LALIT BAJAJ & ASSOCIATES

Connection

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Special points of interest:

- July 5 & 6 - Payment of Service Tax for quarter ended June
- July 7 - Payment of TDS/ TCS deducted in June
- July 10 - VAT Returns for dealers not eligible to file e -704
- July 15 - TDS returns for June Quarter
- July 31 - Filing of Income Tax Returns (without Audit)

Inside this issue:

New Norms for Buy Back

With an intent to streamline the regulatory framework with the dynamic business environment and at the same time ensuring the transparency and interest of varied stakeholders, the Capital Market Regulator, SEBI in its Board meeting dated June 25, 2013 has taken certain important decisions.

A gist of the important decisions and their analysis are outlined as follows:

New Norms for Buy Back through Open Market Purchase:

In order to align regulatory requirements with the changing market realities as well as to enhance efficiency of the buy-back process, SEBI has approved the following changes for buyback of shares or other specified securities from the open market through stock exchange mechanism:

Mandatory Creation of Escrow Account:

With a view to ensure that only the Companies having stern approach shall come out with the Buy Back, SEBI has mandated creation of an escrow account with an amount equivalent to at least 25% of the total amount earmarked for buy-back.

Minimum Buy-Back Quantity increased to 50% from 25%:

After observing varied instances where Companies came out with a Buy Back Announcement through open market route to stabilize price, but actually not buying back a single share or buying very few shares and its impact on the Capital Market, the mandatory minimum buy-back threshold has been enhanced from 25% to 50%, failing which amount in the escrow account would be forfeited subject to a maximum of 2.5% of the total amount earmarked.

Maximum period to complete the Buy-Back reduced to 6 months from 12 months:

On an analysis of the buy back data for FY 2009-10 and 2010-11, SEBI had observed that the companies on an average had bought back around 62% of the proposed buyback size, out of which around 49% were bought back in the first 3 months itself. Thus, it was suggested that the Companies may not need such a long period to complete the buyback offer although Companies Act, 1956 provides for 12 months. Accordingly, SEBI has now decided that the Maximum buy-back period be reduced to 6 months from 12 months.

Increase in restricted period to 1 year from the existing 6 months for further issue of capital:

Since the Buy Back programs are generally launched when companies have idle cash resources and there are no attractive investment opportunities in the foreseeable future. Accordingly, considering that in mind it has been provided that the company shall not raise further capital for a period of one year from the closure of the buy-back except in discharge of subsisting obligations as against the existing 6 months as provided in Section 77A (8) of Companies Act, 1956.

No further Buy Back for a period of 1 year:

In order to curtail the fraudulent intention of the Promoters, SEBI has restricted the listed entities to come out with another buy-back offer within a period of one year from the date of closure of the preceding offer.

Rationalization of ongoing disclosure requirements:

The disclosure requirements have been rationalized wherein the Companies will be required to give disclosure of the shares bought back only on their websites and to the stock exchange(s) only on a daily cumulative basis, thus doing away with the extant requirement of newspaper publications.

Limit for Open Market Method:

In tender offer method, all shares are bought back at a fixed price which is generally at a premium to the market price unlike Open Market Method. Thus, it is more equitable way of distributing surplus funds to the shareholders including minority shareholders. Therefore, in order to encourage the Tender Offer, SEBI allowed the Companies to buy-back 15% or more of capital (paid-up capital and free reserves) only by way of tender offer.

Modification in the Procedure for buy-back of physical shares:

In open market purchase method of buy-back, there are many barriers for holders of physical shares to participate in buy-back program. Therefore, in order to mitigate the problems faced by the holders of physical shares, SEBI has modified the Procedure for buy-back of physical shares (odd-lot) including creation of separate window in the trading system for tendering the shares, requirement of PAN/Aadhaar for verification, etc.

Extinguishment of shares:

Extinguishment of shares bought back during the month, within fifteen days of the succeeding month subject to the last extinguishment within seven days of the completion of the offer.

Restriction on Promoters:

In order to ensure the accomplishment of objective of Buy-Back not just in letter but in spirit as well, SEBI has restrained the Promoters of the Company to execute any transaction, either on-market or off-market, during the buy-back period.

