

NEWSLETTER

SEP & OCT 2017

J P Chawla & Co. LLP
Chartered Accountants

Taxation | Audit | Outsourcing | Regulatory | Transaction Advisory | Consultancy Services



FINEPRINT

September &
October 2017

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November 30th 2017,

CEO's Message

The last two months of September and October has been busy in compliance world of Indian regulations with deadlines of Income tax, transfer pricing, GST and company law falling within these autumn months.

The significant achievement of India business area in last two months is dramatic improvement in World Bank ranking of ease of doing business, with India jumping from Rank of 130 to 100 in ease of doing business. This has mainly been possible due to introduction GST law as well as streamlining of various business laws.

The economy has been rebounding slowly but steadily after this year's changes brought in by GST, further in terms of economy we have seen mergers in the area of telecom with Idea-Vodafone deal gets conditional go-ahead from SEBI and various IPO' hitting the markets with insurance companies leading the pack.

As we settle in the winter months, political climate is boiling with current governments' reform push being tested in state elections of Gujarat and Himachal, results of which shall determine future business reform strategy of the current Indian government.

We sincerely hope this late November news letter will update you regarding new developments in the area of Business, Tax, Assurance & Accounting and regulations such as company law, FEMA and other laws.

Happy Reading!!

Sincerely Yours,

Rajat Chawla

Managing Partner & CEO
New Delhi

The Month That Was

India Inc sealed Merger & Acquisition (M & A) and Private Equity (PE) deals worth \$ 48 billion in YTD 2017, up by 34 per cent over YTD 2016 and recorded a six-year high in deal values, which was primarily driven by big ticket transactions.

The year was dominated by e-commerce (23 per cent) and real estate (17 per cent) sectors with the two witnessing investments worth billions of dollars. On the other hand, start-up sectors continue to drive the PE volumes with over 330 investments worth \$2 billion capturing 60 per cent of PE volumes.

Some of the major/other highlights in September and October 2017 are:-

India Inc's foreign borrowings nearly halve to US\$ 1.64bn in Aug: It includes borrowings through external commercial borrowings (ECBs) and rupee denominated bonds (RDBs). Indian firms had borrowed USD 3.17 billion through ECBs in August 2016. There were no RDBs in the same period last year as the instrument was introduced in September. Of the total borrowings, more than USD 1.56 billion was in the form of external commercial borrowings. Among major borrowers using ECBs were Exim Bank of India USD 400 million for on-lending, Larsen & Toubro USD 300 million for refinancing earlier ECB and JSW Steel Coated Products raising USD 150 million to finance a new product.

Tea exports up 4.6% during Jan-July: Tea exports from India grew 4.57 per cent during January - July of 2017, compared to the same period last year, on the back of increased purchases from Kazakhstan, Iran, the UAE, and Egypt.

Indirect tax share in GDP at all-time high of 10.5%: There has been a steady rise in indirect taxes (net of subsidies) in recent years, pushing up retail prices of commonly used goods and services. The combined share of Customs and excise duties, service tax, and value-added tax (VAT) in India's gross domestic product (GDP) reached an all-time high of 10.5% during the financial year 2016-17, up from 7.7% three year ago. The trend is likely to sustain in FY18, as various indirect taxes have been replaced by the GST. GST rates on most goods and services are either revenue-neutral or higher, so as to enable the central government to raise additional revenues for compensating states for any shortfall.

Railway freight loading rises 5% during Apr-Aug: At a time when the core sector growth has slowed down, the railways has posted a 5 per cent rise in its freight volume for the first five months of the current financial year (FY18), pushed by double-digit growth in loadings of commodities like steel, iron ore, and cement. For the April-August period in 2017-18, railway freight loading stood at 467.73 million tons (mt), compared to 446 mt and 452.19 mt during the same period in 2016-17 and 2015-16, respectively.

DIPP approves 3 FDI proposals for single brand retail: Three foreign direct investment (FDI) proposals, including that of Mountain Trail Foods and Kohler India Corporation, were approved by the department of industrial policy and promotion (DIPP) in the single brand retail sector.

MHA gives a boost to "Make in India" in the field of manufacturing of arms: The Ministry of Home Affairs has liberalized the Arms Rules to boost "Make in India" manufacturing policy of the Government as also to promote employment generation in the field of manufacturing of arms and ammunition. The liberalization of the Arms Rules will encourage investment in the manufacturing of arms and ammunition and weapon systems as part of the "Make in India" program.

TAX

Goods and Service Tax

Goods and Service Tax September & October Updates

▪ E – Way Bill Rules

As per Notification No. 27/2017 – Central Tax, the Central Government has further amended the Central Goods and Service Tax Rules, 2017 and incorporates the provision of E-Way bill; the same may be called the Central Goods and Service Tax (Sixth Amendment) Rules, 2017.

The following rules shall be substituted for rule 138, CGST Rules 2017, namely:

- a) Every registered person who causes movement of goods exceeding fifty thousand rupees in relation to (i) supply of goods, (ii) for reason other than supply and (iii) due to inward supply from an unregistered person shall furnish the details in Part-A of Form EBW-01, electronically on common portal prior to commencement of goods and generation of E-way bill;
- b) Where the goods are transported through his own conveyance, hired one or by railways or by air or by vessel, the recipient may generate the E-Way bill electronically on the common portal after furnishing the information in Part –B of Form GST EBW-01;
- c) Where the goods are handed over to transporter for transportation by road, the registered person shall furnish the details relating to transporter in Part-B of Form GST EBW-01, such form shall be generated by transporter on the basis of details furnished by the registered person;
- d) Upon generation of E-Way bill on the common portal, a unique e-way bill number shall be made available to the supplier, recipient and transporter on the common portal;
- e) Any transporter transferring goods from one conveyance to another in the course of transit shall update the details of conveyance in the e-way bill on the common portal in Form GST EBW-01 before such transfer and further movement of goods;
- f) Where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bill in Form GST EBW-02 prior to the movement of goods;
- g) The information furnished in Part –A of Form GST EBW-01 shall be made available to the registered person and same may be utilized the same for furnishing details in Form GSTR-1;
- h) The information furnished by the unregistered supplier in Form GST EBW-01, he shall be informed electronically in his mobile number and email id, if available;
- i) Where any E-Way bill has been generated however, the goods are either not transported or not transported as per the details furnished in the E-Way bill, the E-Way bill may be cancelled electronically on the common portal;
- j) The E-Way bill generated under this rule or under rule 138 of Goods and Service Tax Rules of any state shall be valid in every state or union territory;
- k) The E-Way system shall be introduced from w.e.f 01 March 2018.

