CORPORATE UPDATE

DIRECT TAX

INTERNATIONAL TAXATION

I. CBDT prescribes electronic mechanism for claiming Foreign Tax Credit Notification no. 9/2017, dated 19 September 2017

An Indian resident is entitled to claim credit of foreign tax ('FTC'), on doubly taxed income, paid in a country outside India. Such claim of FTC is available under the provisions of the Income-tax Act as well as tax treaties entered by India with various countries.

Earlier, the procedure for claiming such FTC was notified under Rule 128 of the Income-tax Rules. In order to claim credit of FTC, in terms of such rules, a statement in Form 67 is required to be furnished, specifying the income and amount of FTC to be claimed. However, the manner of furnishing such Form was hitherto, not prescribed.

The Central Board of Direct Taxes ('CBDT') has now issued a notification, prescribing the manner of electronically furnishing such Form 67.

This form would be available to all the tax payers after login into the e-filing portal using valid credentials and is required to be submitted prior the filing of the tax return. In order to file Form 67, only a Digital Signature Certificate or an Electronic Verification Code can be used.

(Contributed by: Ms. Purnima Bajaj)

TRANSFER PRICING

I. Broad similarity in functions' is insufficient for selection of comparables, even if Transactional Net Margin Method has been applied. Avenue Asia Advisors Pvt. Limited vs. DCIT [TS-737-HC-2017(DEL)-TP] dated 18thSeptember,2017

In the instant case, the Delhi High Court ('HC'), amongst the other issues, reiterated the principles laid down in the case of Rampgreen Solutions Private Limited vs. CIT (2015) 377 ITR 533 (Delhi) on the issue of selection of comparables, wherein it was held that though in the Transactional Net Margin Method ('TNMM') there is sufficient tolerance, mere broad similarity in functions is not sufficient.

In this case, the assessee was engaged in providing non-binding investment advisory services. In the transfer pricing assessment, the Transfer Pricing Officer ('TPO') selected new set of comparables and proposed transfer pricing adjustment, which was later upheld by DRP.

On appeal, the Income Tax Appellate Tribunal ('ITAT') analysed various comparables in detail. The ITAT rejected some comparables, remanded the matter to the TPO in respect of few comparables for further analysis and retained three comparables. Regarding three comparables so retained, the ITAT considered usage of terms such as debt syndication, debt financing, IPO advisory etc, appearing in the annual reports of contested comparables who were merchant bankers and held them as functionally similar to the assessee.

Before the HC, the asssessee contested that it had only advisory role, unlike merchant bankers who are involved in execution of financial transactions.
The HC, placing reliance on aforementioned ruling, held that the analysis at such a broad level is not sufficient and the services as

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provided by the assessee cannot be said to be comparable to merchant banker though there may be some overlap in the advisory segment.

The HC further stated that the principle governing the identification of comparable transactions would be the same, irrespective of whichever transfer pricing method is adopted.

The HC remitted the matter to the Commissioner of Income Tax (Appeals), for selection of comparables and determination of Arms Length Price.

II. ITAT confirms aggregate benchmarking for equipment supply and services in case of EPC contract RTA Alesa AG vs. DCIT TS-675-ITAT-2017(DEL)-TP dated 31st August,2017

In the instant case, the Delhi ITAT, amongst other issues, upheld TPO's approach of benchmarking international transactions of supply of equipments and rendering of services on aggregate basis.

The assessee, a non-resident company, was awarded EPC contract which involved onshore services, onshore supplies, offshore services and offshore supplies.

The assessee had established a project office in India for the purpose of execution of the contract. While the assessee was maintaining separate records for supply of equipments and for services, the revenue was being recognized for the contract, as a whole on percentage of completion basis.

The assessee benchmarked equipment supply and services separately under TNMM. However, the TPO rejected the assessee's approach and aggregated both the transactions for benchmarking under TNMM. While doing so the TPO selected comparables providing engineering services.

