TAXCONNECT

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TAX CONNECT

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EDITORIAL

Friends,

With a heated debate on in Parliament over the government's demonetization move, the Centre is likely to introduce the Central GST and integrated GST Bills in late November or early December in the ongoing session in the form of money Bills, a move that may draw flak from the Opposition. The GST Council, a body having representation from the Centre and states, will discuss these Bills on November 24 and 25.

The debate of introduction of a bill as a money bill or a financial bill is going on since quite sometime, hence **the following is a small insight into the difference of a money bill and a financial bill**

Every bill which has provisions related to financial matters is a Financial Bill. There are three kinds of Financial Bills in Indian parliament viz. Money Bills, Financial Bills category-I & Financial Bill category-II. This simply implies that all money bills are financial bills, but all financial bills are not money bills. Only those financial bills which contain provisions exclusively on matters listed in article 110 of the constitution are called Money Bills.

On this basis, a bill is money bill if it results in imposition, abolition, remission, alteration or regulation of any tax at union or state level but NOT at local level. Question of whether a financial bill is money bill or not, is decided by Speaker. Such bill needs to be endorsed by Speaker when passed by Lok Sabha and sent to Rajya Sabha.

Once a money bill is passed in Lok Sabha, it is transmitted to Rajya Sabha for its consideration. But Rajya Sabha has limited powers in this context. It can neither reject nor amend the money bill. It can make only recommendations and has to return the bill with or without recommendations to Lok Sabha in 14 days. The Lok Sabha may or may not accept the recommendations of Rajya Sabha. Whether or not accepted those recommendations, thus returned bill is considered passed in both houses. If Rajya Sabha does not even return the bill in 14 days, it is considered passed in both houses. There is no question of joint sitting in case of money bills because opinion of Rajya Sabha is immaterial in their case.

Just to reiterate that we remain available over a telecom or e-mail.

Truly Yours

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SYNOPSIS

SYSTEM REQUIREMENTS FOR USAGE OF DIGITAL SIGNATURE CERTIFICATE AND FOR ACCESSING THE GST COMMON PORTAL

System Requirements for Usage of Digital Signature Certificate

- Desktop Browser: Internet Explorer 10+ or
  : Chrome 49+ or
  : Firefox 45+

- Valid class 2 or class 3 Digital Signature Certificate (DSC) obtained from a DSC provider.

Note:

I. GST Common Portal supports only Crypto Tokens installed in Hard Tokens for DSC Registration.

II. II. For Hard Token based certificates, please refer user manual provided by Certifying Authority for certificate download, enrolment and usage of Hard Token.

- Signing using DSC is not supported on mobile devices and browsers.

System Requirements for Accessing the GST Common Portal

- Desktop Browser : Internet Explorer 10+ or
  : Chrome 49+ or
  : Firefox 45+

- Besides the above on browser compatibility following should not be disabled:

I. **Cascading Style Sheet (CSS) -** used to render User Interface look and feel of the portal, Disabling this will not provide appropriate user experience.

II. **Java Script -** used to provide enhanced user experience in using User Interface controls. Disabling this will not allow user to perform any transaction in the portal.

III. **Cookie -** used to store personalized information of user. Disabling this will not allow user to login and perform any transaction in the portal.

- Pre-requisites for installing Web socket installer

: Firefox 45+

- Windows 32 / 64 bit OS
- Java 1.6 JRE 1.6.0_38+, Java 1.7, Java 1.8
- Windows: Admin access to install the emSigner component
- Any one of the following ports should be free
  - 1645
  - 8080
  - 1812
  - 2083
  - 2948

