

# ProBus-Tax and Regulatory Updates



This alert summarizes important notifications / clarifications issued recently by The Central Board of Direct Taxes, The Central Board of Indirect Taxes and Customs and The Ministry of Corporate Affairs.

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### **Introduction**

In the past few days, The Central Board of Indirect Taxes and Customs ('CBIC'), The Central Board of Direct Taxes ('CBDT'), and The Ministry of Corporate Affairs ('MCA') have released various notifications/clarifications. This alert summarizes major notification/clarifications issued holding relevance for business houses including major changes in GST law which are made effective from February 01, 2019 and other statutes.

## **INDIRECT TAXES**

### **1. Mandatory utilization of IGST credit for payment of any tax**

As per the new process, it would be mandatory for a supplier to utilize the credit of IGST first for payment of output tax liability (IGST, CGST, SGST or UTGST), and the balance of other ITC (CGST, SGST or UTGST) can be used **only if balance of credit of IGST is completely exhausted**.

### **2. Increase in threshold limit for registration in certain States**

The threshold limit for mandatory registration under GST has been increased from Rs. 10 lakhs to Rs. 20 lakhs in the States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand. Consequently, Special category States under GST Act shall now exclude the States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand. Further, considering the demand of small industries to raise state-wise threshold limit for registration under GST, the GST Council has decided to raise the threshold limit from 20 lakhs to 40 lakhs for GST registration for suppliers of goods.

### **3. Concept of business verticals for separate registrations has been done away with<sup>1</sup>**

Assessees' will be able to obtain multiple registrations in the same State for separate places of business, which was previously possible only for separate business verticals

### **4. Reverse Charge in case of supply received from Unregistered Persons**

The provision for levy of GST under reverse charge, if goods or services are received by a registered person from any unregistered person, was deferred for the time being by way of notifications

issued at various occasions. Now, the charging provisions of Section 9(4) of the GST Act has been amended and Government has been empowered to notify specific classes of registered persons who shall be liable to pay tax under reverse charge on supply of specified goods and services.

### **5. Single credit note can be issued for multiple invoices**

Earlier, the supplier was required to raise separate credit note for each invoice, which was very inconvenient and cumbersome. Now, the suppliers have been allowed to issue consolidated credit note and debit note in respect of multiple invoices issued in the same financial year.

### **6. Due date for submitting the declaration in Form GST TRAN-1 extended to March 31, 2019<sup>2</sup>**

The time-limit for submitting the declaration in FORM GST TRAN-1 under Rule 117(1A) of the Central Goods and Service Tax Rules, 2017 has been extended till March 31, 2019, for the class of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and whose cases have been recommended by the Council.

### **7. Composition Scheme**

The limit for opting composition scheme has been increased from Rs. 1 crore to Rs 1.5 crores. Previously, traders and manufacturers, who were also rendering services, were not eligible to opt for composition scheme. Now, as per new norms a registered supplier of goods shall be eligible for composition scheme even if it is engaged in supply of services provided the value of such supply doesn't exceed 10% of its turnover in the preceding financial year in a State/ Union Territory or Rs 5 lakhs, whichever is

higher. The total tax under composition levy shall be at 1% (0.5% CGST + 0.5% SGST) of turnover of taxable supplies of good and service in State or Union Territory.

**8. No ITC of GST paid on motor vehicle with sitting capacity of up to 13 persons**

Input tax credit shall not be available for the GST paid in respect of passenger motor vehicles, with approved seating capacity up to 13 persons including driver. However, the input tax credit shall be allowed if motor vehicle is used for further supply of such motor vehicles or transportation of passengers or imparting training to drive such motor vehicles.

Further, the Input tax credit shall not be available for the GST paid in respect of general insurance, servicing, repair and maintenance of such motor vehicles, vessels or aircraft. However, the credit for the tax paid on these services shall be allowed in following cases:

- (a) If motor vehicles, vessels or aircraft are used for the purposes specified above and ITC is allowed thereon;
- (b) If these services are received by a taxable person engaged in:
  - (i) The manufacturing of such motor vehicles, vessels or aircraft;
  - (ii) Supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by them.

**9. Transfer of ITC to new registered place of business of existing supplier**

Any registered person, who has obtained separate registration for multiple places of business within same State or UT, can transfer the credit of ITC from his existing

place of business to his newly registered place of business. The credit of existing business shall be transferred in proportion to the value of assets transferred to the newly registered unit. For this purpose, a new Form ITC-02A has been introduced.

