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CYBER CRIME PREVENTION

Editorial

These days' computer and internet become very Necessary and useful for our daily life. Today the internet is the great mediator of our lives. In present days people can get information, store information and share information through the internet. Today cyber world are fastest moving and high technology world. Asian countries are most users of internet in the world. The increasing use of information technology facilitate common people to get information, store information, share information etc. The cyber world is an online world where users have a lot of information technology mechanisms to do personal activity as easily and freely as they can transact them in the physical world. The vast use of technology has given birth to the word "cyber crime". Cybercrime is a fast-growing area of crime in information technology world.

Cyber crime always involves some degree of infringement on the privacy of others or damage to computer-based property such as files, web pages or software. Cybercrime prevention can be straight-forward - when armed with a little technical advice and common sense, many attacks can be avoided. Prevention will always be our best line of defense against cyber criminals. Like any other criminal activity, those most vulnerable tend to be the first targeted. The more difficult we make their job, the more likely they are to leave us alone and move on to an easier target.

In this cyber age, the combination of extensive leverage of technology and new types of cyber threats is giving rise to online frauds. Such frauds are not just a problem for customers, but are also increasingly affecting business in all sectors. The most "traditional" on-line threat, "phishing", has not diminished as a principal form of attack and is frequently combined or leveraged with other fraud methods for proliferation. The very recent cases have also witnessed that the banks had to compensate to their customers who had been victims of such attacks. Well-designed and properly managed control mechanisms would bring down security breaches, which otherwise may turn out to be very costly not only financially, but also in terms of productivity losses and reputation risk there by diminishing customer confidence. Additionally, the best defense against ever-present and rising cyber threats and attacks is a well-trained workforce.

Cybercrime and hacking is not going away, if anything it is getting stronger. By studying past incidents, we can learn from them and use that information to prevent future crime. In India, Information Technology Act 2000 deals with the cybercrime activities /problems. Cyber law will need to change and evolve as quickly as hackers do if it has any hopes of controlling cybercrime. Law must also find a balance between protecting citizens from crime, and infringing on their rights. There will always be new and unexpected challenges to stay ahead of cyber criminals and cyber terrorists but we can win only through partnership and collaboration of both individuals and government.

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USING TECHNOLOGY TO PREVENT AND DETECT FRAUD

Computer forensic technology and software packages are available to assist in the investigation of fraud – where computers are used to facilitate the fraud or to identify red flags of potential fraud. Computer forensic is an investigative discipline that includes the preservation, identification, extraction and documentation of computer hardware and data for evidentiary purpose and root cause analysis. Examples of computer forensic activities include:

- Recovering deleted emails
- Monitoring emails for indicators of potential fraud
- Performing investigations after termination of employment
- Recovering evidence after formatting a hard drive

Computer forensic activities help establish and maintain a continuing chain of custody, which is critical in determining admissibility of evidence in courts. The information system auditor should have a general understanding of the benefits this technology provides so that she or he may engage appropriate experts, as necessary for assistance with a fraud investigation.

An IT fraud risk assessment usually includes the following key steps;

- Identifying relevant IT fraud risk factors
- Identifying potential IT fraud schemes and prioritizing them based on likelihood and impact
- Mapping existing controls to potential fraud schemes and identifying gaps
- Testing operating effectiveness of fraud prevention and detection controls
- Assessing the likelihood and business impact of a control failure and/or a fraud incident

The essential steps in detecting fraudulent transactions are;

1. Understanding the business or operations
2. Performing a risk analysis to identify the types of frauds that can occur
3. Deducing the symptoms that likely frauds would generate
4. Using computer software to search for these symptoms
5. Investigating suspect transactions

AUDIT TRAILS AND ENTERPRISE SYSTEMS

Audit trails are records of user activity. They may be maintained by the operating system and by application software such as enterprise systems. Operating system audit trails record user actions, including successful and failed logins and programs executed, as well as resources consumed. Enterprise systems typically incorporate authentication processes and user roles/profiles that restrict access to the application and limit a user's capabilities to those associated with his/her job function. Potential fraud threats and related principles of segregation of duties should guide the design of user roles/profiles.

Audit trails maintained by enterprise systems may include security audit logs, records of changes in master records and details of accounting transactions. It is important to point out that these audit trails do not necessarily involve EAM nor MCL. These audit trails are part of enterprise systems and often have their own reporting facilities. However, in the context of continuous auditing they can be used for monitoring user activity. As such they can be a part of either EAM or MCL approaches.

Enterprise system security audit logs typically record details of each user action. These logs often include successful logins, failed logins, starting a transaction (e.g. entry of an invoice), failed attempts to start transactions (i.e. prevented by the user's role/profile), automatic locking of a user's account because of multiple failed logins, creation of new roles/profiles and changes in user master records. Configuration of the security audit log defines what events are recorded. For example, only failed activity may be recorded. These audit trails may be retained for periodic review, then archived and/or deleted. Master records, such as those for vendors, are an important ingredient in many fraud schemes. In order for the system to distribute funds through a cheque or EFT payment, a master record must be created or modified (e.g. temporarily changing a vendor's banking details). Records of such changes in master records show user identification, type of change (e.g. create, delete, change), and contents of fields created/deleted/changed.