TAX CALENDAR

O00Due date	COMPLIANCES FROM 20th Nov, 2016 to 26th Nov, 2016	State/Region
20th Nov, 2016	Deposit of WCT of previous month (VAT Act)	Karnataka, Uttar Pradesh , Uttarakhand , Tamil Nadu, Kerala Goa (if Tax> or = Rs. 1 lac),
	Filing of WCT return (VAT Act)	Karnataka, Andhra Pradesh, Tamil Nadu
	Issuance of WCT certificate (VAT Act)	Uttar Pradesh, Manipur
	Deposit of VAT of previous month (VAT Act)	Andhra Pradesh , Chandigarh, Tamil Nadu , Uttar Pradesh, Uttarakhand, Manipur, Goa (if Tax> or = Rs. 1 lac), Karnataka, Punjab (if payment by cheque)
	Filing of VAT return (VAT Act)	Manipur, Uttar Pradesh, Tamil Nadu, Andhra Pradesh (Monthly), Karnataka , Punjab (if payment by cheque)
	Deposit of Ptax of previous month (Commercial Tax Act)	Karnataka, West Bengal
	Deposit of Entry tax of previous month (Entry Tax Act)	Andhra Pradesh, Karnataka, Uttar Pradesh, Uttarakhand, Tamil Nadu
21st Nov, 2016	Deposit of VAT of previous month (VAT Act)	Assam , Delhi , Maharashtra , Odisha , Nagaland, Meghalaya
	Filing of VAT return (VAT Act)	Assam , Maharashtra Odisha , Meghalaya
	Deposit of WCT of previous month (VAT Act)	Maharashtra
	Deposit of Entry tax of previous month (Entry Tax Act)	Odisha , West Bengal
	Deposit of Ptax of previous month (Commercial Tax Act)	Odisha
	ESI deposit of previous month (ESI Act)	All India
22nd Nov, 2016	Deposit of VAT of previous month (VAT Act)	Gujarat
	Deposit of WCT of previous month (VAT Act)	Gujarat
	Issuance of WCT certificate (VAT Act)	Delhi
	Deposit of Entry tax of previous month (Entry Tax Act)	Gujarat
25th Nov, 2016	Filing of VAT return (VAT Act)	Jharkhand
	Issuance of WCT certificate (VAT Act)	West Bengal, Mizoram, Nagaland
	Deposit of Entry tax of previous month (Entry Tax Act)	Maharashtra (if registered dealer)

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SERVICE TAX

NOTIFICATIONS/CIRCULARS

CIRCULAR ON WITHDRAWL OF SERVICE TAX ON CROSS-BORDER B2C OIDAR SERVICES

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India has issued **Circular No. 202/12/2016-Service Tax dated 09.11.2016 w.r.t Notification No. 47/2016- Service Tax dated 09.11.2016 which has** withdrawn exemption from service tax on online information and database access or retrieval services (OIDAR) provided by a person in non-taxable territory to Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory w.e.f. 01.12.2016.

As per the circular:

- **Cross-border B2C OIDAR services are taxable w.e.f. 01.12.2016.** Cross-border B2B services have been taxable since prior to 1st December, 2016, under reverse charge mechanism.

- **OIDAR services has been defined in rule 2(1)(ccd) of the Service Tax Rules, 1994** to mean services which are automatically delivered over the internet, or an electronic network, where there is minimal or no human intervention, and impossible to ensure in the absence of information technology and includes electronic services such as,-

  - advertising on the internet;
  - providing cloud services;
  - provision of e-books, movie, music, software and other intangibles via telecommunication networks or internet;
  - providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network;
  - online supplies of digital content (movies, television shows, music, etc.);
  - digital data storage; and
  - online gaming.

- Using internet, or some electronic media, just to communicate or facilitate outcome of service does not always mean that a business is providing OIDAR services.

- **Indicative list of non-OIDAR services**

  - Supplies of goods, where the order and processing is done electronically
  - Supplies of physical books, newsletters, newspapers or journals
  - Services of lawyers and financial consultants who advise clients through email
  - Booking services or tickets to entertainment events, hotel accommodation or car hire
  - Educational or professional courses, where the content is delivered by a teacher over the internet or an electronic network (in other words, using a remote link)
  - Offline physical repair services of computer equipment
  - Advertising services in newspapers, on posters and on television

- **Registration of such service providers is mandatory in India.** The service provider may appoint an authorized person/agent to comply with the service tax laws and remit tax to the Government

- Service providers may seek registration within 30 days from 1st December, 2016, if they crossed threshold of Rs. 10 lakh in the previous financial year, i.e, in 2015-16 for provision of any taxable service in India and service tax liability would arise after crossing the threshold.

- The value of taxable service would be based on exchange rate applicable on the date when point of taxation arises in terms of the Point of Taxation Rules, 2011 [Rule 11 of Service Tax Rules].

- The service recipient in the taxable territory may not be an Indian resident for the service tax liability to arise.

For more clarifications, the readers may refer the circular.