▪ **Registration of Casual Taxable person for obtaining registration**

Notification No. - 32/2017 – Central Tax dated 15th September 2017, hereby exempted the casual taxable person from obtaining GST registration who is making taxable supplies of handicraft goods.

The following conditions shall be applicable for such exemptions, namely:

- a) The aggregate value of such supplies does not exceed twenty lakh rupees in a financial year;
- b) The aggregate value of such supplies does not exceed ten lakh rupees in case of special category of states, other than the state of Jammu and Kashmir;
- c) The casual taxable person shall obtain a Permanent Account Number and generate e-way bill;
- d) The above conditions shall be available to such persons who are making taxable supplies of handicraft goods as mentioned in below table

No	Products	HSN Code
(1)	(2)	(3)
1.	leather articles (including bags, purses, saddlery, harness, garments)	201, 4202, 4203
2.	carved wood products (including boxes, inlay work, cases, caskets)	4415, 4416
3.	carved wood products (including table and kitchenware)	4419
4.	carved wood products	4420
5.	wood turning and lacquer ware	4421
6.	bamboo products [decorative and utility items]	46
7.	grass, leaf and reed and fibre products, mats, pouches, wallets	4601, 4602
8.	paper mache articles	4823
9.	textile (handloom products)	Including 50,58,62,63
10.	textiles hand printing	50,52,54
11.	cotton thread	5605
12.	carpet, rugs and durries	57
13.	textiles hand embroidery	58
14.	theatre costumes	61,62,63
15.	leather products (including mats, mattresses)	5705,9404
16.	leather footwear	6403,6405
17.	carved stone products (including statues, statuettes, figures of animals, writing sets, ashtray, candle stand)	6802
18.	bone inlay work	68
19.	pottery and clay products, including terracotta	9901,6909,6911,6912,6913,6914
20.	metal table and kitchen ware (copper, brass ware)	7418
21.	metal statues, images/statues vases, urns and crosses of the type used for decoration of metals of chapters 73 and 74	8306
22.	metal bidriware	8306
23.	musical instruments	92
24.	horn and bone products	96
25.	shell shell crafts	96
26.	bamboo furniture, cane/Rattan furniture	
27.	toys and dolls	9503
28.	folk paintings, madhubani, patchitra, Rajasthani miniature	97

▪ **Addition of certain items to the list of "handicrafts goods"**

According to Notification No. 38/2017 – Central Tax, the council has made the followings amendments in the Notification No. 32/2017 Central Tax dated 15th September 2017.

(i) for serial number 9 and the entries relating thereto following shall be substitute namely:

	Textile (handloom products) Handmade Shawls, stoles and scarves	including 50, 58, 61, 62, 63
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(ii) after serial number 28 and the entries relating thereto, the following shall be inserted namely:

29	Chain stitch	Any chapter
30	Crewel, namda, gabba	Any chapter
31	Wicker willow products	Any chapter
32	Toran	Any chapter
33	Articles made of shoal	Any chapter

▪ **Notification of the conditions for deductions of Tax Deduction at Source (TDS)- Section 51**

According to Notification No. -33/2017 – Central Tax dated 15th September 2017, hereby notified the person shall be liable to deduct tax at the rate 1 percent from the payment made or credited to the supplier of taxable goods or services or both. Where the total value of such supply under a contract, exceeds two lakh and fifty thousand rupees. Provided that no tax shall be deducted if the location of supplier is different from the recipient.

Further the government hereby appoints the 18th day of September 2017 as the date on which the provision of sub section shall come into force with respect to person specified under the said rule.

(i) Set up by an Act of Parliament or a State Legislature; or

(ii) Established by any Government, with fifty-one percent or more participation by way of equity or control, to carry out any function;

(b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);

(c) Public sector undertakings:

Such person shall be liable to deduct tax effect from date shall be notified subsequently, on the recommendation of council.

However, the effective date shall be notified subsequently.

▪ **Central Tax amending CGST Rules, 2017 (Seventh Amendment Rules)**

As per Notification No. 34/2017 – 15.09.2017 Central Tax, the Central Government further amends the Central Goods and Service Tax Rules, 2017. These rules may be called the Central Goods and Service Tax (Seventh Amendment) Rules 2017. The Following rules shall be substitute under the Central Goods and Service Tax Rules, 2017.

a) Any registered taxable person who has opted to pay tax under composition scheme w.e.f. 1st October 2017 shall file an intimation in Form GST CMP-02, on the common portal before the due date and shall furnish the statement in Form GST ITC-03;

Provided that the said person shall not be allowed in furnishing the declaration in Form GST TRAN-1 after the statement in Form GST ITC-03 has been furnished

b) Where a registered taxable persons who has filed the Form GST TRAN-1 with in the specified time may revised such form once and submit the revised in Form GST TRAN-1 in electronically on common portal;

- c) According to Rule 122 clause (b) four members who are or have been commissioners of state tax or central tax or have held an equivalent post under the existing law for at least one year;
- d) Rule 127 has inserted the clause (iv), to furnish a performance report to the council by the tenth of the close of each quarter;
- e) Under Rule 138 in sub rule (i), provision shall be inserted, namely- Where the goods are sent by principal located in one state to a job worker located in any other state, the e-way bill shall be generated by the principal irrespective of the value of the consignment.
- f) The details of bill of entry shall be entered in place of invoice where the consignment pertains to an import.