Rationalized Preferential Issue Norms:

With a view to enhance transparency, ensure adequate audit trail and apply lock-in for the shares allotted in preferential issues, the Board approved the following:

Preferential issue shall be subscribed only through the allottee's own bank account. Further, the issuing company shall disclose the ultimate beneficial owner of allotted shares. Under the extant Regulations, it has not been provided in explicit terms, so some of the Companies were taking advantage of the loophole and making the payments through backdoor channels.

Allotments in preferential I sues shall only be made in dematerialized form. Under the existing Regulations, although the pre preferential holding is needed to be held in demat mode, but the fresh allotment being made under the Preferential Allotment could have been made in physical as well. Now, this system of physical allotment has been done away with.

Shares allotted in the preferential issue shall not be transferred till trading approval is granted for such shares by the stock exchanges. Further, the lock-in period shall commence on the date of such trading approval. This might lengthen the lock in period, where in a case, the issuance of trading permission gets delayed for any reasons beyond the control of the Company, say non adjudication of Stamp Duty/ any dispute arising with any party etc. The situation might further aggravate, in case of allotments to Promoters, where already the lock in requirement is of 3 years from the date of allotment. In such a case, 3 years from the date of trading approval might act as a hurdle.

Allowing Start-Ups and SMEs to list on Indian bourses without IPO:

With an aim to encourage entrepreneurship in the country, Market Regulator has approved the proposal to permit listing of Start-Ups and SMEs on Institutional Trading Platform (ITP) without coming out with an IPO.

SEBI's endeavor to address the practical concerns of Start-Ups and SMEs is considered as a convivial step that will surely smoothen the exit options for informed investors like Angel Investors, VCFs and PE etc. on one hand and will provide better visibility, wider investor base and open avenues for raising funds by such companies on the other.

Main highlights of the proposed SEBI's endeavor for Startups and SMEs are:

- Allowed listing on 'Institutional Trading Platform' (ITP) of the Stock Exchanges that would be accessible to the informed investors only.
- Minimum corpus for trading or investment on the ITP will be Rs. 10 Lacs thereby providing exemption to such Companies from complying with the minimum public threshold of 25%.
- Fund raising for the Companies listed on ITP can be done only via Private Placements.

New Norms for Angel Investors:

With an intent to encourage funding by angel investors in Start-Ups and SMEs and at the same time ensuring the authenticity of the investments, SEBI has brought such investors under the ambit of Alternate Investment Funds Regulations wherein a framework for registration and regulation of angel pools has been approved to include a sub-category 'Angel Funds' under Category I- Venture Capital Funds.

The key salient features are as follows:

Individual angel investors shall be required to have net tangible assets of atleast Rs. 2 crore along with :

a. early stage investment experience; or
b. experience as a serial entrepreneur; or
c. 10 years experience as a senior management professional.

Corporate angel investors shall be required to have Rs. 10 crore net worth or be a registered AIF/VCF.

Angel Funds shall have a corpus of at least Rs.10 crore (as against Rs. 20 crore for other AIFs) and minimum investment by an investor shall be Rs. 25 lakh (may be accepted over a period of maximum 3 years) as against Rs. 1 crore for other AIFs. Further, the continuing interest by sponsor/manager in the Angel Fund shall be not less than 2.5% of the corpus or Rs. 50 lakh, whichever is lesser.

For ensuring investments are genuine angel investments, angel funds shall invest only in investee companies which:

a. are incorporated in India and are not more than 3 years old;
b. have a turnover not exceeding Rs.25 crore;
c. are unlisted;
d. are not promoted, sponsored or related to an Industrial Group whose group turnover is in excess of Rs.300 crore; and
e. has no family connection with the investors proposing to invest in the company.

Investment in an investee company by an angel fund shall be not less than Rs.50 lakh and not more than Rs.5 crore and shall be required to be held for a period of at least 3 years.

Rationalized foreign investment routes:

With a vision to attract a large number of foreign investors to Indian capital markets, SEBI has approved wide-ranging changes on the basis of recommendations of Committee on "Rationalization of Investment Routes and Monitoring of Foreign Portfolio Investments".

The summary of the recommendations accepted by the SEBI are as follows:

i. Simplified and uniform entry norms for foreign investors by merging existing FIIs, Sub Accounts and Qualified Foreign Investors (QFIs) into a new investor class to be termed as "Foreign Portfolio Investors" (FPIs).
ii. To operate in Indian Markets, prior direct registration of FIIs and Sub Accounts with SEBI be done away with.
iii. FPIs would be categorized into 3 categories:

a) **Category I** – Low Risk which would include Government and Government related entities such as Foreign Central Banks, Sovereign Wealth Funds, Multilateral Organizations etc.

b) **Category II** – Moderate Risk which would include regulated entities such as Banks, Asset Management Companies, Broad Based Funds such as Mutual Funds, Investment Trusts, Insurance and Reinsurance Companies, University Funds, Pension Funds and University related Endowments already registered with SEBI.

c) **Category III** – High Risk which would include all other FPIs not eligible to be included in the above two Categories.

