

Volume V
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Connection



STARTUP



Lalit Bajaj & Associates
Chartered Accountants

LALIT BAJAJ &
ASSOCIATES

JUST TO
REMINDE
YOU

- April 10 - Filing of Excise return
- April 21 - Payment of MVAT
- April 25 - Filing of Service Tax return
- April 30 - Payment of TDS & filing of MVAT return

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Communiqué



Dear Seniors, Friends & Colleagues,

As I write this message we had Ram Navami and Mahavir Jayanti in last few days. Hope our fraternity members must have celebrated these festivals with all loved ones. Both festivals give message of peace and focus on aim/goal in peaceful manner. In today's scenario of hectic life sometimes these occasions are just considered as holidays. However, these holidays on eve of our festivals gives us an opportunity to come together and spend time and also helps in understanding our culture & tradition which binds our society and helps us to maintain simple life with high thinking.

As we are aware that almost 10 states are struggling with draught situation in the country, it's time we rise beyond our functions and also advise our clients about conservation of water or optimum use of water as water has almost no substitute. We are placed in good position to advise and give suggestion with audits in these areas and as a part of CSR initiative & we can also guide companies to do something in this field. Besides, as a responsible subject we should also use water in most effective manner. On the other hand there is some good news with labour ministry putting New withdrawal rule on EPF on hold.

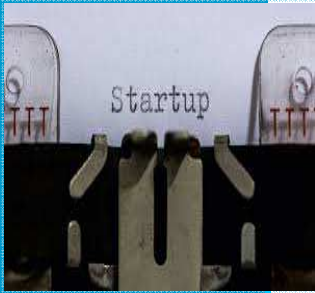
As bank branch audits over its time we plan our other regular statutory audits in effective manner looking into changing rules like IFC framework and at same time we should also plan the audit and send the planning to client so that they are aware with requirements and timelines and it will also help us to execute our function in fruitful manner as this will definitely bolster our audit process. It has been a common phenomenon that we take some clients granted due to our association with them in last few years but it's time we should give due attention to these clients and also perform our function within all standards ambit.

At end it's mid summer with scorching heat so we should take care of our health which is the backbone of everything.

Best Wishes

CA Lalit Bajaj

Startup India



Initiative

The Hon'ble Prime Minister Narendra Modi has kicked off the ambitious Startup India Movement on 15th August 2015, when he urged the nation to '**Startup India, Standup India**' from the ramparts of the red fort, India was on its way to become a startup nation already.

- The government programme aims to fill gaps in the economy for the growth and development of startups and will aim to boost digital entrepreneurship at the grassroots.
- The government is expected to earmark around Rs 2,000 crore for the initiative.
- With the ever changing face of technology and networking, Startup is no more a buzz word in India.
- Five months down the line, the 'Startup India' vision has traversed a long distance in terms of policies and support to entrepreneurs across the length and breadth of the country.

Eligibility

The Government of India has announced 'Startup India' initiative for creating a conducive environment for startups in India. The various Ministries of the Government of India have initiated a number of activities for the purpose. To bring uniformity in the identified enterprises, an entity shall be considered as a 'startup'-

Up to five years from the date of its incorporation/registration,

- If its turnover for any of the financial years has not exceeded Rs. 25 crore, and
- It is working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property;
- Provided that any such entity formed by splitting up or reconstruction of a business already in existence shall not be considered a 'startup';

Provided further that in order to obtain tax benefits a startup so identified under the above definition shall be required to obtain a certificate of an eligible business from the Inter-Ministerial Board of Certification .

Explanation:

An entity shall cease to be a startup on completion of five years from the date of its incorporation/registration or if its turnover for any previous year exceeds Rs. 25 crore.

Entity means a private limited company (as defined in the Companies Act, 2013), or a registered partnership firm (registered under section 59 of the Partnership Act, 1932) or a limited liability partnership (under the Limited Liability Partnership Act, 2008).

Turnover is as defined under the Companies Act, 2013.

An entity is considered to be working towards innovation, development, deployment or commercialization of new prod-

ucts, processes or services driven by technology or intellectual property if it aims to develop and commercialize:

- A new product or service or process, or
- A significantly improved existing product or service or process that will create or add value for customers or workflow.
- Provided that the mere act of developing:
 - products or services or processes which do not have potential for commercialization, or
 - undifferentiated products or services or processes, or
 - c. products or services or processes with no or limited incremental value for customers or workflow would not be covered under this definition.

