

NEWSLETTER - AUGUST 2016

IMPORTANT UPDATES IN MVAT, CST AND PROFESSION TAX

1. Noti VAT 1516/ CR-64/ Taxation 1 dt Apr 29, 2016: Principal contractor transferring credit to sub-contractor has to file return in form 424A under MVAT.
2. Cir 11T of 2016 dt May 6, 2016: It explains Noti PFT 1216/ CR 26/ Taxation-03 dt Apr 2, 2016 regarding late fee exemption (explained below) for limited period.
3. Cir 10T of 2016 dt May 3, 2016: Settlement of arrears in dispute
 - Applicable to all acts administered by sales tax department.
 - Application to be filed with nodal officer in Form I before Sep 30, 2016.
 - Application to accompany required documents including withdrawal of appeal and requisite payment.
 - 100% relief of interest and penalty in case of order pertaining to period ending on or before Mar 31, 2005.
 - Relief of balance amount of interest arrived at after payment of requisite amount (which works out to around 75% of interest) and 100% penalty in case of order pertaining to period starting on or after Apr 1, 2005 and ending on or before Mar 31, 2012.
 - Opportunity provided to correct any defect in the application.
 - Settlement order can be rectified for any apparent mistake.
 - If application is rejected, it can be appealed against. Otherwise, appeal not available.
 - Settlement order can be revoked if obtained on the basis of false or material misstatement.
 - Settlement order is subject to review upto 12 months from date of service of order in order to ensure that it is not prejudicial to the interest of revenue.
 - Procedures and time limits are mentioned in detail in the circular.
4. Cir 9T of 2016 dt Apr 22, 2016: Budget amendments: Changes in VAT rate, Composition scheme, Entry tax on marbles and granites:

a. Continuation of same rates to following products upto March 31, 2017:

Name of item	Sch entry	VAT rate
Paddy, wheat, rice, pulses, its flour etc	A-9A	Nil
Papad, Gur, Towels etc	A-51	Nil
Tea	C-108	5.50%

b. Changes in VAT rate wef April 1, 2016:

Name of item	Existing VAT rate (%)	New VAT rate (%)	Sch entry
Drugs for treatment of cancer	5	Nil	A-12A
Mamography machines used for breast cancer	12.50	Nil	A-12A
Hybrid electric buses and battery operated buses	5 (C-115)	Nil	A-13A



Handicrafts made of bamboo except bamboo, bamboo furniture and other bamboo products.	5 (C-10)	Nil	A-27B
Retrofit kits used to modify vehicles for handicapped persons	12.50	Nil	A-59A
Barbed wire, wire mesh and chain link	12.50	5.50	C-3A
Cotton seed	5 C-68(iii)	2	C-25(c)
Hair Oils	5 C-29(a)	12.50	
Sterile water for injection	12.50	5.50	C-29A(e)
Vegetable oil including gingili oil, castor oil and bran oil but excluding coconut oil sold in upto 500 ml packaging. This entry shall include coconut oil sold in loose irrespective of quantity.	5 C-102	5.50	C-30(b)
Coconut oil sold in upto 500 ml packaging.	5 C-30	12.50	
Pyrolysis oil made from plastic scrap and organic waste	12.50	5.50	C-79A
Repossessed vehicles sold by banks on which entry tax or sales tax has been paid earlier	12.50	5.50	C-82B
Pencil box, gum, glue sticks, stapler pins, tape dispensers, dusters, files.	12.50	5.50	C-104(c)
Sweet corn in any state except when served for consumption	Reference application regarding its rate is pending before HC.	5.50	C-107 (11)
LED Tube lights	12.50	5.50	C-111

VAT rate increased from 5% to 5.5% wef April 1, 2016 on almost all goods covered by Schedule C, excluding declared goods. **On following goods, VAT rate is NOT 5.50%:**

SI No	Particulars	Sch entry	Rate of tax (%)
1	Cotton yarn	C-4(a)	2
2	Aviation Turbine Fuel	C-8	5
3	Coal including coke in all its forms but excluding charcoal	C-22	5
4	Cotton excluding cotton waste	C-25(a)	2
5	Cotton seed	C-25(c)	2
6	Crude Oil, Petroleum, Bituminous Oil,	C-27	5
7	Hides and skins	C-45	5
8	Iron and steel (except alloys)	C-55	5



9	Jute	C-57	5
10	Kerosene sold through PDS and Domestic LPG	C-58	3
11	Oil seed except cotton seed	C-68	5
12	Notified fabrics covered by Sec14 of CST Act	C-101(a)	5

On all other goods covered by Schedule C, rate of tax is increased to 5.50% wef April 1, 2016.

c. Changes in composition scheme:

Restaurant: The VAT composition tax rate 8% to hotels and restaurants having turnover of sales of food and non alcoholic drinks Rs. 3 Crore and more. Currently, it is 5%. It continues at 5% for dealers having turnover less than Rs 3 core. Composition rate of 10% continues for unregistered dealers.

Baker: Current composition rate for baker is 4% (RD) and 6% (URD) of all sales including tax free sales of bread in loaf, rolls or in slices, toasted or otherwise (except pizza bread) covered by Sch entry A-7. Wef Apr 1, 2016, sale of these tax free goods can be deducted from total sales (by both RD and URD). Turnover limit for composition option remains same at Rs 50 lacs.