"SEBI has also taken decisions on various aspects related to Mutual Funds, Stock Brokers Registration for debt segment, Stock Exchange & Clearing Corporations"

Single Self Regulatory Organization (SRO) for Distributors of Mutual Fund Products

In order to remove complexities and duplications, SEBI has approved the proposal to have single SRO for Distributors of Mutual Fund Products. Further, to facilitate the recognition of single SRO for Distributors of Mutual Fund Products and to avoid delay, it has been decided to have a cut off time for accepting applications for being recognized as SRO.

Direct Trading by Asset Management Companies in Debt Segment of Stock Exchanges:

SEBI has granted permission to asset management companies managing schemes of mutual funds to take membership of debt segment of stock exchanges under 'Proprietary Trading Member' (PTM) category to undertake trades directly on behalf of such schemes managed by them.

Apart from the aforesaid decisions, SEBI has also taken decisions on various aspects related to Mutual Funds, Stock Brokers Registration for debt segment and Stock Exchange & Clearing Corporations.

Banking Futures (More Banks Coming Soon)……

"India - Being Asia's 3rd largest economy, only 40% of the population has access to Banking. Thus the Govt. wants more banks to expand banking services"

A Bank is a financial institution and a financial intermediary that accepts deposits and channels these deposits into lending activities either by giving loan or through capital markets. However due to its influence within a financial systems and economy banks are highly regulated in most countries and by Reserve Bank of India (RBI) in India who regulates banking industry in India.

The government wants more banks to expand banking services to cater growing population of India (Asia 3rd largest economy) where only approx 40% of the population has access to Banking. Banks take public deposit and need a robust regulatory framework. However, regulatory framework is not a justification to deprive the growing economy with the new banks. As per recent estimate Indian Monetary economy is estimated to treble in this decade itself. As per recent survey India needs to double its banking industry to cater remaining 60% of the population especially in rural areas by way of financial inclusion. Currently India has 88 scheduled commercial banks (21 Nationalised banks + 31 private banks + 38 foreign banks) with a network of 53, 000 branches catering billion populations in India and approx 82 regional rural banks.

Reserve Bank of India gave only 2 banks license in 2003-04 after a decade of 10 private banks license in 1993-94 which are still not sufficient to cater growing economy necessities and demand. Currently number of Indian companies are interested to start banks and they have been working hard to formulate their strategy to enter the Banking sector which RBI is opening up for private entities after a gap of decade. However there are various Industrial houses with political influences are trying to get Banking licenses and RBI is extremely careful about selection process. RBI has released the final guidelines on licensing norms on February 22, 2013 after 3 years of government announcement to open up the banking sector for a new set of private banks to expand banking services. Final guidelines says 'Promoter groups business model and culture should not be misaligned with the banking model and their business model should not potentially put the banking system on risk on account of speculative activities in nature or volatility'. RBI has changed the idea and opened the banking licenses to public sector entities also as against its original idea of to only private entities only and deadline to submit the application was set July1 2013 and then high level committee will screen the application and final decision will be taken. However RBI has not given any number on licenses to be issued unlike in the year

2001 where it was restricted to only 2 and RBI has clarified that licenses will be issued on selective basis on fulfilling all necessary criteria's. Initially in the year 1993 RBI has received the 113 applications for licenses and it is expected that now much more applications must have gone to RBI with increase in Industrial houses and economy. At this stage it is difficult to specify who will get license and who will not get but there are various groups seeking banking licenses to enter banking industry and banking licenses will be awarded to entity with clear business plan.

As per the new norms minimum capital requirement is set to be INR 500 crores and capital adequacy ratio (CRAR) has been set at 13% as compare to existing of 9%. CRAR is measurement of Risk weighted assets with Capital held by Banks. As per the new licensing norms new banks must hold atleast 40% of loan portfolio in the so called priority sector and they need to maintain 23% as SLR and CRR of 4% (CRR refers to portion of deposits that commercial banks need to keep with RBI). However these are difficult norms but necessary to maintain stability and solvency of banking system from RBI point of view and there will be no relaxation in these norms. Besides this new banks has to be listed within three years and promoter's shareholding must reduce to 40% within 10 years and should be to 15% by 12th year.

