

# Connection

## Accounting For Foreign Exchange

### Just to Remind you:

- Oct 15 - E Payment of PF for September
- Oct 15 - TDS Returns for Sept Quarter for Non Govt Deductors
- Oct 21 - Payment of VAT under MVAT for Sept
- Oct 25 - Half Yearly ST Return
- Oct 30 - Issue of Quarterly TDS/TCS Certificate

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The Ministry of Corporate Affairs (MCA) vide Notification no. 914 (E) dated 29 December 2011 had inserted a Para 46A under Accounting Standard (AS) 11 The Effects of changes in foreign exchange rates giving an irrevocable option to the companies for the period commencing on or after 1 April 2011, as below:

Exchange differences arising on reporting of "Long Term Foreign Currency Monetary Items" (LTFCMI) at the end of each accounting period, to the extent they are related to acquisition of depreciable capital assets – can be added to or deducted from the cost of that asset and depreciated over the remaining life of the asset.

In case of other LTFCMI, such differences would be accumulated in a balance



sheet account Foreign Currency Monetary Item Translation Difference Account (FCMITDA) and amortized over the remaining life of such long-term asset or liability.

However, the question arose as to what comprises of exchange differences when read with para 4(e) of AS 16 Borrowing costs and Accounting Standard Interpretation (ASI) 10.

Para 6 of AS 11 - This Statement does not deal with exchange differences arising

from foreign currency borrowings to the extent that they are regarded as an adjustment to interest costs (see paragraph 4(e) of AS 16, Borrowing Costs).

Para 4(e) - exchange differences arising from foreign currency borrowings to the extent that they are regarded as an adjustment to interest costs.

ASI 10 - Paragraph 4 (e) of AS 16 covers exchange differences on the amount of prin-



principal of the foreign currency borrowings to the extent of difference between interest on local currency borrowings and interest on foreign currency borrowings. For this purpose, the interest rate for the local currency borrowings should be considered as that rate at which the enterprise would have raised the borrowings locally had the enterprise not decided to raise the foreign currency borrowings. If the difference between the interest on local currency borrowings and the interest on foreign currency borrowings is equal to or more

than the exchange difference on the amount of principal of the foreign currency borrowings, the entire amount of exchange difference is covered under paragraph 4 (e) of AS 16.



#### For example:-

XYZ Ltd has taken a loan of USD 10,000 on April 1, 2009 for specific project interest on which was payable at 5% p.a. in arrears. Assuming exchange rate as on March 31, 2010 to be Rs. 48/USD, the total interest cost for XYZ Ltd. comes to Rs. 24,000 ( $USD\ 500 * 48$ ).

XYZ LTD. could borrow the same loan in Indian currency i.e. Rs. 450,000 ( $USD\ 10,000 * Rs.\ 45$  (assuming exchange rate as on April 1, 2009 to be Rs. 45/USD)) on which interest payable would have been 11% in arrears. Hence, the total interest cost would have been Rs. 49,500.

XYZ Ltd. by borrowing in USD makes a saving in interest cost of Rs. 24,500 ( $49,500 - 24,000$ ). However, the exchange loss during the year was Rs. 30,000 ( $USD\ 10,000 * (48-45)$ ). The total cost to XYZ Ltd. = interest cost + exchange difference = Rs. 24,000 + Rs. 30,000 = Rs. 54,000.

On application of the para 4(e) read with ASI 10, the total borrowing cost for XYZ Ltd., when it borrows in USD, would be Rs. 49,500 and the exchange difference

would be Rs. 4,500 ( $54,000 - 49,500$ ).

Hence, when a company chooses the option given under the Notification no. 914 (E) to capitalize/amortize exchange differences, it could apply the option to the amount calculated as per AS 16 only (i.e. Rs. 4,500 in the above example).

Now MCA vide Circular no. 25/2012 dated 09 August 2012 has clarified as below:

The Ministry has received several representations from industry associations that Para 6 of AS 11 and Para 4(e) of AS 16 are posing problems in proper implementation of Para 46A of notification 914(E) dated 29.12.2011. In order to resolve the problems faced by the industry, it is hereby clarified that Para 6 of AS 11 and para 4(e) of AS 16 shall not apply to a company which is applying clause 46A of AS 11.

In short, a company that chooses the option given under the Notification no. 914 (E) to capitalize/amortize exchange differences, it could apply the option to the entire amount of exchange difference (i.e. Rs. 30,000 in the above example).

