FAQ'S

Doing Business in India

Taxation

1. What are the payments to be made in GST regime, who is liable for payment and when is the payment to be made?

In the GST regime, for any intra-state supply, taxes to be paid are the Central GST (CGST, going into the account of the Central Government) and the State GST (SGST, going into the account of the concerned State Government). For any inter-state supply, tax to be paid is Integrated GST (IGST) which will have components of both CGST and SGST. In addition, certain categories of registered persons will be required to pay to the government account Tax Deducted at Source (TDS) and Tax Collected at Source (TCS). In addition, wherever applicable, Interest, Penalty, Fees and any other payment will also be required to be made. In general the supplier of goods or service is liable to pay GST. However in specified cases like imports and other notified supplies, the liability may be cast on the recipient under the reverse charge mechanism. Further, in some cases, the liability to pay is on the third person (say in the case of e-commerce operator responsible for TCS or Government Department responsible for TDS) At the time of supply of Goods as explained in Section 12 and at the time of supply of services as explained in Section 13. The time is generally the earliest of one of the three events, namely receiving payment, issuance of invoice or completion of supply. Different situations envisaged and different tax points have been explained in the aforesaid sections. For further details please access following link.

2. What commodities are kept outside the purview of GST?

Alcohol for human consumption, Petroleum Products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel & Electricity. For further details please access following link.

3. What is the validity period of the registration certificate issued to a non-resident taxable person?

In terms of Section 27(1) read with proviso thereto, the certificate of registration issued to a “casual taxable person” or a “non-resident taxable person” shall be valid for a period specified in the

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application for registration or ninety days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of ninety days by a further period not exceeding ninety days.

4. Who is a Non-resident Taxable Person as per the CGST/SCGST Act?

In terms of Section 2(77) of the CGST/SGST Act, a non-resident taxable person means any person who occasionally undertakes transactions involving supply of goods and/or services whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India.

5. Whether a person having multiple business verticals in a state can obtain for different registrations?

Any person having multiple business verticals within a State or a Union territory, requiring a separate registration for any of its business verticals under sub-section (2) of section 25 shall be granted separate registration in respect of each of the verticals subject to the following conditions: > Such person has more than one business vertical as defined in the Act; > No business vertical of a taxable person shall be granted registration to pay tax under section 10 if any one of the other business verticals of the same person is paying tax under section 9. Explanation: Where any business vertical of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other business verticals of the said person shall become ineligible to pay tax under the said section. All separately registered business verticals of such person shall pay tax under this Act on supply of goods or services or both made to another registered business vertical of such person and issue a tax invoice for such supply. A registered person eligible to obtain separate registration for business verticals may submit a separate application in FORM GST REG-01 in respect of each such vertical.

6. If a person is operating in different states, with the same PAN number, whether he can operate with a single Registration?

No. Every person who is liable to take a Registration will have to get registered separately for each of the States where he has a business operation and is liable to pay GST in terms of Sub-section (1) of Section 22 of the CGST/SGST Act.

7. Is possession of a Permanent Account Number (PAN) mandatory for obtaining a

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Registration?

Yes. Every person shall have a Permanent Account Number issued under the Income Tax Act, 1961 (43 of 1961) in order to be eligible for grant of registration under Section 19 of the Model GST Law.However, as per Section 25(7) of the CGST/SGCT Act, PAN is not mandatory for a non-resident taxable person who may be granted registration on the basis of any other document as maybe prescribed.

8. What is the time limit for taking a Registration under GST?

Time Limit for GST Registration: a. 30 Days for Regular Person: Every person who is liable to be registered shall apply for registration in every such State, where he is liable, within 30 days from the date he becomes liable for registration. b. 5 Days for Casual Person: Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least 5 days prior to the commencement of business. Territorial Waters: Supplier from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of baseline is located.