However on preliminary basis main contenders for banking licenses are :

- Aditya Birla Nuvo Ltd., Mumbai
- Bajaj Finserv Ltd., Pune
- Bandhan Financial Services Pvt. Ltd., Kolkata
- Department of Posts, New Delhi
- Edelweiss Financial Services Ltd., Mumbai
- IDFC Ltd., Mumbai
- IFCI Ltd., Mumbai
- Indiabulls Housing Finance Ltd., New Delhi

- India Infoline Ltd., Mumbai
- INMACS Management Services Ltd., Gurgaon
- Janalakshmi Financial Services Pvt. Ltd., Bangalore
- J M Financial Ltd., Mumbai
- LIC Housing Finance Ltd., Mumbai
- L&T Finance Holdings Ltd., Mumbai
- Magma Fincorp Ltd., Kolkata
- Muthoot Finance Ltd., Kochi
- Reliance Capital Ltd., Mumbai
- Religare Enterprises Ltd., New Delhi
- Shriram Capital Ltd., Chennai
- Smart Global Ventures Pvt. Ltd., Noida
- SREI Infrastructure Finance Ltd., Kolkata
- Suryamani Financing Company Ltd., Kolkata
- TATA Sons Ltd., Mumbai
- Tourism Finance Corporation of India Ltd., New Delhi
- UAE Exchange & Financial Services Ltd., Kochi
- Value Industries Ltd., Aurangabad

Indian Postal offices are a good option to explore for Financial Inclusion either standalone or with tie up with corporate entity & jointly seek license. With its countrywide network (154, 822 branches) and larger customer base Indian post offices will be like book to Financial inclusion and will strengthen Indian banking systems. If it is allowed to run its banking operations it will be great success and will probably cater banking services to every nook & cranny of the country. Globally also Commercial banks always tie with the postal networks like Deutsche Bank AG took over Deutsche Post Bank AG.

A new set of Banks will strengthen and expand the Industry and add to resilience of the state run banks and will improve banking services.

"RBI has changed its idea & opened the banking licenses to Public Sector Entities as against its original idea of to only Private Entities"

One Person Company

"One Person Company" as the name suggests is floated by a single person can float this type of a Company. In recently passed Companies bill 2012, the concept of **"One Person Company"** has been introduced. It is a step taken by the government to encourage unorganized proprietorship business to enter in to the organized corporate world. The concept of "One Person Company" is widely accepted in developed countries as also by developing countries like China. The concept had its origin in U.K. from the landmark judgement of Salomon vs. Salomon. They were for the first time legalized in U.K by the Companies Act, 1985.

Minimum two members are required to form a private company and minimum seven members required for public company under the prevalent law. To comply with this law a practice was adopted of allotting minimum shares to someone in family or friend. But with introduction of OPC it will be possible to form a company with only one member. OPC provides benefit of both form of business i.e. Proprietorship and Company. With OPC businesses can be run the same way a proprietorship was ran, of course by complying with law, and keeping liability of the member limited by share or guarantee, as the case may be. At the same time it has casted responsibility on the society and market players to recognize OPC as company and not another form of proprietorship business. Since, there isn't much public interest involved in OPC, many relaxations have been granted to it in terms of compliances and procedural aspects. It will enable them to attain natural growth. Some of the provisions favorable to OPCs are discussed below:

"The concept of One Person Company is widely accepted in developed as well as developing countries"

Perpetual Succession

Detailed procedure to form OPC has been described in clause 3(1) (c) of Companies bill 2012. As reference of OPC has been made in the definition of private limited company given vide clause 2(68), OPC shall be private limited company in all respect except OPC can be formed by single subscriber to the MOA. To comply with basic requirement of perpetual succession and golden rule "member may come and go, but company must go on" provision has been made in the law to appoint nominee of original subscriber. Company has to file with registrar, consent of one other person (nominee) who shall become member of the company in the case of death or incapacity of original subscriber of the company. Such nominee can withdraw consent by following procedure which shall be prescribed in rules. At the same time subscriber can also change the nominee by giving prescribed notice. Upon changing the nominee member shall give intimation to company and company in turn shall inform to registrar within time limit to be prescribed by rules made in this behalf.

