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Newsletter India

Latest news on compliance, tax and business in India

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Compliance News

> 100 % FDI is now permitted in Single-Brand Retail under automatic route

The Union cabinet on 10th January 2018 allowed 100 % foreign direct investment ('**FDI**') in single-brand retail under automatic route, i.e., without prior government approval. Although, 100 % FDI was already permitted in single-brand retail, only up to 49 % was allowed through the automatic route and investment above 49 % required government approval.

As a progressive move in the direction of improving the 'ease of doing business in India', the cabinet provided certain relaxations to foreign single-brand retailers. One of which is that it has been decided to permit single brand retail trading entities to set off its incremental sourcing of goods from India for global operations during initial 5 years, beginning 1st April of the year of the opening of first store against the mandatory sourcing requirement of 30 % of purchases from India.

After completion of this 5 year period, the single-brand retailers would be required to meet the 30 % sourcing norms directly towards its India's operation, on an annual basis.

> Norms stricken for Insolvency and Bankruptcy Code, 2016

With a view to prevent unscrupulous, undesirable persons from misusing or vitiating the provisions of Insolvency Bankruptcy Code ('**the Code**'), the Government of India on 23rd November 2017 promulgated the Ordinance to amend the Code.

The key amendments introduced vide Ordinance aim towards achieving good insolvency regime. While the Ordinance makes a number of amendments, the main focus is to (retrospectively) bar promoters of the defaulting company from regaining control of the defaulting company/stressed assets in the capacity of a 'resolution applicant'.

New section has been inserted which prohibits 10 categories of 'persons' from submitting a resolution plan. These include-willful defaulters, undischarged insolvents; disqualified directors under the Companies Act, 2013; persons who have indulged in preferential

or under-valued transactions. Moreover, 'connected persons' to any of these falling under ineligible criteria have also been barred from applying as resolution applicants. Any resolution plan submitted by 'ineligible resolution applicant' will be rejected by the Committee of Creditors.

The Ordinance also prohibits the selling of assets of defaulting company undergoing liquidation to a person ineligible to be a resolution applicant.

Accordingly, the amendments have placed the resolution applicants including promoters in a tightening situation with respect to their credit worthiness and credibility.

> Drive of achieving corporate governance and ease of doing business

In the drive of achieving better corporate governance and increasing the ease of doing business, the Companies (Amendment) Act, 2017 received the assent of the President on 3rd January 2018 and Ministry of Corporate Affairs ('**MCA**') may notify different sections on different dates. It intends to make certain amendments to the Companies Act, 2013 such as:

- When the appointment of auditor is made for five years, members are no longer required to annually ratify such appointment.
- Every company has to place a copy of the annual return (Form MGT-9) on the website of the company and disclose its link in its annual return and the Board's Report.
- The Annual General Meeting ('**AGM**') of unlisted company (includes private companies) may be held at any place in India if consent is given in writing or in electronic mode by all the members in advance.
- Extraordinary General Meeting ('**EGM**') of wholly owned subsidiary of a company incorporated outside India can be held outside India.
- If the financial statements or the annual returns or other associated documents are not filed within the prescribed period then additional fee shall be levied after the expiry of such period which shall not be less than INR 100 (Approx.¹ EUR 1.33) per

¹ Assuming INR 75 / 1 EUR

day. Different amounts may be prescribed for different classes of companies.

- Requirement related to resident director eased i.e., stay in India for a total period of not less than 182 days during the financial year, instead of previous calendar year.
- Eligibility of doing corporate social responsibility to be determined based on preceding 'financial year' instead of 'three preceding financial years'.
- In addition to directors and key managerial personnel, any employee can also authenticate documents.

> Cracking down whip on defaulting companies and directors

With an intent of cracking the whip on black money and as part of the Government's crackdown on shell companies, Ministry of Corporate Affairs ('MCA') cancelled the registration of around 210,000 defaulting companies.