Accounting audit trails are sets of records that permit tracing accounting transactions from their source to the updating of accounting balances, or tracing any account balance back ('drilling-down') to the relevant source transactions. They provide the organization with the ability to maintain sufficiently detailed records to answer enquiries from customers or vendors, to produce detailed reports and monthly statements for customers, and to provide data for managerial decision-making. Master record changes and accounting audit trails are retained on-line usually for the entire fiscal year, and archived for several years to satisfy the requirements of taxation and company legislation. The audit trails of enterprise systems can serve several purposes:

1. **Review of access:** Audit trails allow examination of the history of access by individual users or groups of users, showing actions performed or attempted. Audit trails also can report which users have performed specific functions, such as changes to vendor master records or the entry of vendor invoices. Analysis of audit trails may also reveal limitations in the organization's security model and its implementation.
2. **Review of changes in security:** Changes made to the security of the system can be reviewed periodically by an independent person for authorisation and integrity.
3. **Review of attempts to by-pass security:** Audit trails may be reviewed for attempts and repeated attempts by users and intruders to perform unauthorised functions.
4. **Deterrent against attempts to by-pass security:** Users should be aware of the existence of audit trails and their routine review as a deterrent against attempts to by-pass security.
5. **Fraud detection:** Audit trails can be used to detect potential fraud by searching for red flags. Fraudulent activity may be perpetrated by real users acting in their own name, by users acting in collusion with other users, by real users masquerading as other users, or by intruders masquerading as authorised users. In each case, the actions of these 'users' are recorded in audit trails and these can be scrutinised for activities that are recognised as red flags for particular types of fraud.

KEY DIFFERENCES BETWEEN INDIAN GAAP AND IND AS

There are many areas of differences between Indian GAAP and Ind AS because current Indian GAAP is driven by 'form' in a number of areas rather than "substance", which is the focus under Ind AS. Certain critical areas that would have a transformational impact on transition to Ind AS are:

1. **Financial instruments (Ind AS 109)**

Extant Indian GAAP does not include mandatory guidance on accounting for financial instruments. Standards for accounting for financial instruments are used as a reference and have not been notified by the MCA. As per the existing roadmap, India will directly transition to Ind AS 109, ahead of the equivalent IFRS 9, which will be implemented in 2018 in other jurisdictions that have adopted IFRS or permit IFRS. Extant Indian GAAP in the area of accounting for financial instruments is mainly driven by "form". Ind AS 109 would have a significant impact on the way financial assets and liabilities are classified and measured, resulting in volatility in profit or loss and equity. The new impairment model will have a significant impact on the systems and processes of entities due to its extensive requirements for data and calculation. Additionally, significant impact is anticipated in the areas of debt vs. equity classification, compound financial instruments, derivatives and hedging, and foreign currency convertible bonds.

2. **Consolidated financial statements (Ind AS 110)**

Ind AS 110 establishes a single control model for all entities (including special purpose entities, structured entities or variable interest entities). The implementation of this standard will require management to exercise significant judgment to determine which entities are controlled and are, therefore, required to be consolidated. It changes whether an entity is consolidated, by revising the definition of control. This is a radical change in the Indian environment, because by applying the new 'control' definition, it may change which entities are included within a group. This standard will be significant to companies that have complex holding structures and have formed special purpose vehicles.

3. **Revenue recognition (Ind AS 115)**

The core principle of this standard is that an entity will recognize revenue when it transfers control over goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for underlying performance obligations arising from the transaction. This will require entities to use more judgement and make more estimates than under today's revenue standards. Ind AS 115 is likely to have an impact on the identification of performance obligations, warranties, sales incentives, right of return and options granting a material right. In such a scenario, it will be critical for companies to clearly understand the effects of the new standard, provide early communication to stakeholders and undertake advanced planning.

4. **Business combinations (Ind AS 103)**

Under extant Indian GAAP, there is no comprehensive standard for business combinations. There are separate standards that deal with amalgamation, consolidation and assets acquisition. Ind AS 103 will apply to all business combinations, including amalgamations.

Once Ind AS 103 is effective, all assets and liabilities acquired will be recognized at fair value. Additionally, contingent liabilities and intangible assets not recorded in the acquiree's balance sheet are likely to be recorded in the acquirer's balance sheet on acquisition date. Goodwill on acquisition will not be amortized, but may only be tested for impairment.

Is Ind AS the same as the IFRS issued by IASB?

Ind AS is not the same as IFRS. It is a separate accounting framework based on IFRS as created by the MCA and has certain carve-outs to accommodate Indian business nuances.

Following are some of the key carve-outs in Ind AS vis-à-vis IFRS as issued by IASB:

- IFRS 1 defines the previous GAAP as the basis of accounting that a first-time adopter used immediately before adopting IFRS. However, Ind AS 101 defines the previous GAAP as the basis of accounting that a first-time adopter used for its reporting requirement in India immediately before adopting Ind AS. The change makes it mandatory for Indian entities to consider the financial statements prepared in accordance with existing notified Indian accounting standards as was applicable to them as previous GAAP when it transitions to Ind AS

- Foreign exchange fluctuations: Ind AS provides an option to continue with the policy adopted for accounting for exchange differences arising from the translation of long-term foreign currency monetary items recognized in the financial statements for the period ending immediately before the beginning of the first Ind AS financial reporting period as per the previous GAAP. Under IFRS, such exchange difference is charged to the income statement.