Minimum Share Capital

Minimum share capital shall be same as in the case of private limited company-Rs. 1,00,000

Liability of the members

Three types of company can be formed as OPC

a. **Company limited by shares**: Here, liability of the owner will be to the extent of issued, subscribed and paid up capital.

b. **Company limited by guarantee:** Here, the liability of the member is to the extent of contributing to the assets of the company

c. **Unlimited company:** This Company will be as good as a sole proprietorship and therefore sole proprietors won't be interested in incorporating a One Person Company with unlimited liability as this will just increase their pains in terms of procedural compliances.

Name: Proviso to clause 12(3) requires that word "One person company" shall be mentioned in brackets below name of company.

No. of Directors: As per clause 149(1)(a) a OPC must have atleast one director. Until director(s) are appointed, an individual being member shall be deemed director of the company-clause 152(1).

Annual return: Annual returns in the case of OPC annual return shall be signed by CS and where the OPC doesn't appoint a CS, it shall be signed by director of the company.

AGM: By virtue of clause 96(1) OPC are exempted from holding AGM.

General Meeting: As per clause 122(1) provision of clause 98, 100 to 111(both inclusive) pertaining to procedural aspect of general meetings and voting at general meeting are not applicable to OPC. Clause 122(3) and 122 (4) of the bill has created deeming fiction for holding of general meeting and board meeting respectively. In respect of business required to be transacted only at General Meeting, member of the company shall communicate the resolution to the company, enter it into minute's book, with date and signature. Meeting shall deem to have been held on the date so entered.

Board Meetings: In the case of OPC having only one director, compliance with provisions of conducting Board meeting will be impracticable, hence it is made not applicable. In that case business which required to be transacted at board meeting shall be sufficient if resolution is entered in to the minute's book, signed and dated. Such date shall be deemed to be the date of meeting of board of directors.

Director's report: As per clause 134 every company is required to place financial statements along with directors' report and auditors' reports before members in general meeting. Directors' report must include explanation and information required under clause 134(3). However in the case of OPC Directors' report shall include only explanation on qualification, reservation, disclaimers or adverse remarks of the auditors if any. All other information as required under clause134(3) need not be given in the directors' report of OPC.

Relaxation from preparation of Cash Flow Statement: By virtue of clause 2(68) OPCs have been relaxes from preparing Cash Flow Statement and they have to prepare profit and loss account, balance sheet and explanatory notes only. Moreover as per clause 134, Financial Statement shall be signed by only one director and submitted to the auditor for his report thereon.

Filing of financial statements: The Time limit of 180 days from the closure of financial statement has been granted to OPC to file financial statement with Registrar.-proviso 3 to clause 137(1).

Minimum number of Board Meetings & Quorum: 3rd proviso to clause 173(5) states that provisions related to minimum board meeting to be conducted during the year by a company and minimum quorum at board meeting shall not apply to OPC having only one director. In case OPC has more than one director, it shall conduct at least one board meeting in each half year and time gap between two meetings should be minimum 90 days.

Ultra Vires Contract with member: When OPC enters into a contract which is not entered into in the ordinary course of business with its member who is also the director of OPC, it should ensure that such contract is in writing. If such contract is not made in writing, OPC should ensure that terms of the contract are contained in memorandum or recorded in minute's books.

The following are the other important features of the One Person Company (OPC)

- One Person Company is one of the type of Company on the basis of number of members
- One Person Company has only one person as a member/shareholder.
- One Person Company is a Private Company
- One Person Company shall indicate the name of the nominee/other person in the memorandum, with his prior written consent
- The written consent above, shall be filed with the Registrar at the time of incorporation of the One Person Company along with its M&A
- The nominee/ other person can withdraw his consent at any time
- The member/Shareholder of One Person Company may change the nominee/other person at any time, by giving notice to the other person and intimate the same to Company. Then the Company should intimate the same to the Registrar

- In case of the death of member/shareholder or his incapacity to contract, then nominee/other person become the member of the Company
- Member/Shareholder of the One Person Company acts as first director, until the Company appoints director(s)
- One Person Company can appoint maximum 15 directors, but minimum should be one director
- One Director is sufficient to sign the Financial Statements/Director's Report
- One Person Company should inform to the Registrar about every contract entered and also should record in the minutes of the meeting within 15days from the date of approval by the BOD (Board of Directors)
- The individual(s) will be responsible for the acts of the company - Lifting of corporate veil.

