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Chartered Accountants



The depths of leadership comes from the courage to put yourself after others, to sacrifice so that others succeed.  
~ Simon Sinek

# *Connection*

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## LLB &amp; CO.

JUST TO  
REMIN  
YOU

- **Apr 21 - Payment of MVAT and WCT TDS for March 2017**
- **Apr 25 - Service Tax Return for half year ended March 2017**
- **Apr 30 - Payment & Monthly Return of Maharashtra PT**
- **Apr 30 - Payment of TDS/ TCS deducted/ collected in March**

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## Standards for ensuring secured transmission of electronic communication

Reference may be made to **Notification 2/2016** in even number dated 3rd February 2016.

2. Sub-Section (1) of Section 282 of the Income Tax Act 1961 provides that the service of a notice or summons or requisition or order or any other communication under this Act (hereafter in this section referred to as "communication") may be made by delivering or transmitting a copy thereof, to the person therein named,-

(a) by post or by such courier services as may be approved by the Board; or

(b) in such manner as provided under the Code of Civil Procedure, 1908 (5 of 1908) for the purposes of service of summons; or

(c) in the form of any electronic record as provided in Chapter IV of the **Information Technology Act, 2000** (21 of 2000); or

(d) by any other means of transmission of documents as provided by rules made by the Board in this behalf.

3. Further, Sub-Section (2) of Section 282 of the Income Tax Act 1961 provides that the Central Board of Direct Taxes (Central Board) may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in sub-section (1) of Section 282 may be delivered or transmitted to the person therein named.

4. Accordingly, Board vide Income-tax (18th Amendment) Rules, 2015 has notified Rule

127 for Service of notice, summons, requisition, order and other communication on 2nd December 2015.

5. Sub Rule (3) of Rule 127 of the Income Tax Rules 1962, states The Principal Director General of Income Tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedure, formats and standards for ensuring secured transmission of electronic communication and shall also be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to such communication.

6. Accordingly, the Pro DGIT (S) issued **Notification 2/2016** in even number dated 3rd February 2016 to enable Email based Communication between the Department and the Assessee. Now the facility of electronic communication between the Department and the Assessee is being extended through the E-Proceeding functionality of the E-filing account of the Assessee on the Departmental website <https://incometaxindiaefiling.gov.in>.

7. Further, Section 282A provides for the authentication of electronic communication of notice or other document and Rule 127A prescribes the procedure in such cases:

**Authentication of notices and other documents.**

282A. (1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be [signed and issued in paper



form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed).

(2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.

(3) For the purposes of this section, a designated income-tax authority shall mean any income-tax authority authorized by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (2).

8. Sub Rule(1) of the Rule 127A provides that:

(1) Every notice or other document communicated in electronic form by an income-tax authority under the Act shall be deemed to be authenticated

a. In case of an electronic mail or electronic mail message issued, (hereinafter referred to as the e-mail), if the name and office of such income-tax authority

i. is printed on the email body, if the notice or other document is in the email body itself; or



ii. is printed on the attachment to the email, if the notice or other document is in the attachment,

and the e-mail is issued from the designated e-mail address of such income-tax authority;

b. In case of an electronic record, if the name and office of a designated income-tax authority

i. is displayed as a part of the electronic record, if the notice or other document is contained as text or remark in the electronic record itself, or

ii. is printed on the attachment in the electronic record, if the notice or other document is in the attachment, .

and such electronic record is displayed on the designated website.

9. E-Proceeding is a part of e-governance initiative to facilitate a simple way of communication between the Department and the taxpayer, through electronic means, without the necessity of the taxpayer to visit the Income Tax Office.

10. E-Proceeding offers the functionality for any Income Tax Authority to conduct various proceedings through online exchange of communication in form of notices/letters/questionnaire issued from the Income Tax Business Application (ITBA) of the Department to the taxpayer account in the e-Filing website <https://incometaxindiaefiling.gov.in> and online response/submission from Assessee in compliance with such notices/letters/questionnaire, through E-Proceeding in the e-Filing website - [https://](https://incometaxindiaefiling.gov.in)



[incometaxindiaefiling.gov.in](https://incometaxindiaefiling.gov.in).

11. Accordingly, in exercise of the powers delegated by the Board as per Sub Rule (3) of Rule 127 and Sub Rule (2) of Rule 127 A of the Income Tax Rules 1962, the Principal Director General of Income tax (Systems) specifies herein the additional procedures, formats and standards for ensuring secured transmission of electronic communication and authentication of electronic communication of notice or other document through the E-filing account of the taxpayer on the Designated Website <https://incometaxindiaefiling.gov.in>.