On appeal, ITAT placing reliance on Delhi High Court ruling in case of Sony Ericsson Mobile Communication India Private Limited vs. CIT, [2015] 55 taxmann.com 240 (Delhi), held that the contract was composite in nature as assessee was required to deliver complete facility to the customer and supply of equipment and services were inextricably linked to each other.

The ITAT, thus, upheld the TPO's approach of benchmarking both the transaction on an aggregate basis. Further, the ITAT directed the TPO to characterize the assessee as EPC contractor engaged in providing turnkey solutions and remitted the issue to TPO for selection of fresh comparables.

(Contributed by: Ms. Ritu Theraja)

DOMESTIC TAXATION

I. Contract receipts of a Joint Venture is not an income of Joint Venture if the same is a case of diversion of income by overriding title Soma TRG Joint Ventures [TS- 405-HC-2017(J&K)]

In the instant case, the taxpayer was a joint venture formed between two independent companies namely M/s TRG Industries (P) Ltd and M/s Soma Enterprises Ltd. The Joint Venture was formed for the limited purpose of submission of two tenders for construction of two tunnels of Northern Railway as one of the joint venture partners- M/s TRG Industries (P) Ltd alone could not satisfy the conditions laid out by the Indian Railways for participation in the tender notice. Since M/s Soma Enterprises Ltd had the necessary experience making it eligible to bid for the said tenders, two independent joint venture agreements were entered into between the parties. Further, it was also agreed upon that a detailed agreement would be signed as and when the contract is awarded to the Taxpayer. No work was intended to be done by the taxpayer and the entire work as well as the expenditure for undertaking such work was incurred by M/s TRG Industries (P) Ltd. The Taxpayer was merely a conduit to obtain the contracts from the railways. M/s TRG Industries (P) Ltd received 97% of the contractual receipts and remaining amount was received by the other co-joint venturer.

The taxpayer filed its return of income for AY 2005-06 in the status of Association of Person('AOP') and declared nil income for the relevant year by contending that the income from the contract was diverted to the Joint Venture members at source and there was no accrual of income in its hands. The Assessing Officer disallowed the amount paid by the taxpayer to the joint venturers under 40(a)(ia) of the Income-tax Act, 1961 on the pretext that the taxpayer had subcontracted the execution of work in the ratio of 97:3 and thus disallowance u/s 40(a)(ia) is warranted on account of such non deduction.

Unable to get relief from CIT(A) and Tribunal, the taxpayer filed an appeal before Hon'ble High Court, which on examination of relevant facts and legal issues held as under:

• The taxpayer was formed for the limited purpose of participating in the tender and had not executed the same.
• The contract was executed independently by the joint venturers and nothing was on record to show that both members have executed the work jointly or that the members had authority to interfere in the work executed by each other.
• The work was admittedly done by one of the joint venturers and the taxpayer had not incurred any expenditure for said work.
• Therefore, the receipt of income cannot be treated as the income of the taxpayer as this is a case of diversion of income by overriding title
• Based on the test as laid down in the case CIT vs. SitaldasTirathdas(1961) 41 ITR 367(SC) for applying the doctrine of diversion of income by overriding title, it is clear that the income is diverted before it reaches the taxpayer.
• Therefore, the instant case is of diversion of income by overriding title and hence not an income in the hands of taxpayer under section 2(24) of the Act.
• Reference was also made to the clarification issued by Government of India wherein it was clarified that where each member in a consortium is independently responsible for execution of its own part of work and there is a clear demarcation in the work and costs, such a consortium may not be treated as an AOP.

• The first proviso to 40(a)(ia) as inserted by Finance Act 2012 which states that it shall be deemed that Assessee had paid and deducted the tax on such sum as and when such income is offered to tax, being a clarificatory amendment is retrospective in nature.
• In the present case, as the Joint Venturers have paid the taxes on the income received, therefore, no disallowance in the hands of the Joint venture is called for.