9. Which are the cases in which registration is compulsory?

As per Section 24 of the CGST/SGST Act, the following categories of persons shall be required to be registered compulsorily irrespective of the threshold limit: i) persons making any inter-State taxable supply; ii) casual taxable persons; iii) persons who are required to pay tax under reverse charge; iv) electronic commerce operators required to pay tax under sub-section (5) of section 9; v) non-resident taxable persons; vi) persons who are required to deduct tax under section 51; vii) persons who supply goods and/or services on behalf of other registered taxable persons whether as an agent or otherwise; viii) Input service distributor (whether or not separately registered under the Act) ix) persons who are required to collect tax under section 52; x) every electronic commerce operator xi) every person supplying online information and data base retrieval services from a place outside India to a person in India, other than a registered person; and, xii) such other person or class of persons as may be notified by the Central Government or a State Government on the recommendations of the Council

10. What is the meaning of assessment and what are major assessments under income tax law?

Every taxpayer has to furnish the details of his income to the Income-tax Department. These details are to be furnished by filing his return of income. Once the return of income is filed by the taxpayer,

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the next step is the processing of the return of income by the Income-tax Department. The Income-tax Department examines the return of income for confirming its correctness. The process of examining the return of income by the Income-tax Department is called “Assessment”. Assessment also includes re-assessment or best judgment assessment under section 144. Under the Income-tax Law, there are four major assessments as given below: section 143(1), i.e., Summary assessment without calling the assessee i.e. taxpayer. Assessment under section 143(3), i.e., Scrutiny assessment. Assessment under section 144, i.e., Best judgment assessment. Assessment under section 147, i.e., Income escaping assessment. For further details please access following link.

11. What is return of income and what forms of return are prescribed under income tax law?

ITR stands for Income Tax Return. It is a prescribed form through which the particulars of income earned by a person in a financial year and taxes paid on such income are communicated to the Income-tax Department. It also allows carry -forward of loss and claim refund from income tax department.Different forms of returns of income are prescribed for filing of returns for different Status and Nature of income. These forms can be downloaded from www.incometaxindia.gov.in Under the Income-tax Law, different forms of returns are prescribed for different classes of taxpayers. The return forms are known as ITR forms (Income Tax Return Forms). The forms of return prescribed under the Income-tax Law for filing of return of income for the assessment year 2017-18 (i.e., financial year 2016-17) are as follows: Return Form Brief Description ITR - 1 Also known as SAHAJ is applicable to an individual having salary or pension income or income from one house property (not a case of brought forward loss) or income from other sources (not being lottery winnings and income from race horses, income taxable under section 115BBDA or income referred in section 115BBDA). ITR - 2 It is applicable to an individual or an Hindu Undivided Family who is not eligible to file Sahaj ITR-1 and whose income chargeable to income-tax under the head “Profits or gains of business or profession” is in the nature of interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by him from a partnership firm. ITR - 3 It is applicable to an individual or a Hindu Undivided Family who is carrying on a proprietary business or profession. ITR - 4 Also known as SUGAM is applicable to individuals or Hindu Undivided Family or partnership firm (other than limited liability partnership firm) who have opted for the presumptive taxation scheme of section 44AD/ 44ADA/44AE. ITR - 5 This Form can be used by a person being a firm, LLP, AOP, BOI, artificial juridical person referred to in section 2(31)(vii), co-operative society and local authority. However, a person who is required to file the return of income under section 139(4A) or 139(4B) or 139(4C) or 139(4D) or section 139(4E) or section 139(4F) shall not use this form (i.e., trusts, political parties, institutions, colleges, investment fund etc.) ITR - 6 It is applicable to a company, other than a company claiming exemption under section 11 (exemption under section 11 can be claimed by charitable/religious trust). ITR - 7 It is applicable to a persons including companies who are required to furnish return under

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section 139(4A) or 139(4B) or 139(4C) or 139(4D) or section 139(4E) or section 139(4F) (i.e., trusts, political parties, institutions, colleges, investment fund, etc.). For further details please access following link.

12. When is a company required to undertake compliances under Indian transfer pricing regulations, and what are these compliances?

