



# NEWS CHRONICLE

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*We expect more than others think is possible....*

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**(Knowledge Manager with Acquisory)**

# CONTENT

## **ARTICLES**

<b><u>DEMONETIZATION OF THE INDIAN CURRENCY - EFFECT ON THE ECONOMY</u></b>	<b>5</b>
<b><u>AN INSIGHT – TAXATION (SECOND AMENDMENT) BILL, 2016</u></b>	<b>9</b>
<b><u>NEWS UPDATES</u></b>	<b>12</b>
<b><u>CORPORATE</u></b>	<b>12</b>
<b><u>RESERVE BANK OF INDIA (RBI)</u></b>	<b>12</b>
<b><u>MINISTRY OF CORPORATE AFFAIRS (MCA)</u></b>	<b>22</b>
<b><u>SECURITIES EXCHANGE BOARD OF INDIA (SEBI)</u></b>	<b>25</b>
<b><u>TAXATION</u></b>	<b>28</b>
<b><u>OTHERS</u></b>	<b>34</b>

## HIGHLIGHTS

### Article

#### **Demonetization of the Indian Currency - Effect on the Economy**

A recent move of the Central Government exercising its powers u/s 26(2) of the Reserve Bank of India Act, 1934, to withdraw the legal tender character of existing bank notes in denominations of ₹ 500 and ₹ 1000 issued by Reserve Bank of India (RBI) is unprecedented. The demonetization of ₹ 500 and ₹ 1000 banknotes was a policy enacted by the Government of India on 8th November, 2016. All ₹ 500 and ₹ 1000 banknotes of the Mahatma Gandhi Series ceased to be legal tender in India from 9th November, 2016.

#### **An Insight – Taxation (Second Amendment) Bill, 2016**

In order to bring more clarity and to capture the possible concealing black money, the Taxation Laws (Second Amendment) Bill, 2016 (“the Bill”) was introduced in Parliament to amend the provisions of the Income Tax Act, 1961 (Act) to ensure that defaulting assesses are subjected to tax at a higher rate and with stringent penalty provisions.

### Legal Updates

#### **Withdrawal of Legal Tender Status for ₹ 500 and ₹ 1000 Notes**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/112 DCM (Plg) No.1226/10.27.00/2016-17 dated 8<sup>th</sup> November, 2016 and Ministry of Finance has withdrawal the legal tender character of existing of Rs. 500/- and Rs. 1000/- denominations of Bank Notes of the existing series issued by Reserve Bank of India (hereinafter referred to as Specified Bank Notes) shall cease to be legal tender with effect from 9th November, 2016, to the extent specified in the Notification

#### **Clarification on aspects related to day count convention for debt securities issued under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008**

Securities Exchange Board of India (SEBI) vide Circular No. CIR/IMD/DF-1/122/201 dated 11<sup>th</sup> November, 2016 has issued clarification on aspects related to day count convention for debt securities issued under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008.

#### **CBDT notifies reporting of cash deposit between 09.11.2016 to 30.12.2016**

Central Board of Direct Taxes (CBDT) vide Notification No. 104/2016 dated 15th November, 2016 has issued notification about reporting of cash deposit. Cash deposits,- (i) exceeding fifty thousand rupees during any one day; or (ii) aggregating to more than two lakh fifty thousand rupees during the period 09th November, 2016 to 30th December, 2016 the same needs to be deposited with (i) a banking company or a cooperative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Office.

#### **Ministry of Urban Development finalizes Real Estate Rules for Delhi**

Ministry of Urban Development vide Press Release dated 23<sup>rd</sup> November, 2016 has announced the finalization of Real Estate General Rules and Rules for Agreement for Sale for the National Capital Territory of Delhi as required under the Real Estate (Regulation & Development) Act, 2016. These Rules will be notified by the 27th of this month.

## Demonetization of the Indian Currency - Effect on the Economy

*A recent move of the Central Government exercising its powers u/s 26(2) of the Reserve Bank of India Act, 1934, to withdraw the legal tender character of existing bank notes in denominations of ₹ 500 and ₹ 1000 issued by Reserve Bank of India (RBI) is unprecedented. The demonetization of ₹ 500 and ₹ 1000 banknotes was a policy enacted by the Government of India on 8<sup>th</sup> November, 2016. All ₹ 500 and ₹ 1000 banknotes of the Mahatma Gandhi Series ceased to be legal tender in India from 9<sup>th</sup> November, 2016*

**What is Currency Demonetization?** It is a radical financial step in which a currency unit's status as a legal tender is declared invalid. This move is usually executed when old currencies have to be replaced by new one's or whenever there is a change of national currency.

In a historical move that may record strength in the fight against corruption, black money, money laundering, terrorism and financing of terrorists as well as counterfeit notes, the Government of India decided that 500 and 1000 notes will no longer be legal tender from midnight, 8<sup>th</sup> November, 2016.

The Government of India has taken this step of demonetization of ₹ 500 and ₹ 1000 banknotes with the intention to curb financing of terrorism through the proceeds of Fake Indian Currency Notes (FICN) and use of such funds for subversive activities such as espionage, smuggling of arms, drugs and other contrabands into India, and for eliminating unaccounted Money which casts a long shadow of parallel economy on our real economy, effect has taken place from the expiry of the 8th November, 2016.



The banknote denominations of ₹ 100, ₹ 50, ₹ 20, ₹ 10 and ₹ 5 of the Mahatma Gandhi Series continued to remain as legal tender and were unaffected by the policy.



## History and Background

Erstwhile Government had taken similar measures in the past for demonetization of currency. In January 1946, currency notes of 1000 and 10,000 rupees were withdrawn and new notes of 1000, 5000 and 10,000 rupees were introduced in 1954. The Janata Party coalition government had again demonetised notes of 1000, 5000 and 10,000 rupees on 16 January 1978 to curb counterfeit money and black money.

On 28<sup>th</sup> October, 2016 the total currency in circulation in India was Rs. 17.77 Lakh crore (US\$ 260 billion). In terms of value, the annual report of Reserve Bank of India (RBI) of 31<sup>st</sup> March, 2016 stated that total bank notes in circulation valued to Rs. 16.42 lakh crore (US\$ 240 billion) of which nearly 86% (around ₹

14.18 lakh crore (US\$ 210 billion)) was ₹ 500 and ₹ 1000 banknotes. In terms of volume, the report stated that 24% (around 2203 crore) of the total 9026.6 crore banknotes were in circulation.

After the official announcement by Prime Minister Modi, the Governor of the Reserve Bank of India, Urjit Patel, and Economic Affairs secretary, Shaktikanta Das explained in a press conference that while the supply of notes of all denominations had increased by 40% between 2011 and 2016, the ₹500 and ₹1000 banknotes increased by 76% and 109% respectively in this period owing to forgery. This forged cash was then used to fund terrorist activities against India. As a result the decision to eliminate the notes had been taken.

## Brief Overview of the Demonetization Scheme

The Reserve Bank of India laid down a detailed procedure for the exchange of the demonetized banknotes with new ₹ 500 and ₹ 2000 banknotes of the Mahatma Gandhi New Series and ₹ 100 banknotes of the preceding Mahatma Gandhi Series. On 13<sup>th</sup> November, the Ministry of Finance reviewed the procedure, following are some of the key points-

- Citizens will have until 30 December 2016 to tender their old banknotes at any office of the RBI or any bank branch and credit the value into their respective bank accounts.
- Cash withdrawals from bank accounts were restricted to ₹10,000 per day and ₹20,000 per week per account from 10 to 13 November 2016. This limit was increased to ₹24,000 per week from 14 November.
- For immediate cash needs, the old banknotes of value up to ₹4,000 per person could be exchanged for the new ₹500 and ₹2000 banknotes as well as ₹100 banknotes over the counter of bank branches by filling up a requisition form along with a valid ID proof. This limit was increased to ₹4,500 from 14 November 2016 onwards.

- Initially, all ATMs were dispensing banknotes of only ₹50 and ₹100 denominations and cash withdrawals from ATMs were restricted to ₹2000 per day. From 14 November, onwards, ATMs recalibrated to dispense new ₹500 and ₹2000 notes will allow a maximum withdrawal of ₹2,500 per day, while other ATMs dispensing banknotes of only ₹50 and ₹100 denominations will allow a maximum withdrawal of ₹2,000 per day.

However, exceptions were given to petrol, CNG and gas stations, government hospitals, railway and airline booking counters, state-government recognised dairies and ration stores, and crematoriums to accept the old ₹500 and ₹1000 banknotes until 11 November 2016, which was later extended to 14 November 2016 and once again to 24 November 2016. International airports were also instructed to facilitate an exchange of notes amounting to a total value of ₹5000 for foreign tourists and out-bound passengers.