Subsequently the Ministry of Finance issued directions to the banks to restrict operations of bank accounts of such companies by the directors of such companies or their authorised representatives. MCA identified approximately 106,000 directors for disqualification due to non-filing of financial statements or annual returns for a continuous period of three financial years and blocked their Director Identification Number and digital signatures for five years.

These stringent actions demonstrate that the Government is now firm to abolish money laundering practices and to punish companies and directors non-compliant with the provisions of the Companies Act.

Hence, now the companies are advised to pay attention to be sincere corporate governance compliant or be ready to face grave aftermaths.

> Condonation of Delay Scheme, 2018

In order to provide some relief to the genuine companies/directors who got covered under defaulter list as discussed above and to grant the last chance to the actual defaulting companies/directors to make their mistakes good, the Government has released a scheme of condonation which came in effect from 1st January 2018 and shall remain in force up to 31st

March 2018.

Under this scheme, the defaulting companies are given a chance to file their annual financial statements and annual returns with the Registrar of the Companies within the prescribed period.

Under this scheme, a defaulting company is permitted to file its overdue documents which were due for filing up to 30th June 2017 under the terms and conditions of the scheme. Further, the Director Identification Numbers of the disqualified directors de-activated at present would be temporarily activated during the validity of the scheme to enable them to file the overdue documents.

> Restriction on number of layers of the companies

With effect from 20th September 2017, no company other than the class of companies as specified is permitted to have more than two layers of subsidiaries in India.

For computing the number of layers, however, one layer which consists of one or more wholly owned subsidiary or subsidiaries shall not be taken into account.

If any company other than those specified has more than two layers of subsidiaries, it had to file Form CRL-1 with the Registrar within 150 days from commencement of these rules.

So, it time to check that how many layers of subsidiaries your company has currently.

> Synchronisation of FDI guidelines with the Companies Act provisions and further liberalisation

To be in the line with the Companies Act, 2013, Reserve Bank of India ('RBI') on 7th November 2017 notified new FEMA (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 according to which now:

- Capital instruments will have to be issued within 60 days from the receipt of consideration as compared to 180 days earlier.
- In case of non-issuance of capital instruments within 60 days from the date of receipt of consideration, it is required to refund the money

within 15 days from the date of completion of 60 days.

- Prior approval of RBI will be required for payment of interest in case of any delay in refund of the amount.
- Transfer of capital instruments by a Non-Resident Indian to Non-Resident no longer requires RBI approval.
- Delayed reporting of foreign direct investment can be made with payment of late submission fee.
- The downstream investments made into Indian companies would be subject to approval of board of directors and shareholder's agreement, if any. Further, downstream investments have to be reported within 30 days of investment irrespective of whether securities have been allotted.

> Maharashtra has now new Shops and Establishments Act

The Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017 (**'the New Act'**) brought into force from 19th December 2017 which repealed 60 years old Maharashtra Shops and Establishments Act, 1948 (**'Old Act'**).

Key Changes provided by the New Act

- Unlike the Old Act, the New Act applies to the establishments employing 10 or more workers.
- The establishments with less than 10 workers has to give intimation of commencement of business to the 'facilitator' appointed under the New Act.
- In order to register an establishment under the New Act, the employer has to submit an online application within 60 days from commencement of business. Upon acceptance of the application and verification, a Labour Identification Number will be issued by the facilitator.
- The validity of registration certificate granted by the facilitator under the New Act shall be for a period requested by the applicant, for a maximum of 10 years.
- Unlike the Old Act, the New Act provides for cancellation of registration obtained through misrepresentation or suppression of material facts or by submitting false or forged documents or

false declaration or by fraud.