Relaxations and exemptions granted and benefits available to OPC will surely encourage small and mid-size business houses to carry on business in corporate form. It is seen as a move of unorganized proprietorships towards organized corporate domain.

Share Trading - Business Income or Capital Gain?

Share trading has grown significantly in the last decade due to rise of the stock market and rapid adoption of technology. It is seen as a way to make quick bucks by a lot of people. However there is a lot of confusion among on how to treat the income earned from trading shares viz. business gain or a capital gain. It is very important to know the difference because the tax liability of an individual will depend on this, as the tax treatment of Capital gains and Business income are completely different.

As per the income tax department, any purchase of shares made with the motive of earning profit is considered to be Business income, whereas investments made with the intent of earning income through dividends will amount to capital gain.

For Example, if Mr. ABC has earned Rs. 100,000 by trading in shares for a short term i.e. by intraday trading or trading in F&O, it is taxable under the head Income from Business or Profession as per the tax slab applicable to him. While if he holds the shares for a considerable period time to accumulate wealth then it comes under head Income from Capital gains (if it is for period exceeding 12 months then no tax is levied provided STT paid. If it is for a period not exceeding 12 months then he will charged at 15% on his net gain).

It also mentions that an individual can have two portfolios under the head Capital Gains and Business income, which means that if an individual earns income from intraday trading and F&O and also from investment in shares for considerable time to accumulate wealth then he can have portfolios under both the heads of income i.e. income from intraday Trading and F&O comes under Business Income while Investment in shares with the intent of accumulating profits comes under Capital Gains.

Thus, what matters is the intention of an individual whether he holds for a longer period of time to accumulate profits which constitutes the capital gain or does trading to earn profit (day to day) which constitutes the same to be treated as the business income.

Conclusion

Every individual should be very careful in characterization of income from share trading as capital gain or Business income because this characterization will affect the tax liability of the individual to a great extent. Suppose if you wrongly characterize your Long term Capital gain of Rs 100,000 as business income then you will be charged tax at rate of 30% that will amount to Rs.30,000 (Assuming you belong to highest Tax bracket) while the long term capital gains from shares are exempted provided STT paid. Thus you may end up paying extra tax.

Is your Company a Member of LTU?

"Companies paying over Rs. 10 crore Advance Tax may be asked to join LTU"

Government is considering making it mandatory for companies paying advance tax of over Rs 10 crore annually to register with the LTU (Large Taxpayers Unit), a move likely to augment and streamline tax collection.

A four-member committee has been set up to look into the various aspects of LTU, a single window clearance for all matters relating to central excise, income tax/ corporate tax and service tax. "The committee is also examining whether to make it mandatory for companies who are paying advance tax more than Rs 10 crore in a fiscal year or service tax more Rs 5 crore to register under LTU.

At present, it is voluntary for large tax payers to register under LTU.

The first LTU was set up at Bangalore in 2006 followed by Chennai, Mumbai and Delhi.

As a measure of facilitation and in line with international practices, the government has announced setting up of the LTUs in 2005-06.

LTUs, as per the Finance Ministry, provide better service to the taxpayer, through personalised attention, quality of service and transparency in transactions.

These units reduce tax compliance cost, delays and ensure uniformity in the matters of tax/ duty determination.

Government has set a Rs 12.35 lakh crore total tax revenue target (direct and indirect taxes) for the current fiscal, up from Rs 10.38 lakh crore estimated in the previous fiscal.

E-Filing of Audit Report Must with Tax Returns

The filing of audit reports was made mandatory in ITR Form 5, 6 and 7 after the tax department noticed discrepancies in filing of some returns along with audit reports.

The new income-tax forms notified by the government have made it mandatory for many assessees to file their audit reports in the electronic mode at the time of filing tax returns.

"(The) list of audit reports required to be furnished with return of income has been expanded. As many as 12 audit reports have been electronically enabled against three earlier," said a finance ministry official.

The filing of audit reports was made mandatory in ITR Form 5, 6 and 7 after the tax department noticed discrepancies in filing of some returns along with audit reports. The Institute of Chartered Accounts of India brought to the notice of the I-T department that some companies were furnishing fake name and registration numbers of auditors in their returns.

"People were not getting their accounts audited to save money. It was found that the name of the chartered accountant furnished in the return belonged to someone who had expired," the official said.

