

Adukia & Associates
Chartered Accountants

Newsletter - September 2015



Gold Bonds and Gold Monetisation Scheme

The Cabinet approved Gold Bond and Gold Monetisation schemes to reduce the metal's demand in physical form and fish out idle gold lying with households and other entities.

Finance Minister Arun Jaitely said, around 1,000 tonnes of gold is imported annually and people hold such quantum of idle gold just for investment purpose every year. By taking advantage of gold monetisation scheme, people can deposit idle gold with authorised agencies and take advantage of the price escalation of gold as well as earn interest on the deposit.

Sovereign Gold Bonds will be issued on payment of money and would be linked to the price of gold. The objective of this scheme is to reduce the demand for physical gold and shift part of the estimated 300 tons of physical bars and coins purchased every year for Investment into 'Demat' gold bonds.

On behalf of Government, the bonds will be issued by the Reserve Bank of India. Distribution agency will pay distribution cost and sale commission to the intermediate channels, which will be reimbursed by the Govt.

Subject to the conditions that, the bond will be restricted to issue to resident Indians only and the cap on bonds would be no more than 500 grams per person per year.

Features

- Nominal rate of interest linked to international rate for gold borrowing
- Issuance for a period of 5-7 years
- Interest payable after 30/60 days of opening of the account
- Capital gains tax will be the same as for physical gold for individual investors. This means that short-term capital gains tax will apply if you sell within three years. The profits will be added to your income and taxed at income slab. Long term capital gains tax is 20 per cent with indexation
- A person or institution holding surplus gold can get it valued from BIS approved hall marking centres
- Minimum period for Gold Savings Account will be one year
- The bonds will be issued in denominations of 2, 5, 10 grams of gold or other denominations
- The bonds will be issued and redeemed by banks, non-banking finance companies, national saving certificate (NSC) agents for a fee. This fee will be decided later
- The price of gold may be taken from the reference rate, as decided and the rupee equivalent amount may be converted at the RBI reference rate on issue and redemption. This rate will be used for issuance, redemption and Loan to Value purpose and disbursement of loans
- These bonds can be used as collateral for loans. The LTV will be equal to that of ordinary gold loans. As per RBI regulations, the maximum LTV allowed for gold loans is 75 per cent

A person investing in the bond would not have to worry about the quality of the gold. The authenticity factor is what is most beneficial in this scheme.

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Information Integrity, Reliability, and Validity: Importance in Today's Global Business Environment

2014 has been a year of what seems like a never-ending stream of cyber threats and data breaches, affecting retailers, banks, gaming networks, governments and more. In today's environment, ensuring the integrity of the information has gained increasing importance. Management of an organization needs timely access to various information for reporting and decision making purpose. Reliable information system also influences investors and other stake holders.

Organisations can improve the information security through two different but inter related segments;

- Data quality
- Data protection

Caring about data quality is key to safeguarding and improving it. Data are of high quality if they are "Fit for Use" in their intended operational, decision-making and other roles. In many settings, especially for intermediate products, it is also convenient to define quality as "Conformance to Standards" that have been set, so that fitness for use is achieved.

Several facets are important to the relevance of the data analysts' use of data.

- Do the data meet the basic needs for which they were collected, placed in a database, and used?
- Can the data be used for additional purposes (e.g., a market analysis)? If the data cannot presently be used for such purposes, how much time and expense would be needed to add the additional features?
- Is it possible to use a database for several different purposes? A secondary (or possibly primary) use of a database may be better for determining what subsets of customers are more likely to purchase certain products and what types of advertisements or e-mails may be more successful with different groups of customers.

Managing information in a comprehensive manner can help organisations achieve business objectives by allowing them to;

- Reduce or report development cost and enhance the quality and reliability of delivered information
- Extract greater value from the available data to provide better business insights
- Achieve legal, audit, compliance and regulatory mandates
- Protect business, employee and customer information
- Eliminate or mitigate identity theft, data privacy and fraud risks
- Remediate audit findings
- Lower the cost of controls
- Improve management of information asset
- Enhance governance

Why should we maintain data quality?

- A reputation for world-class quality is profitable
- Poor-quality data can reduce customer satisfaction
- Poor-quality data can distort key corporate financial data; in the extreme, this can make it impossible to determine the financial condition of a business.
- High-quality data are also important to all levels of government. Certainly the military needs high-quality data for all of its operations, especially its counter-terrorism efforts.

Some of the fundamental data quality management practices are;

- Data quality assessment - understanding how poor data quality negatively impacts the achievement of business objectives.
- Data quality measurement - to synthesize the results of the assessment to narrow the scope by concentrating on the data elements that are deemed critical based on the business users' needs
- Integrated data quality in to the application infrastructure - Capturing the organization's data quality requirements as part of the requirements and design phases of a development lifecycle empower the development team in integrating data quality and data correction directly into the application.
- Operational data quality improvement - establish the contract between data suppliers and data consumers as to the service level for maintaining high quality data
- Data quality incident management - Combining the data validity rules and the documented metadata, the data quality analysts can document the level of acceptability for location data expected by the business users.

Protecting information and records

Protecting sensitive data is the end goal of almost all IT security measures. Two strong arguments for protecting sensitive data are to avoid identity theft and to protect privacy. Implementing a comprehensive program is an important aspect of protecting the integrity of information and records.

Examples of security techniques sometimes applied to computer systems are the following:

- Labeling files with lists of authorized users,
- Verifying the identity of a prospective user by demanding a password,
- Shielding the computer to prevent interception and subsequent interpretation of electromagnetic radiation,
- Enciphering information sent over telephone lines,
- Locking the room containing the computer,
- Controlling who is allowed to make changes to the computer system (both its hardware and software),
- Using redundant circuits or programmed cross-checks that maintain security in the face of hardware or software failures,
- Certifying that the hardware and software are actually implemented as intended.