- **Central Tax amending CGST Rules, 2017 (Eight Amendment Rules)**

According to Notification No. 36/2017, Central Government hereby makes the following rules further to amend the Central Goods and Service Tax Rules, 2017. These rules may be called the Central Goods and Service Tax (Eight Amendment) Rules, 2017.

- a) *Any registered person who is not liable to registered under the Act may, on or before 31st October, 2017 submit an application electronically in Form REG-29 at the common portal for the cancellation of registration granted to him;*
- b) *The due date for filing of GST TRAN-1 may be extended as recommended by the commissioner shall be substituted;*
- c) *Every registered person who has submitted a declaration electronically in Form GST TRAN-1 may revise such declaration once and submit and submit the revised declaration in Form GST TRAN-1;*
- d) *The heading "Application for Cancellation of Registration of Migrated Tax Payer" shall be substituted;*
- e) *For the word and letters "Provisional ID" the letters "GSTN" shall be substituted.*

- **Extension of facility of LUT to all exporters**

For ease of doing business the department has extended the facility of Letter of Undertaking (LUT) to all exporters. As per Notification No. 37/2017 – Central Tax, the Central Board of Excise and Customs hereby specifies the conditions and safeguards for furnishing a Letter of Undertaking by a registered person who intends to supply goods or services for export without payment of integrated tax.

All registered person who intend to supply goods or services for export without payment of integrated tax shall be eligible to furnish a Letter of Undertaking (LUT) in place of bond

The following documents shall be required for furnishing the letter of undertaking before the concerned jurisdictional officer:

- (i) The letter of undertaking shall be furnished on letter head of the registered person, and
- (ii) The LUT shall be furnished on the letter head of the registered person, in duplicate;
- (iii) It shall be executed by the working partner, director, company secretary, proprietor or person duly authorised by such working partner or board of Directors of such company or proprietor;

(iv) A declaration shall be filed by the registered person that they had not been prosecuted for any offence under the Central Goods and Service Act, Integrated Goods and Service Tax or any existing law in force in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees ;

The facility to export without payment of tax integrated tax shall be deemed to have been withdrawn if the registered person fails to pay the tax due along with interest as specified under sub-rule (1) of rule 96A of the Central Goods and Service Tax Rules, 2017 within the period specified thereon;

2. The provision of this notification shall apply in respect of zero rated supply of goods or services or both made by a registered person to a Special Economic Zone Developer or Special Economic Zone developer or Special Economic Zone unit without payment of integrated tax.

▪ **Clarification on issues related to furnishing Bond/ Letter of Undertaking for Exports**

In view of the difficulties being faced by the exporters in submission of bonds/ letter of undertaking for exporting goods or services or both without payment of integrated tax, Notification 37/2017 – Central Tax has been issued which extends the facility of LUT to all exporters under Rule 96A of Central Goods and Service Tax Rules, 2017. The Central Goods and Services Tax Act, 2017 clarifies the followings

- a) The facility to export under LUT has been now extended to all registered person unlike the Notification No. 16/2017 – Central tax which extend the facility of export LUT to status holder and to person receiving a minimum foreign inward remittance of 10% of the export turnover in the preceding year which was not less than Rs. 1 crore;
- b) The LUT shall be valid for the whole financial year in which it is tendered. However, the facility of LUT shall be withdrawn in case if goods are not exported within the time specified in sub- rule (1) of rule 96A of the CGST Rules.
- c) If the amount mentioned in the said sub –rule is paid subsequently, the facility of LUT shall be restored
- d) Form GST RFD-11 is available on the common portal. The LUT shall be furnished on the letter head of the registered person,

▪ **Seeks to cross empower state tax officers for processing and grant refund**

According to Notification No. 39/2017 – Central Tax dated 13th October 2017 hereby specifies that the officers appointed under the respective State Goods and Services Tax Act, 2017 or the Union Territory Goods and Service Tax Act are authorised to be the proper officers for the said act. These proper officers shall act for the purpose of sanction of refund under section 54 and section 55.

▪ **Seeks to payment of tax on issuance of invoice**

According to Notification No. 40/2017 – Central Tax dated 13th October 2017 hereby notifies that:

all the registered person whose aggregate turnover in the preceding financial year did not exceed one crore and fifty lakh rupees or the registered person who has aggregate turnover in the year in which such person has obtained registration likely to be less than one crore and fifty lakh rupees shall not be required to pay tax at the time of receipt of advance on account of supply of goods or services.

▪ **GST on advance payment**

According to Notification No. 41/2017 – Central Tax dated 13th October 2017, the commissioner hereby extends the time limit for furnishing the return by a composition supplier, in Form GSTR-4, for the quarter July 2017 to September 2017 till the day of 15th November 2017.

▪ **Amendment of the CGST Rules, 2017 (Ninth Amendment)**

According to Notification No. 45/2017 – Central Tax 2017 dated 13th October 2017, the central government hereby makes the following rules further to amend the Central Goods and Service Tax Rules, 2017, namely:

- (i) A person who has been granted registration certificate may opt to pay tax under composition scheme. With effect from the first day of month immediately succeeding the month in which he files an intimation in Form GST CMP-02, on the common portal on or before 31st March 2018 and shall furnish the statement in Form GST ITC -03;

Provided that the said person shall not be allowed to furnish declaration in From GST TRAN-1 after the statement in Form GST ITC 03 has been furnished

- (ii) Where a registered person who is supplying outward taxable goods, services as well as exempted goods or services or both to un-registered person, a single "invoice cum bill of supply" may be issued for all such supplies.

- (iii) Where the supplier of taxable service is an insurer or banking company or a financial institution including a non banking financial, who issued a "tax invoice" the words "consolidated tax invoice shall be substituted.

