

Newsletter-June, 2018

JUNE, 2018



Dear reader,

The monsoon's have arrived in time but taken a bit of a hiatus. Seasonal changes are a reminder of how change is the only constant in our lives.

A similar change seems to be occurring in the national consciousness about people's attitude towards business, especially how the reach of technology enabled law enforcement makes it difficult for businesses to bend the law in their favor. The latest experiment that is proposed is having all companies demat their shares. This will have far reaching consequences for private companies, if it comes through.

There is also a lot of change on the international landscape with US concluding a successful meeting with North Korea and at the same time entering into a trade 'war' with China!

India has entered the last year of the present government and will vote within the next year if it wants a change of mandate. Public memories and impressions are fickle and it's too early to speculate anything – and we have seen in the last few years that speculating on election outcomes have been disappointing – Brexit and US elections being the immediate references.

Here's wishing for a good monsoon which directly impacts the life of lakhs of farmers and our supply of food and prosperity. Indian economy is sensitive to 'liquids' – oil and water through monsoons. The past year, higher oil prices have hurt us, hope the monsoons mitigate that!

Regards,

DINESH D. GHALLA

NRI

'Whether Loan from a Non-Resident Indian/Person of Indian Origin without RBI Approval is possible?' is the most generic query received from many Indian persons/entities willing to borrow funds from other NRIs. Moreover, NRI/PIOs' planning to invest their funds in NRO account delve into the option of lending such funds to individuals residents in India. Similarly, resident individuals may consider lending to their NRI relatives. The Foreign Exchange Management Act, 1999 (FEMA) has laid down regulation governing such borrowings in Indian rupees from NRIs and PIOs as well as lending loans to NRIs/PIOs. Therefore, this month we are dealing with certain FAQs related to borrowing in Indian rupees from NRIs and PIOs as well as lending loans to NRIs by Indian Residents

To view the FAQ's, [Click here.](#)

DIRECT TAX

COST INFLATION INDEX (CII) FOR FY 2018-19 NOTIFIED AT 280

In case of transfer of long term capital assets, the indexed cost of acquisition/ improvement is required for the purpose of calculating long term capital gains. Vide Finance Act 2017, the base year for calculating indexation has been shifted from FY 1981-82 to FY 2001-02. The CII For FY 2018-19 has been notified at 280.

Click here to view the cost inflation index applicable, [Click here.](#)

CONSEQUENCES OF LATE FILING OF INCOME TAX RETURN FOR THE A.Y 2018-19

If a person liable to file Income Tax return for A.Y. 2018-19 fails to file the same by the prescribed due date*, then Penalty shall be payable u/s 234F of the Income Tax Act, 1961 depending upon the Total Income# of the person and actual date of filing Income Tax Return.

If there are any taxes which are unpaid, penal interest u/s 234A @ 1% per month will be chargeable till the date of payment of taxes.

Carry forward of losses will not be allowed if the returns are not filed on or before the due date* as prescribed u/s 139(1) except loss from house property.

Deductions under the heading Part C – Deductions in respect of certain incomes will not be allowed unless return of income is filed on or before the due date* as specified u/s 139(1) of the Income Tax Act, 1961.

* Due dates for filing income tax returns:

Status of Assessee	Due date of filing return of income
Individuals, HUF, AOP, BOI, Trust, Partnership Firm and LLP not liable for audit	31 st July
Individuals, HUF, Trust, Partnership Firm and LLP liable for audit and Working partners in a firm	30 th September
Companies	30 th September

Total Income for levy of fees u/s 234F of the Income Tax Act, 1961:

Amount of Total Income	Fees Payable (Amount)
Below Rs. 5 lakhs	1,000
Rs. 5 lakhs and above and return filed before 31 st December	5,000
Rs. 5 lakhs and above and return filed after 31 st December	10,000

INDIRECT TAX

JOBWORK UNDER GST

Job-work sector constitutes a significant industry in Indian economy. The GST Act makes special provisions with regard to removal of goods for job-work and receiving back the goods after processing from the job-worker without the payment of GST. The benefit of these provisions shall be available both to the principal and the job-worker. In order to understand the procedure in detail, [Click here](#).

FEMA

INTEGRATED REPORTING STRUCTURE FOR FOREIGN INVESTMENT IN INDIA

With an objective of integrating the reporting structures of various types of foreign investment in India in different kinds of entities, the Reserve Bank of India (RBI) has proposed to introduce the system of Single Master Form (SMF). SMF would provide an online facility for reporting total foreign investment in an Indian entity by subsuming various reporting requirements of foreign investments in India. Certain forms such as Advance Remittance Form and Annual Return on Foreign Liabilities and Assets shall continue in the current manner.

Prior to implementation of SMF Framework, RBI will provide a dedicated interface to all the Indian entities (including Companies and LLPs), to input the data on total foreign investment (Direct & Indirect) till date in Entity Master Form (EMF). In order to ensure readiness, the requirements of EMF have been prescribed by the RBI. The interface will be available on RBI website from 28th June, 2018 to 12th July, 2018. To view the EMF, [Click here](#).

Indian entities not complying with this pre-requisite will not be able to receive foreign investment (including indirect foreign investment) and will be non-compliant with Foreign Exchange Management Act, 1999.

The format of the SMF has been provided as Annexure II to the circular, the RBI is yet to notify the form. Once notified the form will be available in the Master Direction on Reporting.

To view the Annexure II , [Click here](#).

To view the circular, [Click here](#).

COMPANY LAW

PROCEDURE FOR ISSUE AND REDEMPTION OF PREFERENCE SHARES

Preference share capital means that part of the issued share capital of the company which carries or would carry a preferential right with respect to payment of dividend and repayment of the amount of the share capital paid-up or deemed to have been paid up.

A Company issues preference shares to raise funds without diluting the voting rights. This is the trade-off to be made for getting an assured income.

To view full note, [Click here](#).

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