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EDITORIAL

Friends,

Central Government vide Notification No.50-Central Tax-Dated 13-09-2018 & Notification No.51-Central Tax-Dated 13-09-2018 has appointed 1st day of October 2018 as the date on which the provision of Sec 51 (TDS) & Sec 52 (TCS) shall come into force.

Lets discuss the applicability in brief:

1.Who is required to Deduct TDS under GST?

As per Sec. 51(1) of CGST Act 2017 read with corresponding Sec. 51(1) of SGST Act
2017 the following class of persons [Tax Deductor] shall be required to deduct tax atsource:

a) Central and State Government Departments/Establishments
b) Local Authority
c) Government Agencies
d) Categories of person notified vide Notification No.33/2017-Central Tax Dated 15 Sept 2017
   - An Authority/ Board/ Any other Body

   -set up by an Act of Parliament/ State Legislature or

   -established by any Government with fifty one per cent or more participation by way of equity or control to carry out any function
   - Society established by Central Government or State Government or a Local Authority under Societies Registration Act, 1860
   - Public Sector Undertakings

2. What is the Rate of TDS?

If the supplier makes inter-state supply (i.e. charges tax under IGST in the invoice), TDS shall be made @2% under IGST. But if the supplier makes intra state supply (i.e. charges tax under CGST and SGST in the invoice), TDS shall be made @1% under CGST and 1% under SGST, totalling to 2% on the payment made or credited to the supplier [Tax Deductee] where the total value of supply under a contract exceed Rs.2,50,000/-.

As per Explanation to Sec.51(1) of CGST Act 2017, For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

Example: *Under a contract, Mr. Jeevan of Kolkata provides service to Mr. Shyam (Kolkata) for a value of Rs.3,00,000 (Excl.GST) over a period of 3 months. At the end of 1st Month Mr. Jeevan bills for Rs.1,18,000 (3 lakh/3 month + 18% GST).*

*In this case, Mr. Shyam (Deductor) will deduct Rs.1000/- (1 lakh*1%) as TDS. Although invoice amount doesn't exceed 2.5 lakh TDS should be deducted because the contract amount (3 lakh) exceeds 2.5 Lakh.*

3. When GST not to be deducted at Sources (TDS)?

As per Proviso to Sec.51(1) of CGST Act 2017, no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory, which is different from the State, or as the case may be, Union Territory of registration of the recipient. i.e. when both the supplier as well as the place of supply are different

EDITORIAL

from that of the recipient, no tax deduction at source would be made.

4. Deposit of TDS under GST with the Government.

As per Sec. 51(2) of CGST Act 2017, the tax deducted shall be paid to the Central Government within 10 days after the end of the month in which such deduction is made. (i.e. by10th Nov'18 for deductions made in Oct'18).

5. TDS Certificate under GST.

As per Sec. 51(3) of CGST Act 2017 read with Rule 66(3) of CGST Rules 2017, a TDS certificate is required to be issued by deductor (the person who is deducting tax) in Form GSTR-7A to the deductee (the supplier from whose payment TDS is deducted), within 5 days of crediting the amount to the Government.

6. Delay in furnishing of TDS certificate.

As per Sec. 51(4) of CGST Act 2017, if any deductor fails to furnish to the deductee Form GSTR-7A, the Deductor would be liable to pay a late fee of Rs. 100/- per day from the expiry of the 5th day till the certificate is issued. This late fee would not be more than Rs. 5000/-.

7. Credit of tax Deducted.

As per Sec. 51(5) of CGST Act 2017, the tax deducted shall be credited to the cash ledger of the deductee.

8. Refund of TDS under GST.

As per Sec. 51(8) of CGST Act 2017, any excess or erroneous amount deducted and paid to the government account shall be dealt for refund under section 54 of the CGST Act, 2017.

However, if the deducted amount is already credited to the electronic cash ledger of the supplier, the same shall not be refunded.

9. Monthly Statement/ Return.

As per Rule-66(1) of CGST Rules 2017, the deductor is also required to file a return in Form GSTR-7 within 10 days from the end of the month. If the supplier is unregistered, name of the supplier rather than GSTIN shall be mentioned in the return.

10. Registration of TDS Deductor.

A TDS deductor has to compulsorily register without any threshold limit under Section 24(vi) of CGST/ SGST Act, 2017. The deductor has a privilege e of obtaining registration under GST without requiring PAN. He can obtain registration using his Tax Deduction / Collection Account Number (TAN) issued under the Income-Tax Act, 1961.