- The New Act obligates the employer to notify the facilitator the closure of business within 30 days as opposed to 10 days under the Old Act.
- New Act provides that opening and closing hours of different classes of establishments, different premises, shopping complex or malls, will be prescribed by the State Government by notifying separate rules.
- Overtime limit is now increased.
- All establishments to remain open on all 7 days of the week so long as every worker is given a weekly holiday.
- Provisions prohibiting discrimination against women workers, and separately regulating their conditions of work have been introduced.
- Change in number of leaves and leave accumulation entitlement of the employees.
- Registers can now be maintained electronically.
- The New Act creates specific obligations on every employer to take measures relating to the health and safety of the workers, including prevention of accidents.
- The New Act does not specify the minimum statutory notice period to be provided by an employer terminating an employee.

> Grant of more powers to a victim of sexual harassment at workplace

With effect from 7th November 2017, not only Central Government's women employees but private sector's women employees are also eligible to use an online complaint management system titled Sexual Harassment electronic-Box (**'SHe-Box'**) for registering complaints related to sexual harassment at workplace. She-Box was initially launched on 24th July 2017 by the Ministry of Women and Child Development for Central Government's women employees.

The aggrieved women can now make their complaints directly to the Government so that appropriate action is taken to redress their grievances in a timely and speedy manner.

Those who have already filed a written complaint of sexual harassment with the Internal Complaint Committee set up by the employer ('**ICC**') or Local Complaint Committee ('**LCC**') constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ('**SH Act**') are also eligible to file their complaint through SHe-Box.

Once a complaint is submitted on SHe-Box, it will be directly sent to the ICC/ LCC of the concerned employer. Through this portal, WCD as well as the complainant can monitor the progress of inquiry conducted by the ICC/ LCC.

> SFIO now empowered to arrest corporate fraudsters

The Government of India, by way of establishing the Serious Fraud Investigation Office ('**SFIO**') had set up a robust regulatory framework to shoot-out commercial frauds and transgression. In order to widen the scope of powers granted to the SFIO to investigate and combat cases of corporate frauds, the Central Government has now authorised SFIO to make arrests of key managerial personnel, directors or any other person reasonably believed to be guilty of an offence under the Companies Act, 2013 ('**the Act**').

All provisions in relation to arrest under the Code of Criminal Procedure would apply to arrests made under the SFIO Rules.

SFIO, on the basis of documents and/or information available with it, can arrest any person in case he/she has a reason to believe that the person is guilty of an offence of corporate fraud.

Fraud or offences are cognizable and non-bailable. Further, in such a case, bail would be granted only after giving reasonable opportunity to the public prosecutor to oppose it.

Hence, the Companies should establish robust internal policies, procedures and mechanisms for prevention, detection and investigation of fraud and should conduct periodical mandatory training sessions to create awareness among employees regarding the abovementioned policies.

Tax News

> Transfer Pricing

India introduces Final Rules for Country-by-Country Reporting ('CbCR') and for maintenance and furnishing of Master File

Master File – Rule 10DA

- **Form 3CEAA:** To be furnished to the DGIT².
(PART A) - Name and address of the International Group and, name, addresses, PAN, etc., of the filing entity and any other constituent entities operating in India of the same International Group.
(PART B) - An exhaustive list of Information and documents of the international group, to be furnished, and is more or less in line with BEPS Action Plan 13³.
- **Form 3CEAB:** If more than one constituent entities are operating in India of the same international group, then international group has to designate one of the entity to intimate the DGIT² in Form 3CEAB. This Form includes name and address of the International Group and parent entity. Further, name, addresses, PAN, etc., of the designated entity.
- **Due date, Forms to be furnished and other particulars**

Conditions	Forms	Due dates
If more than one Constituent Entity in India	3CEAB	FY 2016-17 - On or before 1 st March 2018
If threshold to furnish master file is not applicable	Part A of Form 3CEAA	FY 2016-17 - On or before 31 st March 2018
Where threshold to furnish master file applies	Part A of Form 3CEAA , and Part B of Form 3CEAA	

² Above forms are required to be filled to Director General of Income-Tax (Risk Assessment) ('DGIT'); All filings would be done electronically and the online utilities for the same would be prescribed in due course.

