

News Weekly

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Services Offered

Corporate Finance
Audit and Assurance
Accounting Services
Income Tax
Service Tax
Value Added Tax
Corporate Governance
Services For Non-Resident
Consultancy

HIGHLIGHTS OF THE WEEK

INCOME TAX

- ➔ Section 54F is not applicable if residential house constructed before transfer of Long Term Capital Assets.
- ➔ With effect from January 01, 2015, Correct PAN Errors and Challan Mismatch cases identified by CPC TDS in 7 days from processing of TDS returns, to avoid Demand Notice.
- ➔ No VAT on sale of second hand car and etc. (Delhi High Court)

SERVICE TAX

- ➔ December 31, 2014 is the last date for payment in cash of 2nd and final Instalment of declared VCES dues with interest.

COMPANIES ACT

- ➔ Rule 6 of Company accounts not applicable to consolidated financial statement of intermediate 100% subsidiary (except whose immediate parent is foreign company). [Notification of 14-10-14].
- ➔ As per section 4 of Companies Act, 2013, Object clause of the Memorandum of Association of a new company is not required to be divided into main, Ancillary and other objects. The company cannot provide other objects as per Companies Act 2013.

OTHERS

- ➔ Proposal to cover all employers employing 10 or More workers under PF is under consideration (presently Limit is 20).
- ➔ RBI extends business hours of the RTGS system to facilitate customer and inter-bank transactions as also to facilitate other market obligations to settle in the RTGS system has extended the RTGS time window business hours to 8:00 hours from 9.00 hours and extend closing time of RTGS to 20.00 hours on week days. RTGS business window will be open from 8.00 hours to 15.30 hours on Saturdays.

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SERVICE TAX

SERVICE TAX ON COMMISSION PAID TO OUTSIDE AGENT

As Per Rule-9 of Place of Provision of Services Rules, 2012 by exempting the service tax on commission paid to overseas agent for Export of Goods vide Notification No 14/2014 ST dated 11th July 2014

Commission paid to overseas agent for Export of Goods from 1st October 2014, is out of purview of service tax. Taxation of Commission agent service dealing in goods was governed by Rule 3 of Place of Provision of Service Rules 2012 upto 30th September 2014. As per said Rule 3, Service will be deemed to be provided at the location of 'Service Recipient'. However vide Notification No 14/2014 ST dated 11th July 2014, government has amended Rule 2(f) read with Rule 9 of the Place of Provision of Service Rules 2012, by replacing definition of Intermediary, to include, commission agent dealing in goods.

Hence from 1st October 2014, Taxation of Commission agent service dealing in goods will be governed by Rule 9 of Place of Provision of Service Rules 2012. As per said Rule 9, Service will be deemed to be provided at the location of 'Service Provider'. Analysis of changes in definition of Intermediary is as under:

From 1st July 2012 to 30th September 2014	From 1st October 2014 onwards
<p>“intermediary” means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of a service (hereinafter called the ‘main’ service) between two or more persons, but does not include a person who provides the main service on his account</p>	<p>“Intermediary” means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of a service (hereinafter called the ‘main’ service) or A SUPPLY OF GOODS, between two or more persons, but does not include a person who provides the main service or supplies the goods on his account</p>
<p>Analysis: Prima facie this definition deals with intermediary dealing in provision of services like Recovery Agent</p>	<p>Analysis: Now Intermediary will also include intermediary dealing in goods that is commission agent.</p>

However for commission services provided by agent located in India to person located outside India for Import of Goods in India is taxable service from 1st October 2014, which was out of purview of service tax upto 30th September 2014.

Summarized position of ‘Taxation of commission service on Import-Export of goods’, under erstwhile and new provision is explained as under:

Type of Commission Service	Location of Service Provider	Location of Service Receiver	Applicability of Service Tax from 1 st July 12 to 30 th September 2014	Applicability of Service Tax from 1 st October 2014
(A) Commission Paid for facilitating sale of goods exported.	Outside India	In India	As per Rule 3 of POP Rules 2012, Place of provision is location of service receiver.	Notification No 14/2014 ST dt 11 th July 2014 amended Rule 9 of POP Rules 2012 by amending definition of

			However partial exemption was provided by Notification No 42/2012 ST dt 29 th July 2012. Hence it is taxable service with some exemption.	Intermediary. Hence from 1 st October 2014, As per Rule 9 of POP Rules 2012, Place of provision is location of service provider. Hence it is not taxable service.
(B) Commission Received for facilitating sale of goods imported	In India	Outside India	As explained above, as per Rule 3 of POP Rules 2012, Place of provision was location of service receiver.	As explained above, from 1 st October 2014, as per Rule 9 of POP Rules 2012, Place of provision is location of service provide

INCOME TAX

TDS APPLICABLE ON FOREIGN PAYMNETS

TDS on foreign payments depends upon two conditions. First, whether deductee provides a valid TRC or Not? Second whether deductee holds a valid PAN in India or Not?

TDS Rate on Foreign Payments.