In view of the aforesaid, the Hon'ble Court came to a conclusion that incidence of withholding taxes did not arise in respect of payment from the tax payer to joint venturers& thus section 40(a)(ia) did not have any application.

It may be mentioned here that taxability of consortium contracts has always been a contentious issue. This judgement does throw some light on the principles which may be followed while determining taxability in case of such consortium agreements.

II. Proposal regarding reporting of estimates of Income and Tax made for advance tax purposes

Under the extant provisions of Indian Income tax Act, an assessee who is liable to pay advance tax, is required to deposit advance tax of his own accord, covering whole of the tax liability for relevant assessment year in four instalments, in accordance with the estimates of income of the said assessment year.

There is no requirement to furnish such estimates of current income to the tax authorities. In certain cases, tax officer has a power to direct the assessee to pay advance tax instalments as per the estimation made by the tax officer, which however can be assailed by the assessee, if such estimation by the tax officer is considered to be arbitrary or erroneous.

The Central Board of Direct Taxes vide draft notification dated 19/09/2017 (F. No. 370142/27/2017-TPL) has proposed to create a Self Reporting Mechanism for estimation of current income, tax payments and advance tax liability for corporate tax payers as well as other assessees liable for the tax audit.

For the aforesaid purpose, the notification proposes a draft rule 39A to be introduced as per which the aforesaid assessees would be required to furnish an intimation on or before 15th November of every financial year with regard to the estimated income and payment of taxes as on 30th September of the said financial year. However, in cases where the income as on 30th September of a financial year is less than the income of the corresponding period of the immediately preceding financial year by an amount of Rs. 5 Lakh or 10%, whichever is higher, then such assessees would also be required to furnish intimation of estimated income and payment of taxes as on 31st December, on or before 31st January of the said financial year.

The intimation of estimated income, tax liability and payment of taxes is required to be furnished in Form 28AA. The said form requires the taxpayer to provide detailed break-up of estimated income and computation of advance tax liability, taking into consideration the available deductions, exemptions and brought forward losses and prepaid taxes. Further, details of turnover and profit for the entire year as well as for the period ending on 30th September / 30th November of the relevant financial year are also required to be filled in while disclosing the corresponding figures for the immediately preceding financial year. Further, the said form also obligates reasons to be given where advance tax payment is less than the previous year.

It is worth noting that similar provisions for furnishing statement/estimate of advance tax payable/ estimation of current income existed in the Income Tax Act till 31st March, 1988 and was omitted w.e.f 1st April, 1988 to dispense with the aforesaid onerous requirements while requiring the assessee to pay mandatory interest in case of default in payment of advance tax.

The present draft provisions seek to reintroduce the aforesaid requirements by means of introduction of a rule, even though no statutory provision exists in the Income tax act in this regard. The said obligation mandates the assessee to furnish detailed workings for estimation of income/tax liability, though without imposing any specific penalty for non-compliance. It is also relevant to note that in case of any default in payment of advance tax, payment of interest is mandatory. As such, in the absence of any penal provision, whether furnishing of estimate of income would augment any revenue collection, except in the cases of wilful defaulters, needs to be seen. In the absence of mechanism for revenue augmentation, the proposed requirements imposed by the draft notification seem another compliance burden for genuine taxpayers.

As these are draft provisions, comments & suggestions on the same are invited from the stakeholders and general public.

(Contributed by: Ms. Ritu Gyamlani)

INDIRECT TAX

GST

I. Keys development during the month of September have been tracked herein below:

•Availability of Transitional Credit

- Vide Order No. 03/2017-GST dated 21-09-2017, time limit for submitting the declaration in FORM GST TRAN-1 under Rule 117 of the CGST Rules, 2017 is extended till 31st October, 2017.
- Vide Order no. 02/2017-GST dated 18-09-2017, it has been further notified that Form GST TRAN-1 can be revised once till 31st October, 2017.