- **Foreign currency convertible bonds (FCCB):** Ind AS states that where the exercise price for the conversion of the FCCB is fixed, irrespective of any currency, it is to be classified as equity rather than as an embedded derivative. IFRS on the other hand, requires that where the conversion of bond into equity shares is fixed, but the exercise price for such conversion is defined in currency other than the functional currency of the entity, the conversion aspect is to be accounted as embedded derivative.

- **Straight lining of lease rentals:** Keeping in mind the Indian inflationary situation, Ind AS states that the straight lining of lease rentals may not be required in cases where periodic rent escalation is due to inflation. IFRS does not provide an exception to straight lining of lease rentals where rent escalation is due to inflation.

- **Property, plant and equipment:** Ind AS permits (subject to limited exceptions around change in functional currency) an entity to use carrying values of all property, plant and equipment as on the date of transition to Ind AS, in accordance with the previous GAAP, as an acceptable starting point under Ind AS. IFRS does not provide a similar option on first-time adoption.

- IFRS 3 requires bargain purchase gain arising on business combination to be recognized in profit or loss. Ind AS 103 requires the same to be recognized as other comprehensive income and accumulated in equity as capital reserve, unless there is no clear evidence for classifying the business combination as a bargain purchase. In this case, it is to be recognized directly in equity as capital reserve.

- IFRS 3 requires bargain purchase gain arising on business combination to be recognized in profit or loss. Ind AS 103 requires the same to be recognized as other comprehensive income and accumulated in equity as capital reserve, unless there is no clear evidence for classifying the business combination as a bargain purchase. In this case, it is to be recognized directly in equity as capital reserve.
- Consequent to the changes made in Ind AS 1, it has been provided in the definition of 'Events after the reporting period' that in case of breach of a material provision of a longterm loan arrangement on or before the end of the reporting period with the effect that the liability becomes payable on demand on the reporting date, if the lender, before the approval of the financial statements for issue, agrees to waive the breach, it shall be considered as an adjusting event. Under IFRS, these breaches will result in classification of loan as current instead of non current.

PLACE OF EFFECTIVE MANAGEMENT (PoEM)

A new termed introduced by Finance Act, 2015 for determination of residential Status of foreign company is "Place of Effective Management", commonly known as "PoEM". Though PoEM seems to be new in context of Indian Income Tax Act, the term has already found its aplace under Article 4 of Bilateral Tax treaties entered by India with various other countries in form of tie-breaker criteria for dual resident companies.

Before Finance Act, 2015 a foreign company was treated as resident in India only if control and Management of the affairs of the company is wholly situated in India. This criteria for determination of residence was not in congruence with internationally recognized principle for determination of residential status.

Therefore, the Finance Act, 2015 to correct the anomaly inherent and merge the principle of residence under Income Tax act with internationally accepted standards, the one already recognized and accepted by OECD and UN Convention has introduced PoEM for determination of residence of Foreign Company in Indian context.

A company resident in India is taxed for its worldwide income. To determine residential status, Section 6(3) of Income Tax act provides the criteria for the same which is reproduced as under:

"A company is said to be resident in India in any previous year, if—

(i) it is an Indian company; or
(ii) its place of effective management, in that year, is in India.

Therefore, if a company other than Indian company has PoEM in India, it is said to be resident in India and worldwide income of such company shall be taxable in India.
The Phrase PoEM in clause (ii) to section 6(3) has been clarified as an explanation to sub section (3) of section 6 reproduced as under:

"Explanation.—For the purposes of this clause "place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a

Sharing the loan fetches a higher sum, lowers individual EMIs and adds to your tax breaks

Worried that the home loan you are eligible for won't be enough to buy your dream home?

A joint home loan can solve your problem.

Higher eligibility

The key advantage of a joint loan is that the co-borrowers' income will be added up to compute the loan eligibility amount. Say, you and your spouse are eligible for 30 lakh and 20 lakh loans individually, then the joint loan taken by you both can fetch you 50 lakh.

A minimum of two members can take a joint loan and there is no limit on the maximum number of members. All members will have to go through the Know Your Customer (KYC) process. Each member has to produce the PAN card copy, address and income proof (if they are salaried) and other documents.

Before getting into the details of joint loan, you need to understand the two terminologies used here — co-applicant and co-owner. A co-applicant shares the loan obligation, but does not have ownership in the property. A co-owner, however, has a share in the ownership of the property. It is mandatory for a co-owner to be added as a co-applicant in the joint loan.

Restrictions on co-borrowers

Your spouse, parents or children can sign on as co-borrowers along with you, while taking a home loan. But friends are not eligible to be co-applicants. In general, blood relations and wife/husband are eligible to take a joint loan. However, there are a few restrictions on the blood relations you can rope in.

