

NEWSLETTER – DEC 2016

IMPORTANT UPDATES IN MVAT, CST AND PROFESSION TAX

1. Noti No VAT 1516/ CR 178/ Taxation-1 dt Dec 28, 2016 and Cir 1T of 2017 dt Jan 2, 2017:

Sec 20(6) provides for late fee for filing of belated VAT returns. Noti No VAT 1513/ CR 124/ Taxation-1 dt Jan 1, 2014 provides for certain situations where late fee would not be levied or it would be levied at lesser amount. This notification amends the notification to provide for relief in late fee as follows:

If any return is not filed for any of the periods upto March 31, 2016, then those may now be filed without late fee, if those returns are filed at any time between Jan 1, 2017 to Jan 31, 2017.

Similarly, the above returns may be filed on payment of late fee of Rs 2,000/- if those returns are filed at any time between Feb 1, 2017 to Feb 28, 2017.

2. Noti No VAT 1514/ CR-22/ Taxation-1 dt Dec 22, 2016: Noti No VAT 1514/ CR-22/ Taxation-1 dt Feb 12, 2016 provided for following list of private banks from whom Bank Guarantee may be allowed for the purpose of Rule 61.

- Axis Bank
- City Union Bank Ltd.
- Development Credit Bank Ltd.
- Federal Bank Ltd.
- HDFC Bank Ltd.
- ICICI Bank Ltd.
- IndusInd Bank Ltd.
- ING Vyas Bank Ltd.
- Jammu and Kashmir Bank Ltd.
- Karnataka Bank Ltd.
- Karur Vyasay Bank Ltd.
- Kotak Mahindra Bank Ltd.
- Lakshmi Vilas Bank Ltd.
- Ratnakar Bank Ltd.
- South Indian Bank Ltd.
- Tamilnadu Mercantile Bank Ltd.
- Yes Bank Ltd

This notification now provides that **IDFC Bank** shall also be allowed wef Dec 22, 2016.

3. Noti No. SAD 1516/CR 155/Taxation-1 dt Nov 19, 2016: 50% of the dues under Maharashtra Settlement of Arrears in Disputes Act, 2016 are to be made upto Nov 30, 2016 and remaining 50% upto Dec 31, 2016. Proof of payment shall be deemed to have been submitted on the date of payment.
4. Another ordinance to amend Maharashtra Settlement of Arrears in Disputes Act, 2016 issued on Nov 17, 2016. Applicability of act extended to Nov 30, 2016.
5. Noti VAT.1516/ CR 153/ Taxation 1 dt Nov 12, 2016: Rule 45A amended to provide that payment of tax, interest etc shall be allowed in specified bank notes (ie erstwhile 500 and 1000 rupee notes) wef Nov 12, 2016.
6. Another ordinance to amend Maharashtra Settlement of Arrears in Disputes Act, 2016 issued on Sep 30, 2016. Applicability of act extended to Nov 15, 2016.
7. An ordinance to amend Maharashtra Settlement of Arrears in Disputes Act, 2016 issued on Sep 17, 2016.



8. Noti VAT.1516/ CR 123/ Taxation 1 dt Sep 16, 2016:

- **In Schedule C, VAT rates increased from 5.50% to 6% wef Sept 17, 2016. All goods in Schedule C where earlier VAT rate was other than 5.50% remain unchanged.**
- **In Schedule E, VAT rates increased from 12.50% to 13.50% wef Sept 17, 2016.**
- Tax rate on Any Other Kind of Motor Spirits covered by Sch entry D-10(a) increased from 26% plus Four Rupees Fifty Paise per litre to 26% plus Six Rupees per litre wef Sep 17, 2016.
- Tax rate on Any Other Kind of Motor Spirits covered by Sch entry D-10(b) increased from 25% plus Four Rupees Fifty Paise per litre to 25% plus Six Rupees per litre wef Sep 17, 2016.