³ Please refer to our TP Global Update Portal for more Information, by following this link www.roedl.de/de/de/themen/documents/indien_16_tp_update.pdf

CbCR – Rule 10DB

- **Form 3CEAC:** Notify the DGIT² in Form 3CEAC, about the details of Parent Entity or Alternate Reporting Entity, and Tax Jurisdiction in which they are Residents.
- **Form 3CEAD:** File CbCR with DGIT² in Form 3CEAD.
- **Form 3CEAE:** If more than one constituent entities are resident in India, and CbCR has to be filled in India, then international group has to designate one of the entity to intimate the DGIT² in Form 3CEAE. This form includes, name and address of the International Group and parent entity. Further, name, addresses, PAN, etc., of the designated entity and other constituent entities resident in India of the same International Group. The due date for the same has not been prescribed
- **Due date, Forms to be furnished and other particulars, depending on number of constituent entities in India of same International Group**

Conditions	Forms	Due dates
India has agreement to exchange CbCR with such tax jurisdiction	3CEAC	FY 2016-17 - On or before January 31 st 2018
India has no agreement to exchange CbCR with tax jurisdiction of either parent entity or alternate reporting entity	3CEAD	FY 2016-17 - On or before 31 st March 2018

Balance receivable or any other debt arising during the course of the business is included in the definition as an “International Transaction”.

In a recent judgement⁴ by the Hon’ble Delhi Tribunal, wherein it dealt with the issue where the Tax Officer considered outstanding receivables from associated enterprise (‘AE’) as an international transaction, and made transfer pricing adjustment by imputing interest on the same.

The assessee company was engaged in business of providing Information Technology enabled services (‘ITES’). During the year under assessment, the company carried out provision of ITES for its AE.

During the assessment proceedings, the tax authorities noted that there are late receipt of export proceeds from service transactions, as late as some invoices remained pending to be paid till 12 months from the date of invoices. Thereafter, tax officer treated outstanding receivables as a separate international transaction and benchmarked the same using Comparable Uncontrolled Price Method (CUP) as the Most Appropriate Method.

On appeal against the assessment order, the assessee submitted before the Income Tax Appellate Tribunal (Tribunal) that delay in receiving outstanding receivable is not an ‘international transaction’, and it cannot be benchmarked separately, further, no interest cost which can be imputed as funding of entity is entirely debt free, therefore, no adjustment is warranted in regard to late realisation of proceedings from receivables.

The tribunal held that, receivable or any other debt arising during the course of the business is included in the definition of ‘capital financing’ as an ‘international transaction’ as per explanation added to section 92B of the Income Tax Act, inserted by the Finance Act 2012. Therefore, the outstanding receivable partake the character of capital financing and consequently, overdue outstanding is an ‘international transaction’. The natural corollary follows would be of imputing interest on such ‘capital financing’, if same is not charged at arm’s length.

Amongst host of other recent rulings, this ruling again emphasised that overdue balances are an international transaction, and it would be a prudent exercise to disclose such balances in transfer pricing audit report (Form 3CEB). Further, entities shall ensure that receivables from associated enterprises are not overdue beyond agreed credit period, else, that entails a risk of arm’s length adjustment.

⁴ *Income Tax Officer vs. BT e-Serv (India) Pvt. Ltd. (Delhi Income Tax Appellate Tribunal) in ITA No. 565/Del/2015 and 99/Del/2015 pronounced on 30th October 2017.*

Direct and International Taxation

> Task force set-up for review of extant direct tax legislation

In order to draft a new Direct Tax Law in consonance with economic needs of the country, the Government has recently constituted a six member task force in November 2017. The task force has been assigned the task to draft a new direct tax legislation, keeping in mind the system in other countries, international best practices, economic needs of the country etc. and submit a report within six months to the government.