Most lenders allow brothers as co-applicants, but with conditions. But sisters are completely exempted, considering the uncertainty and the risk of contributing to the repayment once their marital status changes.

Loan tenor and repayment

Taking a joint loan can influence the loan tenor as it will be determined by the age of all the co-applicants. Say, you take a joint loan with your father who will retire from service in the next 15 years. The loan tenor would be capped at 15 years, as against a 20- or 25-year tenor that you could have availed of by taking the loan individually.

When you have co-applicants, who should pay the EMIs? Depending on the wish and the mutual decision of the applicants, the loan can be disbursed in the name of the borrower or co-borrower and can be also disbursed jointly in the names of all holders. Similarly, the EMI can also be jointly shared or paid individually by a single member."

Tax benefits

Co-applicants for a home loan can avail themselves of tax breaks as well.

When you have a home loan, up to 1.5 lakh on the principal repayment and 2 lakh as interest component are exempt from tax under the Income Tax Act, for a self-occupied property. But this tax exemption can be availed of only if the co-applicant is a co-owner as well. The share of the ownership will determine how the EMI paid can be split among the co-owners for getting the tax rebate.

Let's assume you and your spouse own a property in the ratio of 70:30 and you have repaid 5 lakh in a financial year, of which 1 lakh is the principal component and 4 lakh the interest. Here, you can get tax exemption for 70,000 and your spouse for 30,000 on the principal component.

Similarly, 2,00,000 of your share of the interest component and 1,20,000 from your spouse's share are tax exempt.

Pros and cons

The major advantage of taking a joint home loan is the enhanced loan amount. Tax relief for all the members who are also the co-owners of the property is an additional advantage. Flexibility in paying and sharing the EMI is a plus too, when compared to a single borrower taking on the entire EMI burden.

On the flip side, too many co-borrowers could stretch the initial documentation process, as the documents pertaining to all the members have to be checked. There is also the risk of the loan being rejected if any of the co-applicants fails to meet the eligibility criteria.

The joint borrowers could come under serious pressure in the event of death of a co-applicant or if the spouses get separated. In such cases, the EMI burden for the rest of the loan tenure would fall on the other member(s), who are liable for the loan.

XBRL FILING RULES UNDER COMPANIES ACT 2013

MCA vide notification dated 9th September 2015 has issued the Companies (Filing of documents and forms in Extensible Business Reporting Language) Rules, 2015. The key highlights of the rules is outlined below;

- Following class of companies shall file their financial statement and other documents under section 137 of the Act, with the Registar in e-form AOC-4 XBRL for the financial years commencing on or after 1st April 2014 using the XBRL taxonomy given in Annexure II to the Rules, Namely;-

    1. All companies listed with any Stock Exchange(s) in India and their Indian subsidiaries; or
    2. All companies having paid up capital of rupees five crore or above;
    3. All companies having turnover of rupees hundred crore or above; or
    4. All companies which were hitherto covered under the companies (Filing of Documents and forms in Extensible Business Reporting Language) Rules, 2011;

- Provided that the companies in Banking, insurance, power sector and Non-Banking financial companies are exempted from XBRL filing.

- Under the erstwhile Companies Act 1956, similar classes of companies were required to do the XBRL filing;

- Company required to furnish cost audit report and other documents to the Central Government under sub-section (6) of section 148 of the Act and rules made thereunder, shall file such report and other documents using the XBRL taxonomy given in Annexure-III of the financial years commencing on or after 1st April, 2014 in e-form CRA-4 specified under the companies (Cost Records and Audit) Rules, 2014

TAX BENEFIT ON HOME LOAN: SECTION 24 & 80C

A very important criterion to be kept in mind while taking a Home Loan is the Tax Benefit on Home Loan. To explain the Tax Benefit on Home Loan, we would be dividing the Repayment of Home Loan into 2 components:

1. Repayment of the Principal Amount
2. Repayment of the Interest on Home Loan

As the repayment comprises of 2 different components, the tax benefit on home loan is governed by different sections of the Income Tax Act and these are claimed as tax deductions under different sections while filing the Income Tax Return.

The Sections under which Tax Benefit on Home Loan can be claimed are explained below:-

Section 80C: Tax benefit on Home Loan (Principal Amount)

The amount paid as Repayment of Principal Amount of Home Loan by an Individual/HUF is allowed as tax deduction under Section 80C of the Income Tax Act. The maximum tax deduction allowed under Section 80C is Rs. 1,50,000. (Increased from 1 Lakh to Rs. 1.5 Lakh in Budget 2014)

This tax deduction is the total of the deduction allowed under Section 80C and includes amount invested in PPF Account, Tax Saving Fixed Deposits, Equity Oriented Mutual funds, National Savings Certificate, Senior Citizens Saving Scheme etc.

This tax deduction under Section 80C is available on payment basis irrespective of the year for which the payment has been made. The Amount paid as Stamp Duty & Registration Fee is also allowed as tax deduction under Section 80C even if the Assessee has not taken Loan.

However, tax benefit of home loan under this section for repayment of principal part of the home loan is allowed only after the construction is complete and the completion certificate has been awarded. No deduction would be allowed under this section for repayment of principal for those years during which the property was under construction.