**10. Suspension of registration before cancellation<sup>1</sup>**

Where any person applies for cancellation of his GST registration, his registration shall be deemed to be suspended from the date of filing of application for cancellation. During the period of suspension, a reasonable opportunity of being heard must be given to him by the authorities before approving the cancellation of his registration. During the period of suspension, the supplier shall not collect GST on supply of goods or services and shall not be required to file GST returns.

**11. Mandatory registration by an e-commerce operator only if it is liable to collect TCS**

Earlier, an e-commerce operator was required to take mandatory registration irrespective of the fact that whether it was required to collect TCS or not. With effect from February 1, 2019, the registration shall be mandatory only for that e-commerce operator who is required to collect TCS. As per Section 52 of the CGST Act, it is mandatory for an e-commerce operator to collect the TCS if it allows the third-party seller to sell goods or services through its platform

**12. Relevant date for filing of application for GST Refund**

The application for refund of tax should be made before expiry of 2 years from relevant date. Earlier, the relevant date for filing of application for refund of

unutilized ITC, due to inverted tax structure, was end of the financial year in which such claim or refund arises. Now, the relevant date would be the due date for furnishing of return under section 39 of CGST Act for the relevant period in which such refund claim arises.

**13. Reversal of common credits**

The transactions of high sea sale, merchant trade, supply of warehoused goods before clearance for home consumption and sale of actionable claims etc. would not require any reversal of common credits.

**14. Export of Service<sup>3</sup>**

A service can now said to be exported even if the consideration is received in Indian rupees wherever permitted by Reserve Bank of India, if other conditions for treating a service as exports of services is fulfilled.

**15. Extension of the due date for availing of Input Tax Credit and rectification in GSTR-1<sup>4</sup>**

For removal of difficulties faced by taxpayers, the government has extended the due dates for claiming ITC on the invoices or debit notes issued during the F.Y. 2017-18 and rectification in GSTR-1. The due date has been extended till the due date for furnishing the details for the month of March 2019.

**16. Due date for filing of GSTR-7 for the extended to Feb 28, 2019<sup>5</sup>**

CBIC vide notifications dated January 31, 2019 and February 08, 2019, has extended the due date of filing of GSTR-7 for the quarter ended on December 31, 2018 and for the month of January 2019 by a registered person required to deduct tax at source till the February 28, 2019.

**17. Compliance of CGST Rules, 2017 with respect to mentioning the place of supply<sup>6</sup>**

CBIC vide circular dated February 18, 2019 has instructed that instructed that all registered persons making supply of goods or services or both in the course of inter-State trade or commerce shall specify the **place of supply along with the name of the State** in the tax invoice.

**18. Non-reporting of inter-state supplies to unregistered persons in GST returns may attract penalty upto INR 25,000/-**

The Government has issued instructions that registered persons making inter-state supplies to unregistered persons shall report details of such supplies in GST Return in Form GSTR-3B in addition to Form GSTR-1. In case of contravention in such reporting, there will be levy of penalty upto INR 25,000/-.

**19. Government has issued updated standard operating procedure for TDS under GST**

The Government has issued revised and updated standard operating procedure for TDS under GST on February 18, 2019. This is a ready reckoner for Drawing and Disbursing Officer(s) and other deductors under GST.

**COMPANY LAW**

**20. Filing of Form DPT – 3<sup>7</sup>**

The Ministry of Corporate Affairs ('MCA') vide its notification dated January 22, 2019, has amended the Companies (Acceptance of Deposits) Rules, 2014 ('the Rules') and has clarified that Form DPT-3 shall be used for filing return of deposit or particulars of the transaction not considered as deposit or both by every company other than Government company.

As per the notification, every company (Other than Government Company), shall file a one-time return of Outstanding receipt of money or loan by a company but not considered as deposits, in terms of clause (c) of sub-rule 1 of rule 2 of the rules from April 01, 2014 to the date of publication of this notification in the Official Gazette (i.e. January 22, 2019), as specified in **Form DPT-3 within NINETY (90) days from January 22, 2019 along with applicable fee.**

### **21. Compliances to be done by large Companies in relation to MSMEs<sup>8</sup>**

The Ministry of Micro, Small and Medium Enterprises (MSME) had issued a notification no.5622 (E) dated 2nd November, 2018, pursuant to which, all companies who get supplies of goods or services from micro and small enterprises and whose payments to micro and small enterprise suppliers exceed 45 days from the date of acceptance or the date of deemed acceptance of the goods or services as per the provisions of Section 9 of the Micro, Small and Medium Enterprises development Act, 2006 ('Specified Companies'), shall submit a **half yearly return** to the MCA stating the following:

- (a) The amount of payments due; and
- (b) The reasons of the delay.