Protecting information integrity requires a conscious effort to create and implement an enterprise level data governance program, an agreed understanding of the organisation's data integrity objectives, and active steps to achieve ongoing data synchronization and adequate data protection. Following a comprehensive process that encompasses a robust governance structure can help the organization mitigate data integrity risks, thereby improving information quality and value.

IND AS CONVERSION PROCESS

The Ind AS conversion date for India is 2016–17 with comparative 2015–16. Thus right time to start thinking and converting to Ind AS is "NOW". This process cannot be delayed any further.

What is an Ind AS conversion?

In an Ind AS conversion an entity undertakes to change its financial reporting from its current GAAP to Ind AS. Obviously, differences between the Indian GAAP treatment and IFRS will be one of the key inputs to the conversion process in case of Indian entities. These differences may vary significantly from one entity to another depending on the industry and the current accounting policies chosen under Indian GAAP. However, the magnitude of an Ind AS conversion project will not depend solely on the magnitude of the GAAP differences, but will be influenced by other factors such as:

- The quality and flexibility of the existing financial reporting infrastructure
- The size and complexity of the organization
- The effect of GAAP changes on the business

Ultimately, the purpose of an Ind AS conversion is to put entities in a position, where they are able to report, unaided and reliably, under Ind AS and are able to recognize the Ind AS dimension of their actions. However, before the actual start of the conversion project, an initial diagnostic phase should put companies in a position where they are aware of:

- The differences between Ind AS and the entity's current accounting policies
- The impact of the change to Ind AS on financial statements
- The impact of the change to Ind AS on tax, business, IT and process

- The impact of Ind AS on future business decisions
- An understanding of the approach underlying the formulation of Ind AS

Need for conversion methodology

Many entities perceive conversion projects purely as a technical accounting exercise. With a major underlying difference of principle — as embodied in Ind AS — this is a grave mistake. Ind AS conversions, if not properly planned, are likely to lead to a number of unfortunate results. Common among these are:

- Failure to involve all people with the required knowledge, business decisions taken in ignorance of consequences of financial reporting, unreliability and slowness in producing Ind AS financial statements
- Gross underestimation of the time required to convert



Conversion to Ind AS will be an exercise in change management. Adopting Ind AS may affect many facets of an organization beyond its financial reporting. Every aspect of a company affected by financial information has the potential for change (for example, key performance indicators, employee and executive compensation plans, management's internal reporting, investor relations and analyst information). Both the process and the implications of the conversion can vary widely among companies based on a number of variables, such as levels of expertise, degree of centralization of accounting processes and data collection, and the number of existing accounting methods currently being used. Often, information and data not currently collected and/or warehoused may be needed to produce the required Ind AS information.

The conversion to Ind AS will entail a business wide change management exercise and should be approached using a structured methodology encompassing best practices of project management. Such methodology ensures conversion assignments are properly planned and executed. The methodology also ensures that the typical pitfalls for the inexperienced conversion team are avoided by:

- Promoting the re-use of knowledge
- Avoiding costly dead-ends resulting from poor planning and co-ordination
- Ensuring efficient use of staff time
- Allowing a mix of experienced and less experienced staff, thereby, facilitating knowledge transfer
- Improving the quality of work

To take full advantage of opportunities arising as a result of conversion to Ind AS, the conversion methodology needs to be flexible and customized to the needs of an entity. As with any major finance transformation project, the full support of the board and senior management will be critical to the success of the conversion effort. Boards should pay close attention to details of management's proposed 33 approach to the Ind AS conversion to satisfy themselves that it covers all appropriate areas and is based on sound project management principles. While management will be responsible for the conversion execution, boards need to be confident in management's plan, thoroughness and diligence. Management should inform the board and the audit committee on a regular basis regarding its plan and progress. As such, audit committees should generally include a standing Ind AS agenda update item at their periodic meetings.

The process

The methodology takes, as a starting point, the fact that an Ind AS conversion project needs to address more than just accounting issues and that a conversion project is sufficiently complicated to warrant pro-

fessional project management. It is for these reasons that the methodology comprises five phases — each of which deals with a specific part of the conversion. Throughout the project it recognizes five different workstreams, each dealing with a specific aspect of the conversion process. This is to facilitate involvement of specialists on need basis. It is, however, important to recognize that these phases can overlap one another and entities need not wait for completion of one phase to end before beginning another. Moreover, a clear breakdown of all the activities by workstream is not always possible as a mandatory allocation of activities by phase. Therefore, this methodology should be tailored according to project specificities, starting point and in place project structure, etc.

Key goals and outputs of each phase

- **Diagnostic**

This phase involves high level identification of accounting and reporting differences and its consequences to the business, IT, processes and tax. The major outcome management expected from this phase includes an impact assessment report, which provides implications on above areas. It also entails determining a high-level road map for future phases of the conversion. This phase will also help management to identify potential interdependence between the Ind AS conversion project and current or planned organization-wide initiatives (for example, new accounting system implementations such as ERP and finance transformations) and an assessment of, whether the company has adequate resources to complete a conversion. Diagnostic Design and planning Solutions development Implementation Post implementation Workstreams Program execution / project management Accounting and reporting Tax Business process and systems Regulatory and industry Change management, communication and training

- **Design and planning**

This phase involves setting up the project infrastructure, the project management function, including conversion roadmap and change management strategy. The aim of this phase is to setup a core Ind AS team, framing conversion time-tables and deciding on detailed way-forward. Formation of the project structure, project charter, communication plan, training plan and expanded conversion roadmap are typical outputs from this phase.

