



# Brahmayya Bulletin

August 2015

## Editorial

August – the month that witnessed one of the largest falls in the stock market. In a matter of 7 hours, investors lost about \$120 Billion. The Indian Stock Market among many others crashed and erased all the paper wealth. It was one of the worst months after the 2009 meltdown.

This crash is a strong reminder regarding the impact of external forces operating in the indigenous market and requirement for strong fundamental policies and principles driving the economy. The positive side – Indian fundamentals are strong supported by huge reserves,

which could be deployed if necessary, says Dr. RGR of the RBI.

The Ministry of Corporate Affairs has notified the new Form MGT-7 for filing of Company's Annual Returns.

The CBDT, in its attempt to strengthen Global Information Exchange and to combat offshore tax evasion and avoidance, has adopted the Common Reporting Standard and issued a details guidance note in this regard.

In order to strengthen investments

in Backward areas, Section 32AD was introduced. The CBDT has currently notified certain locations in the State of Bihar as backward areas in terms of the requirements of the section.

We request the readers to also review the "Our News" section in the website for detailed analysis on specific circulars and notifications for better clarity.

**"Perfection is attained by slow degrees, it requires the hand of time"**

Policy Directive order Instruction Update Clarification  
**Ministry of Corporate Affairs** Circular  
Rule Enactment Notification Guideline  
Framework Update Policy Instruction  
**Central Board of Direct Taxes**  
Order Notification Regulation Instruction  
Notice Circular Update Notification  
**Central Board of Excise and Customs**  
Directive Order Notification Enactment  
Pronouncement Announcement Framework Rule  
**Foreign Exchange Management Act**  
Instruction order Clarification Directive Interpretation  
**Institute of Chartered Accountants of India**  
Circular Order Clarification Directive Framework  
**Reserve Bank of India** Notification  
Announcement Framework Clarification  
Notification Order Rule  
Instruction Order  
Framework Order  
Update Circular

## Ministry of Corporate Affairs (MCA)

### Amendment to Companies (Management and Administration) Rules, 2014 – Dated 28th August 2015

As per the requirements of the Companies Act, 2013, Form MGT-7 is prescribed for filing of Annual Returns. By Virtue of notification of MGT-7, the MCA has amended the Companies (Management and Administration) Rules, 2014 to this effect.

Additionally, Rule 23 relating to Special Notice, specifies that, a special notice required to be given to the company shall be signed, either individually or collectively by such number of members.

- holding not less than one percent of total voting power or
- holding shares on which an aggregate sum of not less than five lakh rupees has been paid up on the date of the notice.

This Amendment rules notifies that instead of the words “Not more than five lakh rupees”, the words “Not less than five lakh rupees” shall be substituted.

## Central Board of Direct Taxes (CBDT)

### Circular No. 15/2015 – Dated 17th August 2015

Section 10 (23C) of the Income Tax Act, 1961 prescribes that income of any university or other educational institutions, existing solely for educational purposes and not for the purpose of profit, shall be exempt from taxes if such entities are approved by the prescribed authorities. Various provisions of this section stipulates conditions, only after its fulfillment, shall the exemption be granted by the prescribed authority.

Detailed note on this the monitoring conditions and clarifications relating to operation of this section has been dealt with as a separate article as part of “Our News” in the website.

### Notification No. 62/2015 – Dated 7th August 2015

In order to combat the problem of offshore tax evasion and avoidance and stashing of unaccounted money abroad, a Common Reporting Standard (CRS) on Automatic Exchange of Information (AEOI) was introduced by the G20 and OECD countries.

This CRS on AEOI requires the financial institutions of the “source” of jurisdiction to collect and report information to their tax authorities about account holders “resident” in other countries, “automatically” on a yearly basis. The information

to be exchanged relates not only to the individuals, but also to shell companies and trusts having beneficial ownership or interest in the “resident” countries.

In view to implement this requirement, necessary legislative changes have been made by amending Section 285BA of the Income Tax Act, 1961. The Income Tax Rules, 1962 has been amended through this Notification No. 62/2015 by inserted Rules 114F to 114H and Form 61B to provide a Legal basis for the Reporting Financial Institutions (RFI) for maintaining and reporting information about the Reportable Accounts.

A detailed Guidance Note has been issued on 31st August 2015 on the Implementation of the Reporting requirements under Rule 114F to 114H by the Foreign Tax and Tax Research Division of the Ministry of Finance.