Retailer: Limit of turnover for composition option increased from Rs 50 lacs to Rs 1 crore wef Apr 1, 2016. So, dealers who were in composition scheme earlier and whose turnover was less than Rs 1 crore in FY 15-16 shall automatically continue in composition without any application. For others, if any dealer wants to opt for composition, he may apply before Apr 30, 2016. Till now, composition dealers were required to file six monthly dealers. But wef Apr 1, 2016, their periodicity can be as applicable to any other dealer.

d. Change in entry tax:

Tiles of marble and granite were liable to entry tax under entry 15 of Entry tax at 12.50%. It is amended to include slabs of marble and granite also wef Apr 1, 2016.

5. Cir 8T of 2016 dt Apr 12, 2016: Grant of administrative relief to unregistered liquor dealers:

Writ petition no 1337 of 2002 was pending with Bombay High Court, due to which administrative relief applications in case of liquor dealers were subjected to certain additional procedures.

Nagpur bench of Bombay High Court has disposed of this petition. Accordingly, applications relating liquor dealers can now be disposed of like any other case.

6. LA Bill XVIII of 2016 dt Apr 7, 2016 and Cir 14T 2016 dt May 7, 2016: Amendments in various acts governed by sales tax department:

Maharashtra Motor Vehicle Tax Act:

Motor Vehicle Tax enhanced on two wheelers and three wheelers owned by individual. Tax to be based on engine capacity - upto 99cc - 8%, 100cc to 299cc – 9%, 300cc and above – 10%. Institutional and Imported Vehicles to be subjected to double the rate of tax.



Profession tax:

- Amnesty scheme: If any application filed between after Apr 1, 2016 to Sept 30, 2016 or pending as on Apr 1, 2016 for enrollment (PTEC), then tax liability shall not be calculated for any period prior to Apr 1, 2013. Also, no interest and penalty would be applicable. Cir 12T of 2016 dt May 6, 2016 clearly states that penalty u/s 5(5) would not be applicable. Also, strict action shall be taken against unenrolled persons.
- Profession Tax exemption to the armed personnel of CRPF and BSF. Earlier it was only for Armed Forces. It is effective from Apr 1, 2016.

Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002:

Wef Apr 26, 2016, Provisions of MVAT, 2002 relating to electronic filing of returns, payment of taxes, electronic application, appeal or any other electronic documents shall mutadis mutandis apply to this entry tax act.

MVAT Act/ Rules:

- Sec 8(3D) inserted: Tax on transfer of property in goods involved in the sizing and warping of yarn is exempted wef Apr 1, 2016. Set off on capital goods allowed and retention of 2% on other goods.
- Sec 16(3) regarding VAT registration amended: If registration application cannot be approved by officer for any reason, he shall reject the same without giving an opportunity. However, dealer may comply with all the discrepancies within one month and if such compliance is approved by the registering officer, then original application shall be restored and date of effect of registration shall be accordingly. However, such compliance may done only once.
- Sec 16(6) amended wef Apr 26, 2016: If after obtaining voluntary registration, business is not commenced within 6 months or if registration is obtained by fraud or misrepresentation, the commissioner may after giving an opportunity of being heard, cancel his registration from such date as he may fix.
- Earlier, there was a condition of introduction from registered dealer in case of voluntary registration as per Rule 8(11). It has been done away with.
- E-filing of Form 105/V(B) (regarding appointment of manager/ authorized person) along with Form 101 (for registration) is made mandatory in case of all persons except proprietary concern.
- PAN is mandatory for filing application for registration. However, certain Govt Departments, etc (specific list given in circular) are not required to obtain PAN. Such entities shall mention their TAN.
- Changes in periodicity for filing returns: Six monthly returns have been done away with. Wef Apr 1, 2016, periodicity is as follows:
 - a) Monthly returns for following dealers:
 - Whose tax liability during the previous year exceeded Rs 10 lakhs, [Rule 17(4A)]
 - Whose entitlement for refund during the previous year exceeded Rs 1 crore, [Rule 17(4A)]



- **Who have obtained registration on or after Apr 1, 2016 [Rule 18(1A)]**
- Who hold certificate of entitlement under package scheme of incentives.

b) Quarterly returns shall be filed by rest of the dealers including composition dealers.

- **Filing of all annexures appended to Form 704 (for the entire year) has been made mandatory for all dealers except those who are liable for audit and those who have opted composition u/s 42(1) or 42(2). These are to be filed along with last applicable return of the year and it is applicable wef financial year 2016-17 (ie first compliance would start from Mar 31, 2017). It is to be filed within 21 days of end of year (ie Apr 21).**

In case of cancellation of registration, the annexures shall be filed along with its last applicable return.

- Sec 20(4) amended: Revised return u/s 20(4)(a) could till now be revised upto 10 months from end of year (ie Jan 31). It is amended to say that it could be revised upto date of filing audit report (ie Jan 15).

Also, proviso to Sec 20(4) amended so that revised returns u/s 20(4)(a) (ie suo moto by the dealer) may be amended upto above time for unlimited number of times. These amendments are applicable for return periods starting from April 1, 2016.