12. For the purposes of this notification, the expression,

i. "electronic communication" means electronic mail or electronic mail message or the display of an electronic record on the website of the Income Tax Department as may be specified.

ii. "electronic mail" and "electronic mail message" (hereinafter referred to as "email") means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, images, audio, video and any other electronic record, which may be transmitted with the message.

iii. "electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro film as defined in Clause (t) of Subsection (1) of Section 2 of Information Technology Act, 2000 (21 of 2000).

All other expressions shall have the meaning as defined in the Income Tax Act 1961.

13. The procedure, formats and standards for ensuring secured transmission of electronic communication using E-Proceedings specified as under:

a) All the notices/questionnaire/letters/Orders issued from ITBA modules by any Income Tax Authority will be visible to Assessee after login under "E-Proceeding" Tab in the E-filing website of the Department in <https://incometaxindiaefiling.gov.in>, hereinafter called 'E-filing website' and may also be sent by the designated e-mail address (email address based on the designation of the income tax authority under the domain [@incometax.gov.in](mailto:@incometax.gov.in)) to the registered e-mail address of the Assessee.

b) A text message alerting the Assessee may also be sent on the mobile number registered on the E-filing website.

c) The notice/questionnaire/Letter available over E-Filing website to the Assessee or sent by Email to the Assessee will be authenticated in the manner prescribed in Rule 127A of Income Tax Rules 1962 .

d) The functionality to conduct E-Proceeding will be available for all types of notice/questionnaire/Letter issued under various sections of the IT Act. For example, hearing notice for assessment proceedings under sections 143(3), 147, 263 or 264 etc, proceedings under section 154, hearing under various sections for penalty, proceedings in First Appeal

for Hearing notice, proceedings for granting/rejecting registration applications u/s 12AA, 80G under Exemptions, seeking clarification for resolving E-Nivaran grievances etc. can also be conducted using the E-Proceeding functionality using electronic communication of notice or any document by any Income Tax Authority and electronic submission of response by Assessee.

e) Assessee will have the facility to opt out of E-Proceeding and such option has to be communicated to the Department through the e-Filing website.

f) On delivery of the notice/ questionnaire/Letter to the Assessee under "E-Proceeding" Tab in the E-filing website of the Department - <https://lincometaxindiaefiling.gov.in>, the Assessee will be able to submit his response along with attachments on the e-Filing website.

g) The notice/ questionnaire/ Letter issued to the Assessee and any submission of the Assessee response along with attachments, if any, will be accessible to the respective Income Tax Authority through the Income Tax Business Application (ITBA) system or any such software of the Department.

h) In order to facilitate a final date and time for E-submission, the facility to submit a response will be auto closed 7 days prior to the Time-Barring (TB) date, if any. If there is no statutorily prescribed Time Barring date, then the Income Tax Authority can, on his volition, close the E-submission whenever the compliance time is over or when the final order or decision is under preparation to avoid last minute submissions. However, Income Tax Authority can also re-enable the E-submission by Assessee in both TB or non TB situations.

i) Once the proceeding is closed or completed in ITBA by the Income Tax Authority, E-submission will

not be allowed from Assessee.

j) Upon closure or completion of any proceeding under this procedure, the final Order, letter or document will be delivered to the Assessee under "E-Proceeding" Tab in the E-filing website of the Department - <https://lincometaxindiaefiling.gov.in>. If need be, the same may also be delivered by Post.

k) Relevant e-proceedings can also be conducted manually, if an Assessee chooses not to opt for E-Proceeding. Manual mode can also be adopted for those Assesseees who are not registered on the E-filing website of The Income Tax Department or if the Income Tax Authority so decides with specific reasons recorded in writing and approved by the immediate supervisory authority.

l) In case the assessee opts for manual mode in the middle of e-proceedings on the e-filing website, further proceedings shall be conducted in manual mode.

m) The Assessee will be able to view the entire history of notice/ questionnaire/letter/Orders on the E-filing Website of the Department and of his responses, if the same has been submitted under this procedure.

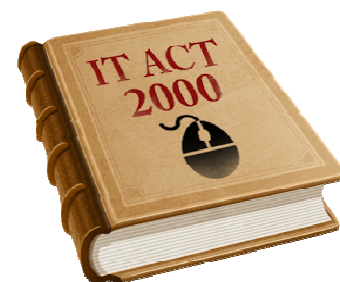
n) For the purpose of this notification, the time and place of dispatch and receipt of electronic record or electronic communication shall have the same meaning as provided in Section 13 of the Information Technology Act, 2000 (No.21 of 2000). Further, the registered account of the assessee on the e-filing website is deemed to be computer resource designated by the assessee in accordance with Section 13 of the Information Technology Act, 2000 (No.21 of 2000).

o) For the purpose of this notification, the data including attachments, if any, delivered as a record in the "E-Proceeding" Tab to

the Assessee's account in the E-filing website of the Department - <https://lincometaxindiaefiling.gov.in> shall constitute an 'Electronic record' as defined in Clause (t) of Subsection (1) of Section 2 of Information Technology Act, 2000 (21 of 2000).

p) For the purpose of this notification, the Assessee is the "Addressee" as defined in Clause (b) of Subsection (1) of Section 2 of Information Technology Act, 2000 (21 of 2000). (Ramesh krishnamurthi) AddIDG [Systems]-3, CBDT.