Moreover, in case you are planning to buy an under construction property as it is priced at a lower price as compared to a fully completed property, you are here also requested to note that Service Tax is also levied on Under Construction Property & the Finance Minister while announcing the Budget 2013 also changed the rates of Service Tax on under Construction Property. However, no Service Tax is levied on properties on which construction has been fully completed.

However, Section 80C(5) also states that in case the assessee transfers the house property on which he has claimed tax deduction under Section 80C before the expiry of 5 years from the end of the Financial Year in which the possession has been obtained by him, then no deduction and tax benefit on Home Loan shall be allowed under Section 80C. The aggregate amount of tax deduction already claimed in respect of previous years shall be deemed to be the Income of the Assessee of such year in which the property has been sold and the Assessee shall be liable to pay tax on such income.

Tax benefit on Home Loan (Interest Amount)

Tax Benefit on Home Loan for payment of Interest on Home Loan can be claimed as Deduction under Section 24 as well as under the newly inserted section 80EE (Inserted in the Budget 2013, to be applicable from 1st April 2013).

Section 24: Income Tax Benefit on Interest on Home Loan

Tax Benefit on Home Loan for payment of Interest is allowed as a deduction under Section 24 of the Income Tax Act. As per Section 24, the Income from House Property shall be reduced by the amount of Interest paid on Home Loan where the loan has been taken for the purpose of Purchase/ Construction/ Repair/ Renewal/ Reconstruction of a Residential House Property.

The maximum tax deduction allowed under Section 24 of a self occupied property is subject to a maximum limit of Rs. 2 Lakhs (increased in Budget 2014 from 1.5 Lakhs to Rs. 2 Lakhs).

In case the property for which the Home Loan has been taken is not self occupied, no maximum limit has been prescribed in this case and the taxpayer can take tax deduction of the whole interest amount under Section 24.

Please Note: In case a property has not been self occupied by the owner by reason of the fact owing to his employment, business or profession carried on at any other place, he has to reside at that other place not belonging to him, then the amount of tax deduction allowed under Section 24 shall be Rs. 2 Lakhs only.

It is also important to note that this tax deduction of Interest on Home Loan under Section 24 is deductible on payable basis, i.e. on accrual basis. Hence, deduction under Section 24 should be claimed on yearly basis even if no payment has been made during the year as compared to Section 80C which allows for deduction only on payment basis.

Moreover, if the property is not acquired/constructed completed within 3 years from the end of financial year in which the loan was taken, the interest benefit in this case would be reduced from 2 Lakhs to Rs 30 thousand only.

The Quantum of Deduction allowed for payment of Interest on Home Loan under Section 24 has been summarized below:-

Quantum of Deduction allowed for Payment of Interest on Home Loan under Section 24

Type Of Property	**Self Occupied Property**		**Not Self Occupied Property**	
Completion Status	Completed within 3 Years	Not Completed within 3 Years	Completed within 3 Years	Not Completed within 3 Years
Deduction Allowed	Rs.1,50,000	Rs.30,000	No Limit	No Limit

Income Tax treatment of Pre Construction Interest

In many cases, amount is paid for the purchase of property even before the construction is completed. Some home buyers, purchase properties on loan before the completion of construction and start paying EMI to the Bank.

In such cases, Section 24 very specifically states that Tax Deduction for payment of Interest shall not be allowed before the construction is complete.

1. If Loan is taken for purpose of Repair/ Renewal/ Reconstruction: No Tax Deduction allowed for Interest paid before Completion
2. If Loan is taken for the purpose of Purchase/ Construction: The Interest that has been paid before the completion of construction should be aggregated and the whole aggregated amount shall be allowed as tax deduction in 5 equal installments for 5 successive Financial Years starting from the year in which the construction has been completed.

For eg: Mr. A purchases a House in New Delhi in 2009 and took a loan of Rs. 10,00,000 from a Bank paying Interest @ 10% p.a. The Construction was completed in April 2011.

Now, As per Section 24 of the Income Tax Act, tax deduction for payment of Interest would only be allowed from financial year 2011-12 onwards. However, the Interest paid on Home Loan before the completion of Construction (i.e. Rs. 2,00,000) would be allowed as tax deduction for the next 5 Financial years @ 40,000 p.a. commencing from Financial Year 2011-12 onwards. (Easy amounts have been taken in this example for simplification purposes)

Important Points:

1. Interest paid for outstanding amount is not allowed as Tax Deduction (Shew Kissan Bhatter v. CIT (1973) 89 ITR 61(SC)
2. This tax deduction shall be available only if the construction is completed within 3 years from the end of the financial year in which the capital is borrowed
3. Taxpayer cannot claim any deduction for Commission Paid for arranging the Loan
4. If the taxpayer is not earning any income from house property, but is paying Municipal Taxes and Interest on Home Loan, this would lead to Loss under head Income from House Property. This loss arising under head Income from House Property is allowed to be set-off against income from various other heads in the same Financial Year.
5. In case the loss cannot be set-off against income from other sources in the same financial year, the loss can be carried forward to future years and set-off against income arising from House Property for the next 8 financial years.
6. Tax Benefits of Interest on Home Loan can be claimed only by the person who has acquired or constructed the property with the Borrowed Funds. It is not available to the Successor of the Property.