• Return Filing under GST Regime

- Vide Notification No. 35/2017 – Central Tax dated 15-09-2017, Government has extended the facility of filling GST return in form 3B till December, 2017 and notified dates for filling return as under:

Month	Due Date
September, 2017	20th October, 2017
October, 2017	20th November, 2017
November, 2017	20th December, 2017
December, 2017	20th January, 2018

Vide Notification No. 31/2017 – Central Tax dated 11.09.2017, time limit for furnishing return in Form GSTR-6 by an Input Service Distributor, for the month of July, 2017 has been extended up to13.10.2017.The corresponding date for the month of August, 2017 would be notified subsequently.

• TDS Provisions

- Vide Notification No. 33/2017 – Central Tax dated 15.09.2017, TDS provisions under section 51 of the CGST Act have been brought into force w.e.f.18.10.2017.However, the date of liability to deduct tax by the persons so liable would be notified later.

The facility for registration as a Tax Deductor has been made available on the portal. The same can be applied through PAN / TAN issued in the name of Government department as specified under Section 51.

• Amendment in Taxability under GST Law

- Vide Notification No. 07/2017-Integrated Tax dated 14-09-2017, a job worker having turnover of less than Rs. 20 lakhs (Rs. 10 lakhs for special category states) engaged in making inter-State taxable supply of services to a registered person is exempt from obtaining registration under GST as long as the goods in relation to which such services are provided move under the cover of an E-way Bill, irrespective of the value of the consignment. However, such exemption is not available to job work done in relation to jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71).
- Further, vide Notification 8/2017–Integrated Tax dated 14-09-2017 & Notification No. 32/2017-Central Tax dated 15-09-2017, casual taxable persons making inter-state taxable supplies of Handicraft Goods specified therein, have been exempted from obtaining registration under GST provided the aggregate value of such supplies on an all-India basis does not exceed Rs. 20 lakhs (Rs. 10 lakhs for special category states). Such persons shall obtain a PAN and generate an e-way bill in accordance with the CGST Rules, 2017.

• Amendment in Tax rates

- Vide Notification No. 5/2017-Compensation Cess (Rate) dated 11-09-2017, rates of Compensation Cess have been increased on the following categories of motor vehicles as follows:

Category	Existing Rate	Revised Rate
Mid-segment cars (engine capacity less than 1500 cc)	15%	17%
Large cars (engine capacity greater than 1500 cc)	15%	20%
Sports Utility Vehicles (Length greater than 4000 mm; engine capacity greater than 1500 cc; ground clearance greater than 170 mm)	15%	22%

• Other Updates

- The facility for changing contact number and e-mail ID of the Authorized person has been made available on the common portal.
- The GST Twitter handle recently clarified that Tax Payers who have not set off their tax liability for GSTR 3B for July 2017 and have only submitted their GSTR 3B, can now edit, submit, and file their returns. Taxpayers who have already offset their liability would not be able to edit their GSTR 3B.
- Vide Notification No. 37/2017 – Central Tax dated 04.10.2017, CBEC has done away with requirement of filling Bond along with Bank guarantee for export without payment of IGST and notified that all registered persons can undertake export under against Letter of Undertaking which means no bank guarantee is required for export without payment of IGST.

Further, Notification provides that Bond along with bank guarantee would be required only in cases where the exporter has been prosecuted in a case involving an amount in excess of INR 2.5 crore in the past.

II. Customs

- Vide Notification No. 75/2017-Customs dated 13-09-2017, specified goods imported into India for the purpose of organizing the FIFA U-17 World Cup India, 2017 has been exempted from the whole of the duty of customs and whole of the IGST leviable thereon, subject to the conditions mentioned therein.
- Vide Notification No 88/2017-Customs dated 21-09-2017, the Central Government, has notified the Customs and Central Excise

Duties Drawback Rules, 2017 w.e.f. 01.10.2017. The Central Government has also revised All Industry Rates (AIRs) of Drawback vide Notification No. 89/2017-Customs (N.T.) dated 21-09-2017 w.e.f. 01.10.2017.