Since only one per cent of the cases come up for scrutiny, some taxpayers were taking the risk of not actually getting their accounts audited. In the event of their case coming up for scrutiny, the taxpayer would approach a chartered accountant and get the books audited at a higher fee.

"From assessment year 2013-14 onwards, in case an assessee is required to furnish a report of audit under sections 10(23C)(iv), 10(23C)(v), 10 (23C)(vi), 10 (23C)(via), 10A, 12A(1)(b), 44AB, 80-IA, 80-IB, 80-IC, 80-ID, 80JJAA, 80LA, 92E or 115JB, he shall file the report electronically on or before the date of filing the return of income. Further, the assessee who is liable to file the above reports electronically shall file the return of income electronically," said the notification from the tax department.

The new forms—ITR 5 and ITR 6 — will require corporate taxpayers to provide their balance sheets as per revised Schedule 6 of the Companies Act, against as per the I-T Act at present. ITR 5 is used by firms, association of persons, and body of individuals, while ITR-6 is used by companies other than those claiming exemption under Section 11 of the I-T Act.

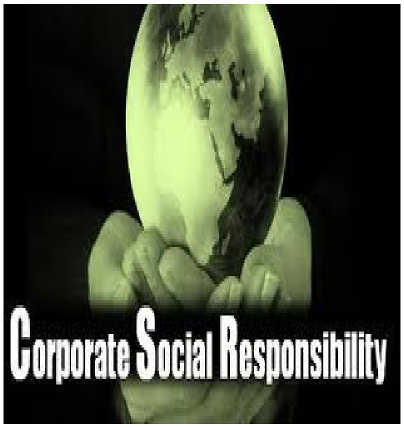
The department has asked for additional disclosures in balance sheets in case of payment of royalty, bed debt, interest to non-resident, nature of expense/income and amount. For the computation of total income, in the column 'income from other sources', taxpayers will have to specify the other source from which the income has come.

In ITR 7 too, which is filled by trusts and political parties, the tax department is seeking more information. Political parties are now required to give their party registration number with the Election Commission of India in the new forms. A column for electoral trusts has been added.

Form 7 has been made annexure-less like ITR 5 and 6, which were made annexure-less in 2007. Earlier attachments like applications for exercising options under section 11(1), income and expenditure account, balance sheet and TDS certificates were required with ITR 7.

"Mandatory for assesses to file their Audit Reports in e-mode alongwith filing of Tax Returns"

CSR in India



Business scandals involving high profile organizations such as Enron and WorldCom have rocked the corporate world and be-come front-page news. This has shaken consumer confidence in both business leaders and the economy, creating concern about business ethics and governance. As a result, corporate social responsibility (CSR) has become increasingly important.

Corporate Social Responsibility is a company's commitment to its stakeholders to conduct business in an economically, socially and environmentally sustainable manner that is transparent and ethical. Stakeholders include employees, investors, shareholders, customers, business partners, clients, civil society groups, Government and non-government organizations, local communities, environment and society at large. Corporate enterprises are expected to conduct their business operations and activities in a socially responsible and sustainable manner at all times.

Some of the drivers pushing business towards CSR include:

1. The shrinking role of government

In the past, governments have relied on legislation and regulation to deliver social and environmental objectives in the business sector. Shrinking government resources, coupled with a distrust of regulations, has led to the exploration of voluntary and non-regulatory initiatives instead.

2. Demands for greater disclosure

There is a growing demand for corporate disclosure from stakeholders, including customers, suppliers, employees, communities, investors, and activist organizations.

3. Increased customer interest

There is evidence that the ethical conduct of companies exerts a growing influence on the purchasing decisions of customers. In a recent survey, more than one in five consumers reported having either rewarded or punished companies based on their perceived social performance.

4. Growing investor pressure

Investors are changing the way they assess companies' performance, and are making decisions based on criteria that include ethical concerns. The Social Investment Forum reports that in the US in 1999, there was more than $2 trillion worth of assets invested in portfolios that used screens linked to the environment and social responsibility. A survey by revealed that more than a quarter of share-owning Americans took into account ethical considerations when buying and selling stocks. (More on socially responsible investment can be found in the 'Banking and investment' section of the site.)

5. Competitive labour markets

Employees are increasingly looking beyond paychecks and benefits, and seeking out employers whose philosophies and operating practices match their own principles. In order to hire and retain skilled employees, companies are being forced to improve working conditions.