- Dealers who are required to file return in Form 234 (as a PSI dealer) and he is also liable to file return for his business (ie 231, 233 etc), then he shall file two separate returns monthly.
- Sec 23(2A) inserted: Summary/ deemed assessment provision introduced. For periods commencing on or after Apr 1, 2012, if all the returns and taxes paid within time allowed u/s 20(4)(a), and if returns are correct and complete, then commissioner may assess tax as per returns filed. If assessment order is not received upto four years from the end of the relevant year, then the returns shall be deemed to have been accepted.
- Sec 23(5A) inserted: In some cases, dealer is agreed with the observations of assessing authority during assessment but due to time bar, return u/s 20(4)(a) cannot be revised and assessment orders are need to be passed. To provide solution for this, new optional process introduced:
 - Assessment proceeding initiated under sub sections (2), (3), (4), or (5) of Sec 23.
 - If the assessing officer decides that the case is fit for closure on filing revised returns, then he shall intimate (at least before 6 months of expiry of time limit for assessment) to the dealer his observations about tax liability and interest payable.
 - If dealer agrees, then he shall file revised return u/s 20(4)(c) within 30 days.
 - If the dealer agrees fully, then a confirmation order shall be passed and assessment proceedings shall be closed. This provision not applicable if dealer agrees partially.
 - This provision shall be applicable even to those cases where assessment proceedings have been initiated prior to Apr 1, 2016 but were pending on Apr 1, 2016.



- New Sec 28A inserted: Determination of fair market price (FMP): This draconian provision is newly added retrospectively from Apr 1, 2011. If any authority is of the opinion that any transaction is entered into by a dealer is for a sales price which is below FMP, then the said authority shall determine tax liability on the basis of the FMP for such transaction. This section empowers Government to prescribe FMP for a commodity and the class of dealers and accordingly, a notification shall be issued by the State Government.
- Amendment to TDS provisions (Sec 31, relevant rules, forms): Principal contractor may transfer the credit of TDS to sub-contractor by e-filing form 424A (time limit not prescribed). This facility of transfer is available only for TDS received on or after Apr 1, 2016. Sub-contractor cannot further transfer the credit to his sub-contractor.

New Section 31(8) inserted to provide for obtaining sales tax deduction account no. It would be applicable from the date which would be separately notified. Registered dealer need not apply for it. Penalty provisions inserted vide Sec 31(12) equal to amount of tax deductible by him for non obtaining sales tax deduction account no.

Earlier, TDS return was to be filed annually within 3 months from end of year. Sec 31(10) added and Rule 40(1)(d) amended such that the employer shall file monthly return within 21 days from the end of the month. However, return need not be filed if no TDS is deducted and paid during the month.

Sec 31(11) added to provide that TDS return may be revised within 9 months from the end of the year to which the return relates. There is no restriction as to number of revisions.

Sec 31(13) added to provide that **penalty** upto Rs 5000/- shall be imposed if the employer fails to file TDS return in time.

- **Advance Ruling (AR):** Sec 55 related to AR existed since 2005 but was not brought in force. It is substituted by new Sec 55 wef May 1, 2016. Salient features are:
 - Any person (RD, URD or any other person) may apply in Form 703 to Commissioner. Non refundable application fees of Rs 2000 is to be paid.
 - Questions on which AR can be sought are given in newly inserted Rule 63 (not reproduced here).
 - Question shall be decided by Commissioner or Advance Ruling Authority (ARA) consisting of Addl Comm and two Joint Comm.
 - AR not allowed on questions that are pending before Tribunal, Bombay High Court or Supreme Court; and if question is designed for tax avoidance.
 - Acceptance or non-acceptance of application shall be within 30 days in Form 703B.
 - AR Order shall be passed within 90 days from date of acceptance of application.
 - Applicant may withdraw his application within 30 days from date of application.
 - AR Order shall be binding on all officers including appellate authority and also in respect of similar questions.
 - AR Order is appealable within 30 days to tribunal.
 - Rectification of order may done within 60 days.
 - Order by ARA and by Commissioner both are subject to review by the Commissioner.
 - DDQ provision deleted (deletion of Sec 56).



- Commissioner may call for any statistical data u/s 70(1). Penalty of Rs 1 lac may be imposed for non furnishing of the same under newly inserted Sec 70(3).
- Amendments to PSI provisions: Sec 89(3)(a) provided that an invoice issued by a Mega Unit holding a valid Identification Certificate (IC) and subsequent purchaser/s should contain a declaration as prescribed in Rule 83A. It is amended wef Apr 26, 2016. Accordingly, invoices issued by following dealers and subsequent purchaser/s shall also contain the declaration:
 - Ultra Mega Unit holding IC,
 - Mega Unit holding Entitlement Certificate (EC) under PSI 1993 and availing benefit by way of deferment.
 - Very large unit holding EC as above,

Penalty u/s 89(4) to the extent of amount of tax contained in the invoice is imposable.

- Scope of Rule 52B expanded to include mobile phones wef Apr 1, 2016.
- Wef Apr 1, 2016, Rule 54(a) amended to allow set off to the dealers engaged in business of transferring the right to use passenger motor vehicles (whether or not for a specified period) for any purpose. It shall, however, be subject to restrictions u/r 53(11), according to which set off shall be restricted to tax liability and shall be allowable in the period in which right is transferred.
- Wef Apr 1, 2016, Rule 54(b) amended to disallow set off of entry tax on High Speed Diesel Oil, Aviation Turbine Fuel etc.

7. Noti PFT 1216/ CR 26/ Taxation-03 dt Apr 2, 2016:

Late fee in respect of PTRC returns for the periods upto Mar 31, 2016 shall be waived if following conditions are satisfied:

- Employer should be an educational institution which receives grant in aid from Government.
- Returns should be filed before June 30, 2016.
- Tax payable should have been paid before Mar 31, 2016 and interest should be paid before June 30, 2016.
- Application should be made with the department along with proof that the employer receives grant in aid from Government.