- Further, vide Circular No. 37/2017-Customs dated 20-09-2017, CBEC has issued guidelines for implementing electronic sealing for containers by exporters under self-sealing.
- Vide Notification No 91/2017-Customs (Non-Tariff) dated 26-09-2017, the Central Government has amended the Custom Valuation (Determination of Value of Imported Goods) Rules 2007 as under :
  - Place of Importation has been defined as the custom station where the goods are brought for being cleared for home consumption or for being removed for deposit in a warehouse.
  - Loading, unloading and handling charges associated with delivery of imported goods 'at' the place of importation shall be added to the CIF value of the goods based on actual charges incurred and not on notional charge of 1% as provided in the earlier rules.
  - As per amended Rule 10(2) (a), loading, unloading and handling charges incurred at the load port for delivery of goods 'to' the place of importation shall be includible in the transaction value.
  - Further, by virtue of 6th proviso to Rule 10 (2), costs related to transhipment of goods from ports to ICDs, port to port, port to CFS, Airport to Airport etc. within India will be excluded.

III. Case Laws

- Narendra Plastic Private Limited Vs. Union of India & Ors.: W.P.(C) 8774/2017

The petitioner i.e. Narendra Plastic Private Limited (NPPL) is engaged in the business of manufacturing and exporting plastic products. In the present case, NPPL has export orders placed upon prior to 1st July, 2017 and for fulfilment of such export orders, NPPL has to import various inputs and discharge IGST on such imports under GST regime.

In this regard, as per Advance Authorisation scheme issued under the FTP 2015-2020, exporter manufactures are entitled to make import of the input which is physically incorporated in the export product, without payment of Basic Custom Duty, Additional Customs Duty, Education Cess, Anti-dumping Duty and Safeguard Duty. However, no such benefit has been accorded towards IGST payable at the time of import.

Since petitioner is undertaking imports under GST regime, there would be an additional levy of IGST on imports made after 1st July, 2017. Thus, the petitioner has no option but to pay IGST at the time of import of inputs, causing a working capital blockage.

Thus, the petitioner vide writ petition challenged the applicability of such IGST on imports that are made for fulfilment of export orders that have been placed on and accepted by him prior to 1st July, 2017.

Delhi High Court against the present writ petition granted interim relief to exporters to import goods to fulfil the export orders received and accepted prior to July 1, without payment of the IGST subject to the quantity and value as specified in the Advance Authorization licenses issued to it prior to July 1.

- J.K. Mittal & Company Vs. Union of India & Others : W.P.(C) 5709/2017

The petitioner is engaged in providing legal services and has filed a writ petition before Delhi High Court seeking clarification whether Notification No. 13/2017- Central Tax (Rate) dated 28th June, 2017 cover all legal services rendered by legal practitioners or restricted to representational services. Further petitioner questioned that whether registration is required by legal practitioners and/or firms rendering legal services under the CGST Act or the IGST Act or the DGST Act, if they were earlier registered under the Finance Act (in Service tax).

Petitioner raised his query on registration on the ground that since a registered person is mandatorily required to migrate under GST, then lawyers would be required to discharge GST under reverse charge mechanism for procurement form unregistered dealers exceeding Rs.5000 as per Notification No.8/2017-Central Tax (Rate).

In this regard, vide a Corrigendum dated 25th September, 2017 issued w.r.t. Notification No. 13-Central Tax (Rate), it has been clarified that all legal services (including representational services) provided by legal practitioners are covered under reverse charge mechanism.

Further, with respect to second issue i.e. registration, High Court directed that till further orders, no coercive action would be taken against advocates and/or their law firms including LLPs for non-compliance with any legal requirement under the GST laws till a clarification is issued by the Government. Also, an advocate and/or their law firms including LLP's, who have already registered under the GST Act from 1st July, 2017 will not be denied the benefit of this interim order.

The matter is still sub judice before Delhi High Court and the decision on the same is to yet be pronounced on 15th November, 2017.