CENTRAL EXCISE

COURT DECISIONS

MARUTI SUZUKI INDIA LTD. VERSUS COMMISSIONER OF C. EX., DELHI-III [CESTAT CHANDIGARH]

BRIEF: If t**he required quantity of final product could not be manufactured by using a lesser quantity of the inputs, so as to avoid the generation of the waste, the waste generated as such shall not be treated as on account of manufacture, hence, shall not be liable to duty.**

OUR COMMENTS: In the above case, the assessee is engaged in the manufacture of motor vehicles and parts thereof. He procured various inputs from different vendors for the manufacturing the final products. The packing materials of the inputs such as drums, boxes, cartons, jars, etc. are disposed of as scrap after the inputs contained in them are removed for use. Also mix-scrap of grinding sludge and used/mixed oil and effluent water arises during the general manufacturing process of cars and the same is sold as waste or scrap.

The department categorized the scrap of packing material as "scrap other than scrap of grinding sludge and used/mixed scrap of effluent water" and other category in dispute is "mix-scrap of grinding sludge and used/mixed scrap of effluent water".

A show cause notice was issued and duty was demanded on the value of waste other than the scrap of grinding sludge.

The Hon'ble CESTAT held that the scrap/waste of packing materials have not been manufactured by the assessee and have not been arisen during the course of manufacturing of their final products. Therefore the said scrap/waste have not passed the test of manufacture, hence, no duty is payable by the assessee.

For scrap of grinding sludge and used/mixed scrap of effluent water it was held that the entire quantity of duty paid inputs have been used in relation to the manufacture of dutiable final product. The required quantity of final product could not be manufactured by using a lesser quantity of the inputs, so as to avoid the generation of the waste.

The entire quantity of the duty paid inputs was used in the manufacture of final products and not in relation to the manufacture of the waste/scrap.

The waste is not on account of manufacture, therefore, the appellants are not liable to pay duty on the same.

Ref:

i. CCE v. Tamil Nadu Petro Products Ltd. - 2007 (217) E.L.T. 520 (Tri.)

ii. Indo Rama Synthetics (India) Ltd. v. CCE - 2005 (190) E.L.T. 431 (Tri.)

[Decided in favour of Assessee]

CUSTOMS

NOTIFICATIONS/CIRCULARS

CLASSIFICATION OF COMBINATION OR SETS OF SALWAR-KAMEEZ, DUPATTA SET, CHOLI GHAGRA(SET) ETC. FOR THE PURPOSE OF CLAIMING DRAWBACK

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **PUBLIC NOTICE : 45/2016 dated 10.11.2016 has** issued the following clarification:

The chapter Note 3 to Chapter 62 of CTA'75 defines 'suit' as a set of garments composed of two or three pieces, made from identical fabric. The shell fabric of the upper garment and the lower garment should be Identical in terms of (a) construction (b) colour/shade (c) composition. The suit covers upper and lower part of the body. The upper part is called suit coat or suit jacket and lower part is trouser (pant), short or skirt.

The exporters can claim Drawback on Tariff item No. 620401 described as 'Suits (combination comprising of atleast one trouser and oner jacket)' for the combination or sets of Salwar-Kameez dupatta set, Choli Ghagra(set) etc.

However, it has been noted that some exporters and brokers are incorrectly classifying the Salwar-Kameez suit or Ghagra-Choli or lehenga-Choli set, Kurta Pyjama set, Dhoti Kurta set, Pathani suit, Sherwani set etc. under Tariff item No. 620401 and claiming drawback.

It has been clarified that Kameez should be classified as dress under sub-residual heading 620403 and Salwar should be classified as trouser under subheading 620403. Similarly in the case of Ghagra/Choli or Lehenga/Choli, the upper garments is akin to jacket under subheading 620402 and lower garments is a skirt under subheading 620403.

In Kurta Pyjama set, Dhoti Kurta set, Pathani suit, Sherwani set, Kurta should be classified as dress under sub-heading 6205 and Pyjama as trouser under subheading 620303.

The explanation of the heading 620301 and 620401 applies Mutatis Mutandis to the articles of the heading 610301 and 610401.

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FIXATION OF TV OF EDIBLE OIL, BRASS, POPPY SEED, ARECA NUT, GOLD AND SLIVER

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 137/2016-Customs (N.T.) dated 15.11.2016** has amended **Notification No.36/2001-Customs, dated 03.08.2001** and fixed tariff value of edible oil, brass, poppy seed, areca nut, gold and silver by substituting tables, TABLE – 1, TABLE – 2 and TABLE – 3.