8. Noti VAT/ 1516/ CR 53/ Taxation-1 dt Apr 1, 2016:

Rule 52B which restricts set off on goods covered by sch entries D-13 (cigarettes) and D-14 (aerated cold drinks) is amended to include mobile phones or cellular handsets. It is amended wef Apr 1, 2016.

Rule 53(11) added to state in case of dealer engaged in transferring right to use of passenger motor vehicles, then set off on purchase of motor vehicles shall be restricted to tax payable on such transfer of right and such set off shall be claimed in the period in which such right has been transferred by the claimant dealer.

Also, there are small amendments in clauses (a) and (b) of rule 54.

9. Noti VAT / ADM 2016/ 1 B/ ADM – 8, extra ordinary no 19 dt Feb 24, 2016:



Amendment in Rule 17: VAT returns in forms 231 to 235 are amended for the return periods starting from Apr 1, 2016. There are drastic changes in return forms. Transaction wise details are required to be submitted and that too code wise.

PDF format of the return forms are given in this notification but are not properly readable. Till writing of the newsletter (ie May 9, 2016), even templates are not available on website. It is expected that all practitioners and dealers in Maharashtra shall understand all these draconian changes and shall be able to file monthly returns for the month of April 2016 within due date of May 21, 2016.

10. Noti VAT / ADM 2016/ 1 B/ ADM – 8, extra ordinary no 18 dt Feb 24, 2016:

Return of tax deduction at source in Form 424 as per Rule 40 is amended for the return periods starting from Apr 1, 2016. It was already required to be filed electronically.

11. Noti VAT / ADM 2016/ 1 B/ ADM – 8, extra ordinary no 17 dt Feb 24, 2016:

Return of tax **collection** at source in Form 423 as per Rule 40A would be required to be filed electronically for the return periods starting from Apr 1, 2016. Return form also amended.

12. Noti VAT 1516/ CR-39(A)/ Taxation-1 dt Feb 29, 2016:

For goods covered by entry D-5 (High Speed Diesel Oil) and D-10 (Motor Spirits), higher rates of tax are prescribed for sales within certain Municipal Corporations such as Brihan Mumbai, Thane and Navi Mumbai. Nagpur was also included in the same for the period Mar 1, 2015 to Feb 29, 2016. It is extended for the period from Mar 1, 2016 to Feb 28, 2017.

13. Cir 7T of 2016 dt Feb 25, 2016: Changes in automation processes and procedures:

- Changes proposed wef May 1, 2016.
- Changes proposed regarding process of registration, returns, application for refunds, requisitions for CST declarations, audit, assessment and appeals etc.
- Billwise details of sales and purchases, sales and purchases returns, debit and credit notes etc are proposed to be provided for filing of returns.
- Provision for automatic disallowance of set off if seller does not show in his return.
- Present and proposed procedures and related things regarding registration, returns, assessment, refunds, appeals, CST declarations and enrolment of tax practitioners (including Chartered Accountants) with fees are detailed in the circular.

14. Cir 6T of 2016 dt Feb 23, 2016: Miscellaneous refund of excess payment of tax:

Further to Cir 17T of 2011 and 7T of 2013, if there is double payment of tax, dealer may apply to the Joint Comm. of Sales tax after the due date of filing of return for that period (need not wait for end of year as earlier). Such refund application shall be disposed on priority.

15. Noti VAT 1514/ CR-22/ Taxation 1 dt Feb 12, 2016:

Rule 61 of MVAT Rules prescribes category of banks for the purpose of obtaining bank guarantees. This notification provides for list of 17 private banks from whom bank



guarantees may be obtained. These include Axis Bank, HDFC, ICICI, Indusind, ING Vyasa etc.

16. Cir 5T of 2016 dt Feb 6, 2016: Guidelines for grant of refunds:

Further to Cir 22T of 2010 which gives detailed guidelines about issue of refund, this circular states that in case of certain class of dealers, refunds shall be processed and refunds shall be granted within 45 days from due date filing of VAT audit report or filing of Form 501 whichever is later.

Assessment of dealers where refund is less than Rs 1 crore and Form 501 is filed within time shall be completed on or before Dec 31 of next financial year. For eg, for FY 14-15, it shall be completed before Dec 31, 2016.

17. Cir 4T of 2016 dt Feb 5, 2016: Following relaxations are given regarding VAT registration documents as detailed in Cir 7T of 2015:

- If PAN is not available, details of PAN obtained from website of income tax department allowed.
- Instead of required pages of MOA or AOA, copy of Form DIR 12 or list of present directors obtained from MCA website and copy of certificate of incorporation issued by registrar of companies shall be sufficient.
- **Major relaxation: For proof of residence, three more documents allowed, viz, latest copy of MTNL/ BSNL bill; first page of savings bank passbook or certificate showing address of applicant issued manager of any NATIONALISED bank; latest copy of bill of domestic gas connection.**
- New clause added for place of business in case of online sellers working for online portals, copy of agreement with main company (online platform) shall be submitted.

18. Cir 3T of 2016 dt Jan 28, 2016: Due date of VAT audit for FY 2014-15 extended from Jan 15, 2016 to Jan 21, 2016. Accordingly, due date for submission of physical copy of acknowledgement and statement of submission of audit report is also extended to Feb 1, 2016.

19. Cir 2T of 2016 dt Jan 21, 2016: Applications for registrations under The Maharashtra Tax on Luxuries Act, 1987 and The Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 have to be manually. Documents required for registration are detailed in this circular.