### Long-term benefits

Apart from disrupting daily lives of the common citizen, there are even bigger implications for the economy as a whole. India has a vibrant and thriving parallel economy that survives purely on cash. There are no reliable estimates of the size of this parallel economy, but the sheer number of ₹ 500 and ₹ 1,000 notes is indication enough of its importance.

Politics and various elections are known to run on cash. Same is the case with sectors such as real estate. The rural areas in particular which do not have formal sources of banking, also deal largely in cash. Unorganised labour, including in urban households, such as domestic workers and drivers, are paid in cash, and mostly in these denominations. Unavailability of cash for this set of people will create a sudden disruptive effect on consumption, production and economy utility will severely slow down.

It is too early to even imagine the impact on all sections of society and parts of the economy, particularly if we factor in savings by housewives, for example. It is not known how money saved out of income that has been paid tax on will be distinguished from unaccounted or "black money".

The advantages of this move, though, will be felt only in the long-term. While formal modes of payments such as debit and credit cards, net-banking and digital wallets should get a boost, this will take a long time to be felt simply because the penetration of these products is still low among the middle classes and the poor, for whom cash is still the predominant mode of transaction.

The government's move is bold in its intent and massive in its measure. While the intent is clear, the implementation and impact is yet to be seen. One thing is sure though – the Indian economy just had a massive disruption overnight.

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## An Insight – Taxation (Second Amendment) Bill, 2016

### Overview

In order to bring more clarity and to capture the possible concealing black money, the Taxation Laws (Second Amendment) Bill, 2016 (“the Bill”) was introduced in Parliament to amend the provisions of the Income Tax Act, 1961 (Act) to ensure that defaulting assesses are subjected to tax at a higher rate and with stringent penalty provision. It is observed that evasion of taxes deprives the nation of critical resources which could enable the Government to undertake anti-poverty and development programmes. It also puts a disproportionate burden on the honest taxpayers who have to bear the brunt of higher taxes to make up for the revenue leakage. As a step forward to curb black money, bank notes of existing series of denomination of the value of Rs.500 and Rs.1000 [Specified Bank Notes(SBN)] have been recently withdrawn by Reserve Bank of India.

Further, in the wake of declaring specified bank notes “as not legal tender”, there have been suggestions from experts that instead of allowing people to find illegal ways of converting their black money into black again, the Government should give them an opportunity to pay taxes with heavy penalty and allow them to come clean so that not only the Government gets additional revenue for undertaking activities for the welfare of the poor but also the remaining part of the declared income legitimately comes into the formal economy.

Thus to make this transformation government decided to amend the existing tax laws and introduced The Taxation Laws (Second Amendment) Bill, 2016 in Lok Sabha on November 28, 2016. It seeks to amend the Income Tax Act, 1961 and Finance Act, 2016.

### Post-Demonetisation Measures

#### AMENDMENTS MOVED IN IT LAW

Government has proposed amendments in the Income Tax Act to deal with the situation after demonetisation. The Bill to amend the tax laws was introduced in the Lok Sabha on Nov 28, 2016

- Some highlights:
- 30% tax on undisclosed income, plus 10% penalty and also a surcharge called ‘Pradhan Mantri Garib Kalyan Cess’ of 33% on tax payable
  - Further, 25% of undisclosed income will have to be deposited in a interest-free bond scheme with a lock-in of 4 years
  - The proceeds of the bond scheme will be used by government for welfare schemes
  - Those who do not disclose cash and are caught will have to pay a punitive tax amounting to 75%. Besides, the assessing officer can impose an additional penalty of 10%

Source- <https://www.ibtimes.co.in/demonetisation-lok-sabha-passes-income-tax-amendment-bill-706128>

## Proposed Amendments

- The Bill proposes to introduce the Pradhan Mantri Garib Kalyan Yojna, 2016. Under the scheme, taxpayers may declare undisclosed income possessed in the form of cash or deposited in banks, post offices, or Reserve Bank of India before a notified date. The declarant under this regime shall be required to pay tax @ 30% of the undisclosed income, and penalty @10% of the undisclosed income. Further, a surcharge to be called 'Pradhan Mantri Garib Kalyan Cess' @33% of tax is also proposed to be levied.
- In addition to tax, surcharge and penalty (totaling to approximately 50%), the declarant shall have to deposit 25% of undisclosed income in a Deposit Scheme to be notified by the RBI under the 'Pradhan Mantri Garib Kalyan Deposit Scheme, 2016'. This amount is proposed to be utilised for the schemes of irrigation, housing, toilets, infrastructure, primary education, primary health, livelihood, etc., so that there is justice and equality.
- The declarations of undisclosed income made under the Yojana will not be used as evidence under provisions of any other law, except certain laws including: (i) the Prohibition of Benami Property Transactions Act, 1988, (ii) the Prevention of Money Laundering Act, 2002, (iii) the Unlawful Activities (Prevention) Act, 1967, (iv) the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, (v) the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.
- **Disclosure of unexplainable income:** Currently, a tax is levied when the taxpayer is not able to explain any of his income. The Bill proposes to: (i) increase the tax rate and surcharges levied on such income, and (ii) levy of a penalty. The proposed changes are:

### *Change in taxes on unexplained income*

	Current	Proposed
<b>Tax</b>	30%	60% of unexplained income
<b>Penalty</b>	-	10% of tax if the assessing authority finds the unexplained income
<b>Surcharge</b>	2%-15% on tax payable	25% on tax payable

- **Income found during search of taxpayer's assets:** Currently, the income tax assessment authorities may initiate an investigation and search of assets of a taxpayer on the suspicion of possessing undisclosed income. In the case of such a search, in addition to the tax payable, an additional penalty will be levied. The penalty will be levied at a higher rate if the taxpayer does not admit to possession of undisclosed income found in the search. The Bill proposes to increase the penalties as prescribed:

***Penalties on undisclosed income found during a search***

	Current	Proposed
Penalty if taxpayer admits holding undisclosed income	10% of undisclosed income	30%
Penalty if taxpayer does not admit holding undisclosed income	20% of undisclosed income	60%

**Miscellaneous Provisions**

- No deduction in respect of any expenditure or allowance or set off of any loss shall be allowed against the income in respect of which a declaration is made.
- A declaration under sub-section (1) of section 199C shall be made by person competent to verify the return of income under section 140 of the Income Tax Act, to the Principal commissioner or the Commissioner notified in the official Gazette for this purpose and shall be in such form and verified in such manner, as may be prescribed.
- The tax and surcharge payable under section 199D and penalty payable under Section 199E in respect of undisclosed income, shall be paid before filing of declaration under sub-section (1) of section 199C.
- The declaration under sub-section (1) of Section 199C shall be accompanied by the proof of deposit referred to in sub-section (1) of section 199F, payment of tax, surcharge and penalty.
- The amount of undisclosed income declared in accordance with section 199C shall not be included in the total income of the declarant for any assessment year under the Income Tax Act.
- Undisclosed income declared not to affect finality of completed assessments.
- Any amount of tax and surcharge paid under section 199D or penalty paid under section 199E shall not be refundable.
- Declaration not admissible in evidence against declarant, Declaration by misrepresentation of facts to be void.

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## LEGAL UPDATES

## RBI



### 1. Issuance of Rupee denominated bonds overseas by Indian banks

Reserve Bank of India (RBI) vide Circular No. 14 dated 3<sup>rd</sup> November, 2016, has allowed banks to issue Rupee-Denominated Bonds, or Masala Bonds, in overseas market to shore up their capital base as well as for financing infrastructure and affordable housing, within the limit set for foreign investment in corporate bonds (INR 244323 crore at present), to issue-

- i. Perpetual Debt Instruments (PDI) qualifying for inclusion as Additional Tier 1 capital and debt capital instruments qualifying for inclusion as Tier 2 capital, by way of Rupee Denominated Bonds overseas; and
- ii. Long term Rupee Denominated Bonds overseas for financing infrastructure and affordable housing.

<https://www.rbi.org.in/Scripts/NotificationUse.aspx?Id=10675&Mode=0>

### 2. Issue of Rupee Denominated Bonds overseas

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/108 DBR.BP.BC.No.28/21.06.001/2016-17 dated 3<sup>rd</sup> November, 2016 in consultation with the Circular No. 14 dated 3<sup>rd</sup> November, 2016 on issue of rupee denominated bonds overseas by Indian banks, it has been advised that banks are permitted to raise funds through issuance of rupee denominated bonds overseas for the following purposes:

- i. Perpetual Debt Instruments (PDI) qualifying for inclusion as Additional Tier 1 capital under the extant Basel III Capital Regulations prescribed vide circular Ref. DBR.No.BP.BC.1/21.06.201/2015-16 dated July 1, 2015, as amended from time to time;
- ii. Debt capital instruments qualifying for inclusion as Tier 2 capital under the extant Basel III Capital Regulations prescribed vide circular Ref. DBR.No.BP.BC.1/21.06.201/2015-16 dated July 1, 2015 as amended from time to time;
- iii. Financing of infrastructure and affordable housing in terms of instructions contained in circular Ref. DBOD.BP.BC.No.25/08.12.014/2014-15 dated July 15, 2014 on Issue of Long Term Bonds by Banks - Financing of Infrastructure and Affordable Housing, as amended from time to time.