CASES	Whether TRC is available	Whether PAN is available	Treatment	Possible Challenges
Case - A	YES	YES	Grossing Up should be done @ DTAA Rate TDS should be deducted @ DTAA rate	NA
Case - B	No	No	Grossing Up should be done @ Applicable IT Rate TDS should be deducted @ Applicable IT Act rate or 20%, whichever is higher	Foreign income Tax Authority may decline to give TDS credit in excess of rate Prescribed in DTAA
Case - C	No	YES	Grossing Up should be done @ Applicable IT Rate TDS should be deducted @ Applicable IT Act.	Foreign income Tax Authority may decline to give TDS credit in excess of rate Prescribed in DTAA
Case - D	YES	No	Grossing Up should be done @ Applicable IT Rate (Bosch Ltd ITAT Bangalore) TDS should be deducted @ Applicable IT Act rate or 20%, whichever is higher	Foreign income Tax Authority may decline to give TDS credit in excess of rate Prescribed in DTAA

Note-1

- IT rates (as mentioned above) has to be increased by surcharge and education Cess.
- DTAA rates needs not to be increasing by surcharge and Education Cess.
- Requirement of TRC for Claiming Relief under DTAA
 1. TRC Become mandatory w e f 01/04/12
 2. Format of TRC notified w.e.f 17/09/12
 3. If TRC is not in specified format then a declaration in form 10F is also mandatory along with the required documents w. e f 01/08/13

OTHER AMENDMENTS

NEW SIMPLIFIED BUILDING BYLAWS APPROVED, SANCTION PLANS MADE USER

Plot of up to 100 Sq. Meters: No need of Building Plan

One of the major exemption provide to small residential plots of up to 100 Sq. Meters from sanction procedures. The plot owners will only have to furnish requisite information in a simplified one-page format to the urban body concerned and go ahead with the construction. The validity of this submission will be three years and if required, a fresh submission may be made thereafter.

For Plot 100 Sq. Meters to 20,000 Sq. Meters: a maximum of 30 Days deadline set.

For plots of 100 sq. meters to 20,000 sq. meters size, specific time schedules have ben stipulated for according approvals by various agencies.

For Plot over 20,000 Sq. Meters: Single Window Clearance

For plots bigger than 20,000 sq. meters, a single window clearance mechanism has been proposed.

Others

The simplified bylaws also clearly stipulate competency norms of various professional such as engineers, architects, town planers etc., unlike the vague existing provisions. They specify which agencies have to be approached for constructions in the vicinity of heritage buildings or monuments, etc. In keeping with government's Swatch Bharat Abhiyan, it has been made Mandatory to provide washrooms in public buildings of more than 4,000 sq. meters size. The washrooms should have direct aces to the public from the main street.

Art elements like paintings, statues, etc., should be provide in public buildings for better aesthetic environment.

The simplified bylaw stipulate green constructionism's according to plot size, part from provisions for rain water harvesting and waste water re-cycling and easy aces for differently-abled persons.

GO FREEHOLD IF YOUR HOUSE IS ON GOVERNMENT LAND

Bringing a big relief to a large number of people living in 23 Nazul estates (government land) across Delhi, the urban development ministry on Thursday approved the mechanism for conversion of such properties from leasehold to freehold, by paying certain charges.

This scheme will be applicable to residential properties for conversion to freehold where the leases have already expired. Lessees, power of attorney holders, mutatees and purchasers of properties on Nazul lands can apply for conversion to freehold.

The Nazul estates which fall under this scheme include Karol Bagh, Jhandewalan, Paharganj, Darya Ganj, Sadar Bazar, Aliganj, Chirag, Naiwala Basti Reghar, Jhilmil Tahirpur, Arakpur Bagh Mochi, Southern Ridge, a government release said.

Following directions from urban development minister M Venkaiah Naidu, DDA will facilitate the conversion against payment of about Rs 2 lakh per 100 square meters plot, depending on the number of years since the term leases have expired.

IMPORTANT DATES

Date	Act	Applicable Form	Obligation
06/01/2015	Service Tax	Challan No.GAR-7	E-payment of Service Tax for month ends Dec for Cos & quarter ending Dec for others.
10/01/2015	Excise	ER-1	Return of Non SSI assesseees for Dec
10/01/2015		ER-2	Return for EOUs for Dec
10/01/2015		ER-3	Return of SSI assesseees for Quarter ending Dec
10/01/2015		ER-6	Return by units paying duty > 1 crore (CENVAT + PLA) for Dec
07/01/2015	Income Tax	Form No.15G, 15H,27C	Submission of Forms received in Dec to IT Commissioner
07/01/2015		Challan No.ITNS-281	Payment of TDS/TCS deducted/collected in Dec
30/01/2015		Form 16A/ 27D	Issue of TDS/TCS certificate for quarter ended Dec.
31/01/2015		Return No.24Q, 26Q, 27EQ & 27Q	TDS returns for Dec Quarter for Govt. deductors
15/01/2015		Return No.24Q, 26Q, 27EQ & 27Q	TDS returns for Dec Quarter for non-govt deductors & TCS Returns for ALL Deductors
15/01/2015	Provident Fund	Electronic Challan cum Return (ECR)	E-Payment of PF for December (Cheque to be cleared by 20th)
15/01/2015	ESI	ESI Challan	Payment of ESI of Dec
15/01/2015		DVAT-20	Deposit of DVAT-TDS for Dec
21/01/2015		DVAT-20 & Central	E-Payment of DVAT & CST for Dec
22/01/2015		DVAT - 43	Issue of DVAT Certificate for deduction made in Dec
25/01/2015		Form 16 and CST 1	E- Return of DVAT for the quarter ended Dec
28/01/2015		DVAT - 56	Filing of DVAT Return Verification Form for quarter ended Dec
28/01/2015		DVAT-48	Return of TDS for Dec quarter in DVAT-48