14. The aforementioned procedure is applicable to all proceedings under the Income Tax Act 1961 under this Notification as enabled from time to time.



## FAQs on Income Computation and Disclosure Standards (ICDS)



Sub-section (1) of section 145 of the Income-tax Act, 1961 (the Act) provides that the income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (2), be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. Sub-section (2) of section 145 provides that the Central Government may notify **Income Computation and Disclosure Standards (ICDS)** for any class of assessee or for any class of income. Accordingly, the Central Government notified 10 ICDS vide **Notification No. S.O.892(E) dated 31st March, 2015** with effect from assessment year 2016-17.

After notification of ICDS, it has been brought to the notice of the Central Board of Direct Taxes ('the Board') by the stakeholders that certain provisions of ICDS may require amendment/clarification for proper implementation. The matter was referred to an expert committee. The Committee after duly consulting, the stakeholders in this regard has recommended a two-fold approach for the smooth implementation of ICDS i.e. amendment to the provisions of ICDS in respect of certain issues and issuance of clarifications by way of FAQs for the rest of issues. Accordingly, vide Notification no 87. dated 29th September, 2016 Central Government notified amended ICDS with effect

from the assessment year 2017-18.

Further, the issues which require further clarification has been considered by Board and following clarifications are issued:

**Question 1: Preamble of ICDS -I states that this ICDS is applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" and not for the purposes of maintenance of books of accounts. However, Para I of ICDS I states that it deals with significant accounting policies. Accounting policies are applied for maintenance of books of accounts and preparing financial statements. What is the interplay between ICDS-I and maintenance of books of accounts?**

**Answer:** As stated in the Preamble, ICDS is not meant for maintenance of books of accounts or preparing financial statements. Persons are required to maintain books of accounts and prepare financial statements as per accounting policies applicable to them. For example, companies are required to maintain books of account and prepare financial statements as per requirements of Companies Act 2013. The accounting policies mentioned in ICDS-I being fundamental in nature shall be applicable for computing income under the heads "Profits and gains of business or profession" or "Income from other sources".

**Question 2: Certain ICDS provisions are inconsistent**

**with judicial precedents. Whether these judicial precedents would prevail over ICDS?**

The ICDS have been notified after due deliberation and after examining judicial views for bringing certainty on the issues covered by it. Certain judicial pronouncements were pronounced in the absence of authoritative guidance on these issues under the Act for computing Income under the head "Profits and gains of business or profession" or Income from other sources. Since certainty is now provided by notifying ICDS under section 145(2), the provisions of ICDS shall be applicable to the transactional issues dealt therein in relation to assessment year 2017-18 and subsequent assessment years.

**Question 3: Does ICDS apply to non-corporate taxpayers who are not required to maintain books of account and/or those who are covered by presumptive scheme of taxation like sections 44AD, 44AE, 44ADA, 44B, 44BB, 44BBA, etc. of the Act?**

**Answer:** ICDS is applicable to specified persons having income chargeable under the head Profits and gains of business or profession' or 'Income from other sources'. Therefore, the relevant provisions of ICDS shall also apply to the persons computing income under the relevant presumptive taxation scheme. For example, for computing presumptive income of a partnership firm under section 44AD of the



Act, the provisions of ICDS on Construction Contract or Revenue recognition shall apply for determining the receipts or turnover, as the ease may be.

**Question 4: If there is conflict between ICDS and other specific provisions of the Income-tax rules, 1962 (‘the Rules’) governing taxation of income like rules 9A, 9B etc. of the Rules, which provisions shall prevail?**

**Answer:** ICDS provides general principles for computation of income. In case of conflict, if any, between the provisions of Rules and ICDS, the provisions of Rules, which deal with specific circumstances, shall prevail.