The issuances as above shall be subject to all applicable prudential norms and FEMA guidelines.



### **3. Withdrawal of Legal Tender Status for ₹ 500 and ₹ 1000 Notes**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/112 DCM (Plg) No.1226/10.27.00/2016-17 dated 8<sup>th</sup> November, 2016 and Ministry of Finance has withdrawn the legal tender character of existing of Rs. 500/- and Rs. 1000/- denominations of Bank Notes of the existing series issued by Reserve Bank of India (hereinafter referred to as Specified Bank Notes) shall cease to be legal tender with effect from 9th November, 2016, to the extent specified in the Notification.

A new series of Bank Notes called Mahatma Gandhi (New) Series having different size and design, highlighting the cultural heritage and scientific achievements of the country, will be issued. Bank branches will be the primary agencies through which the members of public and other entities will be exchanging the Specified Bank Notes for Bank Notes in other valid denominations or depositing the Specified Bank Notes for crediting to their accounts, upto and including the December 30, 2016. Therefore, banks have to accord highest priority to this work.

<http://finmin.nic.in/172521.pdf>

<http://finmin.nic.in/172522.pdf>

<http://finmin.nic.in/172523.pdf>

[http://finmin.nic.in/press\\_room/2016/press\\_cancellation\\_high\\_denomination\\_notes.pdf](http://finmin.nic.in/press_room/2016/press_cancellation_high_denomination_notes.pdf)

### **4. RBI Permits Indian Subsidiaries of MNCs to Hedge Forex Exposure**

Reserve Bank of India (RBI) has allowed Indian subsidiaries of multinational companies to hedge their foreign currency exposure through derivatives, Over The Counter (OTC) and exchange traded instruments.

[https://www.rbi.org.in/Scripts/BS\\_PressReleaseDisplay.aspx?prid=38494](https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=38494)

### **5. External Commercial Borrowings (ECB) – Clarifications on hedging**

Reserve Bank of India (RBI) vide Circular No. 15 dated 7<sup>th</sup> November, 2016 has provided clarification about hedging of External Commercial Borrowings (ECB). In order to bring uniformity in hedging practices in the market so as to effectively address currency risk at a systemic level, the following clarifications are issued:

**Coverage:** Wherever hedging has been mandated by the RBI, the ECB borrower will be required to cover principal as well as coupon through financial hedges. The financial hedge for all exposures on account of ECB should start from the time of each such exposure (i.e. the day liability is created in the books of the borrower).

**Tenor and rollover:** A minimum tenor of one year of financial hedge would be required with periodic rollover duly ensuring that the exposure on account of ECB is not unhedged at any point during the currency of ECB.

**Natural Hedge:** Natural hedge, in lieu of financial hedge, will be considered only to the extent of offsetting projected cash flows / revenues in matching currency, net of all other projected outflows. For this purpose, an ECB may be considered naturally hedged if the offsetting exposure has the maturity/cash flow within the same accounting year. Any other arrangements/ structures, where revenues are indexed to foreign currency will not be considered as natural hedge.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10682&Mode=0>



### ***6. Withdrawal of the legal tender character of the existing and any older series banknotes in the denominations of ₹ 500 and ₹ 1000***

Reserve Bank of India (RBI) vide Circular No. 16 dated 9<sup>th</sup> November, 2016 in continuation Notification published in the Gazette of India vide S.O.3408(E) dated November 08, 2016, according to which the legal tender character of the existing and any older series banknotes in the denominations of ₹ 500 and ₹ 1000 stands withdrawn with effect from the midnight of November 8, 2016 has further amended with regard to the specified bank notes shall continue to be legal tender until November 11, 2016 interalia to the extent of transactions specified below:

- (i) at international airports, for arriving and departing passengers, who possess specified bank notes, the value of which does not exceed five thousand rupees to exchange them for notes which are legal tender; and
- (ii) for foreign tourists to exchange foreign currency or specified bank notes, the value of which does not exceed five thousand rupees, to exchange them for notes which are legal tender.

<https://www.rbi.org.in/Scripts/NotificationUse.aspx?Id=10685&Mode=0>

### ***7. Banks to remain open for public on Saturday, November 12 and Sunday, November 13, 2016***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/114 DBR.No.Leg.BC.31/09.07.005/2016-17 dated 9<sup>th</sup> November, 2016 has decided that banks shall remain open for public transactions on Saturday, November 12 and Sunday, November 13, 2016. Banks are advised to keep all their

branches open on November 12 and 13, 2016 as regular working days for transacting all business. Banks may give due publicity about availability of banking services on these days.

### ***8. Withdrawal of Legal Tender Character of existing ₹ 500/- and ₹ 1000/- Bank Notes – Limit for Withdrawal of Cash***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/123 DCM (Plg) No.1251/10.27.00/2016-17 dated 10<sup>th</sup> November, 2016 in continuation to circular DCM (Plg) No.1226/10.27.00/2016-17 November 08, 2016, it has been decided that cash withdrawal from a bank account over the counter shall be restricted to ₹ 10,000/- per day subject to an overall limit of ₹ 20,000/- a week from the date of the notification until the end of business hours on 24<sup>th</sup> November, 2016, after which these limits shall be reviewed. It is clarified that the above limits are not applicable to cash withdrawal from a bank account by one bank from another bank, Post Office, Money changers operating at International airports and operators of White Label ATMs.

<https://www.rbi.org.in/Scripts/NotificationUse.aspx?Id=10696&Mode=0>

### ***9. Schemes for Stressed Assets – Revisions***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/122 DBR.No.BP.BC.34/21.04.132/2016-17 dated 10<sup>th</sup> November, 2016 has revised the Schemes for Stressed Assets.

The changes in the above guidelines have been carried out with the objectives of:

- i. harmonisation of stand-still clause as applicable in case of Strategic Debt Restructuring Scheme with other guidelines;
- ii. clarifying on the deemed date of commencement of commercial operations; and
- iii. partial modification of certain guidelines based on the experience gained in using these tools in resolving the stressed assets as well as feedback received from stakeholders, and taking into consideration the requirements of the construction sector.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10695&Mode=0>

### ***10. Scheme for Sustainable Structuring of Stressed Assets - Revisions***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/121 DBR.No.BP.BC.33/21.04.132/2016-17 dated 10<sup>th</sup> November, 2016 has modified the Scheme for sustainable structuring of stressed Assets. It was proposed therein to allow the portion of debt determined to be sustainable (under the Scheme for Sustainable Structuring of Stressed Assets) to be treated as a 'Standard' asset in all cases, subject to certain conditions. Accordingly, the Scheme for Sustainable Structuring of Stressed Assets has been partially modified.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10694&Mode=0>

### ***11. Guidelines on capital requirements for bank exposures to central counterparties***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/120 DBR.No.BP.BC.30/21.06.201/2016-17 dated 10<sup>th</sup> November, 2016 has issued guidelines on capital requirements for bank exposures to central counterparties. Accordingly, final guidelines are annexed. These guidelines will become effective from April 1, 2018.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10693&Mode=0>

### ***12. Guidelines for computing exposure for counterparty credit risk arising from derivative transactions***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/119 DBR.No.BP.BC.29/21.06.201/2016-17 dated 10<sup>th</sup> November, 2016 has issued guidelines on Standardised Approach for computing exposure for counterparty credit risk arising from derivative transactions. Accordingly, the final guidelines are annexed. These guidelines contain the revised method which will replace the Current Exposure Method (CEM), presently being used by banks, for measuring exposure for counterparty credit risk arising from derivative transactions. These guidelines will be implemented from April 1, 2018.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10692&Mode=0>

### ***13. Master Directions - Mortgage Guarantee Companies (Reserve Bank) Directions, 2016***

Reserve Bank of India (RBI) vide Notification No. RBI/DNBR/2016-17/50 Master Direction DNBR.(PD-MGC) No. 01/23.11.001/2016-17 dated 10<sup>th</sup> November, 2016, for the purpose of enabling the Bank to regulate the financial system to the advantage of the country and to prevent the affairs of any Mortgage

Guarantee Company from being conducted in a manner detrimental to the interest of investors or in any manner prejudicial to the interest of such MGCs has issued Master Direction on Mortgage Guarantee Companies (Reserve Bank) Directions, 2016.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10690&Mode=0>

***14. Payment Systems (RTGS, NEFT, Cheque Clearing, Repo, CBLO and Call markets) to remain open on Saturday, November 12 and Sunday, November 13, 2016***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/116 DPSS (CO) RTGS No.1212/04.04.002/2016-17 dated 10<sup>th</sup> November, 2016, it has been decided that Payment Systems (RTGS, NEFT, Cheque Clearing, Repo, CBLO and Call markets) shall remain open on Saturday, November 12 and Sunday, November 13, 2016.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10688&Mode=0>

***15. Withdrawal of Legal Tender Character of existing ₹ 500/- and ₹ 1000/- Bank Notes – Revision in limits***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/129 DCM (Plg) No.1272/10.27.00/2016-17 dated 13<sup>th</sup> November, 2016 in continuation to circular DCM (Plg) No.1226/10.27.00/2016-17 November 08, 2016, certain modifications have been brought in the limits –

The limit for exchange of Specified Bank Notes, over the counter has been increased from the existing ₹ 4000/- to ₹ 4500.