The process of recognition as a 'startup' shall be through mobile app/portal of the Department of Industrial Policy and Promotion. Startups will be required to submit a simple application with any of following documents:

- a recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any Incubator established in a postgraduate college in India; or
- a letter of support by any incubator which is funded (in relation to the project)



Startup India Action Plan

#Startupindia

What if your idea is not just an idea?

What if it sees light?

What if it's really born?

What if you can get someone to believe in it?

And help you nurture it?

What if you can set a clear path for it?

What if it can actually travel?

What if it grows and blooms?

What if the whole world embraces it?

What if your idea is not just an idea?

Startup India is a flagship initiative of the Government of India, intended to build a strong eco-system for nurturing innovation and Startups in the country that will drive sustainable economic growth and generate large scale employment opportunities. The Government through this initiative aims to empower Startups to grow through innovation and design.

In order to meet the objectives of the initiative, Government of India is announcing this Action Plan that addresses all aspects of the Startup ecosystem. With this Action Plan the Government hopes to accelerate spreading of the Startup movement:

From digital/ technology sector to a wide array of sectors including agriculture, manufacturing, social sector, healthcare, education, etc.; and

From existing tier 1 cities to tier 2 and tier 3 cities including semi-urban and rural areas.

The Action Plan is divided across the following areas:

Simplification and Handholding

Funding Support and Incentives

Industry-Academia Partnership and Incubation

Compliance Regime based on Self-Certification

To reduce the regulatory burden on Startups thereby allowing them to focus on their core business and keep compliance cost low

Startup India Hub

To create a single point of contact for the entire Startup ecosystem and enable knowledge exchange and access to funding

Rolling-out of Mobile App and Portal

To serve as the single platform for Startups for interacting with Government and Regulatory Institutions for all business needs and information exchange among various stakeholders

Legal Support and Fast-tracking Patent Examination at Lower Costs

To promote awareness and adoption of IPRs by Startups and facilitate them in protecting and commercializing the IPRs by providing access to high quality Intellectual Property services and resources, including fast-track examination of patent applications and rebate in fees.

Relaxed Norms of Public Procurement for Startups

To provide an equal platform to Startups (in the manufacturing sector) vis-à-vis the experienced entrepreneurs! companies in public procurement

Faster Exit for Startups

To make it easier for Startups to wind up operations

Providing Funding Support through a Fund of Funds with a Corpus of INR 10,000 crore

To provide funding support for development and growth of innovation driven enterprises

Credit Guarantee Fund for Startups

To catalyze entrepreneurship by providing credit to innovators across all sections of society

Tax Exemption on Capital Gains

To promote investments into Startups by mobilizing the capital gains arising from sale of capital assets

Tax Exemption to Startups for 3 years

To promote the growth of Startups and address working capital requirements

11. Tax Exemption on Investments above Fair Market Value

To encourage seed-capital invest-



“I see startups, technology and innovation as exciting and effective instruments for India’s transformation.”-



ment in Startups

Organizing Startup Fests for Showcasing Innovation and Providing a Collaboration Platform

To galvanize the Startup ecosystem and to provide national and international visibility to the Startup ecosystem in India

Launch of Atal Innovation Mission (AIM) with Self-Employment and Talent Utilization (SETU) Program

To serve as a platform for promotion of world-class Innovation Hubs, Grand Challenges, Startup businesses and other self-employment activities, particularly in technology driven areas

Harnessing Private Sector Expertise for Incubator Setup

To ensure professional management of Government sponsored / funded incubators, Government will create a policy and framework for setting-up of incubators across the country in public private partnership

Building Innovation Centres at National Institutes

To propel successful innovation through augmentation of incubation and R&D efforts

Setting-up 13 Startup centres: Annual funding support of INR 50 lakhs (shared 50:50 by DST and MHRD) shall be provided for three years for encouraging student driven Startups from the host institute.

Setting-up/Scaling-up 18 Technology Business Incubators (TBIs) at NITs! IITs! IIMs etc. as per funding model of DST with MHRD providing smooth approvals for TBI to have separate society and built up space.

Setting up of 7 New Research Parks Modeled on the Research Park Setup at IIT Madras

To propel successful innovation through incubation and joint R&D efforts between academia and in-

dustry

Promoting Startups in the Biotechnology Sector

To foster and facilitate bio-entrepreneurship Details

Launching of Innovation Focused Programs for Students

To foster a culture of innovation in the field of Science and Technology amongst students

Annual Incubator Grand Challenge

To support creation of successful world class incubators in India



Initiatives for Indian Start-Ups in RBI Policy Statement

In the Sixth Bi-Monthly Monetary Policy Statement for 2015-16 and the press release dated February 2, 2016, the Reserve Bank of India had highlighted the steps to the Government's initiatives to promote ease of doing business and contribute being taken with respect to an eco-system conducive for growth of entrepreneurship, particularly in respect of the

start-up enterprises.