Transfer Pricing Regulations ("TPR") are applicable to entities that enter into an "International Transaction" with an Associated Enterprise ("AE"). The aim is to arrive at the comparable price as available to any unrelated party in open market conditions and is known as ALP. In terms of compliances, the taxpayers are required to maintain, on an annual basis, extensive information and documents relating to such international transactions such as: (a) a description of the ownership structure of the assessee enterprise with details of shares or other ownership interest held therein by other enterprises; (b) a profile of the multinational group of which the assessee enterprise is a part along with the name, address, legal status and country of tax residence of each of the enterprises comprised in the group with whom international transactions 56b[or specified domestic transactions, as the case may be,] have been entered into by the assessee, and ownership linkages among them; (c) a broad description of the business of the assessee and the industry in which the assessee operates, and of the business of the associated enterprises with whom the assessee has transacted; (d) the nature and terms (including prices) of international transactions 56b[or specified domestic transactions] entered into with each associated enterprise, details of property transferred or services provided and the quantum and the value of each such transaction or class of such transaction; (e) a description of the functions performed, risks assumed and assets employed or to be employed by the assessee and by the associated enterprises involved in the international transaction 56b[or the specified domestic transaction] ; (f) a record of the economic and market analyses, forecasts, budgets or any other financial estimates prepared by the assessee for the business as a whole and for each division or product separately, which may have a bearing on the international transactions 56b[or the specified domestic transactions] entered into by the assessee; (g) a record of uncontrolled transactions taken into account for analysing their comparability with the international transactions 56b[or the specified domestic transactions] entered into, including a record of the nature, terms and conditions relating to any uncontrolled transaction with third parties which may be of relevance to the pricing of the international transactions 56b[or specified domestic transactions, as the case may be] ; (h) a record of the analysis performed to evaluate comparability of uncontrolled transactions with the relevant international transaction 56b[or specified domestic transaction] ; (i) a description of the methods considered for determining the arm's length price in relation to each international transaction 56b[or specified domestic transaction] or class of transaction, the method selected as the most appropriate method along with explanations as to why such method was so selected, and how such method was applied in each case; (j) a record of the actual working carried out for determining the

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arm's length price, including details of the comparable data and financial information used in applying the most appropriate method, and adjustments, if any, which were made to account for differences between the international transaction 56c[or the specified domestic transaction] and the comparable uncontrolled transactions, or between the enterprises entering into such transactions; (k) the assumptions, policies and price negotiations, if any, which have critically affected the determination of the arm's length price; (l) details of the adjustments, if any, made to transfer prices to align them with arm's length prices determined under these rules and consequent adjustment made to the total income for tax purposes; (m) any other information, data or document, including information or data relating to the associated enterprise, which may be relevant for determination of the arm's length price. above shall not apply in a case where the aggregate value, as recorded in the books of account, of international transactions entered into by the assessee does not exceed one crore rupees :

13. What are the elements of employment compensation, that enjoy exemption from tax?

Generally, subject to certain conditions, following items of compensation are not taxable in the hands of employees: • House Rent Allowance (HRA) HRA is an allowance granted to meet housing costs of employees. This exemption is not available if the employee resides in his own house, or in a house for which he does not incur any rent. • Certain travel / tour allowances Allowances granted to meet the cost of travel for official purposes are exempt (on actual basis). • Reimbursement of medical expenses up to specified limits Reimbursement of medical expenses actually incurred by an employee for self or any member of his/her family is exempt up to INR 15,000 per tax year. • Leave travel concession (“LTC”) LTC granted to an employee for vacation at any place in India is exempt for upto two journeys in a block of four calendar years, subject to certain conditions. • Tax borne by an employer on non-monetary perquisites Tax borne by an employer on non-monetary perquisites provided to its employee, is exempt from tax, provided the employer does not claim it as a deduction against its taxable income. • Gratuity Gratuity received by an employee on retirement / termination of employment or by family on the death of employee tax-payer is exempt from tax subject to specified limit (presently INR 1,000,000). • Leave encashment Leave encashment received by an employee on retirement is exempt from tax subject to specified limit (presently INR 300,000). • Employer Provident Fund contribution Employer’s contribution towards Provident Fund is exempt from tax subject to fulfilment of certain conditions. Apart from above, there are other allowances such as Children’s allowance, hostel allowance, etc., which form part of salary and are exempt from tax but subject to certain conditions and / or monetary limits.

14. What are ‘Investment Linked Incentives’ under the Indian Tax Act, and which businesses are eligible for such incentives?