- **Solution development**

The objective of this phase is to identify solutions to various issues identified in relation to accounting and reporting, tax, business process and system changes. Typical output from this phase comprises Ind AS accounting manuals, group reporting packages, Ind AS skeleton accounts, group accounting policies, technical papers on Ind AS accounting issues, crystallizing the impact on current and deferred tax, developing solutions for tax functions and identifying processes, which need to be re-designed, modified or developed.

- **Implementation**

This phase involves roll out of solutions developed in the previous phase. In this phase the company will conduct a process of dry-run of financial statements to ensure that before the reporting deadline, the company is geared up to prepare Ind AS financial statements. Following dry-run accounts, the company will roll-out final deliverables, i.e., the opening Ind AS balance sheet and the first Ind AS financial statements. All business and process solutions developed will also be implemented to facilitate the company transition to the new reporting framework.

- **Post-implementation**

This phase involves an assessment of how various solutions developed work in the implementation phase and

the identification of any issues in the operational model. These issues are tackled in this phase to ensure successful on-going functioning of systems and processes in IFRS reporting regime. On-going update training is also provided, to ensure that the company's personnel are updated with latest Ind AS developments, and also changes are made in systems and processes. IFRS manuals will also need to be regularly updated for changes in IFRS.

Advantages

There are no disadvantages to getting a start on the process, but the advantages include:

- Securing the right people, whether by engaging a third party to provide assistance or by hiring them directly
- Reduce the burden on valuable accounting, financial reporting and IT resources as the conversion date approaches
- More time to train employees on Ind AS and to have them become comfortable with the standards and interpretations
- Discussing financial reporting effects of conversion to Ind AS with analysts to provide them with confidence that this significant undertaking is well in hand.



UNDERSTANDING THE DIFFERENCE BETWEEN ITR-4 AND ITR-4S



When you have to report income of a business or a profession, ITR-4 is your tax return form. Almost everyone who has a business, however big or small, can file this form. There is no minimum income you should earn to file this return. A shopkeeper, a doctor, a tutor, a retailer, a wholesaler, an insurance agent, interior decorator or fashion designer, everyone can file their tax return in ITR-4.

ITR-4 is a detailed form, possibly one of the two longest of all tax return forms (see summary at the end). If you run a business it's likely you have heard of the ITR-4S, a much shorter form which is also applicable to businesses. But not all businesses can file ITR-4S.

ITR-4S is a special case ITR, applicable for businesses where income is calculated on 'presumptive method'. In simple words the presumptive method lets you report your income as 8 per cent of your gross receipts (as per section 44AD of the income tax act) or as Rs 7,500 per month for each vehicle if you are in the business of plying, leasing or hiring trucks (as per section 44AE). You don't have to maintain accounting records of your business and advance tax rules don't apply to you. To top it all, ITR-4S is barely a four page document, which you can fill in a short time. But there is a catch; you need to meet the following conditions to file ITR-4S

- Your gross receipts or turnover must be less than Rs 1 crore.

- You must be resident of India.
- You may be an individual, a HUF or a partnership firm but not a company.

Also ITR-4S is not allowed to be filed where there is:

- Income from commission or brokerage
- Agency business
- Income of professionals: Who are carrying on profession of legal, medical, engineering, architectural, accountancy, technical consultancy, interior decoration, an authorized representative, film artist, company secretary and information technology. Authorized representative means: Any person, who represents someone, for a fee or remuneration, before any tribunal or authority under law. Film artist includes a producer, actor, cameraman, director, music director, art director, dance director, editor, singer, lyricist, story writer, screenplay writer, dialogue writer, dress designer - basically any person who is involved in his professional capacity in the production of a film. (These are the professions listed under section 44AA(1)).
- Ownership of more than one house property
- Capital gains
- Losses to be carried forward
- Agriculture income or exempt income more than Rs 5,000
- A resident taxpayer who holds any asset outside India or financial interest in any foreign entity
- A resident taxpayer who is a signing authority in any bank account located outside India or has income from any source outside India
- Speculative income like winning from lotteries, horse races
- Relief claimed by taxpayer under Section 90, 90A or 91

In all such cases, ITR-4 must be filed for your business. It's possible you have more than one business, and you have opted for presumptive scheme for one of them. In such a case, you still have to file ITR-4, since you can file only one return form. You can include income of presumptive business in ITR-4.

Let's understand with some examples:

Case 1: Rahul is clothing merchant and has opted for the presumptive income scheme. Rahul can choose to file ITR-4 or ITR -4S (provided his gross turnover is less than Rs 1crore).

Case 2: Neha is an interior decorator and wants to know which ITR form she should file. Neha cannot file ITR-4S, her profession is listed as non-eligible to file ITR-4S. Neha has to file ITR-4.

Case 3: Deepika had opted for presumptive income for FY 2013-14. She runs a wholesale business and her turnover for FY 2014-15 was Rs 1.20 crores.

Since Deepika's turnover exceeds Rs 1 crore, for financial year 2014-15 she will have to file ITR-4 as ITR-4S is not applicable in cases where turnover exceeds Rs 1crore.

Case 4: Deepak is an insurance agent and his income was Rs 18 lakhs in financial year 2014-15, he wants to file ITR-4S.

Those running insurance commission business cannot file ITR-4S. Therefore Deepak has to file ITR -4 for financial year 2014-15.

Case 5: Shashank is a practicing heart specialist and his turnover for financial year 2014-15 is Rs 55 lakhs. Shashank wants to file ITR-4S.

Doctors are not eligible to file ITR-4S. Even though Shashank's income is less than Rs 1 Crore, he has to file ITR-4.

Case 6: Prashant carries on 2 businesses. He has a manufacturing business with a turnover of Rs 1.4 crores and another business of truck hiring and leasing, which is eligible for presumptive income as per section 44 AD. Prashant wants to know which ITR to file.

Even though Prashant runs a business which is eligible under section 44AD, he shall have to file ITR-4. Return of income must include income from all sources and given Prashant's first business, ITR-4 shall be applicable for filing his consolidated income details.