Please refer the upcoming bulletin for brief on applicability of TDS.

We do hope that this bulletin adds value to your professional sphere.

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

Truly Yours

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SYNOPSIS

TAX CALENDAR

Due date	COMPLIANCES FROM 30th SEPTEMBER, 2018 to 06th OCTOBER, 2018	Description
30th September 2018	Form- 16B	Due date for furnishing of challan-cum-statement in respect of tax deducted under in the month of August, 2018
30th September 2018	Form- 16C	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of August, 2018
30th September 2018	GSTR- 6	Details of ITC received by an Input Service Distributor and distribution of ITC for the month from July 2017 to August 2018

ARTICLE

DO YOU KNOW WHAT ARE THE VARIOUS RIGHTS AND OBLIGATIONS OF AN INDIVIDUAL OR AN NRI WITH REGARD TO FOREIGN EXCHANGE TRANSACTIONS IN INDIA AND ABROAD .

DO YOU KNOW, DEPOSIT IN WHICH TYPE OF ACCOUNTS (NRE,NRO,FCNR) WILL BE MOST ADVANTAGEOUS ?

CAN YOUR CHILDREN RESIDING ABROAD AS NRI OR OIC (OVERSEAS INDIAN CITIZEN) PURCHASE OR SELL IMMOVABLE PROPERTEIS IN INDIA.

An article by:
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Many of our close relatives, friends are working or staying abroad as NRI or OIC. Sometimes we also become an NRI or OCI while executing foreign jobs or setting up new business entity or even staying with our own children/relatives . It is essential for us to know what we can or cant do after becoming NRI or OCI. We get many questions from our relatives and friends about handling their issues which commonly are as under:

a) What are the various tax related advantage we can enjoy after becoming NRI on our foreign remittances? .
b) Can we put our remittance to Indian Banks to our normal and existing savings bank accounts
c) If not, where should we put our funds/investments in India? There are normally three types of bank accounts for NRI e.g. NRE (Non-resident External Account), NRO (Non-resident overseas account) and FCNR(Foreign Currency Non Resident Account)
d) Which Account will be suitable to us based on our future objective with relevant tax advantage and taking into account the exchange risk. ?
e) Can an NRI buy immovable property in India?
f) Can we buy immovable property as a Resident Indian outside India? If so, is there any monetary restrictions or approval?
g) Can we send our children for higher education in foreign countries? Is there any monetary restrictions or approval needed?
h) Can we go for the medical treatment to a foreign country and if so . is there any approval or monetary restrictions?
i) Can we give gift from India to our close relatives/friends settled outside India?

We get many such questions. In this article, we will make an effort to answer all the questions which may be helpful to the households , retired persons, NRI, OCI etc

A. First let us know who is Resident and Non-Resident under Indian Income Tax India Act.

As per Indian Income Tax Act, a person is a resident who has stayed equal to more than 182 days of current financial year in India or if he stayed in India for 60 days or more in previous financial year and 365 days or more in four years before that financial year under consideration.

Those who are not Resident, is considered as Non-Resident.

However, An Indian citizen leaves India for the purpose of employment, business, education, stay with parents/ children, with the intention of staying abroad for an uncertain period. In such cases, he becomes a NRI the moment he leaves India, even if he has not stayed abroad for 182 days or more during the financial year.

OCIs (Overseas Citizen of India) are non-Indian citizens who have a lifetime visa to live and work in India with fewer restrictions.

B. Now let us know the basic characteristics of NRO, NRE and FCNR account and what are their relative advantages.

Below is a quick comparison between NRE, NRO and FCNR (Bank) accounts

Points of Difference	NRE Account	NRO Account	FCNR (Bank) Account
Currency	Rupee Denominated (INR)	Rupee Denominated (INR)	US Dollars, British Pounds, Euro, Japanese Yen, Canadian Dollars, Australian Dollars etc
Who can open such Account?	NRI	NRI, Resident before becoming an NRI	NRI
Can it be opened jointly?	Yes, both with Resident**/Non-Resident	Yes, both with Resident/Non-Resident	Yes, both with Resident**/Non-Resident
Type of Account	Saving, Current or a Fixed / Term Deposit	Saving, Current or a Fixed / Term Deposit	Fixed / Term Deposit
Purpose to open such Account	NRE Accounts are used to hold overseas savings remitted to India after converting to INR	NRO Accounts are used to hold Indian income like rent, dividend etc.	FCNR (B) accounts are only in the form of term deposits of 1 to 5 years
Repatriation	Yes	Only interest on NRO account balance (after deducting TDS)	Yes
Transfer of funds from one Account to another	Funds can be tranfered from NRE account to NRE/NRO/Resident Account	Funds can be tranfered from NRE account to NRO/Resident Account	Funds can be tranfered from existing NRE / FCNR accounts
Deposit of rupee funds generated in India	No	Yes	No
Tax	Tax Free	Taxed as per applicable slab rate	Tax Free
What is the status of the account when NRI returns to India	Converted to resident account	Converted to resident account	Converted to resident account^^
Is Power of Attorney allowed**	Yes	Yes	Yes