RBI had clarified that guidelines/clarifications have already been issued in areas such as,

Online submission of A2 forms for outward remittances

With a view to facilitating miscellaneous remittances and reducing paperwork associated with payment transactions, it has

been decided that Authorised Dealer banks, offering internet banking facilities to their customers may allow online submission of Form A2. To start with, remittances on the basis of online submission alone will be available for transactions with an upper limit of USD 25,000 (or its equivalent) for individuals and USD 100,000 (or its equiva





“Department of Revenue/Financial Services shall mandate e-payments beyond a prescribed threshold”



Permanent Account Number

lent) for corporate, subject to satisfaction of the Authorised Dealer banks as laid down in Section 10 (5) of FEMA.

Issue of shares without cash payments

An Indian Company can issue shares against any legitimate payments owed by the Company for which no prior permission is required from RBI/ Government for making payments. Post this clarification, Indian Start-ups can also issue shares against such legitimate payments due to overseas suppliers/ customer such as

1. for use or acquisition of intellectual property rights;
2. for import of goods;
3. for payment of dividends;
4. for interest payments; for consultancy fees etc.

without any prior permission of RBI. However, the same is subject to tax withholding provisions as per Income Tax Act, 1961 and

conditions relating to adherence with FDI policy

Acceptance of payments by the Indian start-ups on behalf of their overseas subsidiaries

An Indian Start-up having an overseas subsidiary is allowed to open and maintain Foreign Currency Account (FCA) abroad to collect and pool foreign currency earning against exports/sales. The balances in this FCA should be repatriated to India within nine months of realisation of export dues. Start-ups are also permitted to use Online Payments Gateway Service Providers (OPGSPs) for realization of overseas payments against export/sales with a maximum limit of USD 10000. A contractual arrangement to facilitate above transaction should be in place between Indian Start-up, its overseas subsidiary and customer.

Issue of sweat equity for

consideration other than cash

Reserve Bank of India vide [Notification No. FEMA. 344/2015 RB dated June 11, 2015](#) permits Indian companies to issue “sweat equity shares” to the following, who are resident outside

1. its employees/directors; or
2. employees/directors of its holding company; or
3. joint venture; or wholly owned overseas subsidiary/subsidiaries

Compliance Relating to Quoting of PAN

There are few amendments introduced in sections 139A read with Rule 114B-114D of Income Tax Act, 1961 w.e.f 01.01.2016 regarding Rules & Forms related to **quoting of PAN for specified Transactions.**

Now, Every person shall quote his PAN in all documents pertaining to the transactions specified, namely:—

- **Sale & Purchase of a motor Vehicle or Vehicle, other than 2 wheeled vehicles.**
- Sale or Purchase of any Immovable Property for Amount exceeding 10 Lakhs Rupees.
- Sale or Purchase of goods & Services of any nature other than (1) & (2) above for Amount exceeding 2 Lakhs Rupees per transaction.
- In case any person, entering into these transactions is minor, he shall quote PAN of Guardian.
- Every person who is required to get his accounts audited U/s 44AB of the Act, shall furnish a statement in Form 61 containing the particulars of the Form 60 obtained.
- Penalty for non-furnishing of Statement will be of Rs. 100 per day of default.

Government withdraw notification amending PF withdrawal

Government had issued a notification dated 10th February 2016 regarding rules for withdrawal from EPF Funds by the members.

Under the revised rules, the employee was permitted to withdraw the employees' share from the fund (which is 12% of the wages). However, it was prescribed that the employers' share of contribution towards the Provident Fund (which is 3.67% of wage) would be allowed to be withdrawn only at the age of retirement (58 years).

The objective was to provide a minimum social security to the workers at the time of retirement. It was noticed that over 80% of the claims settled by EPFO belonged to pre-mature withdrawal of funds, treating the EPF ac-

counts as savings accounts, and not a Social Security instrument.

In order to address the issues the amendment stated above was carried out with the consent of Trade Unions and with the intention of promoting a decent accumulation of provident fund for the members at the end of their working lifetimes.

However, considering the representations received from various quarters and after consultations with the various stakeholders, Minister of State (IC) Labour and Employment, Sh Bandaru Dattatreya announced that the government has decided to withdraw the said 10th February 2016 Notification with immediate effect.