Case 7: Ashish is in the business of plying, hiring, or leasing goods carriage. In the financial year 2014-15 he owned 13 lorries.

Presumptive method of taxation under section 44AE is applicable only in cases where not more than 10 trucks are owned. Therefore, Since Ashish owns more than 10 trucks he has to file ITR-4.

Case 8: Vijay is in the business of plying, hiring, and leasing goods carriage and owns 5 goods carriage but Vijay chooses not to opt for 44 AE scheme and want to declare income lower than the income estimated under section 44AE.

Vijay can declare income lower than what is calculated under section 44AE, however he shall have to maintain books of accounts as prescribed and will have to file ITR-4 for his income.



Export trade is regulated by the Directorate General of Foreign Trade (DGFT) and its regional offices, functioning under the Ministry of Commerce and Industry, Department of Commerce, Government of India. Policies and procedures required to be followed for exports from India are announced by the DGFT, from time to time. AD Category – I banks is authorised to conduct export transactions in conformity with the Foreign Trade Policy in vogue and the Rules framed by the Government of India and the Directions issued by Reserve Bank from time to time.

Invoicing of Export of goods

All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.” Indian Rupee is not a freely convertible currency, as yet.

Manner of Receipt and Payment

The amount representing the full export value of the goods exported shall be received through an AD Bank in the following manner:

- a) Bank draft, pay order, banker's or personal cheques.

- b) Foreign currency notes/foreign currency travelers' cheques from the buyer during his visit to India.
- c) Payment out of funds held in the FCNR/NRE account maintained by the buyer
- d) International Credit Cards of the buyer.

Realization and Repatriation of proceeds of export of goods / software / services

It is obligatory on the part of the exporter to realize and repatriate the full value of goods to India within a stipulated period from the date of export, as under:

- It has been decided in consultation with the Government of India that the period of realization and repatriation of export proceeds shall be nine months from the date of export for all exporters including Units in SEZs, Status Holder Exporters, EOUs, Units in EHTPs, STPs & BTPs until further notice.
- Goods exported to a warehouse established outside India: As soon as it is realized and in any case within fifteen months from the date of shipment of goods.

Advance Payments against Exports

In terms of Regulation 16 of Notification No. FEMA 23/2000-RB dated May 3, 2000, where an exporter receives advance payment (with or without interest), from a buyer outside India, the exporter shall be under an obligation to ensure that the shipment of goods is made within one year from the date of receipt of advance payment; the rate of interest, if any, payable on the advance payment does not exceed London Inter-Bank Offered Rate (LIBOR) + 100 basis points; and the documents covering the shipment are routed through the AD Category – I bank through whom the advance payment is received.

Provided that in the event of the exporter's inability to make the shipment, partly or fully, within one year from the date of receipt of advance payment, no remittance towards refund of unutilized portion of advance payment or towards payment of interest, shall be made after the expiry of the said period of one year, without the prior approval of the Reserve Bank.

Consignment Exports

- When goods have been exported on consignment basis, the AD Category-I bank, while forwarding shipping documents to his overseas branch/ correspondent, should instruct the latter to deliver them only against trust receipt/undertaking to deliver sale proceeds by a specified date within the period prescribed for realization of proceeds of the export. This procedure should be followed even if, according to the practice in certain trades, a bill for part of the estimated value is drawn in advance against the exports.
- The agents/consignees may deduct from sale proceeds of the goods expenses normally incurred towards receipt, storage and sale of the goods, such as landing charges, warehouse rent, handling charges, etc. and remit the net proceeds to the exporter.
- The account sales received from the Agent/Consignee should be verified by the AD Category – I banks. Deductions in Account Sales should be supported by bills/receipts in original except in case of petty items like postage/cable charges, stamp duty, etc.
- In case the goods are exported on consignment basis, freight and marine insurance must be arranged in India.
- AD Category – I banks may allow the exporters to abandon the books, which remain unsold at the expiry of the period of the sale contract. Accordingly, the exporters may show the value of the unsold books as deduction from the export proceeds in the Account Sales.

Write off of export bills

An exporter who has not been able to realize the outstanding export dues despite best efforts, may either self-write off or approach the AD Category – I banks, who had handled the relevant shipping documents, with appropriate supporting documentary evidence with a request for write off of the unrealized portion subject to the fulfillment of stipulations regarding surrender of incentives prior to” write-off”.

Shipments Lost in Transit

- When shipments from India for which payment has not been received either by negotiation of bills under letters of credit or otherwise are lost in transit, the AD Category – I banks must ensure that insurance claim is made as soon as the loss is known.

Self “write-off” by an exporter (Other than Status Holder Exporter)	5%*
Self “write-off” by Status Holder Exporters	10%*
‘Write-off” by Authorized Dealer Bank	10%*
*of the total export proceeds realized during the previous calendar year.	

- In cases where the claim is payable abroad, the AD Category - I banks must arrange to collect the full amount of claim due on the lost shipment, through the medium of their overseas branch/ correspondent and release the duplicate copy of EDF only after the amount has been collected.
- A certificate for the amount of claim received should be furnished on the reverse of the duplicate copy.

Refund of Export Proceeds

AD Category – I banks, through whom the export proceeds were originally realized may consider requests for refund of export proceeds of goods exported from India and being re-imported into India on account of poor quality. While permitting such transactions, AD Category – I banks are required to:

- Exercise due diligence regarding the track record of the exporter
- Verify the bona-fides of the transactions
- Obtain from the exporter a certificate issued by DGFT / Custom authorities that no incentives have been availed by the exporter against the relevant export or the proportionate incentives availed, if any, for the relevant export have been surrendered
- Obtain an undertaking from the exporter that the goods will be re-imported within three months from the date of remittance and
- Ensure that all procedures as applicable to normal imports are adhered to.