The daily limit on withdrawal from ATMs has been increased from the existing ₹ 2000/- to ₹

2500/- per day in the recalibrated ATMs, other ATMs will continue to dispense ₹ 50 and ₹ 100 bank notes until they are re-calibrated.

The weekly limit of ₹ 20000/- for withdrawal from bank accounts has been increased to ₹ 24000 and the daily limit of ₹ 10000/- per day stands withdrawn.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10706&Mode=0>

***16. Usage of ATMs – Waiver of customer charges***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/132 DPSS.CO.PD.No.1240/02.10.004/2016-2017 dated 14<sup>th</sup> November, 2016 it has been decided that banks shall waive levy of ATM charges for all transactions (inclusive of both financial and non-financial transactions) by savings bank customers done at their own banks' ATMs as well as at other banks' ATMs, irrespective of the number of transactions during the month. This waiver is applicable on transactions done at ATMs from November 10, 2016 till December 30, 2016, subject to review.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10709&Mode=0>

***17. DCCB Banks can pay existing customers in cash upto ₹ 24,000 a week***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/130 DCM (Plg) No.1273/10.27.00/2016-17 dated 14<sup>th</sup> November, 2016 has clarified that District Central Cooperative Banks can allow their existing customers to withdraw money from their accounts upto ₹ 24,000/- per week upto November 24, 2016. However no exchange facility against the specified bank



notes (₹ 500/- and ₹ 1000/-) or deposit of such notes should be entertained by them. The cash withdrawal limit of ₹ 24,000/- per week is not applicable to withdrawal of cash by a DCCB from its account with any other bank.

### **18. Cash withdrawal limit for Current Accounts Rs. 50000- Separate Slips- More ATMs**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/131 DCM (Plg) No. 1274/10.27.00/2016-17 dated 14<sup>th</sup> November, 2016 has provided some additional facilities with regard to withdrawal of legal tender Character of Specified Bank Notes and also expanding the distribution locations for deposit and withdrawal of cash.

#### **Additional Facilities.**

- i. The current account holders (applicable to Current Accounts which are operational for last three months or more) are allowed to withdraw up to ₹ 50000 in a week. Such tenders will be disbursed predominantly in ₹ 2000 denomination only.
- ii. Banks may deploy their Micro ATMs (Bala Mitras, etc) near village Panchayat Offices, Police Stations/ Police and military Outposts, Government Departments, offices of Public Sector Units, Petrol Pumps and other similar secure locations. As it may entail larger volume of cash requirements, Banks may enhance the limits of the micro ATMs to at least ₹ 50,000 and allow frequent replenishment of cash to them.
- iii. For providing exchange / deposit/ withdrawal facility to people residing in remote/ unbanked areas, banks may consider using mobile vans.
- iv. Banks should, in a camp mode, open accounts for Tea/coffee and other

plantation workers, employees of Sugar cooperatives, dairy farms and such other worker groups with concentrated payment locations so that they may be better served in terms of deposit into accounts and withdrawal therefrom.

- v. We reiterate that in order to cope with the increased work load banks may consider hiring retired employees for a short period.

#### **Monitoring**

- i. Banks have to ensure that the customers use separate pay-in-slips for depositing specified bank notes and other legal tender bank notes.(If a depositor has a mixed bunch of SBN and legal tender notes, he has to segregate them and submit two separate Pay-in slips). Banks have to put in place, within CBS, a mechanism to maintain a record of receipts of SBNs customer-wise and denomination wise whether for exchange or for deposit by way of a flag to facilitate subsequent verification.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10708&Mode=0>

### **19. Standard Operating Procedure (SOP) for putting indelible ink on the finger of the customers coming to a bank branch for SBNs**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/133 DCM (Plg) No.1280/10.27.00/2016-17 dated 15<sup>th</sup> November, 2016 in continuation to circular DCM (Plg) No.1226/10.27.00/2016-17 November 08, 2016, a standard operating procedure (SOP) for exchange of Specified Bank Notes (SBNs) have been placed. The following measures have been taken:

While exchanging the SBNs, the concerned bank branch and post offices would put indelible ink mark on the right index finger of the customer so as to identify that he/she has exchanged the old currency notes only once.

The indelible ink would be supplied to the bank/post offices by IBA in coordination with the banks and consultation with RBI.

This procedure would be introduced to begin with in the metro cities and expanded to other areas later.

Each bank branch will be provided with black indelible ink bottles of 5 ml each. The cap of the bottle includes a small brush for applying the ink.

The indelible ink can be applied by the cashier or any other official designated by the bank before the notes are given to the customer so that while the exchange of notes is taking place, a few seconds elapse which will allow the ink to dry up and prevent removal of ink.

Indelible ink on the index finger of the left hand or any other finger of the left hand may not be used as a pretext to deny exchange of old notes.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10713&Mode=0>

## ***20. Withdrawal of Legal Tender Character of Specified Bank Notes – Compliance with provisions of 114B of the Income Tax Rules, 1962***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/135 DCM (Plg) No.1287/10.27.00/2016-17 dated 16<sup>th</sup> November, 2016 in continuation to circular DCM (Plg) No.1226/10.27.00/2016-17 November 08, 2016, in order to ensure compliance with the provisions of 114B of the Income Tax Rules, 1962, the banks are advised as under:

Anybody depositing more than ₹ 50,000/- in cash in their bank account has to submit a copy of the PAN card in case the bank account is not

seeded with PAN.

In addition to the above provision, in the same IT Rules, PAN reporting requirements are there for other transactions, which banks need to insist upon.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10715&Mode=0>

## ***21. Foreign Exchange Management (Insurance) Regulations, 2015***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/137 A.P. (DIR New Series) Circular No.18 [(1)/12 (R)] dated 17<sup>th</sup> November, 2016 have issued the Foreign Exchange Management (Insurance) Regulations, 2015. The Memorandum of Foreign Exchange Management Regulations relating to General / Health Insurance (GIM) and Life Insurance (LIM) in India have been modified.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10717&Mode=0>

## ***22. Investment by Foreign Portfolio Investors (FPI) in corporate debt securities***

Reserve Bank of India (RBI) vide Circular No.19 dated 17<sup>th</sup> November, 2016 it has been decided to expand the investment basket of eligible instruments for investment by FPIs under the corporate bond route. Investment by FPIs in the unlisted corporate debt securities and securitised debt instruments shall not exceed ₹ 35,000 crore within the extant investment limits prescribed for corporate bond from time which currently is ₹ 2,44,323 crore. Further, investment by FPIs in securitised debt instruments shall not be subject to the minimum 3-year residual maturity requirement.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10718&Mode=0>



## **22. Withdrawal of Legal Tender Character of Specified Bank Notes – Cash Withdrawal Limit**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/142 DCM (Plg) No.1317/10.27.00/2016-17 dated 21<sup>st</sup> November, 2016 has reviewed the cash withdrawal limits. Current account holders (applicable to Current Accounts which are operational for last three months or more) were allowed to withdraw up to ₹ 50000 in cash, in a week. On a review, it has been decided to extend this facility to Overdraft and Cash Credit accounts also. Accordingly, holders of current / overdraft / cash credit accounts, which are operational for the last three months or more, may now withdraw upto ₹ 50000 in cash, in a week. This enhanced limit for weekly withdrawal is not applicable for personal overdraft accounts. Such withdrawals may be disbursed predominantly in ₹ 2000 denomination bank notes.

<https://www.rbi.org.in/Scripts/NotificationUse.r.aspx?Id=10722&Mode=0>

## **23. Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/143 DBR.No.BP.BC.37/21.04.048/2016-17 dated 21<sup>st</sup> November, 2016 it has been observed that due to withdrawal of the legal tender status of the existing ₹ 500 and ₹ 1,000 notes (SBN) small borrowers may need some more time to repay their loan dues. Taking these representations into consideration, it has been decided to provide an additional 60 days beyond what is applicable for the concerned regulated entity(RE) for recognition of a loan

account as substandard in the following cases:

Running working capital accounts (OD/CC)/crop loans, with any bank, the sanctioned limit whereof is ₹ 1 crore or less;

Term loans, whether business or personal, secured or otherwise, the original sanctioned amount whereof is ₹ 1 crore or less, on the books of any bank or any NBFC, including NBFC (MFI). This shall include housing loans and agriculture loans.