Succinct FP

In short

persons

(a) Who do not have any intention to stay outside India and have some existing Indian Income and at the same time they want to use their existing savings bank account may maintain NRO Account. Interest Income will be taxable.

(b) Who may or may not settle outside India and undecided on the same, may maintain NRE Account and enjoy the tax free status. They can also repatriate the fund to their place of stay if they decide to settle outside India. This is not possible in NRO account.

(c) Who are sure to settle outside India and do not want to take the risk of rupee depreciation and exchange risk, may maintain FCNR account and also enjoy tax free advantage.

C. Now we will discuss Investment related issues through FAQ

Resident in India investing outside India

Q.1 Can a resident continue to hold immovable property outside India which was acquired by him when he was a non-resident?

Answer: According to section 6(4) of the FEMA (Foreign Exchange Management Act, 1999) , a person resident in India can hold, own, transfer or invest in any immovable property situated outside India if such property was acquired, held or owned by him/ her when he/ she was resident outside India or inherited from a person resident outside India.

Q.2 Can a resident individual send remittances and purchase property outside India?

Answer: A resident individual can send remittances under the Liberalised Remittance Scheme (LRS) for purchasing immovable property outside India upto a limit of $2,50,000 p.a.. In case members of a family pool their remittances to purchase a property with the above individual limit , then the said property should be in the name of all the members who make the remittances.

Q.3 To whom do the restrictions of transferring property outside India not apply?

Answer: The prohibition of a resident acquiring property outside India is not applicable if:

a) The resident is a foreign national; or
b) The property was acquired before July 8, 1947 and continued to be held after obtaining permission; or
c) If it is acquired on a lease not exceeding five years

Q.4 How can immovable property be acquired outside India by a resident?

Answer: Immovable property can be acquired outside India:

a) Under section 6(4) of FEMA.
b) As an inheritance/ gift from a person (i) referred to in sec 6(4) of FEMA; or (ii) who has acquired it prior to July 8, 1947 (iii) who has acquired such property in accordance with the foreign exchange provisions in force at the time of such acquisition.
c) Purchased with balances in the Resident Foreign Currency (RFC) account of the resident.
d) As a gift from persons at (b) & (c) above, provided he is a relative of such persons.
e) Purchased with remittances made under the Liberalised Remittance Scheme (LRS) i.e. $ 2,50,000 p.a.
f) Jointly with a relative provided there are no outflow of funds from India.
g) By an Indian company having overseas offices, for housing its business or for residence

Non-Resident Indian investing in India

Q.1 How can a Non-resident Indian (NRI)i and an Overseas Citizen of India (OCI)ii acquire immovable property in India?

Particulars NRI/ OCI (regulation of FEMA 20(R))
Purchase (other than agricultural land/ farmhouse/ plantation etc) from Resident/ NRI/ OCI
Acquire as gift (other than agricultural land/ farmhouse/ plantation etc) from Resident/ NRI/ OCI who is a relative
Sell (other than agricultural land/ farmhouse/ plantation etc) to -Resident/ NRI/ OCI
Sell (agricultural land) to -Resident
Gift (other than agricultural land) to -Resident/ NRI/ OCI
Gift (agricultural land) to -Resident
Gift residential/ commercial property- Resident/ NRI/ OCI
From the above it appears that NRI, OCI can practically buy or sell any immovable property other than agricultural land . In case of agricultural land, they can sell only to Resident.

Q.2 What are the accepted modes of payment for property acquired in India?

Answer: Payment for immovable property has to be received in India through banking channels. And subject to payment of duties/ levies in India. The payment can also be made out of funds held in NRE/ FCNR(B)/ NRO accounts of the NRIs/ OCIs. Payments should not be made through travellers' cheque and foreign currency notes.