> Supreme Court provides guidance on PE constitution in case of Back office support or Outsourcing services

The Supreme Court (SC) in the case of E-funds IT Solutions & Ors upheld the decision of Delhi High Court (HC) and held that, merely outsourcing the back office work to the Indian subsidiary does not create a Permanent Establishment (PE) of the foreign entity in India. The key observations of the SC ruling are as under:

- One of the main criteria for establishing a fixed place PE is satisfaction of 'disposal test'. Simply giving access to the place is not sufficient, the enterprise must have 'right to use' the said place and have 'control' upon it.
- The court relied on the earlier ruling in the case of Morgan Stanley & Co, wherein it was held that back office operations by the Indian subsidiary to the parent company to support the main office functions of the parent company does not constitute fixed place PE of parent in India.

As regards constitution of Service PE, the SC stressed on the importance of work being performed 'within India' as a primary requirement for determination of a service PE. In the present case, all the customers of the parent company were outside India and no services were received by them in India. Thus the prerequisite of providing services 'within India' was not satisfied.

- Merely because the taxpayers, in order to protect their interest, by ensuring quality and confidentiality, had sent their employees in

E-Funds India to provide stewardship services, would not make E-funds India, PE of the taxpayers in India.

> Taxability of online advertisement as 'Royalty'

In a significant ruling, the Bangalore Income-tax Appellate Tribunal (ITAT) held that payment made by Google India to Google Ireland for granting distribution rights of the 'Adword Program' is taxable as 'Royalty'. The amount of remittance in question was a whopping INR 14,570 million (Approx.¹ EUR 194 million). Brief facts involved were - Google India was appointed as a non-exclusive authorised distributor of Adword programs for advertisers in India by Google Ireland. The ITAT after a detailed analysis of the functioning and mechanics of the Adwords Program observed that Google is not merely selling space but is rendering services by making available technology of Google Ireland and permitting the same to be used by advertisers, thus, eventually holding that activities would clearly fall within the ambit of 'Royalty' as mentioned in Income-tax Act, 1961 (Act) and under India-Ireland tax treaty.

Interestingly, after introduction of Equalisation Levy, with effect from Assessment Year 2017-18, such income will not be taxed as Royalty or Business income but will be subject to the Equalisation Levy @ 6 % of the amount of consideration for specified services received by non-residents not having a PE in India.

> Delhi High Court strike downs contentious provisions of ICDS but upholds its overall validity

Recently, the Delhi HC in the case of The Chamber of Tax Consultants & Anr Vs UOI struck down certain provisions of several Income Computation and Disclosure Standards (ICDS), as they were found to be overruling the past binding judicial precedents. This ruling brought a sigh of relief to the taxpayers. However, the HC upheld the overall constitutional validity of ICDS.

The HC found merit in the contention of the Petitioners and held that, the interpretations laid down by various judicial precedents would prevail

over ICDS and any provisions of ICDS which overrides the provisions of the Income tax Act, 1961 (ITA) and binding judicial precedents is required to be struck down.

The HC also observed that the power to enact a valid law is the legislative power of the parliament and not of the executive.

> Place of Effective Management – Additional Clarification issued in respect of Regional Headquarters

The criteria for determining residency of a company was expanded vide Finance Act, 2015 by introducing the concept of 'Place of Effective Management' (POEM). Section 6 (3) ITA was amended to provide that a company will qualify to be a 'Resident' in India in any previous year if it is an Indian company or its 'POEM' is in India. These provisions have come into effect from Assessment Year 2017-18 (i.e. Financial Year 2016-17).

The CBDT had earlier issued guiding principles for determining POEM in India on 24th January 2017. As per these guidelines, POEM could be triggered in case of multinational companies with regional headquarter structures, particularly in situations where employees having multi-country responsibilities are working from India. Consequently, income from operations outside India could be taxed in India.

Addressing concerns raised by stakeholders on this issue, it has now been clarified by the CBDT vide Circular No. 25 of 2017 dated 23rd October 2017 that so long as the Regional Headquarter operates for subsidiaries/ group companies in a region within the general and objective principles of global policy of the group (say in the field of Pay roll functions, Accounting, HR functions, IT infrastructure and network platforms, Supply chain functions, Routine banking operational procedures), and not being specific to any entity per se; such activities of Regional Headquarter in India alone will not be a basis for establishment of POEM for such subsidiaries/ group companies in India.