**Question 5: ICDS is framed on the basis of accounting standards notified by Ministry of Corporate Affairs (MCA) vide Notification No. GSR 739(E) dated 7 December 2006 under section 211(3C) of erstwhile Companies Act 1956. However, MCA has notified in February 2015 a new set of standards called ‘Indian Accounting Standards’ (Ind-AS). How will ICDS apply to companies which adopted Ind-AS?**

**Answer:** ICDS shall apply for computation of taxable income under the head “Profit and gains of business or profession” or “Income from other sources” under the Income Tax Act. This is irrespective of the accounting standards adopted by companies i.e. either Accounting Standards or Ind-AS.

**Question 6: Whether ICDS shall apply to computation of Minimum Alternate Tax (MAT) under section 115JB of the Act or Alternate Minimum Tax (AMT) under section 115JC of the Act?**

**Answer:** MAT under section 115.113 of the Act is computed on ‘book profit’ that is net profit as shown in the Profit and Loss Account prepared under the Companies Act subject to certain specified adjustments. Since, the

provisions of ICDS are applicable for computation of income under the regular provisions of the Act, the provisions of ICDS shall not apply for computation of MAT.

AMT under section 115JC of the Act is computed on adjusted total income which is derived by making specified adjustments to total income computed as per the regular provisions of the Act. Hence, the provisions of ICDS shall apply for computation of AMT.

**Question 7: Whether the provisions of ICDS shall apply to Banks, Non-banking financial institutions, Insurance companies, Power sector, etc.?**

**Answer:** The general provisions of ICDS shall apply to all persons unless there are sector specific provisions contained in the ICDS or the Act. For example, ICDS VIII contains specific provisions for banks and certain financial institutions and Schedule 1 of the Act contains specific provisions for Insurance business.

**Question 8: Para 4(ii) of ICDS-I provides that Market to Market ( MTM) loss or an expected loss shall not be recognized unless the recognition is in accordance with the provisions of any other ICDS. Whether similar consideration applies to recognition of MTM gain or expected incomes?**

**Answer:** Same principle as contained in ICDS-I relating to MTM losses or an expected loss shall apply *mutatis Mutandis* to MTM gains or an expected profit.

**Question 9: ICDS-I provides that an accounting policy shall not be changed without ‘reasonable cause’. The term ‘reasonable cause’ is not defined. What shall constitute ‘reasonable cause’?**

**Answer:** Under the Act, ‘reasonable cause’ is an existing concept and has evolved well over a period of time conferring desired flexibility to the tax payer in

deserving cases.

**Question 10: Which ICDS would govern derivative instruments?**

**Answer:** ICDS -VI (subject to para 3 of ICDS-VIII) provides guidance on accounting for derivative contracts such as forward contracts and other similar contracts. For derivatives, not within the scope of ICDS -VI, provisions of ICDS-1 would apply.

**Question 11: Whether the recognition of retention money, receipt of which is contingent on the satisfaction of certain performance criterion is to be recognized as revenue on billing?**

**Answer:** Retention money, being part of overall contract revenue, shall be recognised as revenue subject to reasonable certainty of its ultimate collection condition contained in para 9 of on Construction contracts.

**Question 12: Since there is no specific scope exclusion for real estate developers and Build - Operate- Transfer (BOT) projects from ICDS IV on Revenue Recognition, please clarify whether ICDS-III and ICDS-IV should be applied by real estate developers and BOT operators. Also, whether ICDS is applicable for leases.**

**Answer:** At present there is no specific ICDS notified for real estate developers, BOT projects and leases. Therefore, relevant provisions of the Act and ICDS shall apply to these transactions as may be applicable.

**Question 13: The condition of reasonable certainty of ultimate collection is not laid down for taxation of interest, royalty and dividend. Whether the taxpayer is obliged to account for such income even when the**





collection thereof is uncertain?

**Answer:** As a principle, interest accrues on time basis and royalty accrues on the basis of contractual terms. Subsequent non recovery in either cases can be claimed as deduction in view of amendment to 5.36 (1) (vii). Further, the provision of the Act (e.g. Section 43D) shall prevail over the provisions of ICDS.

**Question 14: Whether ICDS is applicable to revenues which are liable to tax on gross basis like interest, royalty and fees for technical services for non-residents u/s. 115A of the Act.**

**Answer:** Yes, the provisions of ICDS shall also apply for computation of these incomes on gross basis for arriving at the amount chargeable to tax.

**Question 15: Para S of ICDS-V states expenditure incurred on commissioning of project, including expenditure incurred on test runs and experimental production shall be capitalized. It also states that expenditure incurred after the plant has begun commercial production i.e., production intended for sale or captive consumption shall be treated as revenue expenditure. What shall be the treatment of expense incurred after the conduct of test runs and experimental production but before commencement of commercial production?**

**Answer:** As clarified in Para 8 of ICDS-V, the expenditure incurred till the plant has begun commercial production, that is, production intended for sale or captive consumption, shall be treated as capital expenditure.