6. Supplier relations

As stakeholders are becoming increasingly interested in business affairs, many companies are taking steps to ensure that their partners conduct themselves in a socially responsible manner. Some are introducing codes of conduct for their suppliers, to ensure that other companies' policies or practices do not tarnish their reputation.

Current Status of CSR in India

CSR is not a new concept in India. Corporates like the Tata Group, the Aditya Birla Group, and Indian Oil Corporation, to name a few, have been involved in serving the community ever since their inception. Many other organizations have been doing their part for the society through donations and charity events. Today, CSR in India has gone beyond merely charity and donations, and is approached in a more organized fashion. It has become an integral part of the corporate strategy. Companies have CSR teams that devise specific policies, strategies and goals for their CSR programs and set aside budgets to support them.

These programs, in many cases, are based on a clearly defined social philosophy or are closely aligned with the companies‟ business expertise. Employees become the backbone of these initiatives and volunteer their time and contribute their skills, to implement them. CSR Programs could range from overall development of a community to supporting specific causes like education, environment, healthcare etc.

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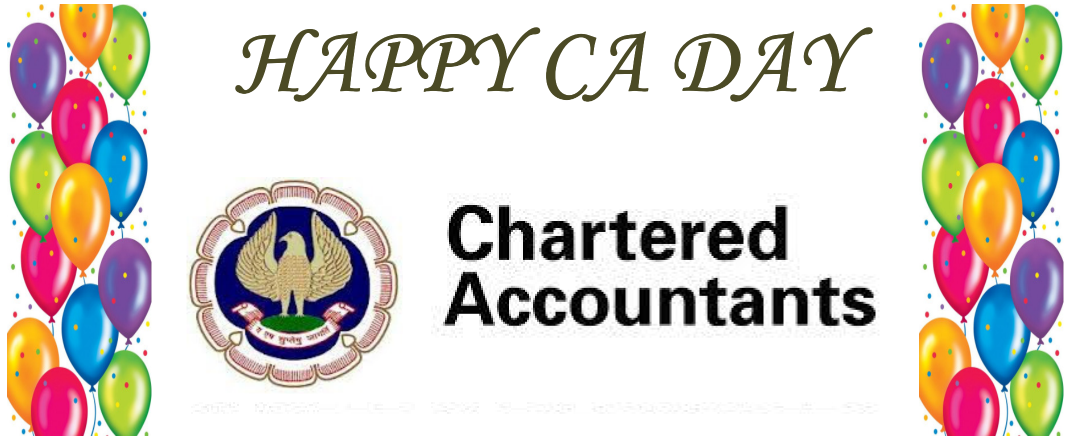

Filing E-Returns will Become Easier

Verifying electronically filed Income-Tax returns will become hassle free with the Government set to provide Electronic PIN.

This new system will benefit nearly 2 crore individual income tax assesees.

Under the proposed system, as soon as the return is filed without a digital signature, an E PIN will be generated. This number will have to be communicated to the Central Processing Centre (CPC), Bangalore. After this, the return will be processed. Hence, the electronic process will be completely free of paper work. E PIN will be generated on the basis of returns filed earlier.

At present, an individual has two options to complete filing of I-T return electronically.

The first is to file the return using digital signature and then it (return) will be processed.

The second option is for those who do not have digital signature: the assessees, after filing the return, will have to download and print ITR V (verification) form and then send it to the CPC within 120 days of filing the returns. After, CPC acknowledges the receipt through an e-mail, filing gets completed and then the return gets processed.

The Income-Tax Department intends to use electronic verification in place of paper ITR V. This needs change in the Information Technology Act and Income Tax Rules. Income Rules have been amended, while amendment in Information Technology Act is expected by September.

It means, most of the e-filers will benefit from the new system from 2014-15.

The second option poses a number of problems, such as loss of verification form in postal transit and in some cases, willingly or unwillingly non-submission of the form. The Department says that nearly 10 per cent of the e-filers do not send the verification form.

At the same time, obtaining and renewing the digital signature involves a fee. Keeping, all these things in mind, the Department has started work on electronic verification.

From this year, e-filing has become mandatory for anyone earning more than Rs 5 lakh annually.

Since, a person, earning less than Rs 5 lakh annually does not need to file return (except, those who have other income or those who have to get refund), it is now mandatory to file return electronically for everyone. Keeping this in mind, the new system will help assessees.