In case of a pre-approved home loan, while the seeker is required to undergo all documentation process, the bank does not run a check on the property's title. This formality is done once loan is actually sanctioned and this is when the complication occurs. Let us explain few possibilities that may lead to cancellation of such pre-approved home loans.

- 1) **Lender not funding that particular developer**
Normally, bank loans are sanctioned for a property wherein the developer is well recognized by the bank or the lending institute. The developers have to undergo much scrutiny to gain the approval tag. It may not take much for a developer to fall off the eligibility bracket. Your bank might cancel the loan if the developer no more falls under its approved criteria. Make your checks!
- 2) **Particular project not funded by the lender**
In some cases the developer may have the lender's approval, but this approval may not be valid for all projects under its banner. Therefore, one of the reasons behind cancellation of your approved loan can be that while the developer is recognized by your bank but the particular project is not approved and hence funded for by your lending institute at that particular time. The approval may

come in a month or two but it is advisable to book a home where both, the developer and the project, are funded by your lending institute. Avoid the hassle.

- 3) **Particular floor does not fall under eligibility criteria**
Lending institutes and bank follow many measures and parameters while giving approval for funding a property. Sometimes, your sanctioned loan may be cancelled just because the particular floor on which you have booked your flat is not funded by your bank. Make inquiries!
- 4) **Property is not in the geographic limit of lender**
With available land shrinking at a fast pace, developers are today exploring outskirts of Delhi NCR to build housing projects. While these developers are stretching their boundaries by turning outskirts into new townships, many a times these extended limits fail to fall within the approved geographic bracket of the bank or the lender. In case where your dream is located in an area beyond the approved geographic limit of your lender, there are chances of your loan being cancelled. Check the lender's geographical bracket!
- 5) **Lender does not fund commercial property or residential property under commercial use**
In case of pre-approved loans, lenders just check the creditworthiness of the seeker and his/her eligibility for the loan process. The checking of property comes later. Many lenders do not offer loans under-construction or ready commercial property, or residential unit that is currently under commercial use. Therefore, be sure that you clear any such discrepancy or doubts with your lender before approaching for a loan.

6) Lender no more funds for type of loan you are seeking

With rise in competition lenders have evolved various policies and loan types to loans easier. In fact, they keep changing their criteria every now and then to better suit their market needs. Therefore, one of reason behind cancellation of your sanctioned loan may be that your lender has stopped lending the kind of loan you are seeking, and you were not aware about it. Keep track of policy changes!

7) Developer gained a bad reputation

Many a time, a sanctioned loan gets cancelled just because a developer enters into a watch-list or even a blacklist of the lender due to a recent bad borrowing, fund-flow matters, statutory issues, labor issues or even personal matters of the directors. In such a scenario, chances are more likely for the lender to refuse to disburse your sanctioned loan.

8) You fall from the eligibility criteria

Like credit score is imperative while you seek a loan, in case of pre-approved loans too, credit worthiness plays a pivotal role. While in case of normal loans, the lenders run a check before sanctioning your loan, in pre-approved loans, the lender double-check your financial movement a day before disbursing the loan. Therefore, during this time if they find that you have defaulted on any payment in between with any other lender(s) or

availed another loan, it might affect your eligibility for loan disbursement. Also, you may fall from the criteria in case you have borrowed a loan in between, making the present one a third loan, as the lenders have a policy of not sanctioning a third home loan.

9) Exposure limit for the developer

Every bank or financial institution sets an exposure limit to your borrowing amount. This exposure restricts the upper limit for your loan. In case of home loans, while seeker is prescribed with an upper limit, an exposure limit is also set for the developer. This means that a bank will have a certain amount beyond which it would not sanction any loan for that particular developer. Therefore, many a times a sanctioned loan is cancelled because either the developer you chose do not fall under the loan amount that sought for.



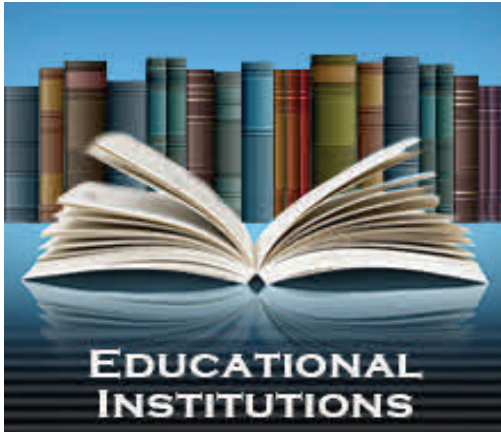
10) Lender has stopped providing funds

This could be the worst of all possible reasons. Many lenders, especially private financiers tend to shut down their mortgage wing if they fail to make profit in the business model due to less margin, low business volume, recovery issues etc. Although, in no circumstances you can predict this misfortune, it is always advisable to seek loan from respected bank or reputed private financier