For the purpose of simplicity and easy understanding, a comparison of Tax Benefit on Home Loan under Section 24 and Section 80C has been made here under:

Particulars	Section 24	Section 80C
Tax Deduction allowed For	Interest	Principal
Basis of Tax Deduction	Accrual Basis	Paid Basis
Quantum of Tax Deduction Allowed	Self Occupied Property: Rs. 2,00,000 Non Self Occupied Property: No Limit	Rs. 1,50,000
Purpose of Loan	Purchase/ Construction/ Repair/ Renewal/ Reconstruction of a Residential House Property	Purchase / Construction of a new House Property
Eligibility for claiming Tax deduction	Purchase/ Construction should be completed within 3 years	Nil
Restriction on Sale of Property	Nil	Tax Deduction claimed would be reversed if Property sold within 5 years

UPDATES

Direct Tax

CBDT has vide Notification No. 76/2015, Dated : September 29, 2015 revised Rule 29C of Income Tax Rules, 1962 in respect to filing of Form 15G & 15H u/s 197A. Summary of this Notification is as follows :-

1. Introduction of Electronic mode of filing Form 15G & 15H (Alternate to Paper Form). No procedural rules has been prescribed as regard to filing of Form 15G. However, It seems Form 15G & 15H can be filed using Internet Banking facility or Similar facility for in case of Other institution which are making payment as provided in Section 197(1) or 197(1A) or 197(1C). Same is applicable w.e.f 01.10.2015
2. Now Person responsible for making specified payment (like for eg. bank) has to allot Unique Identification Number to each Form 15G & 15H either filed electronically or in paper form.
3. Monthly reporting requirement of Form 15G & 15H to concerned Commissioner by payers has been now relaxed to Quarterly reporting requirement
4. Corresponding to Rule 31A(4)(vii) regarding filing of certain details in Statement of Tax Deduction at source has also been incorporated in newly substituted Rule 29C.
5. Introduction of mandatory requirement to keep details of Form 15G & 15H for 7 years from end of financial year in which it is furnished.
6. Old Form 15G & 15H has been replaced by New Compact Form with less reporting requirement.
7. New Form requires details of All Form 15G or 15H filed for Same FY with other Deductors also
8. Done away with Details of FD Account Numbers, Rate of Interest, Date of Deposit and Period of Deposit reporting requirements (Details of Interest Schedule –III in Old Form).

Companies Act

- **Companies (Acceptance of Deposits) Rules, 2014** (hereinafter referred to as said rules), in rule 2, in sub-rule (1), in clause (c), for sub-clause (viii), the following shall be substituted, namely:-

"(viii) any amount received from a Peron who, at the time of the receipt of the amount, was a director of the company or a relative of the director of the Private company:

Provided that the director of the company or relative of the director of the private company, as the case may be, from whom money is received, furnishes to the company at the time of giving the money, a declaration in writing to the effect that the amount is not being given out of funds acquired by him by borrowing or accepting loans or deposits from others and the company shall disclose the details of money so accepted in the Board's report;"

- **Alterations in Schedule III:**

In respect of “Trade Payable” it shall include (a) Total outstanding dues of micro enterprises and small enterprises and (b) Total outstanding dues of creditors other than micro enterprises and small enterprises (c) Similarly, under the heading Notes, FA. Trade Payables shall disclose details relating to micro, small and medium enterprises on the principal amount and interest due thereon, amount of interest paid by the buyer and amount of interest due and payable for the period of delay in making the payment (paid but beyond the appointed day) but without adding the interest and such other details.

FEMA

Regularization of assets held abroad by persons resident in India

No proceedings shall lie under the provisions of the Act, against a person resident in India who has made a declaration under section 59 of the Black Money Act, in respect of any undisclosed asset located outside India and has paid the tax and penalty in accordance with the provisions of Chapter VI of the Black Money Act.

Provided that where the declarant intends to continue to hold the asset so declared, he shall apply to the Reserve Bank within 180 days from the date of declaration, for permission under the relevant provisions of the Act, or rules and regulations framed thereunder, if such permission is necessary as on the date of application.

Provided further that where the declarant does not intend to hold the asset so declared or the permission to hold such asset is refused by the Reserve Bank, as the case may be, the declarant shall dispose of the said asset within 180 days from the date of making such declaration or the date of receipt of the communication from the Reserve Bank conveying refusal of permission or within such extended period as may be permitted by the Reserve Bank and bring back the proceeds to India immediately through the banking channel.

External Commercial Borrowings (ECB) Policy – Issuance of Rupee denominated bonds overseas

Attention of Authorized Dealer Category – I (AD Category – I) banks is invited to the provisions contained in A.P. (DIR Series) Circular No. 5 dated August 01, 2005 as amended from time to time on External Commercial Borrowings (ECB).