CLARIFICATION ON DEFERRED PAYMENT OF CUSTOM DUTY

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India has issued **Circular No. 52/2016-Cus** dated 15.11.2016 w.r.t. **Customs Notification No. 134/2016-Customs (N.T) & 135/2016-Customs (N.T.) dated 2" November, 2016** permitting Importers certified under Authorized Economic Operator Programme as AEO (Tier-Two) and AEO (Tier-Three) to make deferred payment of duty of Customs.

- Every importer certified as AEO-T2/AEO-T3 shall obtain ICEGATE Login which is essential to avail benefits envisaged in the AEO Programme. Further, in order to avail the facility of deferred payment, every AEO-T2/AEO-T3 is advised to nominate a nodal person borne on their establishment who would be responsible for authenticating all the customs related transactions on behalf of the AEO.
- As per rule 4 of the Deferred Payment of Import Duty Rules, the importer shall intimate to the Principal Commissioner of Customs or the Commissioner of Customs, having jurisdiction over the port of clearance, his intention to avail the said benefit.
- The importer shall flag "D" in the Payment Method column of Bill of Entry filed.
- The due dates for deferred payment of import duty by eligible importers are specified in rule 6 of the said Rules.

INCOME TAX

NOTIFICATIONS & CIRCULARS

INCOME–TAX (30TH AMENDMENT) RULES, 2016: ON WITHDRAWAL OF LEGAL TENDER CHARACTER OF THE EXISTING BANK NOTES IN THE DENOMINATIONS OF RS. 500/- AND RS. 1000/-

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 104/2016 dated 15.11.2016** has amended amended the Income-tax Rules, 1962 on withdrawal of legal tender character of the existing bank notes in the denominations of Rs. 500/- and Rs. 1000/- The new rules may be called the Income–tax (30th Amendment) Rules, 2016.

Rule 114B (Transactions in relation to which permanent account number is to be quoted) has been amended as follows:

S. NO.	Nature of transaction	Value of transaction
"10	Deposit with,- (1)a banking company or a cooperative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Office.	Cash deposits,- (i)exceeding Rs 50,000 any one day; or (ii) aggregating to more than Rs 2.50 lacs during the period 09th Nov, 2016 to 30th Dec, 2016.".

Rule 114E (Furnishing of statement of financial transaction) has been changed as follows:

S.NO.	Nature and value of transaction	Class of person
"12.	Cash deposits during the period 09th Nov 2016 to 30th Dec, 2016 aggregating to - (i) Rs 12.50 lacs or more, in one or more current account of a person; or (ii) Rs 2.50 lacs or more, in one or more accounts	i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Master General
	(other than a current account) of a person.	as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).";

INCOME-TAX (31ST AMENDMENT) RULES, 2016

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of Indi vide **Notification No. 105/2016 dated 16.11.2016** has amended Income-tax Rules, 1962 and has inserted a new rule as follows:

"12E. Prescribed authority under sub-section (2) of section 143.-The prescribed authority under sub-section (2) of section 143 shall be an income-tax authority not below the rank of an Income-tax Officer who has been authorised by the Central Board of Direct Taxes to act as income-tax authority for the purposes of sub-section (2) of section 143.".

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STATE TAXES

CHHATTISGARH

EXEMPTION TO DEBIT/CREDIT CARD SWIPE MACHINE FROM VAT

OUR COMMENTS: The Commercial Tax Department, Government of Chhattisgarh vide **NOTIFICATION No. F-10-42/2016/CT/V (75) dated 16.11.016** has exempted Debit/Credit Card Swipe Machine from VAT.

DELHI

DUE DATE FOR FORM DVAT-16, 17 & 48 FOR Q2 2016-17 EXTENDED TO 21.11.2016

OUR COMMENTS The Department of Trade and Taxes, Government of National Capital Territory Of Delhi, **vide Circular No. 18/2016 dated 12.11.2016** has extend the last date of filing of online/hard copy of second quarter return for the year 2016-17, in Form DVAT-16, DVAT-17 and DVAT-48 along with required annexure/enclosures to 21/11/2016.

MAHARASHTRA

DISTRIBUTION OF PROVISIONAL LOGIN ID AND PASSWORDS FOR LOG-ON THE GST COMMON PORTAL FOR GST ENROLMENT

OUR COMMENTS: The Office Of Commissioner Of Sales Tax, Government of Maharashtra vide **Trade Circular No. 35T of 2016 dated 12.11.016** has informed that MSTD has developed an online utility for existing dealers to get themselves enrolled for the GSTIN.