RESOLUTIONS REQUIRED UNDER COMPANIES ACT, 2013

Sl. No	Provisions of the Act	Applicability
1	Special resolution – U/s 117 (3) (a)	Public & Private
2	Resolutions which have been agreed by all members of a company, but which, if not so agreed to, would not have been effective unless passed as SR. – U/s 117 (3) (b)	Public & Private
3	Board resolution or agreement executed by the company, relating to appointment, re-appointment or renewal of appointment or variation in terms of appointment of MD. – U/s 117 (3) (c)	Public & Private
4	Resolutions or agreements which have been agreed by any class of members but which, if not so agreed to, would not have been effective unless passed by specified majority or otherwise in some particular manner; and all resolution and agreement which have effectively bind such class of members though not agreed to by all those members. – U/s 117 (3) (d)	Public & Private
5	Resolutions passed by company according consent to the exercise by its Board of Director of any power U/s 180 (1) (a) & (c). – U/s 117 (3) (e)	Public
6	Resolutions for Voluntary winding up U/s 304. (Not yet enforced). – U/s 117 (3) (f)	Public & Private
7	Board Resolution passed to make calls on shareholders in respect of money unpaid on their shares- U/s 179 (3) (a)	Public
8	Board resolution passed to authorize Buyback of securities U/s 68 of the Act. – U/s 179 (3) (b)	Public
9	Board resolution passed to issue securities, including debentures, whether in or outside India. – U/s 179 (3) (c)	Public
10	Board resolution passed to borrow monies. – U/s 179 (3) (d)	Public
11	Board resolution passed to invest the funds of the company. –U/s 179 (3) (e)	Public
12	Board resolution passed to grant loans or give guarantee or provide security in respect of loans. U/s 179 (3) (f)	Public
13	Board resolution passed to approve Financial Statement and Board's Report. – U/s 179 (3) (g)	Public
14	Board resolution passed to diversify the business of the Company. – U/s 179 (3) (h)	Public
15	Board resolution passed to approve amalgamation, merger or reconstruction.- U/s 179 (3) (i)	Public
16	Board resolution passed to take over a Company or acquire a controlling or substantial stake in another company. – U/s 179 (3) (j)	Public
17	Board resolution passed to make political Contribution. – U/s 179 read with rule (8) (1)	Public
18	Board resolution passed to appoint or remove KMP. – U/s 179 (3) read with rule (8)(2)	Public
19	Board resolution passed to appoint internal auditor and secretarial auditor. – U/s 179 (3) read with rule (8) (4)	Public

TAX EXEMPTION OF EDUCATIONAL INSTITUTIONS U/S (10) (23C)



Clarification on certain issues related to operation of Sec 10(23C)(vi) of the Income Tax Act, 1961 (Circular No. 14/2015 of CBDT)

Section 10 of the Income Tax Act, 1961 deals with incomes not included in total income.

Section 10 (23C)(vi) of the Act prescribes that income of any university or other educational institutions, existing solely for educational purposes and not for purposes of profit, shall be exempt from tax if such entities are prescribed by the authorities.

Such approval is not required in cases of university or educational institutions wholly or substantially financed by the Government or if their aggregate annual receipts do not exceed Rs.1 crore.

Thus while granting approval to entities covered under sub clause (vi), the prescribed authority has to ensure that the applicant institution must exist “solely for educational purpose and not for purposes of profit”.

There are several provisos to clause (23C) of section 10 and prescribe, inter alia, various monitoring conditions subject to fulfillment of which only, the exemption can be availed.

These monitoring conditions include mode and manner of application of funds, maintenance and audit of

books of accounts in certain situations etc. Some other provisions prescribe the manner of making application U/s 10(23C)(vi) and the circumstances when an approval granted earlier can be withdrawn.

- **Scope of enquiry while granting approval**

Whether the prescribed authority should consider the conditions prescribed under various provisos other than the nature, existence for non - profit purpose and genuineness of the applicant institution;

In the case of American Hotel and lodging Association Educational Institute, Supreme Court has held that at the time of granting approval u/s 10(23C)(vi), the prescribed authority is to be satisfied that the institution existed during the year solely for the purpose of education and not for profit. Once the authority is satisfied about fulfillment of the criteria, it would not be justifiable in denying approval on other grounds.

The prescribed authority is eligible to grant approval u/s 10(23C)(vi), subject to such terms and conditions as deemed necessary including those falling within the frame work of various Provisos to the said clause of section 10.

- **Necessity for registration u/s 12AA while seeking approval/claiming exemption u/s 10(23C)(vi);**

Section 10(23C)(vi) does not prescribe any stipulation which makes registration u/s 12AA a mandatory pre or post condition. Provisions of Section 11 and Section 10(23C) are parallel and operate independently. Therefore, prior registration u/s 12AA cannot be insisted before granting approval u/s 10(23C).

However in the case of a trust or an institution having registration u/s 12AA and section 10(23C), withdrawal of approval u/s 10(23C) is not automatic but will depend upon the impact of adverse findings on registration u/s 10(23C), if registration is withdrawn at some point of time due to adverse findings.

- **Generation of surplus out of gross receipts**

Provisions of Section clearly reveal that mere generation of surplus cannot be a basis for rejection of application u/s 10(23C)(vi), on the ground that it amounts to an activity of the nature of profit making.

Third proviso to the Act clearly provides that accumulation of income is permissible subject to the manner prescribed therein provided such accumulation is to be applied wholly and exclusively to the objects for which it is established.

Hence it is clarified that mere generation of surplus by educational institution from year to year cannot be a basis for rejection of application if it is used for educational purpose unless the accumulation is contrary to the manner prescribed under law.

- **Collection of amounts under different heads of fee from students**

It has been clarified that collection of small and rea-

sonable amounts of fee by way of application fee, examination fee, fee for issuing transfer certificate, subscription fee for library etc. does not represent a profit making activity unless the amount in the nature of “capitation fee” is charged directly or indirectly.

- **Impact of extra ordinary powers of the managing trustee to appoint, remove or nominate other trustees**

There is no provision under the Act which calls for denial of exemption merely on account of appointment or removal of trustees. The decision would normally depend upon the factual implication of such arrangement hence the same should not be a ground for denial of exemption unless the nature of activities of the trust or institution get changed or modified or no longer remains to exist ‘solely for educational purpose and not for purpose of profit making’.

Applicability of MAT on FIIs/FPIs

A Committee on Direct Tax matters chaired by Justice A.P. Shah was constituted with the initial mandate to examine the matter relating to levy of MAT on FIIs/FPIs for the period prior to 01.04.2015. The Committee has submitted its final report on applicability of MAT on FIIs/FPIs for the period prior to 01.04.2015 to the Government on 25.08.2015.