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With the objective of creating infrastructure and environment-friendly alternative means for transportation of bulk goods, Investment-linked incentives have been introduced in Indian tax laws for certain specified businesses. Under these incentives, any capital expenditure incurred for specified businesses is allowed as a deduction in the year in which it is incurred (instead of amortizing the same over several years). Following are the specified businesses, eligible for this incentive: - Setting up and operating a semi-conductor water fabrication manufacturing unit; - Laying and operating a slurry pipeline for the transportation of iron ore; - Production of fertilizers; - Building and operating a hotel of two star or above category, anywhere in India; - Developing and/or operating and maintaining a new infrastructure being a road, bridge, rail system, highway project, water supply project, water treatment system, irrigation project, a port, airport, inland waterway, inland port or navigational channel in the sea, etc.; - Building and operating a hospital with atleast 100 beds for patients, anywhere in India; - Developing and building a housing project under specified schemes; - Setting up and operating an inland Container Depot or a container freight station; - Setting up and operating cold chain facilities/warehousing facilities; and - Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution including storage facilities being an integral part of such network

15. What is PAN and who has to apply for it?

PAN stands for Permanent Account Number and is a ten-digit unique alphanumeric number issued by the Income Tax Department. PAN is to be obtained by following persons: 1) Every person if his total income or the total income of any other person in respect of which he is assessable during the previous year exceeds the maximum amount which is not chargeable to tax. 2) A charitable trust who is required to furnish return under Section 139(4A). 3) Every person who is carrying on any business or profession whose total sale, turnover, or gross receipts are or is likely to exceed US$ 7,252 in any previous year. 4) Every importer/exporter who is required to obtain Import Export code. 5) Every person who is entitled to receive any sum/income after deduction of tax at source. 6) Any person who is liable to pay excise duty or a producer or manufacturer of excisable goods or a registered person of a private warehouse in which excisable goods are stored and an authorized agent of such person. 7) Persons who issue invoices under Rule 57AE requiring registration under Central Excise Rules, 1944. 8) A person who is liable to pay the service tax and his agent Persons registered under the Central Sales Tax Act or the general sales tax law of the relevant state or union territory Every person who intends to enter into specified financial transactions in which quoting of PAN is mandatory A person not covered in any of the above can voluntarily apply for PAN. For further details please access following link : Sec 10AA (income tax act 1961).

16. What are the incentives available under the Income-tax Act, to business units

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established in Special Economic Zone?

A tax holiday for 15 years is granted to units located in a Special Economic Zone ("SEZ") that are engaged in export of goods and services. This tax holiday is computed with reference to profits from such exports, and is allowed as under. • 100% Income-tax exemption on export income for first 5 tax years; • 50% for next 5 tax years thereafter;• 50% of the export profit for next 5 tax years provided an equal amount of profit is retained or transferred to a special reserve in the books of accounts. Only units which become operational on or before 31 March 2020 can claim this tax holiday.

17. What is tax audit?

Section 44AB gives the provisions relating to the class of taxpayers who are required to get their accounts audited from a chartered accountant. The audit under section 44AB aims to ascertain the compliance of various provisions of the Income Tax Law and the fulfilment of other requirements of the Income Tax Law. The audit conducted by the chartered accountant of the accounts of the taxpayer in pursuance of the requirement of section 44AB is called tax audit. The chartered accountant conducting the tax audit is required to give his findings, observation, etc., in the form of audit report. The report of tax audit is to be given by the chartered accountant in Form Nos. 3CA/3CB and 3CD. As per section 44AB, following persons are compulsorily required to get their accounts audited : 1) A person carrying on business, if his total sales, turnover or gross receipts (as the case may be) in business for the year exceed or exceeds US$ 145,050. This provision is not applicable to the person, who opts for presumptive taxation scheme under section 44AD and his total sales or turnover does not exceed US$ 290,100. 2) A person carrying on profession, if his gross receipts in profession for the year exceed US$ 72,525. 3) A person who is eligible to opt for the presumptive taxation scheme of section 44AD but claims the profits or gains for such business to be lower than the profits and gains computed as per the presumptive taxation scheme of section 44AD and his income exceeds the amount which is not chargeable to tax. 4) If an eligible assesse opts out of the presumptive taxation scheme, after specified period, he cannot choose to revert back to the presumptive taxation scheme for a period of five assessment years thereafter. 5) A person who is eligible to opt for the presumptive taxation scheme of section 44ADA but he claims the profits or gains for such profession to be lower than the profit and gains computed as per the presumptive taxation scheme and his income exceeds the amount which is not chargeable to tax. 6) This provision is not applicable to the person, who opts for presumptive taxation scheme under section 44AD and his total sales or turnover does not exceed US$ 290,100. 7) A person who is eligible to opt for the presumptive taxation scheme of sections 44AE but he claims the profits or gains for such business to be lower than the profits and gains computed as per the presumptive taxation scheme of sections 44AE. 8) A person who is eligible to opt for the taxation scheme prescribed under section 44BB or section 44BBB but he claims the profits or gains for such business to be lower than the profits and gains computed as per the taxation scheme of these