- (iv) After the words "by whatever name called" the words "for supply of services made during a month at the end of month shall be inserted;

- (v) The following provision shall be inserted for submission of quarterly return by the composition supplier;

Provided that the registered person who opts to pay tax under section 10 with effect from the first day of a month which is not the first month of a quarter shall furnish the return in FORM GSTR-4 for that period of the quarter for which he has paid tax under section 10 and shall furnish the returns as applicable to him for the period of the quarter prior to opting to pay tax under section 10.

- (vi) in FORM GST CMP-02, for the words, figures and brackets "See rule 3(2)", the words, figures, brackets and letter "See rule 3(3) and 3(3A)" shall be substituted;

- (vii) in Form GSTR-1 table 6 and GSTR-1A table 4 shall be substituted;

- (viii) in Form GSTR-4 for the tax periods July 2017 to September 2017 and October 2017 – December 2017 serial 4A of table 4 shall not be furnished;

▪ **Notifies certain supplies as deemed export**

According to Notification No. 48/2017 – Central Tax dated 18th October 2017 hereby notifies the following supplies of goods, as deemed export namely:

No	Description of supply
(1)	(2)
1	pply of goods by a registered person against advance Authorisation
2	pply of capital goods by a registered person against Export Promotion Capital Goods authorisation

3	Supply of goods by a registered person to Export Oriented Unit
4	Supply of gold by a bank or Public Sector undertaking specified in notification no. 50/2017- Customs, dated 30 th June 2017 (as amended) against advance authorization

Explanation: - For the purpose of this notification-

1. "Advance Authorisation" means an authorisation issued by the DGFT under chapter 4 of FTP 2015-2020.
2. Export promotion capital goods authorisation means an authorisation issued by the DGFT under chapter 5 of FTP 2015-2020 for import of capital goods for physical exports;
3. "Export Oriented Units" means an Export Oriented unit or Electronic Hardwar Technology Park unit or Software Technology Part unit or Bio – Technology Park unit approved in accordance with the provision of FTP 2015-2020.

▪ **Notifies the evidences required to be produced by the supplier of deemed export supplies for claiming refund**

According to Notification No. 49/2017- Central Tax dated 18th October 2017 hereby notified that the evidences required to be produced by the supplier of deemed export supplies for claiming refund, namely

- 1) An undertaking by the recipient that no input tax credit on such supplies has been availed him;
- 2) An undertaking by the recipient of deemed export supplies that he shall not be claim the refund in respect of such supplies and the supplier may claim the refund;
- 3) Acknowledgement by the jurisdictional tax officer of the advance authorisation holder;

▪ **Eleventh amendment in CGST Rules 2017**

According to Notification No. 51/2017 – Central Tax dated 28th October 2017 hereby makes the amendment in Central Goods and Service Tax Rules, 2017. These rules may be called the Central Goods and Service Tax (eleventh amendment) Rules, 2017.

(i) Every registered person who is not liable to be registered under this Act may submit an application electronically in Form GST REG -29 at the common portal on or before the **31st December 2017**. (see rule 24(4))

- a. Where a goods dispatched to the job worker or received from a job worker to another job worker during a quarter shall be included in ITC-04 furnished for that period before the twenty fifth day of the succeeding said quarter or **with in such further period as may be extended by the commissioner** (see rule 45(3))

(ii) Where the date of furnishing outward supplies in Form GSTR-1 for the tax period has been extended then the supplier shall furnish the information relating to export as specified in table 6A of Form GSTR-1 after the return in Form GSTR-3B has been furnished and the same shall be transmitted electronically by the common portal (see rule 96(2));

Provided further that the information in Table 6A furnished under the first proviso shall be auto – drafted in Form GSTR-1 for the tax period.

▪ **Exempt person from taking registration in inter-state supplies**

With reference to the Notification No. -10/2017 – Integrated (Tax) dated 13th October 2017 the central government hereby exempts the person making inter-state supplies of taxable services and having an aggregate turnover an amount of twenty lakh rupees shall be exempted from obtaining the registration.

- **Seeks to cross empower state tax officers for processing and grant of refund**

According to Notification No. 11/2017 – Integrated Tax dated 13th October 2017 hereby specifies that the officer appointed under the respective under the SGST, UTGST who are authorised to be the proper officer for the purpose of refund.

- **Notification issued under CGST Act are extended to UTGST Act**

With reference to the Notification No. 17/2017 – Union Territory Tax dated 24th October 2017 government here on recommendation on council, hereby notify that notification and rules issued under central goods and service tax shall be extended to said act automatically.

Notification in respect of changes in Rates of Goods and Services

- **Reduce CGST tax rate on specified supplies of Works Contract Services**

As per Notification No. 24/2017- Central Tax (Rate) hereby makes the following amendments in the notification no. 11/2017 – Central Tax (Rate) of the Government of India. In the said notification, the entries relating thereto, shall be substituted namely:

Descriptions of Services	Rate
(3)	(4)
(vi) Services provided to the central, state, union territory or local authority by way of construction, erection, installation, maintenance, alteration of (a) A civil structure or any other original works used other than commerce, industry, or any other business or profession (b) A structure use as (i) an educational (ii) a clinical (iii) art or cultural establishment (c) A residential complex for self use or use their employees, other person specified in Schedule – III of CGST Act, 2017	6%
(vii) Construction services other than (i), (ii), (iii), (iv), (v) and (vi) above	9%

- **Exempts right to admission to the event organized under FIFA U-17 World Cup 2017**

As per Notification No. 25/2017- Central Tax (Rate), the Central Govt. on recommendations of council hereby amend the notification No. 12/2017 – Central Tax (Rate) wherein services by way of right to admission to the events organised under FIFA U-17 World Cup 2017 shall be exempt.

- **Exempts intra-state supplies to Nuclear Power Corporation of India Limited**

As per to Notification No. 26/2017 - Central Tax (Rate) on recommendation of council exempts the whole of central tax leviable thereon on intra –state supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Limited.