20. Cir No 1T of 2016 dt Jan 1, 2016: Facility of e-filing of luxury tax return is made available wef Jan 1, 2016. It is currently optional and soon would be made compulsory. Pre-requisites and procedure is given in the circular.

21. Cir No 20T of 2015 dt Dec 31, 2015: Restructuring of Maharashtra Sales tax Department from functional divisions to nodal divisions.

Currently, work is divided amongst the officers on the basis of functionality. However, with immediate effect, single window system introduced. Every dealer shall be allotted a single officer, called nodal officer. He shall be responsible for all his functions, viz, registration, returns, follow up, audits, assessments, refunds, issue of C forms, cross checks, recovery etc. Officer wise dealer allocation is available on the website.



Departmental officers are in process of transferring the cases. However, officers have been instructed not to transfer partly heard cases and the cases time barring on or before Mar 31, 2016.

22. Noti VAT 1515/ CR – 169/ Taxation 1 dated Jan 2, 2016:

New schedule entry A-12B added wef Jan 2, 2016 in order to exempt drugs and medical equipments as notified used in dialysis for treatment of kidney disease.

23. Noti VAT 1515/ CR – 158/ Taxation 1 dated Dec 30, 2015:

New Rule 52B introduced wef Jan 1, 2016. Accordingly, dealer shall be entitled to claim set off on goods covered by Sch entries D-13 and D-14 (ie Aerated and carbonated non-alcoholic beverages and Cigar & cigarettes) shall be claimed in the month in which such goods are sold and it shall be restricted to

- CST liability in case of its interstate sales.
- Tax paid on purchases if such goods are resold locally.

This rule is not applicable in case of export of above goods out of territory of India.

From above, it is clear that, in case of dealers dealing in above goods, refund would not be possible. It would be very difficult to calculate set off as the same would be allowable in the month of its sale. In such case, how J1 and J2 would be match? This has given rise to many questions.

24. Cir No 19T of 2015 dt Dec 21, 2015: Downloading of digitally signed registration certificate.

Digitally signed VAT registration certificate and Profession tax Enrolment certificates shall be available for download for registration certificates granted on or after Dec 22, 2015. Procedure for download also given in the circular.

Existing system of sending physically signed copy of registration certificates shall also continue.

25. Cir No 18T of 2015 dt Nov 20, 2015: Rates of interest on taxes due have been linked to period of default. It is as below:

Period of default	Rate of interest
Upto one month	1.25% per month or part thereof.
Upto three months	1.25% pm for first month and 1.50% pm or part thereof thereafter.
More than three months	1.25% pm for first month; 1.50% pm for next two months; and 2.00% pm or part thereof thereafter.

These revised rates of interest are applicable from Dec 1, 2015. If the tax has become due before Dec 1, 2015 and default continues after Dec 1, 2015, then for period of default upto Dec 1, 2015, old rates (ie 1.25% pm) would be applicable and for the period of default after Dec 1, 2015, new rates as per slab which shall commence on Dec 1, 2015 shall be applicable.



If VAT audit for FY 2014-15 is finalized after Dec 31, 2015 and if there are any dues as per audit, 1.50% pm interest would be applicable for the month of January 2016. Upto Dec 31, 2015, 1.25% pm would be applicable.

However, such interest liability would be much more from the next financial year as period of default would be high.

26. Cir No 17T of 2015 dt Nov 7, 2015: Physical submission of statement of submission and Acknowledgement of Audit report in Form 704 for FY 2014-15.

Due date for submission of VAT audit report for FY 2014-15 is Jan 15, 2016. After uploading audit report, dealer shall upto Jan 25, 2016 submit Statement of Submission duly certified with signature, stamp, seal of the dealer with date and copy of acknowledgement generated after uploading of audit report duly certified with signature, stamp, seal of the dealer and Auditor with date.

In case of acceptance of recommendations of the auditor, the information about the tax and interest with revised returns shall be submitted by the dealer through online compliance when the facility of the CDA for FY 14-15 is made available.

Dealers are not required to submit the physical copies of challans of payments at the time of submission of documents as mentioned above.

27. Cir No 16T of 2015 dt Nov 4, 2015: Revision in VAT rates.

It provides for changes in tax rates on gold, precious stones etc, liquor, motor spirits, aerated water and cigarettes. It is already covered in earlier newsletter.

28. Cir No 15T of 2015 dt Oct 29, 2015:

Invoice, bill, cash memo should not be issued on thermal paper. It should be issued on such paper which can be preserved for 8 years.

INCOME TAX:

1. Payment of tax under IDS may be made in three instalments – 25% upto Sept 30, 2016, 25% upto Mar 31, 2017 and remaining 50% upto Sept 30, 2017.
2. Income Computation and Disclosure Standards ('ICDS') shall be applicable from AY 2017-18 and not from AY 2016-17 as stated earlier (CBDT press release dt July 6, 2016).
3. Noti No 9/2016 dt June 9, 2016 (related to Rule 29C): Clarification issued regarding due dates for quarterly uploading 15G/ H declarations on e-filing portal and manner of dealing with declarations received during Oct 1, 2015 to Mar 31, 2016.

Due dates from April 1, 2016 are as follows:

For quarter ending

June: July 15.

September: Oct 15.

December: Jan 15.

March: Apr 30.

Further, declarations received during Oct 1, 2015 to Mar 31, 2016 shall be uploaded on or before June 30, 2016.