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sections. Section 44BB is applicable to non-resident taxpayers engaged in the business of providing services or facilities in connection with or supplying plant and machinery on hire basis to be used in exploration of mineral oils. Section 44BBB is applicable to foreign companies engaged in the business of civil construction, erection of plant or machinery, or testing or commissioning thereof, in connection with a turnkey power project. For detailed provision of 44AD, 44AE, 44ADA, 44BB and 44BBE, refer Sec 44 AB on the link.

18. What incomes are charged to tax in the hands of taxpayer?

Taxed for ROR, RNOR and NR : 1) Income which accrues or arises in India. 2) Income which is deemed to accrue or arise in India. 3) Income which is received in India. 4) Income which is deemed to be received in India. Taxed for ROR, RNOR but not NR: 1) Income accruing outside India from a business controlled from India or from a profession set up in India. 2) Taxed for ROR but not RNOR, NR. 3) Income other than above (i.e., income which has no relation with India). For further details please access following link.

19. How to determine residential status of a company?

With effect from Assessment Year 2017-18, a company is said to be resident in India in any previous year, if: i) It is an Indian company. ii) Its place of effective management, at any time in that year, is in India. For this purpose, the 'place of effective management' means a place where key management and commercial decisions that are necessary for the conducting the business of an entity as a whole are in substance made. The concept of POEM is effective from Assessment Year 2017-18. The final guidelines on POEM has been issued, containing some unique features. One of the unique features is test of Active Business Outside India (ABOI). The guidelines prescribe that a company shall be said to engaged in 'active business outside India' if passive income is not more than 50% of its total income. Further, there are certain additional cumulative conditions to be satisfied regarding location of total assets, employees and payroll expenses. In cases of companies other than those that are engaged in active business outside India, the determination of POEM would be a two stage process, namely: 1) First stage would be identification or ascertaining the person or persons who actually make the key management and commercial decision for conduct of the company's business as a whole. 2) Second stage would be determination of place where these decisions are in fact being made. However, it has been provided that the POEM guidelines shall not apply to a company having turnover or gross receipts of INR 50 crores or less in a financial year vide CIRCULAR NO.8, DATED 23-2-2017. For more information, visit link.

20. How many heads, income of a tax payer is recognised?

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Section 14 of the Income Tax Act has classified the income of a taxpayer under five different heads of income, viz.: 1) Salaries. 2) Income from house property. 3) Profits and gains of business or profession. 4) Capital gains. 5) Income from other sources. For further details please access following link : Sec 14.

21. How tax residence of an individual is determined under Indian tax laws? In case he / she qualifies as a tax resident of his / her home country as well as that of India, how is such conflict resolved?