- **Amends Central Tax (Rate) Notification No. 05/2017**

As per Notification No.-29/2017 Central Tax (Rate), the Central Government on the recommendation of the council amends the Notification No.-05/2017-Central Tax (Rate) to insert the following serial numbers and entries, namely:

6A	5801	Corduroy Fabrics
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Which implies that no refund of un-utilised input credit shall be allowed in this case?

- **Granting Exemption to Job Worker making inter-state supply of service**

As per Notification No. 07/2017 - Integrated Tax, the Central Government hereby specifies the job worker engaged in making inter-state supply of services to a registered person as the category of person exempt from obtaining registration under the said act.

- ***To remove difficulties in implementing provision of composition scheme***

As per order No. 01/2017 – Central Tax hereby makes the provision in respect of difficulties arising to the provision of section 10 of the said act. This order may be called the Central Goods and Service Tax (Removal of difficulties) Order, 2017

- a) Where any person is supplies goods and/ or services referred in clause (b) of paragraph 6 of Schedule II of the said Act and also supplies any exempt services including services by way of extending deposits, loan, advances in so far as the consideration is represented by way of interest or discount the said person shall not be eligible for composition scheme
- b) In computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

- ***Authorised officers for enrollment of Goods and Service Tax Practitioner***

According to circular number 9/9/2017 dated 18th October 2017 hereby authorised the office to approve or rejects the said application in respect of application for enrollment as Goods and Service Tax Practitioner in Form GST PCT -01.

- ***Classification on movement of goods on approval basis***

The department issued a circular 10/2017 - GST in respect of clarification on issues wherein goods are moved within the state or from state of registration to another state for supply on approval basis. For the purpose of uniformity in the implementation, it has been decided to clarify this matter as follows:

- a) With reference to the rule 55 of the CGST Rules, 2017 provides that the supplier shall issue a delivery challan for initial transportation of goods where such transportation other than by way of supply;
- b) Goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same state or to a place outside the state on a delivery challan along with e-way bill. For the purpose;
- c) Where the supplier carries goods from one state to another state and supplies them in different states, will be inter-state supplies and attract integrated goods and service tax;

- ***Clarification on taxability of printing contracts***

Circular No. 11/11/2017 – GST dated 20th October 2017 clarify whether supply of books, pamphlets, brochures, leaflets, carton, boxes etc would constitute supply of goods falling under chapter 48 or 49 of supply of services falling under head 9989 of the scheme

In the above context, it is clarified that such supplies are composite supplies and question, whether such supplies constitutes supply of goods or services would be determined on the basis of what constitutes principal supply. The following conditions shall be applicable:

- a) In case printing of books, pamphlets, brochures, etc. where only content is supplied by the publishers or the person who owns the usage right to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitutes supply of services

- b) In case of supply of printed envelopes, letter card, printed boxes etc. falling under chapter 48 or 49, printed with design logo etc. and the supply of printing content is ancillary to the principal of supply of goods and therefore such supplies would constitute supply of goods falling under respective headings.

▪ **Clarification regarding applicability of GST under superior kerosene oil (SKO)**

Circular No. 12/12/2017 – GST dated 26.10.2017 briefly stated that references have been received in respect of applicability of GST on superior kerosene oil retained for the manufacture of Linear Alkyl Benzene [LAB]

In this context, LAB manufacturers have stated that they receive superior Kerosene oil (SKO) from, a refinery, say, Indian Oil Corporation (IOC). They extract n-Paraffin (C9-C13 hydrocarbons) from SKO and return back the remaining of SKO to the refinery. In this context, the issue has arisen as to whether in this transaction GST would be levied on SKO sent by IOC for extracting n-paraffin or only on the n-paraffin quantity extracted by the LAB manufactures. Further, doubt have also been raised as to whether the return of remaining Kerosene by LAB manufactures would separately attract GST in such transaction.

In this context, the GST Council in its 22nd meeting held on 06.10.2017 discussed the issue and recommendation for issuance of clarification that in this transaction GST will be payable by the refinery on the value of net quantity of superior kerosene oil (SKO) retain for the manufacture of Linear Alkyl Benzene Lab (LAB). Accordingly, it is here by clarified that, in aforesaid case, GST will be payable by the refinery only on the net quantity of superior kerosene oil (SKO) retained for the manufacture Circular No. 12/12/2017-GST of Linear Alkyl Benzene (LAB). Though, refinery would be liable to pay GST on such returned quantity of SKO, when the same is supplied by it to any other person.

▪ **Classification of cut pieces of fabric under GST**

Refer to the Circular No. 13/13/2017 – GST, department has issued a clarification in respect of unstitched salwar suits.

- a) It has been represented that before becoming readymade articles or an apparel, the fabric is cut from bundles or thans and sold in that unstitched state. The consumers buy these sets or pieces and get it stitched to their shape and size.
- b) Fabrics are classifiable under chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials and attract a uniform GST rate of 5% with no refund of the unutilized input tax credit.
- c) Mere cutting and packing of fabrics into pieces of different lengths from bundles or thans will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric and attract the 5% GST rate.
- d) It is requested that suitable trade notices may be issued to publicize the contents of this circular
- e) Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

▪ **Notifies the Revised rates for supply of services under GST**

With reference to the Notification No. 31/2017 – Central Tax (Rate) dated 13th October 2017 hereby makes the following amendments in notification no. 11/2017 – Central Tax (Rate) dated 28.06.2017 in respect of supply of services mentioned under GST, namely:

S. No	Particulars	Rate of Tax
1	Composite supply of works contract involving earth works	2.5%
2	Composite supply of works contract and associated services, in respect of offshore works contract relating to oil & gas exploration	6%