It has however been cautioned that General Anti-Avoidance Rules may be invoked in cases where the above clarification is found to be used for abusive/ aggressive tax planning.

> Instructions to tax officers for unauthorised expansion of scope of Limited Tax Scrutiny cases

The Central Board of Direct taxes (CBDT) introduced 'Limited Tax Scrutiny Assessments' on a wide scale. These involved computer based selection of cases and restricts scope of tax assessments to identified issues depending on the history and profile of a taxpayer.

However, it was observed that tax officers often travelled beyond their jurisdiction by initiating enquires on new issues, without appropriate recording of reasons and expanded the scope of limited scrutiny cases. To reiterate its stance and approach in streamlining assessments, CBDT issued a letter on 30th November 2017 reinstating that tax officers should abide by earlier Instructions of CBDT while completing limited scrutiny assessments and should be diligent in maintenance of records of such proceedings.

> Alternative communication addresses for service of notice, summons and orders to taxpayers

Rule 127 of the Income tax Rules, 1962 ('Rules') prescribes modes and addresses where notices, summons, orders or any other communications can be sent by the Income tax department to the taxpayer. In cases where communications cannot be delivered to the address of taxpayer as specified in aforementioned Rule, certain additional address options have been inserted vide notification dated 20th December 2017, where the physical copy of communications from Income-tax department may be dispatched to:

- the address as available with a banking company or a co-operative bank in India; or
- the address as available with the Post Master General in India;
- the address as available with an insurer in India; or
- the address as available in the records of the government of India; or
- the address as available in the records of a local authority in India; and

- the address as furnished in Form No. 61/ 61A to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation)

Indirect Taxes

> Important updates post implementation of the Goods & Services Tax Law

- Facilitation of E-Way Bills for movement of goods:** As per **Notification 74/2017 – Central Tax dated 29th December 2017**, registered persons who intend to carry out movement of goods in relation to supply and wherein the consignment value exceeds INR 50,000 (Approx.¹ EUR 667), shall be required to be furnish information of such movement by generating an e-way bill on the GSTN Portal. **The facility of e-way bills shall be available from 1st February 2018.**
- Mandatory furnishing of Form GSTR 3B: Every registered person shall be required to furnish a summary return being Form GSTR – 3B, for the tax period upto March 2018.** The due date for furnishing such return would be 20th of the following month. It has also been notified that any default in discharge of taxes, delay in payment and filing shall be liable to penalties, interest and late filing fees, under the provisions of the GST laws.
- Table 6A on the GSTN Portal available to furnish details relating to exports:** Table 6A has been provided on the GSTN Portal to furnish the details pertaining to exports to avail export related benefits.
- Deemed exports notified vide Notification 48/2017 – Central Tax:** Supplies made by registered persons to persons holding advance authorisation licenses, supplies made by registered persons to persons holding EPCG authorisations and supplies made by registered persons to EOUs have been notified as ‘Deemed Exports’ and such supplies shall have incentives similar to exports, subject to conditions under the GST laws.
- Changes in overall GST rate structure:** The Central Government as its measure to effectively implement GST laws,
 - has reduced the items/ goods falling under the highest rate category i.e., 28 % to 18 % rate category.
- Revised periodicity for filing of GSTR–1 for outward supplies:** As per **Notification 58/2017 – Integrated Tax (Rate)**, dated **15th November 2017**, any registered person having a turnover of more than INR 1.5 crores (Approx.¹ EUR 200,000), shall be required to furnish the details of outward supplies made, on a monthly basis.
- Also as per, **Notification 57/2017- Central Tax (Rate)** dated **15th November 2017**, any registered person having a turnover of upto INR 1.5 crores (Approx.¹ EUR 200,000), shall be required to furnish the details of outward supplies made, on a quarterly basis.
- No GST required to be paid on advances against supply of goods:** As per **Notification 66/2017 – Central Tax dated 15th November 2017**, a registered person who has not opted for Composition Scheme, shall not be required to pay GST on advances received from their customers against supply of goods. The GST shall only be payable at the time of invoicing for goods or services to the customers. The liability shall also be required to be disclosed based on the GST paid and not based on the advances received. **Notification 40/2017 – Central Tax dated 13th October 2017** earlier allowing such exemption only to persons having turnover below INR 1.5 crores (Approx.¹ EUR 200,000) now stands withdrawn.
- Concessional rates of GST for intra – state and inter – state supplies meant for exports:** As per **Notification 40/2017- Central Tax (Rate)** and **Notification 41/2017- Integrated Tax (Rate)** dated **23rd October 2017**, concessional rate of IGST @ 0.1 % (and corresponding 0.05 % CGST + 0.05 SGST), has been provided in respect of interstate/ intrastate supplies made by a registered person to another registered person for exports (commonly known as penultimate supply). However, such exemption is subject to certain terms and conditions as provided in the said notification, one such condition being that the physical exports should be mandatorily done within 90 days of the issue of tax invoice by the original supplier.