9. Noti VAT.1516/ CR 99/ Taxation 1 dt Sep 6, 2016:

All liquor dealers (manufacturer, importer, wholesaler, retailer, bar etc) are now required to incorporate Certificate A, B, C or D as applicable as a declaration in their sale bills.

10. Noti VAT.1516/ CR 86/ Taxation 1 dt Aug 6, 2016:

- New sub rule (1B) inserted in rule 17A to provide for issuance of any order, certificate, notice or intimation as may be notified from time to time which would be in electronic form with digital signature.
- New sub-rule (1A) inserted in Rule 21: Intimation in Sec 23(5A) shall be in Form 604B.
- New rule 21A inserted with retrospective effect from Apr 1, 2011. Fair market price for the purpose of Sec 28A shall be minimum of 50% of MRP in case of manufacturers or importers of liquor covered by Sch entry D-1, D-2, D-3A.
- Confirmation order u/s 23(5A) shall be in Form 303.

11. Noti VAT 15-16/ CR 85/ Taxation 1 dt Aug 8, 2016: Amendment in Rule 52A and 83A relating to Mega Units.

12. Cir 38T of 2016 dt Dec 30, 2016: Grant of administrative relief to dealers registered after May 25, 2016.

Accordingly, if a dealer was liable to apply for registration due to crossing of turnover or due to death, transfer of business etc during the period from May 4, 2016 to Jun 30, 2016 but he applied within Jul 31, 2016, then his registration would be effective from the date of crossing of turnover, death, transfer of business etc.

In case of voluntary registration, if requisite fee and security deposit is paid between May 4, 2016 to Jun 30, 2016 and he applied for registration within Jul 31, 2016, then registration shall be effective from date of payment of fee or deposit, whichever is later.

Similar administrative relief is also provided for CST and Maharashtra Tax on Luxuries Act. This relief is provided because departmental website was down during May 4, 2016 to May 24, 2016 and even after it went live, there were some technical problems.

13. Cir 37T of 2016 dt Nov 25, 2016: CDA reports for FY 2013-14 generated by the department. CDA findings shall be available from Nov 21, 2016 and are also



communicated to e-mail id available with the department. CDA compliance is to be made on or before Dec 20, 2016.

14. Cir 36T of 2016 dt Nov 21, 2016: Due dates for filing VAT returns further extended as follows:

Return type	Start date	Last date for uploading
Monthly returns Apr 2016 to Oct 2016	-	Nov 30, 2016
Quarterly return for Apr 2016 to Jun 2016	Nov 26, 2016	Dec 10, 2016
Quarterly return for Jul 2016 to Sep 2016	Jan 2, 2017	Jan 21, 2017

15. Cir 35T of 2016 dt Nov 12, 2016: Existing dealers under MVAT, CST, Entry tax, Luxury tax are required to enroll themselves for Goods and Service Network (GSTN) between Nov 15, 2016 to Nov 30, 2016.
16. Cir 34T of 2016 dt Nov 2, 2016: Due date for filing of monthly returns for the period from Apr 2016 to Sep 2016 extended upto Nov 15, 2016. If someone has paid late fee because return is filed subsequent to due date specified in Cir 22T, then he may revise the return and claim it as excess carry forward.
17. Cir 33T of 2016 dt Oct 27, 2016: e-returns for dealers registered under the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002.
18. Cir 32T of 2016 dt Oct 27, 2016: First phase of e-payment under SAP-TRM new automation process goes live from Nov 2, 2016. Payments and returns for the periods upto Mar 31, 2016 to be made under existing system. Dealers registered during Apr 1, 2016 to May 24, 2016 have option to use old or new system. Dealers registered from May 25, 2016 to use new system now.

Procedure for making e-payment under new system explained.