3	Other Construction Services	9%
4	Transport of passengers by any motor vehicle designed to carry passengers where the fuel is included in the consideration	2.5%(Input Credit not allowed)
5	Transportation of natural gas through pipeline	2.5%(Input Credit not allowed)
6	Goods Transportation services	9%
7	Renting of motor vehicle designed to carry passengers where cost fuel is included the consideration charged from the service recipient	2.5%(Input Credit not allowed)
8	Financial and related services	9%
9	Services by way of job work in relation to (a) Manufacture of umbrella (b) Printing of all goods falling under chapter 48 or 49	6%
10	Services by way of printing of all goods falling chapter 48 or 49	6%

▪ **Exemption on supply of services under CGST Act**

With reference to the Notification No. 32/2017 – Central Tax (Rate) on recommendation of council hereby makes the following further amendments in respect of exemption of supply of services namely:

- a) Supply of service by a Government Entity to Central Government, State Government, or local authority in the form of grants
- b) Services provided by goods transport agency to an unregistered person, including an unregistered casual taxable person.
- c) Services by way of access to road to a road or a bridge on payment of annuity

▪ **Services provided by overseeing committee members to RBI under RCM**

With reference to the Notification No. 33/2017 – Central Tax (Rate) dated 13.10.2017, hereby makes the following amendments in notification no 13/2017 – Central Tax (Rate) respect of services on which tax shall be payable under reverse charge mechanism:

"10	Supply of services by the members of Overseeing committee to Reserve Bank of India	Members of Overseeing committee constituted by the RBI	Reserve Bank of India"
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▪ **Amendment in Reverse Charge on certain specified supply of goods**

Notification No. 36/2017 – Central Tax (Rate) dated 13th October 2017, hereby makes the amendment in reverse charge on certain specified supply of goods, namely:

S.No	Tariff item sub heading or Chapter	Descriptions of goods	Supplier of goods	Recipient of supply
6	Any Chapter	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central, State, local, Union territory	Any registered person

▪ **Central Tax rate on leasing of motor vehicles**

According to Notification No. 37/2017 – Central Tax (Rate) dated 13.10.2017 on recommendation of council, hereby notifies the central tax on intra state supplies of goods for leasing of motor vehicles

Sl. No	Chapter heading sub heading or tariff item	Descriptions of Goods	Rate	Condition
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1	87	Motor Vehicles	65% of central tax applicable otherwise on such goods under Notification No. 1/2017 – Central Tax rate	1
2	87	Motor Vehicles	65% of central tax applicable otherwise on such goods under Notification No. 1/2017 – Central Tax rate	2

▪ **Seeks to exempt payment of tax under reverse charge specified in section 9(4) of the CGST Act**

With reference to the Notification No. 38/2017 – Central Tax dated 13th October 2017 hereby makes the amendment in notification no 08/2017 – Central Tax dated 28th June 2017 and omitted the provision of paying tax under reverse charge mechanism till 31st March 2018, by a registered person in respect of supply of goods or services or both from un-registered person.

Such provision shall be effective from the date of issue.

▪ **Rate for Food Preparation and free distributions to economically weaker section**

With reference to the Notification No. 39/2017 – Central Tax (Rate) dated 18th October 2017, hereby notifies the central tax rate of 2.5 percent on intra state of supplies of goods,

No	Item heading, sub heading or chapter	Descriptions of Goods	Condition
	or 21	Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government	When the supplier of such food preparations produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory concerned to the effect that such food preparations have been distributed free to the economically weaker sections of the society under a programme duly approved by the Central Government or the State Government concerned, within a period of five months from the date of supply of such goods or within such further period as the jurisdictional commissioner of the Central tax or jurisdictional commissioner of the State tax, or jurisdictional officer of the Union Territory Tax as the case maybe, may allow in this regard

▪ **Due date for filing of GSTR returns**

No	Form & Details	Original Due Date	Revised Due Date
1	STR-1 July 2017- October 2017		31.12.2017
2	STR-4 July – September 2017	18.10.2017	24.12.2017
3	STR-5 July 2017	18.08.2017 or 7 days from last date of registration	11.12.2017
4	STR-5A July 2017	20.08.2017	15.12.2017
5	STR-6 July 2017	13.08.2017	31.12.2017
6	STR TRAN-1	30.09.2017	31.12.2017
7	STR-2 & GSTR-3	-	Shall be notified subsequently

▪ **Waives late fee payable for the month of August and September**

According to Notification No. 50/2017 – Central Tax dated 24th October 2017 on recommendation of council waive off the late fee payable for not filing the GSTR-3B for the month of August and September 2017 by the due date.

- **Remove difficulties in implementing provision of composition scheme**

As per Order No. 01/2017 – Central Tax dated 13.10.2017 whereas; certain difficulties have been arisen in giving effect to the provision of the Central Goods and Services Tax Act, 2017. The government on recommendation of council hereby makes the following order namely. This order may be called the Central Goods and Services Tax (Removal of difficulties) order 2017.

For removal of difficulties:

- (i) It is hereby clarified that if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said act and also supplies exempt services including services by way of interest or discount under section 10 subject to the fulfillment of all the other conditions specified therein.
- (ii) It is further clarified that in computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account.

- **Amend the turnover limit for composition dealer**

According to Notification No. 46/2017 – Central Tax dated 13th October 2017 on recommendation of council has exceed the prescribed limit of aggregate turnover

1. From seventy five lakh to one crore rupees;
2. From fifty lakh to seventy five lakh rupees (special category of states);

- **Extension of time limit for submitting the application for Existing Taxpayer**

According to Order No. 06/2017 – GST dated 28.10.2017 all the existing taxpayers who wish to enroll under GST shall submit electronically the application in Form GST REG-26 till 31st December 2017.