Q.4 Can foreign nationals acquire property in India?

Answer:

a. Citizens of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Macau, Hong Kong or Democratic People's Republic of Korea (DPRK), irrespective of their residential status, cannot, without prior permission of the Reserve Bank, acquire or transfer immovable property in India, other than on lease, not exceeding five years. This prohibition shall not be applicable to an OCI.

b. Foreign nationals of non-Indian origin resident in India (except 11 countries listed at (a) above) can acquire immovable property in India.

All other acquisitions/ transfers by foreign nationals will require the prior permission of RBI

Q.5 How can a Long Term Visa (LTV) holder acquire property in India?

Answer: Citizen of Pakistan, Bangladesh or Afghanistan belonging to minority community (Hindu, Christian, Sikh, Parsi, Buddhist, Jain) in that country and residing in India who has been granted an LTV by the Central government can purchase only one residential immovable property in India as dwelling unit for self-occupation and only one immovable property for carrying out self-employment.

Q.6 Can a spouse of an NRI/ OCI who is not a NRI/ OCI acquire property in India?

Answer: A person resident outside India, not being a Non-Resident Indian or an Overseas Citizen of India, who is a spouse of a Non-Resident Indian or an Overseas Citizen of India may acquire one immovable property (other than agricultural land/ farm house/ plantation property), jointly with his/ her NRI/ OCI spouse .

NOTIFICATIONS/CIRCULARS

1% RATE OF TAX FOR COLLECTION AT SOURCE (TCS) TO BE COLLECTED BY EVERY ELECTRONIC COMMERCE OPERATOR FOR INTER-UNION TERRITORY (WITHOUT LEGISLATURE) TAXABLE SUPPLIES

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **NOTIFICATION No. 13/2018-Union Territory Tax dated 28th Sep** has notified that every electronic commerce operator (not being an agent) shall collect 1% of the net value of inter-Union Territory (without legislature) taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator w.e.f. 01.10.2018.

HALF PERCENT RATE OF TAX FOR COLLECTION AT SOURCE (TCS) TO BE COLLECTED BY EVERY ELECTRONIC COMMERCE OPERATOR FOR INTRA-UNION TERRITORY (WITHOUT LEGISLATURE) TAXABLE SUPPLIES

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 12/2018 – Union Territory Tax dated 28th Sep** has notified that every electronic commerce operator (not being an agent) shall collect half percent of the net value of intra-Union Territory (without legislature) taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator. w.e.f. 01.10.2018.

GST ON RESIDENTIAL PROGRAMMES OR CAMPS MEANT FOR ADVANCEMENT OF RELIGION, SPIRITUALITY OR YOGA BY RELIGIOUS AND CHARITABLE TRUSTS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Circular No. 66/40/2018-GST dated 26th Sep** has clarified that applicability of GST on residential programmes or camps meant for advancement of religion, spirituality or yoga where the fee charged includes the cost of boarding and lodging has to be as per Chapter 39 "GST on Charitable and Religious Trusts" of Compilation of 51 GST Flyers updated as on 01.01.2018 available on CBIC website at the link https://goo.gl/EgAJtA .

The relevant portion reads as under:

"The services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt. Fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt. Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga. However, if charitable or religious trusts merely or prim'arily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable".

INCOME TAX

NOTIFICATIONS/CIRCULARS

EX-SERVICEMEN CONTRIBUTORY HEALTH SCHEME OF THE DEPARTMENT OF EX-SERVICEMEN WELFARE, MINISTRY OF DEFENCE SPECIFIED U/S 80(D)(2(A)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 55/2018dated 26.09.2018** has notified Ex-Servicemen Contributory Health Scheme of the Department of Ex-Servicemen Welfare, Ministry of Defence for the purposes of the clause clause (a) of sub-section (2) of section 80D of the IT Act 1961 for the assessment year 2019-20.

Please refer the notification for details.

UTTARAKHAND REAL ESTATE REGULATORY AUTHORITY' SPECIFIED U/S 10(46)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide notification No. 57/2018 - Dated: 14-9-2018 have specified Uttarakhand Real Estate Regulatory Authority', Dehradun, an authority constituted by the Government of Uttarakhand for the purpose of section 10(46) subject to specified condition in respect of the specified income arising to that authority.

Please refer the notification for details.