Accordingly, the workers are now

allowed to withdraw the entire amount from the provident fund as per existing provisions of the EPF Scheme 1952 including the employers' share of 3.67%.



MCA waves additional fees & extend filing date

MCA has launched VRV2 on 28th March, 2016 but due to unstable functioning since the launch of new system, a number of stakeholders & professionals have been facing issues in accessing the MCA portal and filing of e-forms

Because of delayed fillings, corporate are required to pay an additional filing fees.

Considering the various representations received to resolve the issue and waiver of additional filing fees, MCA has issued an notification to relax

the additional fee till the new system stabilizes.

MCA has decided to relax the additional filing fees payable on e-forms which are due for filling by companies between 25th March, 2016 to 30th April, 2016 as one time waiver of additional fee payable by them

Further, in case the period of approved name expires between the aforesaid period, the stakeholders be allowed for renewal of name without any additional fees. Similarly, resubmission of documents be permitted without being taken away from the system

Clarification has been issues to stakeholders that if such due e-forms are filed after 10th May, 2016, no such relaxation will be allowed



Amendment of Consolidation Rules



Ministry of
Corporate Affairs

In the midst of the buzz within companies for finalization of accounts, the Ministry of Corporate Affairs ('MCA') decided to be a little playful and introduced the Companies (Accounting Standards) Amendment Rules, 2016 ('Amendment Rules') vide its notification no. G.S.R. 364(E) dated 30.03.2016. This Rules brings amendment to the Companies (Accounting Standards) Rules, 2006 ('Principle Rules'), which was initially notified by MCA vide its notification no. G.S.R. 739(E) dated 07.12.2006. The Amendment Rules has made several changes in the Principle Rules with respect to as much as 7 accounting standards. The Amendment Rules has substituted the text of the following Accounting Standards ('AS'):

- AS 2- Valuation of Inventories
- AS 4- Contingencies and Events Occurring After the Balance Sheet Date
- AS 10- Accounting for Fixed Assets
- AS 13- Accounting for Investments
- AS 14- Accounting for Amalgamations
- AS 21- Consolidated Financial Statements
- AS 29- Provisions, Contingent Liabilities and Contingent Assets

With the last minute introduction of the Amendment Rules, the companies may be left high and dry in as much as companies may be slithering away trying to comply with the changes. However the question remains as to for which financial year the changes are applicable to. This

will have impact on the financial statements as the companies are also required to consolidate their accounts. Changes have also been made to AS- 21 which deals with consolidation of accounts

Impact of the amendment in AS 21

There will be no impact of para 9 of AS-21 on the companies which are having subsidiary or subsidiaries. Such companies were anyway covered under the provisions of section 129 of the Act and were required to consolidate the accounts of subsidiaries, associates or JVs as per the relevant accounting standards. Such companies will still continue with consolidation of financial statement of subsidiaries, associate or JV companies.

The major impact will be on the companies which do not have any subsidiary but have associates or JVs. Now, such companies will also be required to consolidate the accounts of associates and JVs companies. The issue as discussed above was open to interpretation until this amendment, which though is now clear but is fruitless and infact meaningless altogether. It will be pointless for such companies to adopt consolidation as the same cannot be done in case of associates and JVs. This would mean that misleading figures get reflected in the standalone accounts of the Company. Consolidation would always mean line by line inclusion of a separate set of financials in the financials of the holding company. Where the company is not a holding/parent company there cannot be a question of line by line consolidation. That is to say, in case of a venturer and an investor it will be reckless to do so-called consolidation as that will render the whole purpose of consolidation itself meaningless. Infact the meaning of consolidated financial statements as per the said AS 21 is "*Consolidated financial statements are the finan-*

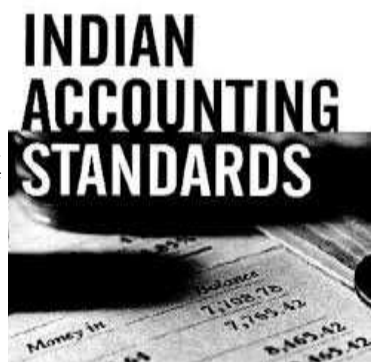
cial statements of a group presented as those of a single enterprise. "

Applicability- Whether FY 2015-16 or 2016-17?

While the Amendment Rules have been notified by MCA on 30th March, 2016 to say that the same will be coming into effect from the date of its publication in the Official Gazette, one may say that the same will become applicable for the financial year 2015-16. The rationale behind such view is that section 129 deals with the consolidation of financial statements and the meaning of 'financial statements' as provided under section 2 (40) of the Act, 2013 states that the financial statements are as at the end of financial year, i.e. 31st March. It is obvious that the annual financials can be prepared only towards the end of the financial year. Therefore, the requirement of consolidation of financial statement arises at the end of financial year. Since the Amendment Rules has been notified before the end of the financial year, a view may be taken that the same may become applicable for the financial year 2015-16.