**Question 16: What is the taxability of opening balance as on 1<sup>st</sup> day of April 2016 of Foreign Currency Translation Reserve (FCTR) relating to non-integral foreign operation, if any, recognised as per Accounting Standards (AS) 11?**

**Answer:** FCTR balance as on 1 April 2016 pertaining to exchange differences on monetary items for non-integral operations, shall be recognised in the previous year relevant for assessment year 2017-18 to the extent not recognised in the income computation in the past.

**Question 17: For subsidy received prior to 1<sup>st</sup> day of April 2016 but not recognised in the books pending satisfaction of related conditions and achieving reasonable certainty of receipt, how shall the same be recognised under ICDS on or after 1<sup>st</sup> day of April 2016?**

**Answer:** Para 4 of ICDS-VII read with Para 5 to Para 9 of ICDS-VII provides for timing of recognition of government grant. The transitional provision in Para 13 of ICDS-VII provides that a government grant which meets the recognition criteria on or after 1<sup>st</sup> day of April 2016 shall be recognised in accordance with ICDS-VII. All government grants actually received prior to 1<sup>st</sup> day of April 2016 shall be deemed to have been recognised on its receipt in accordance with Para 4(2) of ICDS-VII and accordingly will be outside the transitional provision and therefore the government grants received on or after 1<sup>st</sup> day of April 2016 and for which recognition criteria provided in Para 5 to Para 9 of ICDS-VII is also

satisfied thereafter, the same shall be recognised as per the provisions of ICDS-VII. The grants received prior to 1<sup>st</sup> day of April 2016 shall continue to be recognised as per the law prevailing prior to that date.

For example, if out of total subsidy entitlement of 10 Crore an amount of 6 Crore is recognised in the books of accounts till 31<sup>st</sup> day of March 2016 and recognition of balance 4 Crore is deferred pending satisfaction of related conditions and/or achieving reasonable certainty of The balance amount of 4 Crore will be taxed in the year in which related conditions are met and reasonable certainty is achieved. If these conditions are met over two years, the amount of 4 Crore shall be taxed over the period of two years. The amount of 6 Crore for which recognition criteria were met prior to 1<sup>st</sup> day of April 2016 shall not be taxable post 1<sup>st</sup> day of April 2016.

But if the subsidy is already received prior to 1<sup>st</sup> day of April 2016, Para 13 of ICDS-VII shall not apply even if some of the related conditions are met on or after 1 April 2016. This is in view of Para 4(2) of ICDS-VII which provides that Government grant shall not be postponed beyond the date of actual receipt. Such grants shall continue to be governed by the provisions of law applicable prior to 1<sup>st</sup> day of April 2016.

**Question 18: If the taxpayer sells a security on the 30<sup>th</sup> day of April 2017. The interest payment dates are December and June. The actual date of receipt of inter-**



est is on the 30th day of June 2017 but the interest on accrual basis has been accounted as income on the 31st day of March 2017. Whether the taxpayer shall be permitted to claim deduction of such interest i.e. offered to tax but not received while computing the capital gain?

**Answer:** Yes, the amount already taxed as interest income on accrual basis shall be taken into account for computation of income arising from such sale.

**Question 19:** Para 9 of ICDS-VIII on securities requires securities held as stock-in-trade shall be valued at actual cost initially recognised or net realisable value (NRV) at the end of that previous year, whichever is lower. Para 10 of Part-A of ICDS-VIII requires the said exercise to be carried out category wise. How the same shall be computed?

**Answer:** For subsequent measurement of securities held as stock-in-trade, the securities are first aggregated category wise. The aggregate cost and NRV of each category of security are compared and the lower of the two is to be taken as carrying value as per ICDS-VIII.

**Question 20:** There are specific provisions in the Act read with Rules under which a portion of borrowing cost may get disallowed under sections like 14A, 4311, 40(a)(i), 40(a)(ia), 40A(2)(b), etc of the Act. Whether borrowing costs to be capitalized under ICDS-IX should exclude portion of borrowing costs which gets disallowed under such specific provisions?

**Answer:** Since specific provisions of the Act override the provisions of ICDS, it is clarified that borrowing costs to be considered for capitalization under ICDS IX shall exclude those borrowing costs which are disallowed under specific provisions of the Act. Capitali-

zation of borrowing cost shall apply for that portion of the borrowing cost which is otherwise allowable as deduction under the Act.

**Question 21:** Whether bill discounting charges and other similar charges would fall under the definition of borrowing cost?

**Answer:** The definition of borrowing cost is an inclusive definition. Bill discounting charges and other similar charges are covered as borrowing cost.