# Service Tax on Railway Tickets

## Levy of Service Tax on Railway Passengers Travelling in AC Classes/ First Class from 1st October 2012

### No Service Tax to be Levied on Tickets Issued Prior to 1st October 2012

### In Case of Cancellation of Tickets Issued on or after 1st October 2012, the Applicable Amount Including Service Tax to be Refunded by Railways

In compliance of the provisions contained in Finance Bill 2012 and subsequent notifications issued by Ministry of Finance, the Service Tax in case of railway travel will be levied on the fare of passenger services in the following classes from **1st October 2012**:-

(i) AC First Class, (ii) Executive Class, (iii) AC-2 tier Class, (iv) AC-3 tier class, (v) AC Chair Car class, (vi) AC Economy class and (vii) First Class.

Since an abatement of 70% has been permitted on passenger services by Ministry of Finance, the Service Tax will be charged on 30% of total fare including reservation charge, de-

velopment charge, superfast surcharge which would be calculated as follows:-

1. Service Tax of 12% will be charged on 30% of fare (equivalent to 3.6% on the total fare)

2. Education Cess of 2% on Service Tax will be added (equivalent to



0.072% on total fare) and

3. Higher Education Cess of 1% on Service Tax will also be added (equivalent to 0.036% on total fare)

**4. Total Service Tax implication will be (i)+(ii)+(iii)=3.708% on the total fare.**

On Concessional value tickets, service charge will be levied @ 3.708%

of the total fare **actually being paid** by the passengers. Through a subsequent corrigendum issued by M/o Railways, it has been clarified that the Service Tax would be collected on the tickets issued/bookings made on or after 01.10.2012. Service Tax is **not leviable** on tickets issued prior to 01.10.2012 and hence will not be collected on board the trains.

In case of cancellation of tickets booked by the passengers on or after 01.10.2012, the applicable amount **including refundable Service Tax amount** will be refunded **by Railways** as per Railway refund rules and Finance Ministry guidelines.

**The amount of Service Tax collected from passengers will be deposited with the Ministry of Finance as per prescribed procedure.** Finance Departments of Zonal Railways have been instructed for proper accountal and remittance of Service Tax amount to the Government.

*“Service Tax will not be levied on tickets booked prior to 01.10.2012”*

*“In case of cancellation of tickets booked on or after 01.10.2012, the applicable amount including Service Tax amount will be refunded”*

## 80CCG - RGESS



*“The Scheme is applicable exclusively for first time retail investors in Securities Market”*



A new scheme called Rajiv Gandhi Equity Savings scheme was proposed in the Union Budget 2012-13 to encourage flow of saving in financial instruments and improve the depths of domestic capital market. The then Union Finance Minister Shri Pranab Mukherjee in his Budget speech in Lok Sabha said that the scheme allows for income tax deduction of 50 per cent to new retail investors, who invest up to Rs 50,000 directly in equities and whose annual income is below Rs 10 lakhs. The scheme will have lock-in period of three years. The details will be announced in due course. **However No provision was proposed in Finance Bill, 2012 to provide for deduction in respect of investment made under any equity saving scheme.**

The Union Finance Minister Shri P. Chidambaram approved a new tax saving scheme called Rajiv Gandhi Equity Saving

Scheme (RGESS), exclusively for the first time retail investors in Securities Market. This Scheme would give tax benefits to new investors who invest up to Rs. 50,000 and whose annual income is below Rs. 10 lakh.

Newly inserted Section 80CCG provides deduction wef assessment year 2013-14 in respect of investment made under notified equity saving scheme. The deduction under this section is available if following conditions are satisfied:

(a) The assessee is a resident individual (may be ordinarily resident or not ordinarily resident)

(b) His gross total income does not exceed Rs. 10 lakhs;

(c) He has acquired listed shares in accordance with a notified scheme;

(d) The assessee is a new retail investor as specified in the above

notified scheme;

(e) The investor is locked-in for a period of 3 years from the date of acquisition in accordance with the above scheme;

(f) The assessee satisfies any other condition as may be prescribed.

**Amount of deduction –** The amount of deduction is at 50% of amount invested in equity shares. However, the amount of deduction under this provision cannot exceed Rs. 25,000. If any deduction is claimed by a taxpayer under this section in any year, he shall not be entitled to any deduction under this section for any subsequent year.

**Withdrawal of deduction –** If the assessee, after claiming the aforesaid deduction, fails to satisfy the above conditions, the deduction originally allowed shall be deemed to be the income of the assessee of the year in which default is committed.