Note: The limits at (i) and (ii) above are mutually exclusive limits applicable to respective category of loans.

Loans sanctioned by banks to NBFC (MFI), NBFCs, Housing Finance Companies, and PACs and by State Cooperative Banks to DCCBs.

The above guidelines will also be applicable to loans extended by DCCBs.

<https://www.rbi.org.in/Scripts/NotificationUse.r.aspx?Id=10723&Mode=0>

## **24. Withdrawal of Legal Tender Character of existing ₹ 500/- and ₹ 1000/- Specified Bank Notes (SBNs) – Cash withdrawal for purpose of celebration of wedding**

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/145 DCM (Plg) No.1320/10.27.00/2016-17 dated 21<sup>st</sup> November, 2016 has provided certain norms to enable members of the public to perform and celebrate weddings of their wards it has been decided to allow higher limits of cash withdrawals from their bank deposit accounts to meet wedding related expenses.

Therefore, members of the public should be advised, while granting cash withdrawals, to use cash to meet expenses which have to be met only through cash mode. Cash withdrawals shall be subject to the following conditions:

i. A maximum of ₹ 250000/- is allowed to be withdrawn from the bank deposit accounts till December 30, 2016 out of the balances at credit in the account as at close of business on November 08, 2016.

ii. Withdrawals are permitted only from accounts which are fully KYC compliant.

iii. The amounts can be withdrawn only if the date of marriage is on or before December 30, 2016.

iv. Withdrawals can be made by either of the parents or the person getting married. (Only one of them will be permitted to withdraw).

v. Since the amount proposed to be withdrawn is meant to be used for cash disbursements, it has to be established that the persons for whom the payment is proposed to be made do not have a bank account.

vi. The application for withdrawal shall be accompanied by following documents:

An application as per Annex

Evidence of the wedding, including the invitation card, copies of receipts for advance payments already made, such as Marriage hall booking, advance payments to caterers, etc.

A detailed list of persons to whom the cash withdrawn is proposed to be paid, together with a declaration from such persons that they do not have a bank account. The list should indicate the purpose for which the proposed payments are being made.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10729&Mode=0>

#### ***24. Cash withdrawal by Farmers & traders of APMC markets / mandis***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/146 DCM (Plg) No.1323/10.27.00/2016-17 dated 21<sup>st</sup> November, 2016 has made certain modifications in the limits for withdrawal from bank accounts which are as under:

i. For farmers

Farmers may be allowed to draw upto ₹ 25000/- per week in cash from their loan (including Kisan Credit Card limit) or deposit accounts subject to their accounts being compliant with the extant KYC norms.

ii. For traders registered with APMC markets / mandis

At present all current account holders are allowed to withdraw, in cash, ₹ 50,000/- in a week from their current account subject to certain terms and conditions and the same is being now extended to the traders registered with APMC markets/mandis. Such traders will be permitted to draw up to ₹ 50,000/- from their current accounts provided that such accounts are compliant with the extant KYC norms and are operational for the last three months or more.

#### ***25. Deposit of specified banknotes (SBN) in Small Savings Schemes***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/151 DCM (Plg) No.1351/10.27.00/2016-17 dated 23<sup>rd</sup> November, 2016, it has been decided that subscribers of Small Savings Schemes may not be allowed to deposit SBNs in Small Savings Schemes. Banks are, therefore, advised not to accept SBNs for deposits in Small Saving Schemes with immediate effect.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10735&Mode=0>

#### ***26. Liquidity Adjustment Facility – Oil Marketing Companies' Government of India Special Bonds (Oil Bonds) as eligible collateral under LAF/MSF and Removal of Margin Requirement for Reverse Repos***

Reserve Bank of India (RBI) vide Notification No. RBI/2016-2017/156 FMOD.MAOG No. 117/01.01.001/2016-17 dated 25<sup>th</sup> November, 2016, it has been decided that the Oil Bonds issued by Government of India will qualify as eligible securities for Repos, Reverse Repos and Marginal Standing Facility (MSF). The E-Kuber system will now accept Oil Bonds as eligible collateral for the above transactions.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10741&Mode=0>

### ***27. Exchange facility to foreign citizens***

Reserve Bank of India (RBI) vide Circular No. 20 dated 25<sup>th</sup> November, 2016, it has been decided that foreign citizens (i.e. foreign passport holders) can exchange foreign exchange for Indian currency notes up to a limit of ₹ 5000/- per week till December 15, 2016 subject to the tenderer submitting a self-declaration that this facility has not been availed of during the week. The authorized Person shall keep the passport details and the above declaration on record. Authorized Person may also ensure that the total value of such exchange to Indian currency notes does not exceed ₹ 5000/- during the week.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10742&Mode=0>

### ***28. Withdrawal of cash from bank deposit accounts – Relaxation***

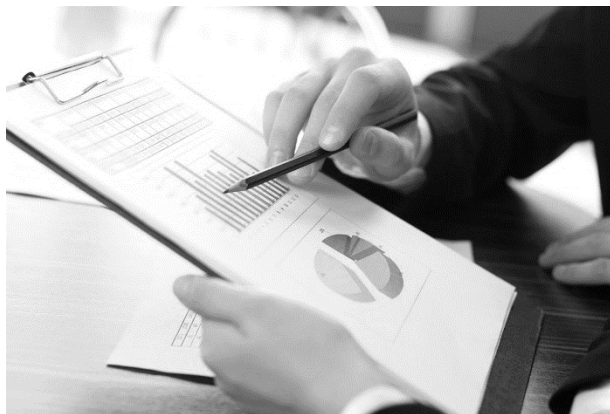
Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/163 DCM.No.1437/10.27.00/2016-17 dated 28<sup>th</sup> November, 2016, it has been decided to allow withdrawals of deposits made in current legal tender notes on or after November 29, 2016 beyond the current limits; preferably, available higher denominations bank notes of ₹ 2000 and

₹ 500 are to be issued for such withdrawals.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10752&Mode=0>

## LEGAL UPDATES

## MCA



### 1. MCA revises e-forms

MCA has notified that revised Form MGT - 7 (Annual Return) and Form GNL-4 (Form for filing addendum for rectification of defects or incompleteness) are likely to be revised on MCA21 Company Forms Download page w.e.f. 3rd November, 2016. Stakeholders are advised to check the latest version before filing. Further, Stakeholders may kindly note that e-Form INC-29 (Integrated Incorporation Form) has been withdrawn. Accordingly, INC-29 e-Form will no longer be available on the MCA21 portal and stakeholders will not be able to file any previously downloaded versions from this date. Stakeholders are requested to plan accordingly and use SPICe (Simplified Proforma for Incorporating Company electronically), INC-2 (One Person Company), or INC-7 (Incorporation of Company) e-Forms, as applicable.

### 2. Companies (Registration Offices and Fees) Second Amendment Rules, 2016

Ministry of Corporate Affairs (MCA) vide

Notification dated 7<sup>th</sup> November, 2016 has made Amendment to Companies (Registration Offices and Fees) Rules, 2014. These rules may be called Companies (Registration Offices and Fees) Second Amendment Rules, 2016. The amendment has been made about charging of Fees for allotment of DIN to OPC and small companies.

Earlier, in Rule 8(12)(a)(iv) of the Companies (Registration Offices and Fees) Rules, 2014, it was stated that AOC-4 shall be certified by Chartered Accountant in whole-time practice. But, with aforesaid notification, the Rules have included the Company Secretary in whole time practice or the Cost Accountant in whole time practice to certify the Form AOC-4. The Rules have been further modified to include the fees applicable for Surrender of DIN under Rule 11(f) of the Companies (Appointment and Qualification of Directors) Rules, 2014.

[http://www.mca.gov.in/Ministry/pdf/CompaniesRegistrationOffices2ndamndRules\\_08112016.pdf](http://www.mca.gov.in/Ministry/pdf/CompaniesRegistrationOffices2ndamndRules_08112016.pdf)

### 3. Revision of E-Form

Forms AOC-4, AOC-4 Addendum and AOC-4 CFS (Annual Filing) are likely to be revised on MCA21 Company Forms Download page w.e.f. 16th NOV 2016. Stakeholders are advised to check the latest version before filing.



#### **4. Amendment in Schedule II of The Companies Act, 2013**

MCA vide Notification dated 17.11.2016 made an amendment in the Schedule II of the Companies Act, 2013. The amendment is as follows:

1. In the Companies Act, 2013, in Schedule II, under Part 'A', in para 3, in sub paragraph (ii), for the brackets, letters and words starting with "(ii) For intangible" and ending with the words "force shall apply", the following brackets, letters and words shall be substituted, namely:-  
"(ii) For intangible assets, the relevant Indian Accounting Standards (Ind AS) shall apply. Where a company is not required to comply with the Indian Accounting Standards (Ind AS), it shall comply with relevant Accounting Standards under Companies (Accounting Standards) Rules, 2006."
2. This notification shall be applicable for accounting period commencing on or after 01st April, 2016.