Notification for Zero rated supplies/Deemed Export of Goods/Services

- **Prescribe Central Tax rate of 0.05% and 0.1% on Intra-State and Inter-State supply of taxable goods by a registered supplier to a registered recipient for export subject to specified conditions.**

With reference to the Notification No. 40/2017- Central Tax (Rate) dated 23.10.2017, hereby exempts the intra – state and inter- state of supply of taxable goods by a registered supplier to a registered recipient for export, from so much of the central tax leviable thereon under section 9 of the said Act, as is in excess of the amount calculated at the rate of 0.05 and 0.1 per cent., subject to fulfillment of the following conditions, namely: -

- (i) The registered supplier shall supply the goods to the registered recipient on a tax invoice
- (ii) The registered recipient shall export the said goods within a 90 days from the date of issue of tax invoice by the registered supplier
- (iii) The registered recipient shall indicate the GSTN number of the registered supplier and the tax invoice number issued by the registered supplier in respect of said goods in the shipping bill or bill of export as the case may be;
- (iv) The registered recipient shall be registered with an Export Promotion Council or a Commodity Board recognized by the Department of Commerce;
- (v) The registered recipient shall place an order on registered supplier for procuring goods at concessional rate and a copy of the same shall also be provided to the jurisdictional tax officer of the registered supplier;
- (vi) The registered recipient shall move the said goods from place of registered supplier –

- (a) Directly to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported; or
- (b) directly to a registered warehouse from where the said goods shall be move to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported;
- (vii) If the registered recipient intends to aggregate supplies from multiple registered suppliers and then export, the goods from each registered supplier shall move to a registered warehouse and after aggregation, the registered recipient shall move goods to the Port, Inland Container Depot, Airport or Land Customs Station from where they shall be exported;
- (viii) in case of situation referred to in condition (vii), the registered recipient shall endorse receipt of goods on the tax invoice and also obtain acknowledgement of receipt of goods in the registered warehouse from the warehouse operator and the endorsed tax invoice and the acknowledgment of the warehouse operator shall be provided to the registered supplier as well as to the jurisdictional tax officer of such supplier; and
- (ix) when goods have been exported, the registered recipient shall provide copy of shipping bill or bill of export containing details of Goods and Services Tax Identification Number (GSTIN) and tax invoice of the registered supplier along with proof of export general manifest or export report having been filed to the registered supplier as well as jurisdictional tax officer of such supplier.
- (x) The registered supplier shall not be eligible for the above mentioned exemption if the registered recipient fails to export the said goods within a period of ninety days from the date of issue of tax invoice.

Note: - Please note that above mentioned Notification No.-31/2017 Central Tax (Rate) to 40/2017- Central Tax shall also be applicable (Notification No. 32/2017- Integrated Tax (Rate) to 42/2017) in case of Integrated Supply of Goods or Services or both subject to the conditions specified there in.

Assurance & Accounting

September and October, 2017 saw various exposure drafts on Accounting Standard issued by ICAI, including proposed revision in definition of Internal Audit. Further, IASB has published proposed amendment to IAS 8 to help entities distinguish accounting policies from accounting estimates.

- **IASB publishes proposed amendment to IAS 8 regarding accounting policies and accounting estimates**

In this Exposure Draft, the International Accounting Standards Board (Board) proposes to amend IAS 8 Accounting Policies and Accounting Estimates. The proposed amendments aim to help entities distinguish accounting policies from accounting estimates, more specifically, the proposed amendments would clarify:

- a. How accounting policies and accounting estimates relate to each other, by: (i) explaining that accounting estimates are used in applying accounting policies; and (ii) making the definition of accounting policies clearer and more concise;
- b. That selecting an estimation technique, or valuation technique, used when an item in the financial statements cannot be measured with precision, constitutes making an accounting estimate; and
- c. That, in applying IAS 2 Inventories, selecting the first-in, first-out (FIFO) cost formula or the weighted average cost formula for interchangeable inventories constitutes selecting an accounting policy.

- **ICAI issues Exposure Draft of Accounting Standard 24 'Related Party Disclosures'**

The objective of this Standard is to establish requirements for disclosure of:

- a. related party relationships;
- b. transactions between a reporting entity and its related parties; and
- c. outstanding balances, including commitments, with such related parties

This Standard shall be applied in identifying & reporting related party relationships and transactions between a reporting entity and its related parties. The requirements of this Standard apply to the financial statements of each reporting entity as also to consolidated financial statements presented by a holding company.

- **ICAI issues Exposure Draft of Accounting Standard 23 'Borrowing Cost'**

In this Exposure Draft, the ICAI proposes to amend AS 23 'Borrowing Cost'. Borrowing costs that are directly attributable to the acquisition, construction or production of a qualifying asset form part of the cost of that asset. Other borrowing costs are recognised as an expense.

- **ICAI issues Exposure Draft of Proposed Revised Definition of Internal Audit**

The Internal Audit Standards Board of ICAI has issued Exposure Draft of Revised Definition of "Internal Audit".

PROPOSED REVISED DEFINITION OF INTERNAL AUDIT

"Internal audit provides independent assurance on effectiveness of internal controls, risk management processes and contributes to enhancing governance for achieving organizational objectives."

Explanation

Independence: Internal audit should be an independent function, achieved through the position, organization structure and reporting of the internal auditor.

Internal controls and risk management are an integral part of management function and business operations. An internal auditor is expected to evaluate the design and operating effectiveness of internal controls and risk management processes (including reporting processes) as designed and implemented by the management.

Governance is a set of relationships between the company and its various stakeholders and provides the structure through which the company's objectives are set, and the constant performance monitoring required to help attain them.

Organizational objectives

Incorporate the interests of all stakeholders and includes compliance with internal

policies and procedures and laws and regulations.

Advisory role:

At certain times, in addition to providing assurance, the internal auditor may adopt an advisory role to help an organization achieve its objectives, provided this does not compromise the independence of the internal auditor.

J P Chawla & Co. LLP
Chartered Accountants

REGULATIONS

The Ministry of Corporate Affairs (MCA) has brought few amendments in the existing deposit rules and notified new rules & provisions relating to layers of subsidiaries, registered valuers, IEPF etc. The MCA has also issued some clarifications and notices regarding joint venture and disqualification of directors for its stakeholders.