Hence, the Amendment Rules if becomes applicable will vary the present consolidation requirement and this will also lead to change in Company. Accordingly, while adopting the provisions of Amendment Rules, one should also consider AS-1 which deals with the disclosure of significant accounting policies followed in preparing and presenting financial statements.

However, another view may also be taken that since the amendment has come near the end of the financial year, the said amendment will be applicable only for FY beginning April 01, 2016



Companies are already in process of preparing their financial statements based on the existing Standards and accordingly, abiding by the provisions of the Amendment Rules would be totally impractical for the companies. Hence, a possible interpretation may also be that the Amendment Rules will become applicable only for financial statement being pre-

pared for the financial year 2016-17 and onwards



Service tax on services rendered by government

The service tax on services under reverse charge on all the services provided by govt./local authority was made effective from 1st Apr'16, however many ambiguities arose as to whether the service tax shall also be applicable for statutory levies or not and other similar issues. Now vide various notifications and clarification (as enclosed herewith), CBEC has clarified certain issues. Gist of the same is as follows:

1. Service tax exemption granted for:

- Fee for passport, visa, driving license, registration under any law shall not be taxable;
- Services by government for consideration less than INR 5,000/-
- Liquidated damages paid to govt. in lieu of tolerating the non-performance of the contract;
- Cesses, taxes or duties;
- Fines or penalties levied by govt. for violation of a statute, law or regulation

- Other specified services
2. The point of taxation in services rendered by govt. shall be as earlier amongst following: -;
- Date of payment; Or
 - Due date of payment (as per invoice, Challan or any other document issued by govt.)

It is pertinent to note that it has been clarified that Service Tax is leviable on any payment, in lieu of any permission or license granted by the Government or a local authority.

New Rules for form 15CA & 15CB

The new rules for preparation, filing/ issuing forms 15CA and 15CB are effective from 01st April'2016.

With these new rules coming into effect significant changes have come into effect for furnishing forms 15CA & 15CB.

Some of the key changes for furnishing form 15CA & 15CB that

have come into effect from 01st April'2016 are:

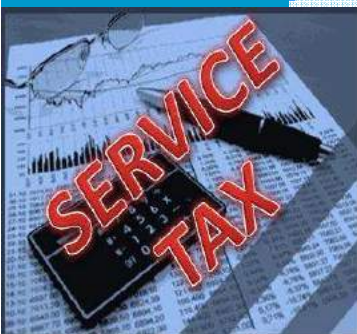
1 Both forms 15CA and 15CB are to be filed online

Earlier only form 15CA had to be filed online but now form 15CB i.e certificate by a Chartered Accountant is also to be filed online.

2 Changes in requirement for filing form 15CA & 15CB

A) There are situations where Forms 15CA/CB will not be required at all:

♣ No forms 15CA & 15CB will be required to be furnished by an individual for remittance which does not require





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Innovate Create Lead



RBI approval under Liberalized Remittance Scheme.

♣ The list of payments where there is no requirement for forms 15CA, 15CB has been expanded under Rule 37BB. Following are the new entries in the specified list where no forms 15CA CB are required:

Advance Payment against import

- Payment towards import-Settlement of Invoice

- Imports by diplomatic missions

- Intermediary Trade

Import below Rs. 5,00,000/- (For use by ECD offices)

B) There are situations where no

forms 15CB will be required:

- Form 15CB will not be required till the aggregate of remittances during the financial year does not exceed Rs. 5 lakhs.

- Form 15CB will also not be required where order/certificate of lower/no deduction is taken from the Jurisdictional Assessing Officer us 195(2), 195(3), 197 of the Income Tax Act'1961.

- Form 15CB is also not required where the remittance is not chargeable to tax.

C) Where the remittance is not chargeable to tax under the provisions of the Income-tax Act, 1961 {other than payments referred to in rule 37BB(3)} by the

person referred to in rule 37BB(2).

- New Form 15CC prescribed:

- Prescribed form No. 15CC for Quarterly statement to be furnished by an authorised dealer in respect of foreign remittances made by it.

D) Penalty of Rs. 1 lakh for each default of non-filing for forms 15CA/CB will be applicable

E) Now there is an option for withdrawal of Form 15CA before payment. Form 15CA can be withdrawn within 7 days of submission of the online form.

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