[http://www.mca.gov.in/Ministry/pdf/Noti\\_18112016.pdf](http://www.mca.gov.in/Ministry/pdf/Noti_18112016.pdf)

#### **5. Designation of Special Court**

MCA vide Notification dated 17.11.2016 has designated the Court of District and Sessions Judge, Shillong as special court. The Notification read as under:

In exercise of the powers conferred by sub-section (1) of section 435 of the Companies Act, 2013 (18 of 2013), the Central Government, with the concurrence of the Chief Justice of the High Court of Meghalaya, hereby designates the following Court as Special Court for the purposes of providing speedy trial of offences punishable with imprisonment of two years or more under the Companies Act, 2013, namely:-  
The Court of District and Sessions Judge, Shillong shall exercise the jurisdiction as

Special Court in State of Meghalaya.

[http://www.mca.gov.in/Ministry/pdf/Noti\\_SplCourt\\_18112016.pdf](http://www.mca.gov.in/Ministry/pdf/Noti_SplCourt_18112016.pdf)

#### **6. Insolvency and Bankruptcy Board (IBBI) of India notifies (Insolvency Professional) Regulations, 2016;**

Ministry of Corporate Affairs (MCA) vide Press Release dated 23<sup>rd</sup> November, 2016 in consultation with The Insolvency and Bankruptcy Board of India (IBBI), in exercise of its powers conferred under Section 240 of the Insolvency and Bankruptcy Code, 2016 (Code), has notified the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016. These regulations inter alia provide for registration, regulation and oversight of insolvency professionals under the Code. These Regulations shall come into effect from 29th November, 2016.

The following categories of individuals are eligible for registration as an insolvency professional:

- Advocates, Chartered Accountants, Company Secretaries and Cost Accountants with 10 years' of post-membership experience (practice or employment) or a Graduate with 15 years' of post-qualification managerial experience, on passing the Limited Insolvency Examination, or
- Any other individual on passing the National Insolvency Examination.

These regulations are available at [www.mca.gov.in](http://www.mca.gov.in) and [www.ibbi.gov.in](http://www.ibbi.gov.in)



***7. Insolvency and Bankruptcy Board (IBBI) of India notifies two Regulations; The IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 and IBBI (Insolvency Professional Agencies) Regulations, 2016.***

The Insolvency and Bankruptcy Board of India (IBBI) vide Press Release dated 23<sup>rd</sup> November, 2016, in exercise of its powers conferred under section 240 of the Insolvency and Bankruptcy Code, 2016, has notified the following two regulations:

- The Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016, and
- The Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016.

These two regulations inter alia provide for the eligibility norms to be a Professional Member of an Insolvency Professional Agency and also for eligibility norms to be registered with the IBBI as an Insolvency Professional Agency.

***8. MCA notifies Fifth Tranche of Sections under Bankruptcy Code***

Substantial Provisions, as mentioned below, of the Insolvency & Bankruptcy Code, 2016 have been notified on 30<sup>th</sup> November, 2016 to come into force w.e.f. 1<sup>st</sup> December, 2016:

1. clause (a) to clause (d) of section 2 (except with regard to voluntary liquidation or

Bankruptcy);

2. section 4 to section 32 [both inclusive];
3. section 60 to section 77 [both inclusive];
4. section 198;
5. section 231;
6. section 236 to section 238 [both inclusive]; and
7. clause (a) to clause (f) of sub-section (2) of section 239.

From today BIFR and AAIFR are dissolved and all the pending matters there have been abated.

## LEGAL UPDATES

## SEBI



### 1. Enhanced Standards for Credit Rating Agencies (CRAs)

Securities Exchange Board of India (SEBI) vide Circular No. SEBI/HO/MIRSD/MIRSD4/CIR/P/2016/119 dated 1<sup>st</sup> November, 2016 has tightened rules for credit rating agencies (CRAs). The new guidelines standardises the rating criteria, method of public disclosures, the internal functioning of rating committees and disallows the suspension of ratings. The Guidelines provides that each CRA shall disclose on its website details of all the ratings it has assigned, irrespective of whether the rating was accepted by the issuer or not, even in case of non-public issues. If the company stops co-operating with the CRA and does not provide information, the CRA must continue to publish a rating accompanied with the statement, “Issuer did not co-operate; Based on best available information” in the same font size. This means a CRA cannot suspend a rating based on a lack of information provided by the issuer.

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1477999985100.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1477999985100.pdf)

### 2. Clarification on aspects related to day count convention for debt securities issued under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008

Securities Exchange Board of India (SEBI) vide Circular No. CIR/IMD/DF-1/122/201 dated 11<sup>th</sup> November, 2016 has issued clarification on aspects related to day count convention for debt securities issued under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008. Following clarifications are made:

- If the interest payment date falls on a holiday, the payment may be made on the following working day however the dates of the future coupon payments would be as per the schedule originally stipulated at the time of issuing the security. In other words, the subsequent coupon schedule would not be disturbed merely because the payment date in respect of one particular coupon payment has been postponed earlier because of it having fallen on a holiday.
- In order to ensure consistency for interest calculation, a uniform methodology shall be followed for calculation of interest payments in the case of leap year, which shall be as follows:

In case of a leap year, if February 29 falls during the tenor of a security, then the number of days shall be reckoned as 366 days

(Actual/Actual day count convention) for a whole one year period, irrespective of whether the interest is payable annually, half yearly, quarterly or monthly etc. It is thus emphasized that for a half yearly interest payment, 366 days would be reckoned twice as the denominator; for quarterly interest, four times and for monthly interest payment, twelve times

c) In order to ensure uniformity for payment of interest/redemption with respect to debt securities, it has been decided that interest/redemption payments shall be made only on the days when the money market is functioning in Mumbai.

The provisions of this circular shall be applicable for the debt securities issued, in accordance with SEBI (Issue and Listing of Debt Securities) Regulations, 2008, on or after January 01, 2017.

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1478854734473.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1478854734473.pdf)

### ***3. Review of requirement for copy of PAN Card to open accounts of FPIs***

Securities Exchange Board of India (SEBI) in its Circular No. CIR/IMD/FPIC/123/2016 dated 17<sup>th</sup> November, 2016 has notified that intermediaries can verify the PAN of Foreign Portfolio Investors (FPIs) online through a website authorised by the Income Tax department. Further, FPIs would have to provide the copy of the PAN card to their intermediaries within 60 days of account-opening or before remitting funds out of India, whichever is earlier. The move is based on representations received from stakeholders and is aimed at easing the process of PAN verification for FPIs at the time of account-opening.

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1479379448955.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1479379448955.pdf)

### ***4. Press Release dated 23<sup>rd</sup> November, 2016***

Securities Exchange Board of India (SEBI) vide Press Release dated 23<sup>rd</sup> November, 2016 announced the important decisions taken in its Board Meeting held on 23<sup>rd</sup> November, 2016. The following decisions were taken-

Amendment to SEBI (Alternative Investment Funds) Regulations, 2012 regarding Angel Funds Amendment to SEBI (Foreign Portfolio Investors) Regulations, 2014 to permit FPIs to invest in unlisted Non-Convertible debentures and securitised debt instruments.

Corporate Governance Issues in Compensation Agreements

<http://www.sebi.gov.in/sebiweb/home/detail/35234/yes/PR-SEBI-Board-Meeting>

### ***5. Continuous disclosures and compliances by Infrastructure Investment Trusts (InvITs)***

Securities Exchange Board of India (SEBI) vide Circular no. CIR/IMD/DF/127/2016 dated 29<sup>th</sup> November, 2016 has prescribed the norms for continuous disclosures and compliances by InvITs. As per Regulation 23 of the SEBI (Infrastructure Investment Trusts) Regulations, 2014 which prescribes for disclosures to be made by an InvIT to the Stock Exchange(s) where its units are listed. The said disclosures, inter-alia, include disclosures for financial as well as non-financial information. With reference to the aforesaid Regulations, the requirements for disclosure of financial information and pertinent compliances on continuous basis and the requirements for disclosure of non-financial information and pertinent compliances on continuous basis. Further, the financial information shall be disclosed on both standalone as well as consolidated basis.

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1480419642127.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1480419642127.pdf)

## ***6. Securities Exchange Board of India (Real Estate Investment Trusts) Amendment Regulations, 2016***

Securities Exchange Board of India (SEBI) vide Notification dated 30<sup>th</sup> November, 2016 has issued the Securities and Exchange Board of India (Real Estate Investment Trusts) (Amendment) Regulations, 2016.

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1480513080291.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1480513080291.pdf)

## ***7. Securities and Exchange Board of India (Infrastructure Investment Trusts) (Amendment) Regulations, 2016***

Securities Exchange Board of India (SEBI) vide Notification dated 30<sup>th</sup> November, 2016 has issued the Securities and Exchange Board of India (Infrastructure Investment Trusts) (Amendment) Regulations, 2016.