The Ministry of Corporate affairs has Vide order number S.O. 368(E) dated 22nd January, 2019 notified Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019. As per the said order, every specified company shall file details of all outstanding dues to Micro or small enterprises suppliers in **MSME Form I:**

- (i) Existing on the date of notification of this order **within thirty days** from the date of publication of this notification (One-time Compliance).
- (ii) By **31st October for the period from April to September and by 30th April for the period from October to March (Half Yearly Compliance).**

It may be noted that MSME Form I is not yet available on the portal for filing, only the format is prescribed in the notification.

### **DIRECT TAX**

#### **22. Mandatory linking of Aadhaar-PAN by March 31, 2019<sup>9</sup>**

The Central Board of Direct Taxes (CBDT) has clarified that the last date for linking Aadhaar & PAN by the PAN holders requiring filing of Income Tax Return is March 31, 2019.

### **MISCELLANEOUS**

#### **23. Ombudsman Scheme for Digital Transactions, 2019<sup>10</sup>**

The Reserve bank of India, in exercise of the powers conferred by Section 18 of the Payment and Settlement Systems Act, 2007, has directed that, the System Participants defined under the Ombudsman Scheme for Digital Transactions, 2019 shall come within the ambit, and should comply with the provisions of the Ombudsman Scheme for Digital Transactions, 2019 with effect from January 31, 2019.

## MAJOR DUE DATES FOR FEBRUARY 2019

Statute	Due Date	Compliance
Income Tax	February 07, 2019	TDS/TCS for the month of January 2019.
GST	February 11, 2019	Filing of GSTR-1 for the month of January 2019.
GST	February 13, 2019	Filing of GSTR-6 for the month of January 2019.
Income Tax	February 15, 2019	Issuance of TDS certificate for Quarterly TDS certificate in Form 16A for the quarter ended on December 2018.
Provident Fund/ ESI	February 15, 2019	Due date for payment of Provident fund and ESI contribution for the previous month
GST	February 20, 2019	Payment of GST and filing of GSTR-3B for the month of January 2019.
MSME (MCA)	February 21, 2019	Filing of MSME Form I

### About ProBus

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Our focus is on serving you effectively wherever you need our services. Our professional approach helps us in understanding and achieving your priorities.

We have presence in the cities of Delhi, Mumbai, Chennai and Pune. If you have any questions, feel free to write to us at [info@probusadvisory.com](mailto:info@probusadvisory.com) or visit [www.probusadvisory.com](http://www.probusadvisory.com) to know more about us.

<sup>1</sup>[http://www.cbic.gov.in/resources//htdocs-cbec/gst/Eng\\_Corring\\_notfn\\_no\\_03-19\\_0502.pdf;jsessionid=D674AC100697CD080AC4A14F68363A96](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Eng_Corring_notfn_no_03-19_0502.pdf;jsessionid=D674AC100697CD080AC4A14F68363A96)

<sup>2</sup><http://www.cbic.gov.in/resources//htdocs-cbec/gst/order1-2019-cgst.pdf;jsessionid=68E86C74320E4741E28510A2FA91BB5A>

<sup>3</sup><http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-88.pdf;jsessionid=FB4251DE88551651024ADBCE72346F19>

<sup>4</sup>[http://www.cbic.gov.in/resources//htdocs-cbec/gst/ROD\\_2%20of%202018\\_CT\\_English.pdf;jsessionid=D818CCFD5167887EAF15882B689494CA](http://www.cbic.gov.in/resources//htdocs-cbec/gst/ROD_2%20of%202018_CT_English.pdf;jsessionid=D818CCFD5167887EAF15882B689494CA)

<sup>5</sup><http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-07-central-tax-english-2019.pdf;jsessionid=7EFDE6C00F00CFBB158B2C49703F2BFD>

<http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-08-central-tax-english->

<2019.pdf;jsessionid=536E7C97640E5447DE1FA8BEEE0C04D5>

<sup>6</sup><http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-90.pdf;jsessionid=5800F0CBF10A4DD8D0DB083819DFE7AC>

<sup>7</sup>[http://www.mca.gov.in/Ministry/pdf/AcceptanceDepositsAmendmentRule\\_22012019.pdf](http://www.mca.gov.in/Ministry/pdf/AcceptanceDepositsAmendmentRule_22012019.pdf)

<sup>8</sup>[http://www.mca.gov.in/Ministry/pdf/MSMESpecifiedCompanies\\_22012019.pdf](http://www.mca.gov.in/Ministry/pdf/MSMESpecifiedCompanies_22012019.pdf)

<sup>9</sup><https://www.incometaxindia.gov.in/Pages/default.aspx>

<sup>10</sup><https://rbidocs.rbi.org.in/rdocs/notification/PDFs/N133709639F94C9CAD46409FEFC4440ED9ECA4.PDF>