**Question 22:** How to allocate borrowing costs relating to general borrowing as computed in accordance with formula provided under Para 6 of ICDS-IX to different qualifying assets?

**Answer:** The capitalization of general borrowing cost under ICDS-IX shall be done on asset-by-asset basis.

**Question 23:** What is the impact of Para 20 of ICDS X containing transitional provisions?

**Answer:** Para 20 of ICDS X provides that all the provisions or assets and related income shall be recognised for the previous year commencing on or after 1st day of April 2016 in accordance with the provisions of this standard after taking into account the amount recognised, if any, for the same for any previous year ending on or before 31st day of March, 2016.

The intent of transitional provision is that there is neither 'double taxation' of income due to application of ICDS nor there should be escape of any income due to application of ICDS from a particular date.

**Question 24:** Expenditure on most post-retirement benefits like provident fund, gratuity, etc. are covered by specific provisions. There are other post-retirement benefits offered by companies like medical benefits. Such benefits are cov-

ered by AS-15 for which no parallel ICDS has been notified. Whether provision for these liabilities are excluded from scope of ICDS X?

**Answer:** It is clarified that provisioning for employee benefit which are otherwise covered by AS 15 shall continue to be governed by specific provisions of the Act and are not dealt with by ICDS-X.

**Question 25:** ICDS-I requires disclosure of significant accounting policies and other ICDS requires specific disclosures. Where is the taxpayer required to make such disclosures specified in ICDS?

**Answer:** Net effect on the income due to application of ICDS is to be disclosed in the Return of income. The disclosures required under ICDS shall be made in the tax audit report in Form 3CD. However, there shall not be any separate disclosure requirements for persons who are not liable to tax audit.







## Waiver of interest charged under Section 201(1A)(i)

In exercise of the powers conferred under clause (a) of sub-section (2) of section 119 of Income-tax Act, 1961 (the Act), Central Board of Direct Taxes (the Board), hereby directs that the Chief Commissioner of Income-tax and Director General of Income-tax may reduce or waive interest charged under section 201(1A) (i) of the Act in the classes of cases specified in paragraph 2 of this Order for the period and to the extent the Chief Commissioner of Income-tax/ Director General of Income-tax may deem fit. However, no reduction or waiver of such interest shall be ordered unless the principal demand under sections 200A, 201(1) or 234E, as the case may be, stands fully paid or satisfactory arrangements for payment of the principal demand under these sections have been made. The Chief Commissioner of Income-tax or Director General of Income-tax may also impose any other condition as deemed fit for the said reduction or waiver of interest.

2. The class of cases in which the reduction or waiver of interest under section 201(1A) (i) can be considered, are as follows:

(i) Where during the course of proceedings for search and seizure under section 132 of the Income-tax Act, or otherwise, the books of account and other documents necessary for making deduction under Chapter XVIIIB of the Act were seized and the assessee was not able to, within the time specified, deduct tax at source from any sum cred-

ited to any account (whether called "suspense account" or by any other name) in his books of

(ii) Where any sum paid or payable was not liable for deduction of tax at source in the case of a deductor on the basis of any order passed by the jurisdictional High Court, and as a result, he did not deduct tax at source in relation to such sum, and subsequently, in consequence of any retrospective amendment of law or a decision of the Supreme Court of India or a decision of a Larger Bench of the jurisdictional High Court (which was not challenged before the Supreme Court and has become final) in any proceedings, as the case may be, tax was held to be deductible or the tax deducted by the deductor during such financial year was found to be less than the tax deductible on such sums paid or payable.

(iii) Where the default under section 201 relates to non-deduction or a lower deduction of tax under section 195 of the Act in respect of a payment made to a non-resident (including a foreign company) being a resident of a country or specified territory outside India with whom India has entered into an agreement referred to in section 90 or 90A of the Act, and where -

(e) a dispute regarding the tax payable in India in respect of the said payment had been referred to the Competent Authority in India mentioned in Rule 44H of the Income-tax Rules, 1962 under the said agreement under section 90 or 90A of the Act;

(f) such reference had been received by the Competent Authority in India within a period of two years of the date on which the notice of demand determining the tax payable was received by the person in default under section 201;

(g) the dispute has been settled by way of a resolution arrived at under the Mutual Agreement Procedure (MAP) provided in the said agreement; and

(h) the person in default under section 201 has given his acceptance to the resolution and has withdrawn his appeal (s) pending on the issue, within the meaning of sub-rule (4) of Rule 44H of the **Income-tax Rules**, within a period of one month of the date on which the resolution is communicated to him.

3. Even if the interest u/s 201(1A) (i) has already been paid by the deductor, the same can be considered for waiver, subject to the conditions above and a refund may be given to the if waiver is ordered.