The existing dealers must enroll on the GST Common Portal between 15th of November to 30th of November, 2016.

Provisional Login ID and Password have been provided for dealers registered under MVAT Act or CST Act or Luxury Act or Entry Tax Act up to 31/08/2015

The list of dealers is available in the "What's New" Section of www.mahavat.gov.in

c. For dealers not appearing in list and dealers registered w.e.f 01/09/2015, Login ID and Passwords will be provided to them in the next phase of enrolment.

RAJASTHAN

EXTENSION OF THE LAST DATE OF FILING Q2 RETURN FOR 2016-17

OUR COMMENTS: The Finance Department, Government of Rajasthan vide **NOTIFICATION [No. F26 (315) CCT/MEA/2014/1371] dated 14.11.016** has extended extend the date of submission of Form VAT 10, for the second quarter of the year 2016-17 ending on 30th September, 2016 by dealers under rule 19(5)(b) up to 21.11.2016.

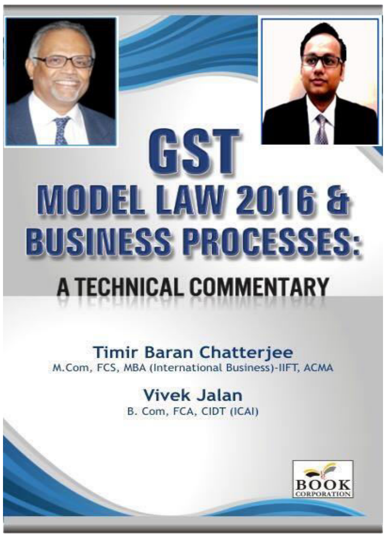
WEST BENGAL

EXTENSION OF THE LAST DATE OF FILING WBST & VAT RETURN FOR Q.E. 30/09/2016

OUR COMMENTS: The Directorate Of Commercial Taxes, Government of West Bengal vide **Memo No. 950CT/PRO/3C/PRO/2015 and Memo No. 951CT/PRO/3C/PRO/2015 dated 16.11.016** has extended the last date of filing WBST and VAT return for Q.E. 30.09.2016 as follows:

Form	Last date of payment of tax, interest, if any,	Extended date of transfer of data electronically	Last date of receipt of ack/Form 14e/15e
14/14D	31.10.2016	28.11.2016	14.12.2016
15	31.10.2016	28.11.2016	14.12.2016
25E	As per Rule 163	28.11.2016	14.12.2016

IN STANDS - GST: MODEL LAW 2016 & BUSINESS PROCESSES : A TECHNICAL COMMENTARY



ABOUT THE BOOK: GST Bill is going to be passed in July 2016 and GST is expected to go live from 1st April 2017! In this backdrop, as our initiative to get GST READY, we have launched this publication. This books provides an insight into the following –

1. Procedural provisions under The Model GST Law 2016
2. Glimpse of the Model GST Law 2016
3. Model GST Law 2016
4. GST Valuation (Determination of The Value of Supply of Goods and Services) Rules, 2016
5. The Integrated Goods and Services Tax Act, 2016
6. GST Registration Process
7. GST Return Process
8. GST Payment Process
9. GST Refund Process
10. Eco system for GST and GST Suvidha Provider

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BOOK EXCLUSIVELY ON WORKS CONTRACT (SERVICE TAX AND VAT)

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Works Contract has been one of the most complex and litigation prone areas in Indirect Taxes. However with good understanding of all the provisions under Service Tax & VAT which hit Works Contracts & proper planning, Trade & Industry can not only avoid litigation but can also save around 5% - 10% on indirect taxes which by no means is an ordinary saving in the competitive market. For Trade & Industry, the problems on the subject have been many. Over the last few years we have received queries and replied to the issues at various forums.

Vide this publication, we have made an attempt to cover in detail all issues related to **Service Tax:** Valuation, Point of Taxation, Place of Taxation, Abatement, Reverse Charge, Input Tax Credit Mechanism & **VAT**: Contractual Transfer Price, Modes of Valuation, WIP, STDS as well as **GST** . We have also focused on the issues faced by various sectors on account of Works Contract.

This book is divided into Seven Parts covering several broad areas. Each area has the provisions directly from the Statue in the beginning and detailed discussions on the provisions in the form of questions and answers thereafter. Since litigations on the subject have been manifold, we have also covered judicial pronouncements extensively.

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