19. Cir 31T of 2016 dt Oct 1, 2016: Last date for application under Maharashtra Settlement of Arrears in Dispute Act, 2016 extended from Sep 30, 2016 to Nov 15, 2016. However, extension is not given for profession tax (PTEC). Also, some clarifications regarding credit of taxes and penalty related to filing of audit report in Form 704.
20. Cir 30T of 2016 dt Oct 1, 2016: Due date for filing refund application in Form 501 for FY 2014-15 extended from Sep 30, 2016 to Oct 8, 2016.
21. Cir 29T of 2016 dt Sep 29, 2016: Special amnesty scheme for closed and sick units extended for the period from Apr 1, 2016 to Mar 31, 2017.
22. Cir 27T of 2016 dt Sep 21, 2016: Amendment in Maharashtra Settlement of Arrears in Dispute Act, 2016 ('MSAD Act').
23. Cir 26T of 2016 dt Sep 8, 2016: Grant of administrative relief to developers: In continuation of earlier circulars 14T of 2012, 17T of 2012 and Internal cir 4A of 2015, it is clarified that if builder/ developer has complied with all the conditions but has paid compounding fees later on (ie after Nov 30, 2012) shall also be considered for administrative relief.



24. Cir 25T of 2016 dt Sep 7, 2016: Facility to upload application for VAT registration as per Cir 23T of 2016 from e-Seva Kendras extended to Return, e-Payment and e-CST declarations. The dealer shall have to pay the charges prescribed by Mahaonline.
25. Cir 24T of 2016 dt Sep 3, 2016: Clarifications under Settlement of Arrears in Disputes Act, 2016 on condition of stay, proof of withdrawal of appeal, penalty order u/s 61(2) and obligation to submit audit report in Form 704.
26. Cir 23T of 2016 dt Sep 2, 2016: Facility to upload application for VAT registration shall be available from e-Seva Kendras, list of which is available on mahaonline.gov.in. It shall be available at cost to be decided by Director (IT) Maharashtra.
27. Corrigendum to Cir 22T of 2016 dt Aug 30, 2016:
- Dealers who did not have interstate sales were exempted from filing CST returns. This exemption is now withdrawn for the return periods starting April 1, 2016.
 - **Henceforth, every dealer who is registered under CST return and whose sale is Nil shall have to select CST return alongwith MVAT return form in the header sheet. After validation, blank CST form shall be generated. If this is not done, late fee under CST would be applicable.**
28. Cir 22T of 2016 dt Aug 26, 2016: Return filing in new automation process and changes in procedure. This is applicable for return periods starting April 1, 2016.
- Utility of e-filing to get activated from Aug 29, 2016.
 - No separate CST return. Details to be included in the same template.
 - Details of sales and purchases in Annexures J1 and J2 not to be given.
 - Dealers required to file invoice wise purchase and sales annexures. **Transaction type is most important thing that needs to be mentioned against every transaction related to sale or purchase.**
 - **Also, return form type to be mentioned against each sale/ purchase invoice.**
 - Full composition dealers to file purchase annexures only. Sales annexure not required.
 - Instructions covered related to non admissibility of set off u/r 52A, 52B and 53(11).
 - Detailed instructions relating to many other aspects including goods return are given in the circular.
 - In case of late return, e-filing shall be possible only after payment of late fee.
 - For the purpose of payment of taxes, due date was same as earlier. So, taxes should have been already paid. If taxes are paid now, applicable interest u/s 30(2) shall be calculated.
 - Extended due dates for filing of returns are as below:

Monthly returns:

Month	Start date	Extended due date for uploading
April 2016	Aug 29, 2016	Sept 26, 2016
May 2016	Sept 6, 2016	Oct 5, 2016
Jun 2016	Sept 12, 2016	Oct 11, 2016
July 2016	Sept 16, 2016	Oct 15, 2016
Aug 2016	Sept 20, 2016	Oct 20, 2016
Sept 2016	Oct 1, 2016	Oct 31, 2016

(Extended date for Sept 2016 is as per Corrigendum to Cir 22T dt Aug 30, 2016)



Quarterly returns:

