organizations listing in Schedule VI.

Labour Law

15 th July	Deposit Employee's & Employer's contributions to provident fund for the month ended June 30, 2012 (grace of 5 days).
21 st July	Deposit ESI dues for the month ended June 30, 2012.

FEMA

15 th July	Submit Annual Return of Assets and Liabilities for Financial Year 11-12 for FDI with Reserve Bank of India
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*except for the dealers who have filed half yearly or yearly returns till last year.