COMPANIES ACT

▪ **DISQUALIFICATION OF DIRECTORS U/S 164 (2)(a) OF THE COMPANIES ACT, 2013**

The MCA has issued the details of directors who have been disqualified under section 164(2) of the Companies Act, 2013. As per Section 164(2)(a) any person who is or has been a director in a company which has not filed financial statements or annual returns for any continuous period of three financial years shall not be eligible for re-appointment as a director in that company or appointed in other company for a period of five years from the date on which the said company fails to do so.

Further the MCA has also advised that such directors shall not file any documents or forms with the registrar of companies as this shall be summarily rejected.

■ CLARIFICATION REGARDING MEANING OF THE TERM “JOINT VENTURE”

The MCA earlier had issued exemption under Rule 4 of the Companies (Appointment and Qualification of Directors) Amendment Rules, 2017 that unlisted public companies which are a joint venture, a wholly owned subsidiary or a dormant company will not be required to appoint Independent Directors. Thereafter the stakeholders sought clarifications from MCA regarding the term “Joint venture” as such a term is not defined in the Companies Act 2013.

Thereafter the MCA vide its General Circular No.1./22/2013-CL-Y dated 5th September, 2017 clarified that- “A “Joint Venture” would mean a joint arrangement, entered into in writing, whereby the parties that have joint control of the arrangement, have rights to the net assets of the arrangement. The usage of the term is similar to that under the Accounting Standards.”

■ DELEGATION OF POWERS TO REGIONAL DIRECTORS

The Central government has delegated its power and functions to Regional Directors (Mumbai, Kolkata, Chennai, New Delhi, Ahmedabad, Hyderabad and Shillong) related to reduction of share capital u/s section 66 (2) of the Companies Act, 2013.

■ COMPANIES (ACCEPTANCE OF DEPOSITS) SECOND AMENDMENT RULES, 2017

The MCA vide Notification No. G.S.R. 1172(E) dated 19th September, 2017 has issued the “Companies (Acceptance of Deposits) Second Amendment Rules, 2017”. As per the amendment now private company as well as IFSC Public company (*an unlisted public company which is licensed to operate by the Reserve Bank of India or the Securities and Exchange Board of India or the Insurance Regulatory and Development Authority of India from the International Financial Services Centre located in an approved multi services Special Economic Zone set-up under the Special Economic Zones Act, 2005 (28 of 2005) read with the Special Economic Zones Rules, 2006*) may also accept from its members monies not exceeding one hundred per cent of aggregate of the paid up share capital, free reserves and securities premium account and such company shall file the details of monies so accepted to the Registrar in Form DPT-3.

Further the above limit shall not apply to start-up private companies for 5 years or other private companies satisfying the following condition:

- Which is not an associate or a subsidiary company of any other company
- The borrowings of such private company from banks or financial institutions or anybody corporate is less than twice of its paid up share capital or 50 crore rupees, whichever is less.
- Such a private company has not defaulted in the repayment of such borrowings.

▪ **COMPANIES (RESTRICTION ON NUMBER OF LAYERS) RULES, 2017**

The MCA has notified the Companies (Restriction on Number of Layers) Rules, 2017 on 20th September, 2017 which provides for restriction on number of layers for certain classes of holding companies which shall be not have more than two layers of subsidiaries. This provision shall not have effect from acquiring a company incorporated outside India.

Please note that one layer which consists of one or more wholly owned subsidiary or subsidiaries shall not be taken into account for computing the layers.

Further every company having such excess layers of subsidiaries as mentioned are required to file Form CRL-1 with ROC within 150 days of publication of this rule.

▪ **INVESTOR EDUCATION AND PROTECTION FUND AUTHORITY (ACCOUNTING, AUDIT, TRANSFER AND REFUND) SECOND AMENDMENT RULES, 2017**

The MCA has notified the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Second Amendment Rules, 2017 on 13th October, 2017 which provides that in cases where the period of seven years for dividends which remains unpaid or unclaimed has been completed or being completed during the period from 7th September, 2016 to 31st October, 2017, the due date of transfer of such shares to Investor Education and Protection Fund shall be deemed to be 31st October, 2017 and these transfer of shares by companies shall be treated as transmission and the procedure for transmission shall be followed. The procedure for transfer of shares and the relevant provisions which need to be complied with were also prescribed.

▪ **THE COMPANIES (REGISTERED VALUERS AND VALUATION) RULES, 2017**

The MCA has notified the Companies Act, 2013 (Valuation by Registered Valuers) with effect from October 18, 2017. The rules specifies for eligibility, qualifications, registration, valuer organisations and other norms for valuers and valuations. As per the rules, only those person who are registered as valuer as per these provisions shall be allowed to provide the valuations as registered valuer.

The rules also provide for a transition period up to March 31, 2018 for registration of valuers. During this transition period any person who may be rendering valuation services under the Companies Act, 2013 may continue to render such services without being registered under the Rules. Further if a company has appointed any valuer before such date and the valuation or any part of it has not been completed before 31st March, 2018, the valuer has been allowed to complete such valuation or such part within three months thereafter.

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J P Chawla & Co. LLP Chartered Accountants

New Delhi office:

43 Darya Ganj,
New Delhi - 110002
INDIA

Noida office:

C-129, Sector 2,
Noida - 201 301 (U.P.)
INDIA

Phone: +91-120-4573207, 4573208, 4563873

General Email: info@jpc.co.in

Main Partners Hand Phone & Email

Rajat Chawla +91-9871494499 | rajatchawla@jpc.co.in

J.P. Chawla +91-9811028918 | jpchawla@jpc.co.in

Richa Chawla +91-9990509709 | richajuneja@jpc.co.in

For further information, please email your details to rajatchawla@jpc.co.in or call +91-9871494499.