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1480513049714.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1480513049714.pdf)



## LEGAL UPDATES

## Taxation

***1. Chapter VI A deduction on enhanced profits***

Central Board of Direct Taxes (CBDT) vide Circular No. 37/2016 dated 2<sup>nd</sup> November, 2016 has allowed to claim higher deduction on enhanced profits. It has been decided by the Courts that if the expenditure disallowed is related to the business activity against which the Chapter VI A deduction has been claimed, the deduction needs to be allowed on the enhanced profits.

<http://incometaxindia.gov.in/communications/circular/circular372016.pdf>

***2. Section 115BA-Depreciation restricted to forty per cent***

Central Board of Direct Taxes (CBDT) vide Notification No. 103/2016 dated 7<sup>th</sup> November, 2016 has made restriction about Depreciation upto 40% under Section 115BA of the Income Tax Act, 1961.

[http://incometaxindia.gov.in/communications/notification/notification103\\_2016.pdf](http://incometaxindia.gov.in/communications/notification/notification103_2016.pdf)

***3. Protocol amending the Double Taxation Amending Convention (DTAC) between India and Japan comes into force; Protocol amending the DTAC aims to promote transparency and cooperation between the two countries.***

Ministry of Finance vide Press Release dated 9<sup>th</sup> November, 2016 has announced the Protocol amending the Double Taxation Amending Convention (DTAC) between India and Japan coming into force.

A Protocol amending the Double Taxation Avoidance Convention (DTAC) between India and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal evasion with respect to taxes on income which was signed on 11th December, 2015 has entered into force on 29th October, 2016 on completion of procedural requirements by both countries. The Protocol amending the DTAC aims to promote transparency and cooperation between the two countries.

The Protocol provides for internationally accepted standards for effective exchange of information on tax matters including bank information and information without domestic tax interest. It is further provided that the information received from Japan in respect of a resident of India can be shared with other law enforcement agencies with authorization of the Competent Authority of Japan and vice versa.



The Protocol provides for exemption of interest income from taxation in the source country with respect to debt-claims insured by the Government/Government owned financial institutions.

The Protocol inserts a new article on assistance in collection of taxes. India and Japan shall now lend assistance to each other in the collection of revenue claims.

The existing Double Taxation Avoidance Convention (DTAC) between India and Japan was earlier signed on 7th March, 1989 and was notified on 1st March 1990. The DTAC was subsequently amended on 24th February, 2006.

#### ***4. CBDT notifies reporting of cash deposit between 09.11.2016 to 30.12.2016***

Central Board of Direct Taxes (CBDT) vide Notification No. 104/2016 dated 15<sup>th</sup> November, 2016 has issued notification about reporting of cash deposit. Cash deposits,- (i) exceeding fifty thousand rupees during any one day; or (ii) aggregating to more than two lakh fifty thousand rupees during the period 09<sup>th</sup> November, 2016 to 30<sup>th</sup> December, 2016 the same needs to be deposited with (i) a banking company or a cooperative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Office.

[http://incometaxindia.gov.in/communications/notification/notification104\\_2016.pdf](http://incometaxindia.gov.in/communications/notification/notification104_2016.pdf)

#### ***5. Revised Double Taxation Avoidance and the Prevention of Fiscal Evasion (DTAA) Agreement signed between India and Cyprus***

Ministry of Finance vide Press Release dated 18<sup>th</sup> November, 2016 announced that the revised Agreement between India and Cyprus

for the Avoidance of Double Taxation and the Prevention of Fiscal evasion (DTAA) with respect to taxes on income, along with its Protocol, has been signed, which will replace the existing DTAA that was signed by two countries on 13<sup>th</sup> June 1994.

New DTAA provides for source based taxation of capital gains arising from alienation of shares, instead of residence based taxation provided under the existing DTAA. However, a grandfathering clause has been provided for investments made prior to 1<sup>st</sup> April, 2017, in respect of which capital gains would continue to be taxed in the country of which taxpayer is a resident.

#### ***6. Admissibility of expenditure incurred by a firm on Keyman Insurance Policy in the case of a Partner***

Central Board of Direct Taxes (CBDT) vide Circular No. 38/2016 dated 22<sup>nd</sup> November, 2016, it has now been decided that in case of a firm, premium paid by the firm on the Keyman Insurance Policy of a Partner, to safeguard the firm against a disruption of business, is an admissible expenditure under Section 37 of the Income Tax Act, 1961.

[http://incometaxindia.gov.in/communications/circular/circular38\\_2016.pdf](http://incometaxindia.gov.in/communications/circular/circular38_2016.pdf)

#### ***7. Revised Guidelines for application of section 9A of the Income Tax Act, 1961 -Fund manager***

Central Board of Direct Taxes (CBDT) vide Notification No. 106/2016 dated 21<sup>st</sup> November, 2016 has revised the guidelines for application of Section 9A of the Income Tax Act, 1961 related to fund manager and has accordingly amended the Income Tax Rules,

1962. New rules have been inserted, a fund manager shall not be considered to be a connected person of the fund merely for the reason that the fund manager is undertaking fund management activity of the said fund.

<http://incometaxindia.gov.in/communications/notification/notification1062016.pdf>

### ***7. CBDT notifies Authority for Section 143(2) of the Income Tax Act, 1961 – Assessment***

Central Board of Direct Taxes (CBDT) vide Notification No. 105/2016 dated 16<sup>th</sup> November, 2016 has notified the Authority for Section 143 (2) of the Income Tax Act, 1961 related to Assessment, accordingly the Income Tax Rules, 1962 has been amended. A new Rule 12E have been inserted which prescribes the authority under Section 143(2) of the Income Tax Act, 1961.

The prescribed authority under sub-section (2) of section 143 shall be an income-tax authority not below the rank of an Income-tax Officer who has been authorised by the Central Board of Direct Taxes to act as income-tax authority for the purposes of sub-section (2) of section 143.

[http://incometaxindia.gov.in/communications/notification/notification105\\_2016.pdf](http://incometaxindia.gov.in/communications/notification/notification105_2016.pdf)

### ***8. Taxation Laws (Second Amendment) Bill, 2016 introduced in Lok Sabha;***

Ministry of Finance vide Press Release dated 28<sup>th</sup> November, 2016, announced that the Taxation Laws (Second Amendment) Bill, 2016 has been introduced in Lok Sabha. The Taxation Laws (Second Amendment) Bill, 2016 ('the Bill') has been introduced in the Parliament to amend the provisions of the Act to ensure that defaulting assesseees are subjected to tax at a higher rate and stringent penalty provision.

An alternative Scheme namely, 'Taxation and

Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016' (PMGKY) has been proposed in the Bill. The declarant under this regime shall be required to pay tax @ 30% of the undisclosed income, and penalty @10% of the undisclosed income. Further, a surcharge to be called 'Pradhan Mantri Garib Kalyan Cess' @33% of tax is also proposed to be levied. In addition to tax, surcharge and penalty (totaling to approximately 50%), the declarant shall have to deposit 25% of undisclosed income in a Deposit Scheme to be notified by the RBI under the 'Pradhan Mantri Garib Kalyan Deposit Scheme, 2016'. This amount is proposed to be utilised for the schemes of irrigation, housing, toilets, infrastructure, primary education, primary health, livelihood, etc., so that there is justice and equality.

### ***9. Ease of Doing Business further enhanced for the Importers and Exporters by reducing/eliminating physical print-outs/paper documents for customs clearance;***

Ministry of Finance vide Press Release dated 28<sup>th</sup> November, 2016 has announced the Ease of Doing Business for the Importers and Exporters. The "Ease of Doing Business" will be further enhanced for the Importers and Exporters by reducing/eliminating physical printouts for customs clearance. The Central Board of Excise and Customs (CBEC) issued a Circular No. 55/2016- Customs dated 23rd November, 2016, wherein Importers and Exporters will henceforth not be required to submit paper documents such as GAR 7 forms / TR 6 Challans, Trans-shipment Permit (TP), Shipping Bill (Exchange Control copy and Export Promotion copy) & Bill of Entry (Exchange Control Copy) to Banks/ DGFT / Customs Ports etc.

These instructions will become operational from 1st December, 2016; Will help the Importers and Exporters to move towards electronic messaging and paper-free environment.

of June, 2016.