TAMIL NADU POLLUTION CONTROL BOARD SPECIFIED U/S 10(46)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide notification No. 58/2018 - Dated: 14-9-2018 have specified 'Tamil Nadu Pollution Control board', a Board constituted by the State Government of Tamil Nadu, for the purpose of section 10(46) subject to specified condition in respect of the specified income arising to that Board.

CUSTOMS

NOTIFICATIONS/CIRCULARS

EXTENSION OF EXEMPTION FROM INTEGRATED TAX AND COMPENSATION CESS ON GOODS IMPORTED BY EOU FROM 02.10.2018 TO 31.03.2019

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 65/2018-Customs dated 24.09.2018** has extended the exemption from Integrated Tax and Compensation Cess on goods imported by EOU from 02.10.2018 to 31.03.2019.

EXTENSION OF EXEMPTION FROM INTEGRATED TAX AND COMPENSATION CESS ON GOODS IMPORTED AGAINST AA/EPCG AUTHORIZATIONS FROM 01.10.2018 TO 31.03.2019

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 66/2018-Customs dated 26.09.2018** has extended the exemption from Integrated Tax and Compensation Cess on goods imported against AA/EPCG authorizations from 01.10.2018 to 31.03.2019.

Please refer the following notifications:

16/2015-Customs, dated the 1st April, 2015

18/2015-Customs, dated the 1st April, 2015

20/2015-Customs, dated the 1st April,

22/2015-Customs, dated the 1st April, 2015

45/2016-Customs, dated the 13th August, 2016

INCREASE IN IMPORT DUTY ON GOODS, FALLING UNDER CHAPTERS 39, 40, 42, 64, 71 AND 84 OF THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 67/2018-Customs dated 26.09.2018**has amended third proviso to the Notification. No. 50/2017-Customs, dated the 30th June, 2017 and has delayed implementation of the retaliatory duties till 2nd Nov 2018.

Please refer the notification for details.

RATE OF CUSTOMS DUTY ON IMPORT OF GEMSTONES AND DIAMONDS ENHANCED FROM 5% TO 7.5%

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 68/2018-Customs dated 26.09.2018**has amended Notification No. 50/2017 dated 30th June, 2018 and enhanced the rate of customs duty on import of Gemstones and Diamonds from 5% to 7.5%.

Please refer the notification for details.

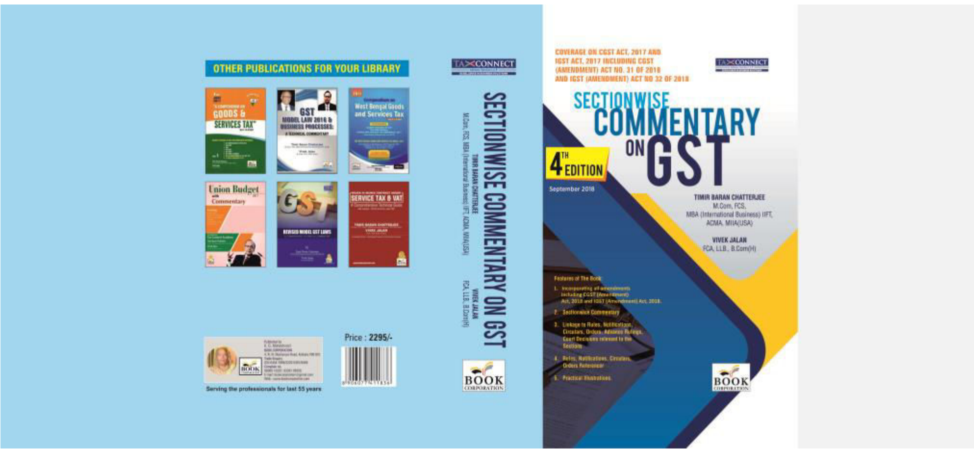
AMENDMENT IN NOTIFCATION NO. 57/2017 DATED 30TH JUNE, 2018

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 69/2018-Customs dated 26.09.2018** has amended Notification No. 57/2017 dated 30th June, 2018 with respect to rate of customs duty on import of certain items and scope of entry relating to Tariff heading 8518

Please refer the notification for details.

IN STANDS

SECTION WISE COMMENTARY ON GST UPDATED TILL DATE



ABOUT THE BOOK: This book provides an insight into the following:

1. Incorporating all amendments
2. Section wise commentary
3. Linkages to Rules, Notifications, Circulars, Orders, Advance Rulings, Court Decisions relevant to the Sections
4. Rules, Notifications, Circulars, Orders Referencer
5. Practical Illustrations

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