Accounting/ Audit

> Mandatory Compliances for Balance Sheets and Income Statements

The Balance Sheet and Income Statements of Companies across the globe are usually prepared for 1 year. This 1 year period in India starts from 1st April and ends on 31st March. This period in which income is earned is known as Financial Year. A brief summary of mandatory compliances for companies are given below:

Financial Statements as per Companies Act, 2013

Financial Statements consists Balance Sheet, Profit and Loss Account, Cash Flow Statement, and any explanatory notes as annexed to the financials. The Balance Sheet summarises a company's assets, equity and liabilities at a specific point of time. Profit and Loss Account is a statement that stating the revenues, costs and expenses incurred during the Financial Year. Cash Flow Statement is a financial statement that shows how changes in balance sheet and income affect cash and cash equivalents. The Financial Statements should be prepared in accordance with the accounting principles generally accepted in India and the Accounting Standards prescribed under Section 133 of the Act. Section 129 of the Companies Act, 2013 provides for the preparation of financial statements as per formats given in Schedule III.

In case of company having subsidiaries:

If a company has one or more subsidiaries it will have to prepare a consolidated financial statement of the company and of all the subsidiaries in the form provided in Schedule III. It is also required for the company to attach along with its financials, a separate statement containing salient features of the financials of the subsidiary companies in such form as may be prescribed by the rules.

Statutory Audit

A company should get its accounts audited by a practicing Chartered Accountant. The chief responsibility of the Statutory Auditors is to provide an opinion on the true and fair view of the financial statements and evaluation of internal controls to manage the risks that could possibly affect the financial statements. The auditor will provide an Audit Report. This Audit Report is submitted to the Registrar of Companies for filing.

Tax Audit

An enterprise, if covered under the purview of section 44AB of the Income Tax Act, needs to get its books of accounts audited by 30th September. The tax audit aims to ascertain the compliance of various provisions of the Income Tax Act. The report, prepared by a Chartered Accountant, will be filed electronically.

In case of companies covered under Transfer Pricing, the due date is 30th November.

Income Tax Return

A company earning income in India will file its Income Tax Return (ITR) as per the Income Tax Act, 1961 by 30th September.

In case of companies covered under Transfer Pricing, the due date is 30th November.

Transfer Pricing Audit and Documentation

Commercial transactions between the different parts of the multinational groups may not be subject to the same market forces shaping relations between the two independent firms. One party transfers to another goods or services, for a price. That price is known as 'Transfer Price'. Due to special relationship between related parties, the transfer price may be different than the price that would have been agreed between unrelated parties. The company needs to file form Form 3CEB which will be signed by a Chartered Accountant. The time limit to submit the form is 30th November.