However, vide Noti 10/2016 dt Aug 31, 2016, certain due dates have been extended as follows:

Scenario	Original due date	Extended due date
Form 15G/ H received during the period from Oct 1, 2015 to Mar 31, 2016	Jun 30, 2016	Oct 31, 2016
Form 15G/ H received during the period from Apr 1, 2016 to Jun 30, 2016	Jul 15, 2016	Oct 31, 2016
Form 15G/ H received during the period from Jul 1, 2016 to Sep 30, 2016	Oct 15, 2016	Dec 31, 2016

4. Cir No 23/2016 dt June 24, 2016: CBDT issued certain clarifications regarding Sec 206C. In case where bill amount is more than Rs 2 lacs and part payment less than Rs 2 lac is received in cash (remaining by cheque), then TCS would not be applicable. Further, where part payment in cash exceeds Rs 2 lacs, TCS @ 1% would be applicable on cash portion only and not on entire bill amount.
5. Cost inflation index for FY 2016-17 has been declared as 1125.
6. Noti No SO 637(E) dt Mar 1, 2016: E-filing of Income tax appeals has been made mandatory in certain cases wef Mar 1, 2016. If return is filed with digital signature, then appeal in Form 35 should also be filed with digital signature. If return is filed electronically (without digital signature), then appeal would be filed electronically with EVC. If assessee has an option to furnish return in paper form, then appeal may be filed either electronically or in paper form.

However, since required utilities were not available on website, due date of filing has been extended upto June 15, 2016.

7. Due date for filing of TDS returns is extended by 15 days wef June 1, 2016. Changed due dates are:

For quarter ending

June: July 31.

September: Oct 31.

December: Jan 31.

March: May 31.

8. **Very important amendment:** Quoting of PAN has been made mandatory in many cases. Rules 114B (Quoting of PAN), 114C (Obtaining and verification of PAN/ Form 60) and 114D (Reporting of Form 60) have been amended wef Jan 1, 2016 and Rule 114E (Furnishing of statement of financial transaction) has been amended wef Apr 1, 2016 vide Noti No 95/2015 - SO 3545(E) dated Dec 30, 2015.

Requirement of obtaining and reporting PAN mainly includes in case of sale of goods or services in cash of more than Rs 2 lacs per transactions.



Form 60 received during the half year are to be reported in Form 61 six monthly before Apr 30 and Oct 31.

Financial transaction as per Rule 114E need to be reported annually in Form 61A (with digitally signed) before May 31. Penalty of Rs 100 per day for non furnishing of the same is applicable.

Among other things, cash receipts exceeding Rs 2 lacs against sale of goods or services need to be reported under rule 114E by person who is liable for audit u/s 44AB. In our opinion, this limit is applicable for per transaction and not for the entire financial year.

9. Noti No 4/2015 dt Dec 1, 2015 is regarding simplification of procedure for Form 15G and 15G, its furnishing and generation of UIN (unique identification number).

10. Cir No 6/2016 dt Feb 29, 2016: Clarification regarding whether income from sale of listed shares and securities is capital gain or business income. If assessee opts to treat them as stock-in-trade, income would be business income. If those are held for more than 12 months and if assessee desires to treat income as capital gain, then AO shall not dispute the same.

11. Budget 2016 (February) highlights:

Following are the important amendments in Income tax as per Union Budget 2016:

- No change in basic exemption limit. However, relief for small tax payers (ie taxable income upto Rs 5 lacs): Rebate u/s 87A increased from Rs 2000 to Rs 5000.
- For persons who live in rented accommodation and who do not get HRA (including businessmen), deduction of house rent u/s 80GG increased from Rs 24000 to Rs 60000 per annum.
- Additional deduction of Rs 50,000 on account of interest on loan for purchase of house property in case of purchase of 1st house of not more than Rs 50 lacs and loan amount should not be more than Rs 35 lacs. Sec 80EE.
- Redemption by an Individual of Sovereign Gold Bond issued by RBI under Sovereign Gold Bond Scheme, 2015 shall not be charged to capital gains. For all other persons benefit of indexation would be available (Sec 47 and 48 amendment)
- Interest earned on Deposit Certificates issued under Gold Monetisation Scheme, 2015 and capital gains arising from them shall be exempt from tax. (Sec 2(14) and 10(15) amendment).
- Limit of turnover for presumptive taxation raised from Rs 1 crore to Rs 2 crore in case of business. Declare profit equal to or more than 8%, audit not required. Separate deduction of interest and salary to partners which was erstwhile available shall not be available from FY 2016-17. Thus, direct tax liability of 2.47% of gross sales. Also, there might be claim by the department that eligible interest and salary would be additionally taxable in the hands of the Partners. Thus, in a way it is saying that if you are a partnership firm, get your books of accounts audited.
- In case of profession, turnover for presumptive taxation raised from Rs 25 lacs to Rs 50 lacs. Declare profit equal to or more than 50%, audit not required. Separate deduction of interest and salary to partners which was erstwhile available shall not



be available from FY 2016-17. Thus, direct tax liability of 15.45% of gross sales. Also, there might be claim by the department that eligible interest and salary would be additionally taxable in the hands of the Partners. Thus, in a way it is saying that if you are a partnership firm, get your books of accounts audited.