4. The Chief Commissioner of Income-tax or Director General of Income-tax examining an application for waiver of interest under this Order shall pass a speaking order after providing adequate opportunity of being heard to the applicant.

5. The Board reserves the power to examine any grievance arising out of an order passed or not passed by CCIT or DGIT, as the case may be, and issue suitable directions to these authorities for proper implementation of this Order.



# Maharashtra VAT Changes in Taxation of commodities

To give effect to the Budget proposals for the year 2017-18, Schedules 'A' "C" and "D" of the MVAT Act, 2002 have been amended by notification, dated 29<sup>th</sup> March 2017 issued u/s 9(1) of the said Act. [Reference 1]. The notification u/s 41(5) of the MVAT Act, 2002 [No. VAT-1511/ CR 57/ Taxation-1 dated 30<sup>th</sup> April 2011 [Taxation of liquor] has been amended by the notification referred at serial 2.

The revision in the tax rates and amendments to the notifications are explained as follows:

## A. Amendments to Schedule 'A':

### i. Tax free commodities with sunset clause:

Commodities, specified in Schedule entry A-9 A, A-51 and A-59 were tax-free upto 31<sup>st</sup> March 2017.

The commodities covered by these entries continue to be tax free till the introduction of the Goods and Services Tax Act in the State and these commodities are as follows:

*Paddy, rice, wheat and pulses in whole grain, split or broken form.* [A-9 A (a)]

2. *The flour of wheat and rice including atta, maida, rawa and suji whether sold singly or in mixed form.* [A-9A(b)]

3. *The flour of pulses including besan when sold singly and not mixed with flour of other pulses or cereal* [A-9A(c)]

4. *Papad, except when served for consumption.*[A-51(i)]

5. *Gur* [A-51(ii)]

6. *Chillies, turmeric and tamarind whole, powdered or separated but excluding chilly seed and tamarind seed when sold in separated form.*[A-51(iii)]

7. *Coriander seeds, Fenugreek and Parsley (Suva) whole or powdered* IA-51 (iv)]

8. *Coconut in shell and separated kernel of coconut, other than copra* [A-5 1(v)]

9. *Solapuri chaddars* [ A-51(vi)]

10. *Towels* [ A-51(vii)]

11. *Wet dates* [ A-51(viii)]

12. *Raisins and currants* [A-59]

### ii. Amsul:

Amsul is taxable at the rate of 12.5% for the period from 1<sup>st</sup> April 2005 to 16<sup>th</sup> September 2016 and at the rate of 13.5% from 17<sup>th</sup> September 2016 to 31<sup>st</sup> March 2017. From 1<sup>st</sup> April 2017, amsul has become tax-free and shall continue to be tax-free till the introduction of the Goods and Services Tax Act in the State. [Sub-entry (ix) added in Sch. entry A-51]

### iii. Card Swipe machines for merchant transactions:

Card Swipe machines, normally used by shops, restaurants etc for cashless transactions, are taxable at the rate of 12.5% for the period from 1<sup>st</sup> April 2005 to 15<sup>th</sup> September 2016 and at the rate of 13.5% from 17<sup>th</sup> September 2016 to 31<sup>st</sup> March 2017, From 1<sup>st</sup> April 2017, these card swipe machines have become tax-free. [entry 8A inserted in Sch. A]

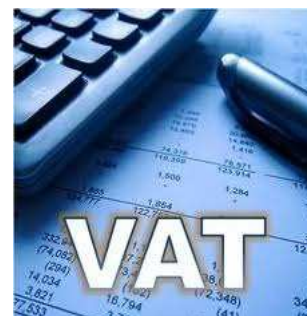
### iv. Gas or Electric fired human body incinerator:

Gas or Electric fired human body incinerators are taxable at the rate of 12.5% for the period from 1<sup>st</sup> April 2005 to 16<sup>th</sup> September 2016 and at the rate of 13.5% from 17<sup>th</sup> September 2016 to 31<sup>st</sup> March 2017. From 1<sup>st</sup> April 2017, Gas and Electric fired human body incinerators have become tax-free. (entry 25A inserted

in Sch. A]

### V. Geo membrane used for farm pond, of thickness not less than 500 microns, having BIS specification:

Geo membrane is taxable at the rate of 5.5% for the period from 1<sup>st</sup> April 2016 to 16<sup>th</sup> September 2016 and at the rate of 6% from 16<sup>th</sup> September 2016 to 31<sup>st</sup> March 2017. From 1<sup>st</sup> April 2017, geo membrane, of thickness not less than 500 microns, used for farm pond and confirming to the specifications of the Bureau of Indian Standards (BIS), has become tax free. [entry 25B inserted in Sch. A]