If a company is entering into a transaction on which Transfer Pricing is applicable, it should be properly documented. The documentation will include profile of the group, details of transactions, agreements and invoices.

This documentation needs to be maintained for 9 years.

GST

Any Business in India that supplies goods or services with turnover exceeding INR 20 lakh (Approx.¹ EUR 26,666) (INR 10 lakh for North Eastern and Hill states – Approx.¹ EUR 13,333) has to get registered under GST.

Every registered Taxable person whose turnover during a financial year exceeds the prescribed limit (as per the latest GST Rules, the turnover limit is above INR 1 crore – Approx.¹ EUR 133,333) will audit his accounts by a CA.

Upcoming Events /Publications

Here you will find a selection of our events, where you will get our first-hand expertise:

> **Indien: Cross-Border-Leistungen – Steuern & Recht**

Speakers: Tillmann Ruppert
Seema Bhardwaj
Organiser: ICC Austria
Place/ Date: Wien, 30 January 2018

> **Make in India Mittelstand! (MIIM)**

Speakers: Seema Bhardwaj
Martin Wörlein and others
Organiser: Rödl & Partner
Place/ Date: Köln, 31 January 2018

> **Zertifikatslehrgang Ländermanager Indien**

Speakers: Tillmann Ruppert
Martin Wörlein
Daniela Joachim and others
Organiser: IHK Rhein-Neckar
Place/ Date: Mannheim, 9 April 2018

> **Praxisseminar Indien Bilanzierung, Besteuerung und Recht**

Speakers: Tillmann Ruppert
Martin Wörlein
Prof. Dr. Gerhard Girlich
Dirk Matter
Organiser: Forum Institut für Management GmbH
Place/ Date: Köln, 15 May 2018

> **Praxisseminar Indien Quellensteuer und Betriebsstätten**

Speakers: Tillmann Ruppert
Martin Wörlein
Prof. Dr. Gerhard Girlich
Dirk Matter
Organiser: Forum Institut für Management GmbH
Place/ Date: Köln, 16 May 2018

For more information on our events please visit our website:

<http://www.roedl.de/indien>

Please read more about the following topics on our Rödl & Partner Website:

Abschließende Bestimmungen für das Masterfile und CbC Reporting

<http://www.roedl.de/themen/verrechnungspreise/masterfile-cbc-reporting-oecd-indien>

Final Rules on Master File and Country-by-Country Report

http://www.roedl.de/de-de/themen/documents/indien_16_tp_update.pdf

For additional information on Mergers & Acquisitions, Market Entry, Investment, GST and many more current India topics please read our publications on the Rödl & Partner website:

<http://www.roedl.de/unternehmen/standorte/indien/>
<http://www.roedl.com/about-us/locations/india/>

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Adding value

„India is one of the strongest worldwide growth economies. Seize the opportunity that this enormous market offers. We advise you from a single source on all legal, tax and economic issues relating to your contemplated project or investment.“

Rödl & Partner

„The formation of our towers always starts with a solid base; then we move on to building the stable middle and top levels. Only united and with a collaborative effort, are we, people of varied characters, able at all to complete our artistic formations. Once the tower is built, we dare to take a look into what lies ahead.“

Castellers de Barcelona



Each and every person counts” – to the Castellers and to us.

Human towers symbolise in a unique way the Rödl & Partner corporate culture. They personify our philosophy of solidarity, balance, courage and team spirit. They stand for the growth that is based on own resources, the growth which has made Rödl & Partner the company we are today.

„Força, Equilibri, Valor i Seny“ (strength, equilibrium, valour and common sense) is the Catalan motto of all Castellers, describing their fundamental values very accurately. It is to our liking and also reflects our mentality. Therefore Rödl & Partner embarked on a collaborative journey with the representatives of this long-standing tradition of human towers – Castellers de Barcelona – in May 2011. The association from Barcelona stands, among many other things, for this intangible cultural heritage.

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