***10. CBDT Notifies rules for calculation of time period for Property declared under Income Declaration Scheme, 2016***

Central Board of Direct Taxes (CBDT) vide Notification no. 108/2016 dated 29<sup>th</sup> November, 2016 has issued Income tax (34<sup>th</sup> Amendment) Rules, 2016. In the Income Tax Rules, 1962 Rule 8AA after sub-rule (2) shall be inserted:

“In the case of capital asset, declared under the Income Declaration Scheme, 2016-

Being an immovable property, the period for which such property is held shall be reckoned from date on which such property is acquired if the date of acquisition is evidenced by a deed registered with any authority of a State Government;

In any other case, the period for which such asset is held shall be reckoned from the 1<sup>st</sup> day

## Service Tax

### ***1. Amendment in place of provision of 'online information & database access or retrieval services'***

Ministry of Finance, Department of Revenue vide Notification No. 46/2016 dated 9<sup>th</sup> November, 2016, seeks to amend Place of Provision of Service Rules, 2012 to amend the place of provision of online information and database access or retrieval services with effect from 1<sup>st</sup> December, 2016. These rules may be called Place of Provision of Services (Amendment) Rules, 2016.

<http://www.cbec.gov.in/resources/htdocs-servicetax/st-notifications/st-notifications-2016/st46-2016.pdf>

### ***2. Withdrawal of Service Tax Exemption on online information & database access or retrieval services***

Ministry of Finance, Department of Revenue vide Notification No. 47/2016 dated 9<sup>th</sup> November, 2016, it has been specified that there shall be No Service Tax exemption on Services received from a provider of service located in a non-taxable territory on online information and database access or retrieval services received by Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession.

<http://www.cbec.gov.in/resources/htdocs-servicetax/st-notifications/st-notifications-2016/st47-2016.pdf>

### ***3. Service Tax on Online Services provided by person located in non-taxable territory***

Ministry of Finance, Department of Revenue vide Notification No. 48/2016 dated 9<sup>th</sup>

November, 2016, Seeks to amend Service Tax Rules, 1994 to prescribe that the person located in non-taxable territory providing online information and database access or retrieval services to 'non-assesse online recipient', as defined therein, is liable to pay service tax and the procedure for payment of service tax.

<http://www.cbec.gov.in/resources/htdocs-servicetax/st-notifications/st-notifications-2016/st48-2016.pdf>

### ***4. Service Tax Payment & Compliance Liability for online service provided from non-taxable territory***

Ministry of Finance, Department of Revenue vide Notification No. 49/2016 dated 9<sup>th</sup> November, 2016, Seeks to amend notification No. 30/2012- ST, dated the 20th June, 2016 so as to put compliance liability of service tax payment and procedure on to the service provider located in the non-taxable territory with respect to online information and database access or retrieval services provided in the taxable territory to 'non-assesse online recipient'.

<http://www.cbec.gov.in/resources/htdocs-servicetax/st-notifications/st-notifications-2016/st49-2016.pdf>

### ***5. Withdrawal of exemption from service tax on cross border B2C OIDAR services provided online/electronically from a non-taxable territory to consumers in taxable territory in India – FAQs***

Ministry of Finance, Department of Revenue vide Circular No. 202/12/206 dated 9<sup>th</sup> November, 2016, From 1st December 2016



service tax would be chargeable on online information and database access or retrieval [OIDAR] services provided by any person located in non-taxable territory and received by Government, local authority, governmental authority, or an individual in relation to any purpose other than commerce, industry or any other business or profession [cross border B2C (business to consumer) OIDAR services provided in taxable territory]. In this regard Department, has issued FAQs related to various aspects pertaining to the taxation of such services.

<http://www.cbec.gov.in/htdocs-servicetax/st-circulars/st-circulars-2016/st-circ-202-2016>

#### ***6. Jurisdiction for online services from non-taxable territory***

Ministry of Finance, Department of Revenue vide Notification No. 50/2016 dated 22<sup>nd</sup> November, 2016, Seeks to amend notification No. 20/2014-ST dated 16th September, 2014 to provide exclusive jurisdiction to LTU-Bangalore with respect to online information

and database access or retrieval services provided or agreed to be provided by a person located in non-taxable territory and received by a 'non-assesse online recipient'.

<http://www.cbec.gov.in/resources/htdocs-servicetax/st-notifications/st-notifications-2016/st50-2016.pdf>

## LEGAL UPDATES

## Other

***1. Payment of PF and Pension on the Date of Retirement to EPF and EPS Members***

Employees' Provident Fund Organisation vide Notification No. No. CSD-I/CPGRAMS/Pragat/E-Samlksha/2016/1289

Dated 1<sup>st</sup> November, 2016 it has been decided that PF and pension payments to members or EPF Scheme 1952 and EPS 1995 shall be made on the date of retirement itself.

***2. ESIC Approves the Enhancement of Wage Ceiling from Present Rs. 15,000 per Month to Rs. 21,000***

Ministry of Labour & Employment, The Employees State Insurance Corporation (ESIC) has approved the enhancement of wage ceiling from present Rs. 15,000 per month to Rs. 21,000/-.

Further, ESIC has revised eligibility for Super Specialty including the children of Insured Persons with congenital diseases & genetic disorders.

***3. Ministry of Urban Development finalizes Real Estate Rules for Delhi***

Ministry of Urban Development vide Press Release dated 23<sup>rd</sup> November, 2016 has announced the finalization of Real Estate General Rules and Rules for Agreement for Sale for the National Capital Territory of Delhi as required under the Real Estate (Regulation & Development) Act, 2016. These Rules will be notified by the 27<sup>th</sup> of this month.

The Real Estate Rules applicable to Delhi are the same as notified on October 31 this year by

the Ministry of Housing & Urban Poverty Alleviation for the five Union Territories without Legislatures. They, however, provide clarity on some aspects like litigation details to be published on website, provision for quality audit of projects and flexibility in agreement for sale.

With regard to the Rules for Agreement for Sale between the buyer and the promoter, flexibility has been proposed so as to include other elements or features besides the apartment, plot, garage, parking, if required. This has been provided to address special contingencies relating to the nature of projects to be taken up or the needs of buyers.

***4. Norms on gold monetisation scheme***

Ministry of Finance vide Press Release dated 25<sup>th</sup> November, 2016 has issued norms on gold monetization scheme. The government has allowed following tax exemptions:

- i). Deposit Certificates issued under Gold Monetisation Scheme, 2015 notified by the Central Government, are excluded from the definition of capital asset and hence are exempt from capital gains tax.
- ii). Interest income on Deposit Certificates issued under the Gold Monetisation Scheme, 2015 is also exempt from income-tax.

These amendments are effective from the 1<sup>st</sup> day of April, 2016 and shall accordingly apply in relation to assessment year 2016-17 and subsequent years.

### ***5. Draft Model GST Law, Draft IGST Law and Draft Compensation Law placed in the public domain for information of trade, industry and other stake holders.***

Ministry of Finance vide Press Release dated 26<sup>th</sup> November, 2016 announced that the Draft Model GST Law, Draft IGST Law and Draft Compensation Law which would be considered by the GST Council for approval are placed in the public domain for information of trade, industry and other stake holders. The Draft Model Laws can be accessed at the following websites: [www.cbec.gov.in](http://www.cbec.gov.in), [www.dor.gov.in](http://www.dor.gov.in) and [www.gst.gov.in](http://www.gst.gov.in)

The Model laws proposed an anti-profiteering mechanism to ensure benefit of lower taxes is shared with consumers, and indicates no tax on securities and subsidies provided by the government as also free of cost supplies. Further, concepts of composite supply and mixed supply are also introduced. In case of composite supply, wherein a supply is made comprising of multiple supplies of goods or services out of which one supply is predominant and others are naturally bundled with it, it will be treated as supply of such predominant supply and in case of mixed supply, which involves multiple individual supplies of goods or services for a single price without any predominant supply, it will be treated as supply of goods or services which attracts the highest rate of tax. Further, supplies made to SEZ units will be treated as zero rated supplies.

### ***6. Cabinet approves liberalization, simplification and rationalization of Visa regime in India***

The Union Cabinet vide Press Release dated 30<sup>th</sup> November, 2016 has given its approval for liberalization, simplification and rationalization

of the existing visa regime in India, and incremental changes in the visa policy decided by the Ministry of Home Affairs in consultation with various stakeholders and with approval of the Home Minister.

The approval will facilitate entry of foreigners for tourism, business and medical purposes. This is expected to stimulate economic growth, increase earnings from export of services like tourism, medical value travel and travel on account of business and to make 'Skill India', 'Digital India', 'Make in India' and other such flagship initiatives of the Government successful.

### ***7. Permanent residency status for foreigners***

Ministry of Finance vide Press Release dated 29<sup>th</sup> November, 2016, has decided to grant Permanent Residency Status (PRS) for 10 years with multiple entry to foreign investors making investment of minimum of Rs. 10 crores to be brought within 18 months or Rs. 25 crores to be brought within 36 months. PRS will also be granted to the spouse/dependents of the eligible foreign investor. The foreign investment should result in generating employment to atleast 20 resident Indians every financial year. The scheme is expected to encourage foreign investment in India and facilitate Make in India. In addition to the restrictions imposed in the FDI policy, security guidelines issued/ as may be issued by the Government from time to time shall also be applicable.

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