

## **I. Income Tax**

### **a. Enactment of Finance Act, 2012**

The Finance Bill, 2012 has been enacted into Finance Act, 2012 on May 28, 2012 after receiving the President's assent. Earlier in the month, the Finance Bill, 2012 was passed after amendments by both the Lower House and Upper House of the Parliament. Brief list of key amendments is as follows.

- GAAR postponed till next year
- TDS on sale of immovable property removed
- Clarificatory retrospective amendments not to overrule DTAA
- Onus of proof removed from Tax Payer under GAAR

### **b. Test to determine whether gain on sale of shares is Capital Gain or Business Profit:**

Delhi High Court has laid down the test to determine whether the gain on sale of shares is capital gain or business profit in the hands of assessee in the case of CIT Vs Sahara India Housing Corporation Limited. The parameters in the judgment relates to intention of assessee, presentation in books of accounts, treatment in preceding and succeeding assessments and returns, authorization in memorandum of association and partnership deed and volume, frequency, continuity and regularity of transactions.

### **c. Sixth Method of determination of Arm's Length Price under Transfer Pricing**

The Central Board of Direct Taxes has specified the sixth method for determination of Arm's Length Price under Transfer Pricing under Sec 92C(1)(f) vide notification dated May 23, 2012.

The notification states that for determination of the assessee can use

*'any method which takes into account the price which has been charged or paid, or would have been charged or paid, for the same or similar uncontrolled transaction, with or between non-associated enterprises, under similar circumstances, considering all the relevant facts.'*

The language of the notification is quite open-ended and does not clearly specify any method. One will only have to wait and see how the tax men and the courts interpret this notification.

## **II. Corporate Laws**

### **a. Filing of Cost Audit Report and Compliance Report in XBRL**

MCA has mandated the cost auditors & companies which are liable to file cost audit report shall file cost audit report in Form-I and compliance reports in Form-A for the year 2011-12 & onwards in XBRL Format. MCA will soon make and notify Form-I and Form-A in XBRL format.

### **b. Rules for Unpaid/Unclaimed amounts lying with Companies formed**

Central Government has notified the Investor Education and Protection Fund (Uploading of information regarding unpaid and unclaimed amounts lying with companies) Rules, 2012 which deals with filing of information regarding unpaid and unclaimed amounts. Consequently MCA has introduced new FORM 5 INV for filing the above details.

**c. Clarification for criteria for becoming Public Financial Institutions:**

Ministry of Corporate Affairs has clarified that restrictions regarding financing specific sectors and net worth shall not apply to Central Public Sector Undertaking & State Public Sector Undertaking to categorize them as Public Financial Institution.

**III. FEMA/RBI/SEBI****a. Guidelines on implementation of Basel III Capital Regulations issued**

Final guidelines on Basel III capital regulations for Banks have been issued. These guidelines would become effective from January 1, 2013 in a phased manner. The Basel III capital ratios will be fully implemented as on March 31, 2018. The capital requirements for the implementation of Basel III guidelines may be lower during the initial periods and higher during the later years. For the financial year ending March 31, 2013, banks will have to disclose the capital ratios computed under the existing guidelines (Basel II) on capital adequacy as well as those computed under the Basel III capital adequacy framework.

The introduction of Basel III norms would strengthen the bank capital requirements and in turn the financial sector.

**b. Interest Rates on FCNR(B) Deposits:**

Reserve Bank of India has revised the interest rates on FCNR(B) deposits as follows:

Maturity Period	Revised Rate	Existing Rate
1 year to 3 years	LIBOR/Swap plus 200 basis points	LIBOR/Swap plus 125 basis points
3 years to 5 years	LIBOR/Swap plus 300 basis points	LIBOR/Swap plus 125 basis points

**c. KYC guidelines on account of proprietary concern:**

Reserve Bank of India has decided to include the following documents for opening accounts of proprietary concerns in India:

- Income tax return of proprietor wherein firm's income is reflected.
- Utility bills such as electricity, water and landline telephone bills in the name of the proprietary concern.

**IV. Service Tax****a. Clarification on rate of service tax**

CBEC has clarified that rate of service tax on specified services and in case of reverse charge, on invoices issued before April 01, 2012 shall be charged @ 12.36% and for this purpose service provider may issue supplementary invoices to reflect new tax rate.

CENVAT Credit can be availed on the basis of supplementary invoices and tax payment challans.

**b. Rules for Compounding of offences and Settlement of Cases notified**

The GoI vide notification dated May 29<sup>th</sup>, 2012 has notified the rules for Compounding of Offences under Sec 94(2)(i) and for Settlement of Offences under Sec 94(2)(j) of the Finance Act, 1994. The Compounding Authority has been defined as the Chief Commissioner of Central Excise, having jurisdiction over the place where the offence under the Act, have been or alleged to have been committed. Application under the respective form can be made to the

Compounding Authority for compounding of an offence which may either allow or reject the application after reviewing the same.

## **V. Delhi Value Added Tax**

### **a. Revision in Tax Period**

Department of Trade and Taxes has revised the tax period as follows:

<b>Particulars</b>	<b>Period</b>
Dealers with turnover more than 5 crores	Monthly
Dealers with turnover upto 5 crores	Quarterly

### **b. Online issue of Central Declaration Forms**

A software application for online issue of central declaration forms is being developed to allow the dealers to submit requisition for central declaration forms online and after the necessary due diligence, secure and downloadable soft copy of the forms will be mailed to the dealers. The information furnished by the dealers will be accepted without any verification. The information furnished will be accepted with effect from April 1, 2012.

### **c. Clarification regarding preserving of DVAT 43 by the contractors**

Department of Trade & Taxes has clarified that the contractor may submit photocopy of DVAT 43 along with his return and original form DVAT-43 issued by the contractee may be preserved by the contractor and produced before the assessing authority whenever demanded.

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

7th June	Deposit TDS/TCS deducted/collected during the month ended May 31, 2012.
15th June	Deposit first installment of advance income tax by corporate assessee for financial year 2011-12.

**Service Tax**

5th/6th June	Deposit Service Tax liability of corporate assessee for the month ended May 31, 2012.
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**Excise Duty**

5th/6th June	Deposit Excise duty liability for the month ended May 31, 2012.
10th June	Submit return of Excise Duty for liability for the month ended May 31, 2012.

**DVAT**

11th June	Submit annual return in electronic form for the year ended March 31, 2012.
14th June	Submit annual return in manual form for the year ended March 31, 2012.
25th June	Submit monthly return in electronic form for month ended May 31, 2012.
28th June	Submit monthly return in manual form for the month ended May 31, 2012.

**Labour Law**

16th June	Deposit Employee's & Employer's contributions to provident fund for the month ended May 31, 2012 (grace of 5 days).
21st June	Deposit ESI dues for the month ended May 31, 2012.
25th June	Submit return of Provident Fund for the month ended May 31, 2012.