IV. GST Council Meeting Update

Key decisions taken by the GST Council in its 22nd meeting held on 6th October, 2017, wherein government has issued various notifications and the said notifications are effective from 13th October, 2017.

- Composition scheme aggregate Turnover limit raised:

The GST council has decided to raise the aggregate turnover limit for Composition scheme to up to INR 1 crore from the current turnover limit of INR 75 lakhs, thus easing the GST compliance burden on the MSMEs sector. For special category states, (except J&K and Uttrakhand), the said turnover limit would be increased to INR 75 lakhs from INR 50 lakhs. The turnover limit for J&K and Uttrakhand would

be INR 1 crore.

Further, composition scheme can now also be opted by persons who were otherwise eligible for availing the said scheme but could not opt for the reason that they were providing some exempt services also. Thus if any person is engaged in supply of goods / restaurant services and also certain exempt services, then for the purpose of computing threshold limit of INR 1 crore/ 75 lakhs (as the case may be), turnover pertaining to exempt services would not be considered.

The facility of availing Composition scheme shall be available to both the migrated as well as new tax payers up to 31.03.2018.

- Small Service Providers making Inter-state supply, exempted from the requirement of obtaining GST registration:

As per current provisions, any person (except job-worker) making interstate taxable supply is compulsorily required to take GST registration. However, it has been recommended that Service providers having an annual aggregate turnover of less than INR 20 lakhs (INR 10 lakhs in special category states except J & K) would not be required to obtain GST registration, even if they make inter-State taxable supply of Services.

- Quarterly payment of taxes and GST Return filing for Small & Medium Enterprises/Businesses:

Starting from the quarter October to December, 2017, businesses with an annual aggregate turnover of up to INR 1.5 crores would now be required to file quarterly returns in FORM GSTR-1, 2 & 3 and pay taxes on a quarterly basis only. However, the registered buyers procuring goods & services from such small & medium businesses can avail ITC on monthly basis. Due date for filing quarterly returns would be notified shortly.
However such small & medium businesses/ taxpayers are required to continue filing their FORM GSTR-3B on a monthly basis upto December, 2017, and FORM GSTR-1, 2 & 3 for the months of July, August and September, 2017.

- Suspension/Deferment of Reverse Charge Mechanism (on account of procurements from Un-registered suppliers) up to 31st March 2018:

In order to reduce compliance cost, it has been decided that registered persons would not be liable to pay GST under Reverse charge basis, on purchases/inward supplies received from an unregistered suppliers. Reverse charge mechanism on account of supplies received from unregistered suppliers would be suspended till 31.03.2018.

- No GST on receipt of advances for Small & Medium Businesses:

Small & Medium businesses/ taxpayers having annual aggregate turnover up to INR 1.5 crores would be exempted from payment of GST on advance receipt of consideration. GST would, therefore, be payable by such taxpayers only when the supply of goods is actually made by them.

- GTA services provided to unregistered person exempted:

As per the current provisions of GST law, GTA services provided to registered person (and other prescribed categories of person) are covered under reverse charge. Accordingly, Goods Transport Agency was not required to obtain GST registration & deposit tax. However, GTA services provided to un-registered person (subject to certain exceptions) are not covered under reverse charge mechanism. Accordingly, in case of GTA services provided to un-registered person, responsibility was cast upon GTA to take GST registration and discharge GST liability. Since GTA were reluctant to obtain comply with said obligations, therefore many GTA were not willing to provide services to un-registered persons. Accordingly, it has been decided to exempt the Services provided by Goods Transport Agencies to Unregistered persons from GST.

- E-way bill system deferred:

E-way bill system would be brought into effect from 01.01.2018 in a phased manner. However, the nationwide rolling out of the said system would be done w.e.f. 01.04.2018.

- Due date of filing GSTR-4 and GSTR-6 extended:

For the quarter July to September, 2017, the due date for filing return in Form GSTR-4 by composition dealers, would be extended to 15.11.2017.