### Notification No. 3/2015 – Dated 25th August 2015

This Notification prescribes the procedures for registration and submission of report as per Section 285BA (1)(k) of the Income Tax Act, 1961 read with sub-rule (7) of Rule 114G of the Income Tax Rules, 1962.

Rule 114G specifies that the report shall be furnished through online submission of electronic data to a server designated for this purpose under the digital signature in accordance with the data structure specified by Principal Director General

of Income Tax (Systems).

The procedures involve:

- Registration of the Reporting Financial Institution (RFI) by logging into the Income Tax E-Filing Website with the Log-in ID used for filing the Income Tax Return. The RFI is required to provide registration details and may also provide different registration information under different RFI categories.
- Once registered, the RFI is required to submit Form 61B or Nil Statement. The RFI is required to submit the calendar year and the reporting entity category for which the report is to be submitted. The form is required to be submitted using the Digital Signature Certificate of the person authorized to sign the return of income of the RFI.

#### **Notification No. 70/2015 – Dated 17th August 2015**

Section 6 of the Income Tax Act, 1961 deals with the evaluation of Residential Status of and Individual. Explanation 2 to Clause (1) of Section 6 has been inserted vide this notification, which specifies that, in case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India, shall, in respect of

the voyage, be determined in the manner and subject to conditions as prescribed.

Rule 126 has been inserted as part of Income Tax Rules, 1962 which prescribes that the period or periods of stay shall be the period beginning on the date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage and ending on the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage. This Rule is effective retrospectively from 1st April 2015.

#### **Notification No. 71/2015 – Dated 17th August 2015**

Section 32AD was inserted by the Finance Act, 2015. This section specifies that, any assessee, who sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after 1st April, 2015 and also acquires and installs any new asset for this undertaking or enterprise from 1st April 2015 and upto 1st April 2020, in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Bihar or in the State of Telangana or in the State of West Bengal, shall be allowed a deduction of a sum equal to fifteen per cent of the actual cost of such new asset for the assessment year relevant to the previous year in which such new asset is installed.

The Central Government, hereby notifies, the following districts of the State of Bihar as backward areas for the purpose of this Section:

- Patna
- Nalanda
- Bhojpur
- Rohtas
- Kaimur
- Gaya
- Jehanabad
- Aurangabad
- Nawada
- Vaishali
- Sheohar
- Samastipur
- Darbhanga
- Madhubani
- Purnea
- Katihar
- Araria
- Jamui
- Lakhisarai
- Supaul
- Muzaffarpur

### **Central Board of Excise and Customs (CBEC)**

#### **Notification No. 76/2015 – Customs (N.T) - Dated 18th August 2015**

The following amendments are made in the Form 1 (Indian Customs Declaration Form) prescribed in the Baggage Declaration Regulations, 2013.

- Clause (vii) of S.No. 10 of Form 1 requires declaration, if Indian Currency exceeding INR 10,000 is brought into India. By virtue of this notification INR 10,000 is substituted with INR 25,000.
- New insertion of Clause (x) in S.No. 10 of Form 1 requires declaration, if Flat Panel (LCD/LED/Plasma) Television is brought into India.
- The Customs Duty Free Allowance for Passengers of Indian Origin (Other than Nepal, Bhutan, Myanmar, China) and Foreigners of over 10 years of age residing in India was INR 35,000. By virtue of this notification INR 35,000 is substituted with INR 45,000.

The reporting platform enables the customer to login into the eBiz portal, download the FCTRS form, complete and then upload the same onto the portal using their digitally signed certificates. The Authorised Dealer will be required to download the completed forms, verify the contents from the available documents and if necessary, call for additional information from the customer and then upload the same for RBI to process and allot the Unique Identification Number (UIN). The FCTRS services of RBI is operational on the e-Biz platform from 24th August, 2015.

## Reserve Bank of India (RBI)

### A.P. (DIR Series) Circular No. 9 – Dated 21st August 2015

In order to promote ease of reporting transaction under the Foreign Direct Investment (FDI), the RBI under the e-Biz project has enabled online filing of the Foreign Currency Transfer of Shares (FCTRS) returns for reporting transfer of shares, convertible debentures, partly paid shares and warrants from a person resident in India to a person resident outside India or vice versa.

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