# Service Tax on Transportation of Parcel Traffic

## Levy of Service Tax on Transportation of Parcel Traffic (Leased or Non-Leased Parcel Traffic) by Rail from 1st October 2012

In compliance of the provisions contained in Finance Bill 2012 and subsequent notifications issued by the Ministry of Finance, the Service Tax in case of transportation of parcel traffic (leased or non-leased parcel traffic) by rail, which was exempted upto 30<sup>th</sup> September 2012, would now be levied on total freight charges with effect from **1<sup>st</sup> October 2012**.

Since an abatement of 70% has been permitted on freight for the taxable commodities by the Ministry of Finance, the Service Tax will be charged on 30% of the total freight inclusive of all charges would be calculated as follows:

i) Service Tax of 12% will be charged on 30% of freight (equivalent to 3.6% on the total freight charges)

ii) Education Cess of 2% on Service Tax will be added (equivalent to

0.072% on total freight) and

iii) Higher Education Cess of 1% on Service Tax will also be added (equivalent to 0.036% on total freight)

**iv) Total Service Tax implication will be (i)+(ii)+(iii)=3.708% on the total freight charges.**

Service tax will be levied for transportation of all description of parcel traffic (leased or non-leased parcel traffic) and merchandise items (for commercial use) booked as Luggage with effect from 1<sup>st</sup> October 2012. Luggage traffic i.e. personal baggage belonging to the travelling passengers, (excluding merchandise items for commercial use), shall be exempted from service tax. The list of commodities exempted from payment of service tax is as follows:

(a) Relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;

(b) Defence or military equipments;

(c) Postal mail or mail bags;



(d) Household effects;

(e) Newspaper or magazines registered with the Registrar of Newspapers;

(f) Agricultural produce;

(g) Foodstuff including flours, tea, coffee, jiggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages.

Further details on the modalities of levy and collection of Service Tax on transportation of parcel traffic by rail, may be ascertained from Indian Railways' web site i.e. [www.indianrailways.gov.in](http://www.indianrailways.gov.in)

The amount of Service Tax collected by Railways would be deposited with the Ministry of Finance as per prescribed procedure.



## Due Date for Filing e-forms 23AC(Non XBRL) & 23ACA(Non XBRL) & also form 23B

*“To ensure smooth filing of your e-forms, please avoid last minute rush”*

The Ministry issued General Circular **No.30/2012 Dated 28.09.2012**, In order to ensure smooth filing and to avoid last minute rush, the due date of filing of e-forms **23AC (Non-XBRL) and 23ACA (Non XBRL)** as per new **schedule VI** is extended in following manner without any additional fee :-

Company holding AGM

or whose due date for holding AGM is on or before **20.09.2012**, the time limit will be **03.11.2012** or due date of filing, which ever is later.

Company holding AGM or whose due date for holding AGM is on or after **21.09.2012**, the time limit will be **22.11.2012** or due date of filing, which ever is later.

Further the Ministry vide **General Circular No.31/2012 dated 28.09.2012** has extended the filing of e-form **23B** without any additional fee till **23.12.2012** or due date of filing which ever is later. All are advised to file e-form 23B after **22.11.2012** to avoid system congestion.

## Interest Income of NRI to be taxed at Lower Rate

Interest Income of a Non-Resident Investor to be taxed at the reduced rate of 5 per cent instead of the existing rate of 20 per cent and withhold Tax on such Income to be also at the Reduced Rate of 5 per cent

**Section 194LC of the Income-tax Act, 1961 – Income by way of Interest from Indian Company – Approval of loan agreements/long term infrastructure bonds and rate of interest for the purpose of Section 194LC**

The Finance Act, 2012 has introduced section 194LC in the Income Tax Act. This section provides for lower withholding tax at the rate of 5% on interest pay-

ments by Indian companies on borrowings made in foreign currency by such companies from a source outside India. There are principally two modes of borrowing (referred to as “monies borrowed” in the said section) which are covered, subject to approval of the Central Government:

a. Monies borrowed under a loan agreement

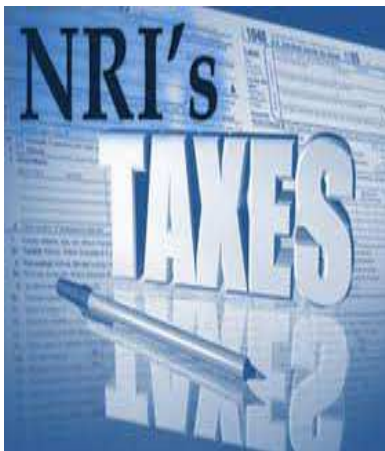
b. Long term Infrastructure Bonds

2. It is further provided that the rate of interest on such borrowings, for the purpose of eligibility under the section 194LC, shall be as approved by the Central Government.