Quarter	Start date	Extended due date for uploading
April to June 2016	Oct 26, 2016	Nov 30, 2016
July to Sep 2016	Nov 26, 2016	Dec 31, 2016

29. Cir 21T of 2016 dt Aug 24, 2016: Procedure for e-filing of application in Form I, declaration (compulsory) and other documents is explained in details and FAQ on Settlement of Arrears in Disputes Act, 2016.
30. Internal Cir 10A of 2016 dt Aug 22, 2016: Returns from the month of April 2016 are not being uploaded upto Aug 29, 2016 due to technological reasons. Therefore, dealers were facing problems for getting statutory forms. This circular specified stop gap arrangement for getting statutory forms during that period. Accordingly, the issuing officer shall obtain summary of interstate purchases by e-mail, check for the taxes paid for the period, compare the requirement of statutory forms requirement of earlier year and accordingly shall issue the forms.
31. Cir 20T of 2016 dt July 19, 2016: FAQ on Settlement of Arrears in Disputes Act, 2016.
32. Cir 19T of 2016 dt Jun 30, 2016: FAQ on Settlement of Arrears in Disputes Act, 2016.
33. Cir 18T of 2016 dt May 24, 2016: Go Live of SAP based new registration functionality.

This circular gives information about free billing software, changed procedure because of new SAP based registration, transition issues related to registration and about help from officers.

Since registration functionality was suspended during May 4, 2016 to May 24, 2016, all the registration applications that were due between these dates shall be treated as within time if application uploaded before June 10, 2016.

34. Cir 17T of 2016 dt May 9, 2016: Taxpayer friendly initiatives.

One day of the week, viz, Wednesday (2 pm to 5 pm) is designated as Taxpayer's Day wherein Zonal/ Divisional/ Unit heads of all offices will meet the taxpayers/ other stake holders in their chambers without any prior appointment in order to address their grievances relating to Sales Tax expeditiously.

Further, Service Cell meeting of all dealers and their representatives will be held on first Saturday of every June, Sept, Dec and March at all the divisional levels.

35. Cir 16T of 2016 dt May 9, 2016: Unique id in the form of Tax Identification Number. Ref Cir 37T of 2005.

It is a clarificatory circular which states that concept of Unique TIN (first two digits for state, next two digits as check digits, next seven digits as running serial no and last alphabet as statute code) is equally applicable to PTRC dealers under Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 and Maharashtra Purchase Tax on Sugarcane Act, 1962.

From the above circular, it appears that unique id as required by DIC is nothing but the TIN of the dealer.



36. Cir 15T of 2016 dt May 9, 2016: Documents required as proof of permanent place of residence for the purpose of registration. Ref Cir 4T of 2016 and 7T of 2015.

As per Cir 7T of 2015, as proof of residence, two documents were required out of the list of 10 documents given. Out of this, one document had to be (vi) to (x). Subsequently, Cir 4T of 2016 increased the list to total of 13 documents. Vide this circular, the mandatory condition of obtaining any one of (vi) to (x) is relaxed. Now, the dealer may upload any two of the 13 documents allowed as proof of residence.

37. Annexure Cir 10A to Cir 10T dt May 3, 2016: Forms for the purpose of Maharashtra Settlement of Arrears in Disputes Act, 2016 (MSAD Act) have been prescribed. Detailed forms given in this circular. Those are as follows:

Form I	Application for settlement of arrears in dispute
Form II	Form of Defect notice
Form III	Appeal against the order of rejection
Form IV	Order of settlement
Form V	Notice for rectification of mistakes
Form VI	Application for rectification of mistakes
Form VII	Order of revocation
Form VIII	Notice of review u/s 11 of MSAD Act