In order to facilitate Rupee denominated borrowing from overseas, it has been decided to put in place a framework for issuance of Rupee denominated bonds overseas within the overarching ECB policy. The broad contours of the framework are as follows:

- **Eligible borrowers:** Any corporate or body corporate as well as Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs).
- **Recognised investors:** Any investor from a Financial Action Task Force (FATF) compliant jurisdiction.
- **Maturity:** Minimum maturity period of 5 years.
- **All-in-cost:** All in cost should be commensurate with prevailing market conditions.
- **Amount:** As per extant ECB policy.
- **End-uses:** No end-use restrictions except for a negative list.

All other provisions of extant ECB guidelines regarding reporting requirements (including obtaining Loan Registration Number (LRN) through submission of Form 83 where type of ECB is to be specifically mentioned as borrowing through issuance of Rupee denominated bonds overseas), parking of bond proceeds, security / guarantee for the borrowings, conversion into equity, corporates under investigation, etc., not appearing in the Annex will be applicable for borrowing by issuance of Rupee denominated bonds overseas.

AD Category-I banks may bring the contents of this circular to the notice of their constituents and customers.

The directions contained in this circular have been issued under Section 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

CASE LAWS

Income Tax

- **CIT vs. Vijay Singh Kadan**
  Section. 2(14)(iii)(b): To determine whether the "agricultural land" is situated within 8 km of the municipal limits so as to constitute a "capital a set", the distance has to be measured in terms of the approach road and not by the straight line di tance on horizontal plane or as per crow's flight

- **ACIT vs. Victory Aqua Farm Ltd**
  In Commissioner of Income Tax vs. Anand Theatres 224 ITR 192 it was held that except in exceptional cases, the building in which the plant is situated must be distinguished from the plant and that, therefore, the assessee's generating station building was not to be treated as a plant for the purposes of investment allowance. It is difficult to read the judgment in the case of Anand Theatres so broadly. The question before the court was whether a building that was used as a hotel or a cinema theatre could be given depreciation on the basis that it was a "plant" and it was in relation to that question that the court considered a host of authorities of this country and England and came to the conclusion that a building which was used as a hotel or cinema theatre could not be given depreciation on the basis that it was a plant

- **CIT vs. V. S. Dempo and Company Pvt. Ltd**
  Law laid down in CIT Vs. Orient (Goa)(P) Ltd 325 ITR 554 that s. 172 is applicable only to non-residents carrying on shipping business and not to residents and that the expenditure of demurrage charges cannot be allowed u/s 40(a)(i) in the absence of TDS does not appear to be correct and issue is referred to Full Bench

- **CIT vs. Datta Mahendra Shah**
  On consideration of the facts, the CIT (A) and Tribunal rightly concluded that compliance on the part of the assessee in terms of Instruction No.1827 dated 31 August 1989 issued by the Central Board of Direct Taxes laying down the tests for distinguishing the shares held in stock-in-trade and shares held as an investment, the shares held by the assessee was investment and held the income to be treated as short term capital gains

- **No TDS U/s. 194C on Purchase of Goods Manufactured by supplier as per our specification**
  In the case of DCIT vs. Shalimar Chemical Works Ltd. the Hon'ble Kolkata ITAT held that manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person other than such customer is not included in the definition of the "Work" as described in the Sub-clause (iv) of the Explanation to Section 194C of the Income Tax Act, 1961.

- **Divya Yog Mandir Trust v. JCIT**
  Once registration to a charitable institution has been granted under section 12A by the Commissioner, the charitable character of the institution cannot be questioned by the Assessing Officer during the course of assessment proceedings opined the Delhi 'B' Bench

Wealth Tax

- **Sri S. N. Wadiyar (Dead) Through LR vs. CWT**
  One has to assume that the property in question is saleable in the open market and estimate the price which the assumed willing purchaser would pay for such a property. When the asset is under the clutches of the Ceiling Act and in respect of the said asset/vacant land, the Competent Authority under the Ceiling Act had already determined the maximum compensation of Rs.2 lakhs, how much price such a property would fetch if sold in the open market? We have to keep in mind what a reasonably assumed buyer would pay for such a property if he were to buy the same. Such a property which is going to be taken over by the Government and is awaiting notification under Section 10 of the Act for this purpose would not fetch more than Rs.2 lakhs as the assumed buyer knows that the moment this property is taken over by the Government, he will receive the compensation of Rs.2 lakhs only. We are not oblivious of those categories of buyers who may buy "disputed properties" by taking risks with the hope that legal proceedings may ultimately be decided in favour of the assessee and in such an eventuality they are going to get much higher value. However, as stated above, hypothetical presumptions of such sales are to be discarded as we have to keep in mind the conduct of a reasonable person and "ordinary way" of the presumptuous sale. When such a presumed buyer is not going to offer more than Rs.2 lakhs, obvious answer is that the estimated price which such asset would fetch if sold in the open market on the valuation date(s) would not be more than Rs.2 lakhs.