The Committee has recommended that section 115JB of the Income-tax Act may be amended to clarify the inapplicability of MAT provisions to FIIs/FPIs. Alternatively, the Committee has suggested that a Circular may be issued clarifying the inapplicability of MAT provisions to FIIs/FPIs.



The Government has accepted the recommendation of the Committee to clarify the inapplicability of MAT to FIIs/FPIs and has decided that an appropriate amendment to the Income-tax Act will be carried out.

Through the amendment the Government proposes to clarify that MAT provisions will not be applicable to FIIs/FPIs not having a place of business/ permanent establishment in India, for the period prior to 01.04.2015. Pending such amendment, CBDT will convey to the field formations the decision of the Government to accept the recommendation.



Direct Tax

No extension of Tax Audit Due date for AY 2015-16

No extension of date for filing of Returns due by 30th September for Assessment Year 2015-16 for certain categories of Assessee including companies, firms and individuals engaged in proprietary business/profession etc whose accounts are required to be audited.

Taxpayers are advised to file their returns well in time to avoid last minute rush

Companies Act

Exemption to Govt. Defence Equipment & Space Research Companies from Disclosure in Profit & Loss Account

Central Government hereby, in public interest, directs that paras 5 (ii) (a) (1), 5 (ii) (a) (2), 5(ii) (e), 5 (iii), 5 (viii) (a), 5 (viii) (b), 5 (viii) (c) and 5 (viii) (e) relating to Additional Information of the General Instructions for preparation of Statement of Profit and Loss in Schedule III of the Companies Act, 2013 shall not apply to government companies producing Defence Equipment including the Space Research subject to fulfilment of following conditions, namely:-

A. The Board of Directors of the Company has given consent with regard to non-disclosure of information relating to paras 5(ii)(a)(1), 5(ii)(a)(2), 5(ii)

(e), 5(iii), 5(viii)(a), 5(v iii)(b), 5(viii)(c) and 5(viii) (e), as may be applicable;

- B. The Company shall disclose in the Notes forming part of the balance sheet and profit and loss account, the fact of grant of exemption under this notification;
- C. The company shall comply with the prescribed Accounting Standards;
- D. The company shall ensure that its financial statements represent a true and fair state of affairs of its finances; and
- E. The company shall maintain and file such information as may be prescribed or called for or required by the government or the Reserve Bank of India or any other regulator.

This notification shall be applicable in respect of financial statement prepared in respect of the financial years ending on or after the 31st March, 2016.

Cost Audit report filing date extended to 30th September, 2015

General Circular No. 12/2015 In continuation to General Circular No.08/2015 dated 12.06.2015 , the last date of filing of Form CRA-4 without any penalty/late fee is hereby extended upto 30th September, 2015.

Custom Duty

Anti-dumping duty on imports of Float Glass

Notification No. 47/2015-Customs (ADD)- Dated- 8th of September, 2015- Seeks to levy definitive anti-dumping duty on imports of Float Glass of thickness 2 mm to 12 mm (both inclusive) of clear as well as tinted variety (other than green glass) but not including reflective glass, processed glass meant for decorative, industrial or automotive purposes falling under chapter heading 7005 of the First Schedule to the Customs Tariff Act, originating in or exported from the Peoples' Republic of China for a period of five years



Direct Tax

- **Assessee cannot be asked to prove something which is beyond its control**

In the case of DCIT Vs. Raj Kumar Saraogi the Kolkata ITAT held that comparison with the items of jewellery found at the time of search with wealth tax return, which were filed much earlier was putting an onerous task on assessee to prove something impossible, and assessee cannot be asked to prove something which is beyond its control.

- **Gain on transfer of capital assets to wholly own subsidiary is not INCOME at all in Income Tax Act. Hence, even MAT is not applicable**

In the case of Venture Pvt.Ltd vs. DCIT, ITAT Mumbai has held that the Net profit shown in the Profit and loss account should be adjusted with the items given in Notes to accounts, meaning thereby, the profits arising on sale of capital asset to its wholly owned subsidiary company should be excluded from the Net profit.

- **Whenever order of Re-assessment is passed, Period of Limitation will start from the date of Re-assessment order and not from Original Assessment order**

Rastriya Ispat Nigam Limited v. Asst. Commissioner of Income Tax. In the present case the writ petition was filed by the Assessee in which the Hon'ble High Court while dismissing the writ peti-

tion held that whenever an order is made under the re-assessment, then the limitation will commence from the period of re-assessment and not from the original assessment order.

- **'Such income' in Section 11(1)(a) stands for 'Gross Income' not 'Net Income'**

Public Education Society Vs DDIT (Exemptions) (Bangalore ITAT) Since the expenditure incurred by the assessee was more than 93% of the gross receipts, no part of the gross receipts are liable to be taxed in the year under consideration, as the balance amount was set apart for application in the next year.

- **Sales commission paid to foreign company is not taxable in India in absence of PE in India**

The ITAT Panaji in the case of ACIT Vs. Karishma Global Mineral Pvt. Ltd. held that the sales commission paid by assessee to Singapore based entity is not taxable in India as the same is business profits which cannot be taxed in the hands of foreign company under India – Singapore DTAA as the foreign company has no PE in India.

- **Payment towards data storage charges to a non-resident is not royalty or fee for technical services**

The ITAT Chennai in the case of Vishwak Solutions Pvt. Ltd. held that the payments made to US based entity towards securing server space in US is not in the nature of fee for technical services or royalty within the meaning of Article 12 of India – US DTAA. The same is rather business profits as per Article 7 of DTAA which can be taxed in India only when the foreign entity has Permanent Establishment (PE) in India.