- Rate of STT on share transactions proposed to be increased from 0.017% to 0.05%. It is increase by 3 times of current rate.
- Currently, dividend received is fully exempt from tax as companies pay DDT. However, now, if dividend received exceeds Rs 10 lacs by individuals, HUFs and firms, additional tax @ 10% of gross dividend received shall be payable. Sec 115BBDA.
- Period for LTCG in case of unlisted shares reduced from 3 years to 2 years.
- Lower income tax rate @ 29% plus SC plus cess for small companies having turnover less than Rs 5 crore in FY ending Mar 31, 2015.
- There was proposal to tax EPF and NPS receipts partially (in excess of 40%). But it is understood that it is withdrawn.
- 100% Tax holiday for any 3 out of first 5 years for startups. However, MAT would be applicable. Sec 80IAC. Startup means entity upto five years of its incorporation/ registration, having turnover less than Rs 25 crore in any year and it is working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.
- VDIS proposed @ total of 45% tax. 30% tax, 7.50% surcharge and 7.50% penalty.
- Weighted deduction u/s 35 for expenditure on scientific research and 35AD – investment linked deductions for certain units brought to 100% wef FY 2016-17.
- Sec 35AC for deduction for expenditure on social projects proposed to be removed from financial year 2017-18.
- In capital gains, there is exemption based on investments. Sec 54EE is added to provide that long term capital gain can be invested in long term specified asset, ie, unit or units issued before Apr 1, 2019 of such fund as may be notified by the Central Govt. Maximum investment allowable is Rs 50 lacs.
- Under existing Sec 54GB, deduction from long term capital gain arising from sale of residential house property is available if it is invested in subscription shares of an eligible company. It is available till March 31, 2017. It is amended to provide that in case of investment in start ups, this benefit would be extended till March 31, 2019.
- Amount received by nominee on death of person from closure or opting out of pension scheme of Central Govt would be taxfree. Proviso Sec 80CCD(3).
- New Sec 80IBA: 100% of profit is deductible in case of specified housing scheme. Main conditions are: it should be approved during June 1, 2016 to Mar 31, 2019, minimum plot area is 2000 sq mt, max residential unit size 60 sq mt (in non metro), completion should be within 3 years of approval, completion certificate is must. There are few more conditions which I avoid to discuss in detail. (Page 16-17 of Budget book).



- Deduction on account of employment to new workmen u/s 80JJAA amended. Lots of conditions are attached. So, it seems only organized sector would have its benefits.
- Sec 115BA: Option to pay tax @ 25% (instead of 30%) to manufacturing companies registered on or after March 1, 2016 subject to certain conditions as specified.
- New Sec 115BBF: Income by way of royalty in respect of a patent developed and registered in India shall be taxable at a flat rate of 10% of royalty received. MAT would not be applicable. Assessee should be true and first owner of patent and receipt should not be on account of sale of patent or on account of sale of product by using the patent.
- New Chapter XII-EB added regarding special provisions relating to tax on accreted income of certain trusts and institutions. Heavy taxation is proposed if subsequently trust does not remain eligible for various benefits. Eg Sec 12AA registration not complied later, then entire accreted income (at current market value) would be taxable at MMR.
- Very important amendment in Sec 139(4). Till FY 15-16, returns can be filed upto end of two years. But from FY 16-17, returns shall be allowed to be filed only upto end of one year. Eg for FY 16-17, upto Mar 31, 2018.
- However, even return filed u/s 139(4) may be revised upto one year from the end of relevant assessment year. Till now, only return filed within time u/s 139(1) was allowed to be revised.
- Another imp amendment in Sec 139(9): Return filed without payment of taxes due as per return shall not be defective return.
- Intimation u/s 143(1) is now allowed to consider disallowances as per audit report, incomes as per 26AS, disallowance of loss if return not filed within time limit u/s 139(1) etc. however, this will be subject to opportunity of 30 days be given to assessee for giving reply. Opportunity may be given in writing or electronic mode also.
- Important amendments in TDS

Section	Head	Existing threshold limit (Rs)	Proposed threshold limit (Rs)
194C	Payment to contractors	Annual 75,000	Annual 1,00,000.
194D	Insurance commission	20,000	15,000
194G	Commission of sale of lottery tickets	1,000	15,000
194H	Commission or brokerage	5,000	15,000

Section	Head	Existing rate (%)	Proposed rate (%)
194EE	Payment in respect of NSS deposits	20	10
194D	Insurance commission	10	5
194G	Commission of sale of lottery	10	5



	tickets		
194H	Commission or brokerage	10	5

Amendment in Sec 197(1A): Form 15G/ H may be given for rent income also. Till now, it was not allowed.

- TCS @ 1% of purchase of luxury car exceeding value Rs 10 lacs. Also, TCS @ 1% in case of cash sale of any goods or services exceeding Rs 2 lacs (it was till now applicable only for jewelers).
- Advance tax: Till now advance tax was to be paid in 3 installments for non-corporate assessees. But now, it will be in four installments as below:

Due date	Amount payable
Upto June 15	15%
Upto Sep 15	45%
Upto Dec 15	75%
Upto Mar 15 (upto Mar 31 also allowed)	100%

Even assessees covered u/s 44AD would be required to pay full advance tax by Mar 15 (or Mar 31). Installments are not applicable to them. Till now, advance tax provision was not applicable to them.