38. Noti VAT 1516/ CR 77/ Taxation 1 dt May 31, 2016: Increase in VAT on Petrol/ Diesel etc:

- Tax rate on Any Other Kind of Motor Spirits covered by Sch entry D-10(a) increased from 26% plus Three rupees per litre to 26% plus Four Rupees Fifty Paise per litre wef Jun 1, 2016.
- Tax rate on Any Other Kind of Motor Spirits covered by Sch entry D-10(b) increased from 25% plus Three rupees per litre to 25% plus Four Rupees Fifty Paise per litre wef Jun 1, 2016

INCOME TAX:

1. CBDT extends deadline for Direct Tax Dispute Resolution Scheme from Dec 31, 2016 to Jan 31, 2017.

2. Taxation Laws (Second Amendment) Bill 2016:

- No change in Sec 270A.
- Tax on unexplained investments etc u/s 115BBE: 60% plus surcharge of 25% of tax (ie effective 15%). Thus, total of 75% plus optional penalty of 10% (Sec 271AAC). Thus, it may land upto 85%.
- Accounted and explained Gold shall not be taxable. Also, gold upto 500 gm per married lady, 250 gm per unmarried lady and 100 gm per male member shall be taken liberally (as per Govt clarification dt Dec 1, 2016).

3. Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (PMGKY):

- Applicable from the date as may be notified (after receiving assent of the President)
- One type of IDS but only for cash deposits now.
- Tax: 30%
- Pradhan Mantri Garib Kalyan Cess @ 33% of tax: 9.90%
- Penalty @ 10% of undisclosed income: 10%
- Total: 49.90%



- Deposit 25% of undisclosed income in deposit scheme to be notified. It will be interest free.
 - Remaining 25.10% shall be available with the assessee.
 - Above is applicable if assessee declares on his own. If such addition is found during assessment then, revised provisions of Sec 115BBE would be applicable.
4. Amendment in Rule 114B: Compulsory quoting of PAN in case cash deposit is more than 50k in a single day or aggregating more than Rs 2.50 lac during Nov 9, 2016 to Dec 30, 2016.
 5. Amendment in Rule 114E: Filing of AIR report u/s 285BA on account of cash deposit of more than Rs 12.50 lakhs in current account or Rs 2.50 lakhs in other account (other than current account) during Nov 9, 2016 to Dec 30, 2016. It means even loan accounts would be covered.
 6. Currencies of denomination of 500 and 1000 stand withdrawn from midnight of Nov 8, 2016 (ie wef Nov 9, 2016). New notes of Rs 2000 and 500 introduced.
 7. CBDT Circular No 36 of 2016. F. No. 225/ S8/ 2016 – ITA II dt Oct 25, 2016: Compensation received against compulsory acquisition of agricultural land is exempt u/s 10(37) of Income tax Act if certain conditions are fulfilled. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('RFCTLARR Act') provided that compensation received under this Act would be exempt from income tax. This had created confusion whether compensation received is exempt or not for non agricultural land or agricultural land where conditions of Sec 10(37) of IT Act are not fulfilled. **This circular clarifies that even if there is no express provision under Income tax Act, compensation received u/s 96 of RFCTLARR Act shall be exempt from tax whether the land is agricultural land or non agricultural land.**
 8. For assessment year 2016-17 (ie FY 2015-16), for assesses whose due date for filing of returns was Sept 30, 2016 has been extended to Oct 17, 2016 vide order u/s 119 dated Sept 9, 2016. Accordingly, due date for audit u/s 44AB also stands extended.

SERVICE TAX:

1. **Service Tax on AC Restaurants is unconstitutional: Kerala HC. 75 taxmann.com 272 [2016]. Levy of service tax on Air Conditioned Restaurants is unconstitutional since when food is supplied as part of any service, such transfer would be deemed as sale. Thus, there is no component of service which could be charged to service tax when food is supplied by Air Conditioned Restaurant**
2. Noti 43/ 2016 – Service tax dt Sept 28, 2016: Service tax return form ST-3 amended to include details of Krishi Kalyan Cess and some more details. It is applicable from the return periods ending Sept 30, 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.