Indirect Tax

- **Amount paid under Amnesty scheme will be treated as an adjustment towards interest**

Modern Hotels v CCE (Supreme Court), Civil Appeal No. 2508 of 2008, Date of Judgment: 19/08/2015. Supreme Court held In the case of Modern Hotels v CCE that the amount paid for the renewal of licence under Foreign Liquor Rules under the Amnesty scheme will be treated as an adjustment toward interest.

- **Surrender of Advance Licence to receive products at lower rate will be treated as additional consideration - CCE v M/s Indorama Synthetics (I) Ltd.**

Supreme Court has held in the case of CCE v M/s Indorama Synthetics (I) Ltd. held that the surrendering of advance licence in order to receive the products at lower rate will be considered as “additional consideration” under section 4 of Central Excise Act, 1944.

- **CENVAT credit of Mobile phone expenses incurred in relation to manufacturing allowed**

In the case of CCE V/s Hindustan Coca Cola Beverages Pvt. Ltd. it was held by Goa High Court that any expenditure incurred in the manufacturing activity would be entitled for credit facility and hence the expenses of mobile phones incurred in connection with manufacturing process shall be allowed.

- **CENVAT credit of inputs lost during manufacturing process as floor sweepings is allowed- CESTAT**

The facts of the case are that assessee is a manufacturer of chocolates and coco products. During the course of the manufacturing final product certain floor spillage and sweeping arises which assessee is destroying. Revenue is of the view that on these sweepings the assessee is not entitled to take Cen-

vat Credit.

- **Service tax cannot be levied on Job work that amounts to manufacture – CESTAT**

The appellants manufacture excisable goods falling under Chapter 29 of Central Excise Tariff Act, 1985. On scrutiny of the records, departmental officers noticed that during the period 10/09/2004 to 28/02/2005 appellant had received some amount towards job-work charges and processing charges. It revealed that the appellant carried out job-work on the goods supplied by the client and the same were returned back to the client after processing

- **MAT credit should be adjusted in priority to other credit of taxes like TDS, advance tax or other taxes**

Madras High Court in the case of CIT Vs M/s Ambattur Clothing Limited held that for calculating the assessed tax priority has to be given to adjust the MAT credit then TDS and advance tax would be adjusted by relying on the decision of Supreme Court in [2011] 330 ITR 226 (SC) COMMISSIONER OF INCOME-TAX v.TULSYAN NEC LTD . Moreover for calculating the interest u/s 234B, MAT credit if available had to be adjusted.

- **Erroneous payment of duty on exempted goods would not render the goods dutiable**

The assessee Integral Coach Factory (ICF) belonging to the Central Government is engaged in the business of manufacturing passenger coaches both self-propelled and non-propelled, steel freight containers and parts of passenger coaches for railways under Chapter 86 of CET 1985. They are availing exemption under Notification No.62/95 CE dated 16.3.1995.

DUE DATES FOR STATUTORY PAYMENTS – SEPTEMBER 2015

*Important
DATE!*

Due Date	Category	Description
06-Sep-2015	Central Excise	Payment of Excise Duty for all Assesses (including SSI Units)
06-Sep-2015	Service Tax	Service Tax Payment for the August (Companies)
07-Sep-2015	TDS/TCS	TDS/TCS payment for August
07-Sep-2015	Income Tax	Form 15G/H submission received in August
10-Sep-2015	Central Excise	Filing ER-1 Return (Other than SSI Units)
10-Sep-2015	Central Excise	Filing ER-2 monthly return by 100% EOU (removing goods in domestic tariff area)
10-Sep-2015	Central Excise	Filing monthly ER-6 Return by specified class of Assesses regarding principal inputs.
10-Sep-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-Sep-2015	Central Excise	Proof of Exports in form Ann.-19, once in a month for all exporters, exporting goods under Bond
10-Sep-2015	Central Excise	Export detains in Form Ann.-20, for Manufacturing following simplified export procedure
10-Sep-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-Sep-2015	ESIC	Monthly – EPF – Return of Employees qualifying for membership to the EPF for the first time during previous month
15-Sep-2015	ESIC	Monthly – EPF – Return of member leaving service during the previous month
15-Sep-2015	ESIC	Exempted establishment – EPS/ EDLIS – Monthly Return of members joining service during the previous month.
15-Sep-2015	ESIC	Exempted establishment – EPS/EDLIS – Monthly Return of Members Leaving Service During the previous Month
15-Sep-2015	Provident Fund	PF Payment for August(5 days grace allowed)
15-Sep-2015	Income Tax	First installment (in the case of a non-corporate assesses) or second installment (in the case of a corporate-assesses) of advance income-tax for the assessment year 2016-17

DUE DATES FOR STATUTORY PAYMENTS – SEPTEMBER 2015

21-Sep-2015	ESIC	ESIC Payment and Return for August
22-Sep-2015	Income Tax	Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of August, 2015
25-Sep-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-Sep-2015	Provident Fund	PF Return filing for August (including pension and insurance scheme forms)
25-Sep-2015	Entry Tax	Payment and Returns August Month
30-Sep-2015	Profession Tax	Payment and Return of August
30-Sep-2015	Luxury Tax Act	Monthly Return of August
30-Sep-2015	Income Tax	Audit report under section 44AB for the assessment year 2015-16 in the case of a corporate-assessee or non-corporate assessee (who is required to submit his/its return of income on September 30, 2015)
30-Sep-2015	Income Tax	Annual return of income and wealth for the assessment year 2015-16 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) working partner (of a firm whose accounts are required to be audited)
30-Sep-2015	Income Tax	Statement by scientific research association, university, college or other association or Indian scientific research company as required by rules 5D, 5E and 5F (if due date of submission of return of income is September 30, 2015)
30-Sep-2015	Company Law	Due date of Annual General Meeting to be held by Companies for the FY 2014-2015 (subject to not applied for extension, also refer section 96 of Companies Act.2013)

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