3. The lower rate of withholding tax is for monies borrowed or bonds issued during the period from 1-7-2012 to 30-6-2015.

4. Therefore, the approval of the Central Government is required in respect of both the loan agreement or bond issue and the rate of interest to be paid on such borrowings.

5. Considering the fact that there would be a large number of cases of overseas borrowings or bond issues to be undertaken by Indian companies, providing a mechanism involving approval in each and every specific case would entail avoidable compliance burden on



the borrower/issuer of bond. In order to mitigate the compliance burden and hardship, the Central Board of Direct Taxes [with the approval of Central Government] hereby conveys the approval of Central Government for the purposes of section 194LC in respect of the loan agreements and issue of long term infrastructure term bond by Indian companies which satisfy the conditions mentioned in paras A, B and C below: -

#### **A. In respect of agreements for loan**

a. The borrowing of money should be under a loan agreement.

b. The monies borrowed under the loan agreement by the Indian company should comply with clause (d) of sub-section (3) of section 6 of the Foreign Exchange Management Act, 1999 read with Notification No. FEMA3/2000-RB viz. Foreign Exchange Management (Borrowing or Lending in Foreign exchange) Regulations 2000, dated May 3, 2000, as amended from time to time, (hereafter referred to as "ECB regulations"), either under the automatic route or under the approval route.

c. The borrowing company should have obtained a Loan Registration Number (LRN) issued by the Reserve Bank of India (RBI) in respect of the Agree-

ment.

d. No part of the borrowing has taken place under the said agreement before 1st July, 2012.

e. The agreement should not be restructuring of an existing agreement for borrowing in foreign currency solely for taking benefit of reduced withholding tax rates.

f. The end use of the funds and other conditions as laid out by the RBI under ECB regulations should be followed during the entire term of the loan agreement under which the borrowing has been made.

#### **B. In respect of issue of Bonds**

a. The bond issue by the Indian company should be authorized under ECB regulations either under the automatic route or under the approval route.

b. The bond issue should have a loan Registration Number issued by the RBI.

c. The term "long term" means that the bond to be issued should have original maturity term of three years or more.

d. The bond issue proceeds should be utilized in the "infrastructure sector" only.

e. The term "infrastructure sector" shall have same meaning as is assigned to it by RBI under the ECB

regulations.

#### **C. Rate of interest**

Further, the Central Government has also approved the interest rate for the purpose of section 194LC as any rate of interest which is within the All-in-cost ceilings specified by the RBI under ECB regulations as is applicable to the borrowing by loan agreement or through a bond issue, as the case may be, having regard to the tenure thereof.

6. In view of the above, any loan agreement or bond issue, which satisfies the above conditions, would be treated as approved by the Central Government for the purposes of section 194LC.

7. In the case of other long-term Infrastructure Bonds where the Indian company receives subscription of such Bonds in foreign currency and such bond issue is not covered under ECB regulations, the approval, for purpose of section 194LC shall be on case to case basis.

8. The Indian company, for the purpose of obtaining the necessary approval u/s 194LC in respect of such long-term bond issue, may, therefore, apply in writing to Member (IT), Central Board of Direct Taxes with the relevant details of the purpose, period and rate of interest.

*“Interest Income of NRI will be taxed at 5%, instead of existing 20%”*





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## Service Tax Update



In terms of sub-rules (1) and (2) of Rule 7 of the Service Tax Rules, 1994, the half yearly return for the period 1st April to 30th September 2012, is to be filed by 25th October, 2012. In the current financial year, an assessee would have had to give data with respect to specific services and the corresponding legal provi-

sions for the period 1-4-2012 to 30-6-2012. The data for the period 1-7-2012 to 30-9-2012, would have been with respect to different services and the corresponding legal provisions. Combination of all these provisions into one return would have made the return complex for the assesseees .

Further all Service Tax assesseees are hereby informed that they will not be able to file ST 3 returns in ACES now and have to wait until the modified version of ST 3 Form is made available in a few weeks.

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