Central Excise

Shabina Abraham & Ors vs. Collector of Central Excise

The Supreme Court had to consider whether a dead person's property, in the form of his or her estate, can be taxed without the necessary machinery provisions in a tax statute. The question was whether an assessment proceeding under the Central Excises and Salt Act, 1944, can continue against the legal representatives/estate of a sole proprietor/ manufacturer after he is dead. HELD by the Supreme Court: A reading of Sections 2(f), (3), Section 4(3)(a), Section 11 and 11A as they stood at the relevant time would show that unlike the provisions of the Income Tax Act, there is no machinery provision in the Central Excises and Salt Act for continuing assessment proceedings against a dead individual. An assessee under the said Act means "the person" who is liable to pay the duty of excise under this Act and further stressed the fact that in cases of short levy, such duty can only be recovered from a person who is chargeable with the duty that has been short levied. Under the Central Excise Rules and Rules 2(3) and 7 in particular, there is no machinery provision contained either in the Act or in the Rules to proceed against a dead person's legal heirs.

Service Tax

F.L. Smith Pvt Ltd V. CCE, 2015 (39) STR 373 (Mad)
Appellant entered into contract for supply of parts of pre-heaters for Rs.41.45 Crores. Appellant manufactured and supplied parts worth only Rs.5.41 Crores. Remaining 36.04 Crores was supplied by procuring from other manufacturers (i.e. trading and not manufacture). Appellant paid Rs.2 Crores Commission for procuring the goods and paid Service Tax of Rs.20.18 lakh thereon and availed the same as credit. It was held that credit of Rs.20.18 lakh was ineligible since it related to trading and was not in or in relation to manufacture of goods.

DUE DATES FOR STATUTORY PAYMENTS – OCTOBER 2015

Important DATE!

Due Date	Category	Description
06-Oct-2015	Central Excise	Payment of Excise Duty for all Assesses (including SSI Units)
06-Oct-2015	Service Tax	Last date for E- payment of Service Tax in case of companies for the month September, for the quarter for others.
07-Oct-2015	TDS/TCS	TDS/TCS payment for September
07-Oct-2015	TDS	Due date for deposit of TDS for the period July 2015 to September 2015 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H
10-Oct-2015	Central Excise	Filing ER-1 Return (Other than SSI Units)
10-Oct-2015	Central Excise	Filing ER-2 monthly return by 100% EOU (removing goods in domestic tariff area)
10-Oct-2015	Central Excise	Filing monthly ER-6 Return by specified class of Assesses regarding principal inputs.
10-Oct-2015	Central Excise	Exports – Procurement of specified goods from EOU for use in manufacture of Export goods in Form Ann-17B for DTA units, procuring specified goods from EOU for manufacture of export goods.
10-Oct-2015	Central Excise	Proof of Exports in form Ann-19, once in a month for all exporters, exporting goods under Bond
10-Oct-2015	Central Excise	Export detains in Form Ann-20, for Manufacturing following simplified export procedure
10-Oct-2015	Central Excise	Removal of excisable goods at concessional rate in Form Ann. -46 for Manufacturers receiving the excisable goods for specified use at concessional rate of duty in terms of Rules described.
15-Oct-2015	ESIC	Monthly – EPF – Return of Employees qualifying for membership to the EPF for the first time during previous month
15-Oct-2015	ESIC	Monthly – EPF – Return of member leaving service during the previous month
15-Oct-2015	ESIC	Exempted establishment – EPS/ EDLIS – Monthly Return of members joining service during the previous month.
15-Oct-2015	ESIC	Exempted establishment – EPS/EDLIS – Monthly Return of Members Leaving Service During the previous Month
15-Oct-2015	Provident Fund	PF Payment for September (5 days grace allowed)
15-Oct-2015	TDS/TCS	Quarterly statement of TDS/TCS deposited for the quarter ending September 30, 2015 when tax is deducted/collected by a person other than an office of Government

21-Oct-2015	ESIC	ESIC Payment and Return for September
22-Oct-2015	Income Tax	Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of September, 2015
25-Oct-2015	ESIC	Monthly – Consolidated Statement of dues and remittance under EPF Scheme, 1952, EPS 1995 and Employees' Deposit Linked Insurance Scheme, 1976 of the previous month to which the dues relate.
25-Oct-2015	Provident Fund	PF Return filing for August (including pension and insurance scheme forms)
25-Oct-2015	Entry Tax	Payment and Returns September Month
25-Oct-2015	Service Tax	Due date for E –Filing of service tax return for half year ended on 30.09.2015
30-Oct-2015	MCA	Annual Return of the company, Balance Sheet, Special Resolutions and Appointment of Auditors to be filed within 30days of AGM
30-Oct-2015	Income Tax	Quarterly TDS certificate (in respect of tax deducted for payments other than salary by a person not being an office of the Government) or quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2015
31-Oct-2015	Income Tax	Due date for furnishing of Annual audited accounts for each approved programmes under section 35(2AA)
31-Oct-2015	Income Tax	Copies of declaration received in Form No. 60/61 (not being received at the time of opening a bank account) during April 1, 2015 to September 30, 2015 to the concerned Director (Investigation)
31-Oct-2015	Income Tax	Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending September 30, 2015
31-Oct-2015	Income Tax	Quarterly statement of tax deducted if the deductor is an office of the Government for the quarter ending September 30, 2015
31-Oct-2015	Income Tax	Extended due date of filing of returns of income and audit report under Section 44AB for the assessment year 2015-16 which were due for e-filing by September 30, 2015.- Order No. [F.No.22S/207 /201S/1T A.II], dated 1/10/2015

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