- Appeal effect shall be given within 3 months. Otherwise additional 3% (ie total of 9%) interest would be received and concerned officer shall be responsible for the delay.
- In an effort to digitize the processes, it is provided that Notices and documents may be issued by IT department in electronic mode also.
- Disallowance u/s 14A will be limited to 1% of the average monthly value of investments yielding exempt income but not exceeding actual expenditure claimed under rule 8D.
- PF contribution by employer for an employee not to exceed Rs 1.50 lacs per annum. Rule 6 of Fourth Schedule to Income tax Act.
- There are some important changes in penalty provisions from AY 2017-18. Penalty on under-reporting of income would be 50% under newly inserted Sec 270A. However, it would be 200% in case of misreporting of income. Misreporting of income is defined.

Also, immunity from imposition of penalty is provided under newly inserted Sec 270AA. Accordingly, where assessee pays tax and interest within time allowed in assessment order and does not prefer an appeal, penalty shall prosecution proceedings would not be initiated.

- Excise duty on articles of jewellery (other than silver jewellery) @ 1% levied.
- Excise duty of 2% without input credit or 12.5% with input credit on branded readymade garments.
- Rate of service tax shall be 15% wef June 1, 2016 due to addition of Krishi Kalyan Cess @ 0.5%.



12. Amendment in Rule 114B wef Jan 1, 2016:

PAN to be obtained in case of sale of more than Rs 2 lacs per transactions and reporting such transactions annually in Form 61. Otherwise penalty of Rs 100 per day.

Similarly, furnishing of PAN would be required for –

- Opening of bank account (other than savings account),
 - Purchase of motor vehicle other than two wheeler,
 - Payment of hotel bill exceeding Rs 50,000 in cash,
 - Payment in connection with foreign travel of purchase of foreign currency exceeding Rs 50,000 in cash,
 - Time deposit of more than Rs 50k per day or Rs 5 lacs during financial year,
 - Payment of life insurance premium exceeding Rs 50k in a financial year,
 - Sale or purchase of immovable property exceeding Rs 10 lacs.
 - Also, on some other transactions as specified.
- Form 15G/ H received by the deductor would have to be electronically filed by him. Also, Form 15G/ H are amended to some extent.

13. Direct and Indirect tax Dispute Resolution Scheme is introduced wef June 1, 2016. Scheme ends on Sept 30, 2016.

SERVICE TAX:

1. Krishi Kalyan Cess ('KKC') @ 0.5% imposed wef June 1, 2016. Input tax credit of KKC shall be available for payment of this cess. Cenvat credit of KKC shall be available only for payment of KKC.

KKC needs to be charged separately in the invoice.

2. Noti 35/2016 dt June 23, 2016: If service is completed and invoice is issued on or before May 31, 2016, KKC would not be applicable.
3. Noti No 22/ 2016 dt Apr 13, 2016 has made certain amendments to Mega Exemption Notification No 25/ 2012 dt June 20, 2012.
4. Provision for annual service tax return introduced. Due date is Nov 30 and it is applicable from the financial year 2015-16.
5. Due date of filing service tax return for half year ending March 31, 2016 is extended from April 25, 2016 to April 29, 2016.
6. E-payment of service tax (irrespective of amount) is mandatory wef Oct 1, 2014.
7. Noti No 22/ 2015 - ST dt Nov 6, 2015: Swachh Bharat Cess @ 0.5% imposed wef Nov 15, 2015.
8. Order No 1/2015 – Service tax dated Feb 28, 2015: It provides list of documents and information required for new registration under Service tax and also the related procedure. It states that PAN, Mobile No and E-mail address are compulsory fields and



registration would be granted within 2 days of online application. For list of documents and procedure, please refer the order mentioned above.

COMPANIES ACT AND LLP:

1. HUF cannot be partner in partnership firm but its karta or any individual of HUF can be partner in individual capacity – MCA clarification dated May 27, 2016.
2. MCA Order No SO 1228(E) dt Mar 29, 2016: Applicability thresholds of CARO for private companies have been relaxed. Accordingly, CARO is not applicable to a private limited company, not being a subsidiary or holding company of a public company, having a paid up capital and reserves and surplus not more than rupees one crore as on the balance sheet date and which does not have total borrowings exceeding rupees one crore from any bank or financial institution at any point of time during the financial year and which does not have a total revenue as disclosed in Scheduled III to the Companies Act, 2013 (including revenue from discontinuing operations) exceeding rupees ten crore during the financial year as per the financial statements.

However, certain additional reporting requirements for holding of title of fixed assets, physical verification of inventories, related party transactions etc. any many more have been added. These would be applicable to audit reports for the financial years commencing on or after Apr 1, 2015.

OTHERS:

1. **Stamp duty and registration fees:** Sch 1 of Art 34 of Maharashtra Stamp Act, 1958 was amended vide GOM, Special Gazette No 47 of Part 8 on Apr 24, 2015. Also, Noti No RGN-2016/511CR-111M-1 dt Mar 31, 2016 u/s 78 of the Registration Act, 1908 was issued. Accordingly, **Gift deed for residential and agricultural property** in favour of husband, wife, son, daughter, grandson, grand-daughter would attract stamp duty of Rs 200 and registration fees of Rs 200 only. This is effective from April 1, 2016. Gift within the family for commercial and other relatives still continue to be 2% of market value.
2. Premature closure of PPF account is now possible after 5 years on account of treatment of serious diseases or higher education. Noti dt June 18, 2016.

Disclaimer:

All efforts have been made to ensure completeness of data. However, readers are advised to confirm from their own sources also. Further, interpretations given above are our personal opinions at M/s Umesh Agrawal and Associates. We are not responsible for any loss arising due to the above information.