### vi. Milk testing kits for detecting milk adulteration:

Milk testing kits for detecting milk adulteration are taxable at the rate of 12.5% for the period from 1<sup>st</sup> April 2005 to 16<sup>th</sup> September 2016 and at the rate of 13.5% from 17<sup>th</sup> September 2016 to 31<sup>st</sup> March 2017. From 1<sup>st</sup> April 2017, milk testing kits for detecting milk adulteration have become tax-free. [entry 33A inserted in Sch. A]

### vii. Soil testing kits for determination of soil nutrients:

Soil testing kits for determination of soil nutrients are taxable at the rate of 12.5% for the period from 1<sup>st</sup> April 2005 to 16<sup>th</sup> September 2016 and at the rate of 13.5% from 17<sup>th</sup> September 2016 to 31<sup>st</sup> March 2017. From 1<sup>st</sup> April 2017, Soil testing kits for determination of soil nutrients have become tax-free. [entry 44A inserted





## Companies to disclose details of SBN in Balance Sheet & Audit Report

In exercise of the powers conferred by sub-section (1) of section 467 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following further amendments to Schedule III of the said Act with effect from the date of publication of this notification in the Official Gazette, namely:-

2. In the Companies Act, 2013 (hereinafter referred to as the principal Act), in Schedule III, in Division I, in Part I under the heading "General instructions for preparation of Balance Sheet" in paragraph 6, after clause 'W', the following clause shall be inserted namely:-

"X. Every company shall disclose

the details of Specified Bank Notes (SBN) held and transacted during the period from 8th November, 2016 to 30th December, 2016 as provided

**Explanation :** For the purposes of this clause, the term 'Specified Bank Notes' shall have the same meaning provided in the notification of the Government of India, in the Ministry of Finance, Department of Economic Affairs number S.O. 3407(E), dated the 8th November, 2016."

3. In the principal Act, in Schedule III, in Division II, in Part I under the heading "General instructions for preparation of Balance Sheet" in paragraph 6, after clause 'J', the following clause shall be inserted

namely:-

"K. Every company shall disclose the details of Specified Bank Notes (SBN) held and transacted during the period 08/11/2016 to 30/12/2016 as provided

Explanation : For the purposes of this clause, the term 'Specified Bank Notes' shall have the same meaning provided in the notification of the Government of India, in the Ministry of Finance, Department of Economic Affairs number S.O. 3407(E), dated the 8th November, 2016."



## Revised effective date of Standards on Auditing

The Council of the ICAI, at its 364th meeting held on March 23-25, 2017 considered the deferment of applicability date of SA 701 and Revised SAs 700, 705, 706. At the meeting, the Council noted the following points:

- SA 701 and Revised SAs 700, 705 & 706 were approved by the Council at its 350th meeting held in February 2016. All these standards are applicable for audits of financial statements for periods beginning on or after April 1, 2017.
- Members have requested ICAI to consider the deferment of applicability of these standards by a period of one year because the members are finding it difficult to implement them. There is need to provide adequate training

and implementation guidance to the members on these standards so as to equip them with the requirement and to implement these standards appropriately. It was then noted that issue of Implementation Guide and training programmes may take considerable time.

After detailed deliberations at the meeting, the Council, in partial modification of the decision taken by it at its 350th meeting held in February 2016, decided that the effective date/applicability of the following Standards on Auditing –

- SA 700 (Revised), "Forming an Opinion and Reporting on Financial Statements"
- SA 701, "Communicating Key Audit Matters in the Independent Auditor's Report"

- SA 705 (Revised), "Modifications to the Opinion in the Independent Auditor's Report"
- SA 706 (Revised), "Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report"

be deferred by one year and consequently the said Standards shall now be effective/applicable for audits of financial statements for periods beginning on or after April 1, 2018 (instead of audits of financial statements for periods beginning on or after April 1, 2017 as was earlier decided and referred to above).

However, please note that the extant SAs 700, 705 and 706 will continue to apply.





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## Auditors report to disclose dealings in SBN during Demonetisation

In exercise of powers conferred by section 143 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the **Companies (Audit and Auditors) Rules, 2014**, namely:—

1. (1) These rules may be called the **Companies (Audit and Auditors) Amendment Rules, 2017**.

(2) They shall come into force on the

date of their publication in the Official Gazette.

In the **Companies (Audit and Auditors) Rules, 2014**, in rule 11, after clause (c), the following clause shall be inserted, namely:—

“(d) whether the company had provided requisite disclosures in its financial statements as to holdings as well as dealings in Specified Bank Notes during the period from 8th November, 2016 to 30th De-

ember, 2016 and if so, whether these are in accordance with the books of accounts maintained by the company.”.



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