



Indian Legal Updates

The purpose of this document is to highlight the key changes introduced in Indian legal era by way of Notifications and Circular in various tax and regulatory laws.

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Direct Tax Updates

[Clarification regarding nature of share buyback transaction under Income Tax Act, 1961](#)

The CBDT has clarified that the consideration received on buy back of shares between 01.04.2000 till 31.05.2013 would be taxed as capital gains in the hand of recipient of any amount distributed by the company on buy back of unlisted shares.

[Issue of taxability of surplus on sale of share and securities- capital gain or business income- instruction in order to reduce litigation](#)

According to this circular, the assessee, irrespective of the time of holding, opts to treat listed shares and securities as stock-in-trade, income arising out of transfer of such shares shall be treated as business income. In respect of listed shares and securities held for a period of more than 12 months immediately preceding the date of its transfer, if the assessee desires to treat the income arising from the transfer thereof as Capital Gain, the same shall not be put to dispute by the Assessing Officer and shall be treated as Capital Gain in the subsequent years. For other transactions, the nature of transactions shall be decided by CBDT.

Indirect Tax Updates

[Refund of Excise duty on purchase of cars by physically handicapped persons](#)

To provide relaxation for payment of taxes to handicapped persons, Central Board of Excise and Custom, has provided refund to the above mentioned person, only if the refund application is filled within a year of the payment of duty,

irrespective of availability of the certificate from the Line Ministry so that such claims are not time barred. The officer processing the return in turn issues deficiency memo in case certificate is not available. The refund gets processed on the submission of certificate.

[Registration of two or more premises as one registrant in Central Excise](#)

The CBEC has vide notification, provided that if two or more premises of the same factory are located in a close area, these premises are within the jurisdiction of a Central Excise Range and the process undertaken there are interlinked and the units are not operating under any of the area based exemption notifications, the Commissioner of Central Excise, may allow a single registration, subject to proper accounting of the movement of goods from one premise to other and such other conditions and limitations, as may be prescribed, w.e.f. 1st March, 2016.

[Certificate evidencing payment of Central Excise duty](#)

Facility for issuing certificate as a proof for payment of Central Excise Duty has been extended to Small Scale Industry, and it has been decided to extend this facility to all the category of industries from 1st March, 2016.

[Change in rate of interest on goods warehoused for export, when cleared to DTA](#)

Liability of interest on goods warehoused for export, when diverted for home-consumption was "interest @ 24% per annum" has now been substituted by "interest @ 15% per annum" w.e.f., 1st April, 2016.

[Allow refund of Swachh Bharat Cess on specified services uses in an SEZ](#)

As per the notification, SEZs units or Developers, who were deducting Swachh Bharat Cess on

service tax, shall be entitled to claim refund of SBC being paid on specified services on ab-initio basis and such amount shall be determined by multiplying total service tax distributed to it in terms of clause (a) by effective rate of Swachh Bharat Cess and dividing the product by rate of service tax specified in section 66B of the Finance Act, 1994.

Foreign Exchange Regulation Updates

[Mandatory filing of form ARF, FCGPR and FCTRS on e-Biz platform and discontinuation of physical filing](#)

In order to promote the ease in reporting of transactions RBI has decided that from the beginning of February 8, 2016 the physical filing of forms ARF, FCGPR and FC-TRS will be discontinued and forms submitted in online mode only through e-Biz portal will be accepted.

[Change in definition of NRI for certain regulations.](#)

The definition of NRI has been amended for FDI Policy and for Foreign Exchange Management

Regulation (transfer or issue of security by a person resident outside India), Regulations, 2000, "Non-Resident Indian (NRI) means an individual resident outside India who is citizen of India or is an 'Overseas Citizen of India' card holder within the meaning of section 7 (A) of the Citizenship Act, 1955".

[Settlement of Export/ Import transactions in currencies not having a direct exchange rate](#)

In order to liberalize the procedure and facilitate settlement of export and import transactions where the invoicing is in a freely convertible currency and the settlement takes place in the currency of the beneficiary, which though convertible, does not have a direct exchange rate, it has been decided that AD Category-I banks may permit settlement of such export and import transactions (excluding those put through the ACU mechanism) where the exporter shall be a customer of AD Bank, the signed contract is in freely convertible currency and the bank is satisfied with the bonafides of transactions.

Media

1. Publication: Business Standard – February 26, 2016

[Quote in Business Standard on Retrospective Tax](#)

The article talks about Vodafone's case that has brought back fears of retrospective taxation among investor, with a quote by Mr. Amit Maheshwari, Partner, Ashok Maheshwary & Associates.

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2. Publication: The Economic Times – February 18, 2016

[Quote in The Economic Times on more tax benefits needed for PEs to boost start ups](#)

The article talks about more tax benefits needed for PEs to boost start ups, with a quote by Mr. Amit Maheshwari, Partner, Ashok Maheshwary & Associates.

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3. Publication: NDTV Profit – February 13, 2016

[Quote in NDTV Profit on home loans](#)

The article talks about Wrong Tax Deduction on Home Loan that Can Result in Tax Penalties, with a quote by Mr. Amit Maheshwari, Partner, Ashok Maheshwary & Associates.

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4. Publication: India Today – February 10, 2016

[Quote in India Today on tax benefits on health insurance policy](#)

The article talks about a few things one should know before claiming tax benefits on health insurance policy, with a quote by Mr. Amit Maheshwari, Partner, Ashok Maheshwary & Associates.

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5. Publication: NDTV Profit – February 11, 2016

[Quote in NDTV Profit on Tax Relief That NRIs Want](#)

The article talks about tax relief that NRIs want from the finance minister in the budget, with a quote by Mr. Amit Maheshwari, Partner, Ashok Maheshwary & Associates.

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6. Publication: The Economic Times – February 09, 2016

[Quote in The Economic Times on Startups that may get tax benefit](#)

The article talks about Startups that may be accorded beneficial tax treatment to their brand building expenses by the Government, in the forthcoming budget, with a quote by Mr. Amit Maheshwari, Partner, Ashok Maheshwary & Associates.

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7. Publication: The Financial Express – February 08, 2016

[Article in The Financial Express on Start ups](#)

The article talks about Startups and the hoopla around their sky high valuations, written by Mr. Sumit Maheshwari, Partner, Ashok Maheshwary & Associates.

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8. Publication: The Economic Times – February 07, 2016

[Quote in The Economic Times on more clarifications needed by Experts on PoEM](#)

The article talks about clarification asked by experts on Government's recently issued draft guidelines for "Place of Effective Management" (POEM) for determining tax residency of foreign companies, with a quote by Mr. Amit Maheshwari, Partner, Ashok Maheshwary & Associates.

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9. Publication: The Hindu Business Line – February 05, 2016

[Quote The Hindu Business Line on norms for e-assessments](#)

The article talks about CBDT's (The Central Board of Direct Taxes) operational guidelines for e-assessments of selected non-corporate taxpayers to be undertaken as a pilot in five metros, with a quote by Mr. Amit Maheshwari, Partner, Ashok Maheshwary & Associates.

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Initiatives

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In case you need any further information/clarifications please contact us:

Ashok Maheshwary & Associates

344, Tower B2, Spaze I-Tech Park,

Sector -49, Sohna Road,

Gurgaon-122018, India

Tel: + 91 124 4637530

Fax: + 91 124 4148180

Email: info@akmglobal.com

Website: www.akmglobal.com

Blog: akmglobal.wordpress.com

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