Further, the due date for filing return in GSTR-6 by Input Service Distributors for the said three months of Jul'17, Aug'17 & Sep'17, would be extended to 15.11.2017.

- In addition to above mentioned amendments, vide Notification No. 45/2017-Central Tax dated 13 October 2017, a registered person is allowed to issue a single " invoice-cum-bill of supply" for supply of taxable as well as exempted goods and/or services to unregistered person.

(Contributed by: Mr.Shashank Goel/ Mr.Karan Chandna)

CORPORATE LAW

RECENT NOTIFICATIONS

I. Number of layers of subsidiaries

The proviso to Section 2(87) lays down that certain holding companies shall not have layers of subsidiaries beyond such numbers as may be prescribed. The Govt. has now notified proviso to Section 2 (87) and the Companies (Restriction on Number of Layers) Rules, 2017 with effect from 20th September, 2017

According to these Rules, no company other than a Banking Company, Systematically Important Non-Banking Financial Company, Insurance Company and Government Company shall have more than two layers of subsidiaries. The aforesaid restriction shall not affect a company from acquiring a company incorporated outside India with subsidiaries beyond two layers as per the laws of such country. Further, for computing the number of layers under this rule, one layer which consists of one or more wholly owned subsidiary or subsidiaries shall not be taken into account.

Every company other than a Banking Company, Systematically Important Non-Banking Financial Company, Insurance Company and Government Company, existing on or before the commencement of these Rules which has number of layers of subsidiaries in excess of the layers as permitted shall file Form CRL-1 with Registrar of Companies, disclosing the details specified therein, within a period of one hundred and fifty days (150) from the date of publication of these rules in the Official Gazette and shall not after the date of commencement of these Rules have any additional layer of subsidiaries over and above the layers existing on such date.

II. Deposit Rules

The Ministry of Corporate Affairs has amended the Companies (Acceptance of Deposits) Rules, 2014 vide the Companies (Acceptance of Deposits) Second Amendment Rules, 2017. The provisions of Rule 3 (Terms and conditions of acceptance of deposits by companies) have been amended. The amended Rule has come into force with effect from 19th September, 2017.

According to this Rule, a private company may accept from its members monies not exceeding one hundred percent of aggregate of paid-up share capital, free reserves and securities premium account and such company shall file the details of monies so accepted to the Registrar in Form DPT-3.

Provided further that the maximum limit in respect of deposits to be accepted from members shall not apply to following private Companies:

i. A private company which is a start-up for five years from the date of its incorporation;

ii. A private company which fulfills the following conditions-

(a) which is not an associate company or subsidiary or any other company;
(b) the borrowings of such company from banks or financial institutions or any body corporate is less than twice of its paid-up share capital or fifty crores rupees, whichever is less and
(c) such a company has not defaulted in the repayment of such borrowing subsisting at the time of accepting deposits under section 73 of the Act.

Provided also that all the companies accepting deposits shall file the details of monies so accepted to the Registrar in Form DPT-3.

(Contributed by: Ms. Rakhi Chanana)

IMPORTANT
DATES TO REMEMBER

Particulars	Date
Deposit of TDS for the month of October, 2017	Nov 07, 2017
Date of deposit and filing of GSTR-3B for the month of September, 2017	Oct 20, 2017

For further information, please contact:

Mr. C.S. Mathur, Partner
Tel: 91-11-47102200 Email: csm@mpco.in

Mr. Vikas Vig, Partner
Tel: 91-11-47103300 Email: vvig@mpco.in

Ms. Surbhi Vig Anand, Partner
Tel: 91-11-47102250 Email: surbhivig@mpco.in

Main Office
New Delhi
1 A-D, Vandhna
11, Tolstoy Marg
New Delhi-01

MPC & CO LLP
Pune
Vadodara

Associates
Ahmedabad
Bangalore
Chennai
Hyderabad
Mumbai

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