In accordance with Indian tax laws, in any tax year (i.e. 1st April – 31st March), an individual qualifies as a “Resident” in India if- i. Such individual was present in India for a period of 182 days or more in that tax year; or ii. Such individual was present in India for 60 days or more during that tax year and for 365 days or more in 4 preceding tax years Further, once an individual becomes a “Resident”, the next step is to determine whether the individual is a “Resident and ordinarily resident (“ROR”)” or “Resident but not ordinarily Resident” (“RNOR”) in India. An individual would be qualified as RNOR, if: a. Such individual was a non-resident in India, in 9 years out of 10 preceding tax years; or b. Such individual was present in India for a 729 days or less, in 7 preceding tax years. An individual who qualifies as a tax resident of both countries i.e., his/her home country as well as that of India is known as Dual Resident. India has entered into Double Taxation Avoidance Agreements (“DTAA” or “treaties”) with several countries which provide specific relief to persons subject to taxation in more than one country. Most of the treaties have stipulated “tie-breaker” rules for resolving the conflict of dual residency. These rules are applied in the same sequence in which they appear in the treaty for determining residency. The tie-breaker rules in most treaties provides the following- a. Location of permanent home An individual shall be deemed to be a resident of the country in which a permanent home is available to such individual. b. Centre of vital interests If such individual has a permanent home available in both India as well as in home country of such individual, then such person should be deemed to be a resident of the country where such individual has center of vital interests i.e. close personal and economic relations. c. Habitual abode If the country in which such individual has center of vital interests cannot be determined, or if such person does not have a permanent home available in either of the countries, he/she should be deemed to be a resident of the country in which he/she has a habitual abode. d. Nationality If such individual has habitual abode in both countries or in neither of them, he/she should be deemed to be a resident of the country of which he/she is a national; and e. Mutual agreement If such individual is a national of both countries or of neither of them, the competent authorities of the countries should settle the question by mutual agreement.

22. What is the validity period of the registration certificate issued to a non-resident

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taxable person?

In terms of Section 27(1) read with proviso thereto, the certificate of registration issued to a 'casual taxable person' or a 'non-resident taxable person' shall be valid for a period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of ninety days by a further period not exceeding ninety days. For further details please access following link.

23. Who is a Non-resident Taxable Person as per the CGST/SGST Act?

In terms of Section 2(77) of the CGST/SGST Act, a non-resident taxable person means any person who occasionally undertakes transactions involving supply of goods and/or services whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India. For further details please access following link.

24. Whether a person having multiple business verticals in a state can obtain for different registrations?

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25. If a person is operating in different states, with the same PAN number, whether he can operate with a single Registration?

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27. What is the time limit for taking a Registration under GST?

Time Limit for GST Registration: a) 30 Days for Regular Person: Every person who is liable to be registered shall apply for registration in every such State, where he is liable, within 30 days from the date he becomes liable for registration. b) Five Days for Casual Person: Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least 5 days prior to the commencement of business. c) Territorial Waters: Supplier from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of baseline is located. For further details please access following link.

28. Which are the cases in which registration is compulsory?

As per Section 24 of the CGST/SGST Act, the following categories of persons shall be required to be registered compulsorily irrespective of the threshold limit: i) persons making any inter-State taxable supply; ii) casual taxable persons; iii) persons who are required to pay tax under reverse charge; iv) electronic commerce operators required to pay tax under sub-section (5) of section 9; v) non-resident taxable persons; vi) persons who are required to deduct tax under section 51; vii) persons who supply goods and/or services on behalf of other registered taxable persons whether as an agent or otherwise; viii) Input service distributor (whether or not separately registered under the Act) ix) persons who are required to collect tax under section 52; x) every electronic commerce operator xi) every person supplying online information and data base retrieval services from a place outside India to a person in India, other than a registered person; and, xii) such other person or class of persons as may be notified by the Central Government or a State Government on the recommendations of the Council.

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29. Are there any Thin Capitalization regulations in Indian tax laws?

On account of a recent amendment, a ceiling has been placed on tax deductibility of expenditure incurred by way of interest paid to an AE. Under these provisions, interest payable by a borrower being an Indian company (or an Indian permanent establishment of a foreign company)on any debt in excess of INR 10 million, to its non-resident AE , shall be restricted to 30% of earning of such borrower before interest, taxes, depreciation and amortization ("EBITDA"). However, the expenditure so disallowed can be carried forward for next 8 tax years, and shall be allowed as deduction subject to maximum allowable interest expense.

30. When is a company required to undertake compliances under Indian transfer pricing regulations, and what are these compliances?

Transfer Pricing Regulations (TPR) are applicable to entities that enter into an International Transaction with an Associated Enterprise (AE). The aim is to arrive at the comparable price as available to any unrelated party in open market conditions and is known as ALP. In terms of compliances, the taxpayers are required to maintain, on an annual basis, extensive information and documents relating to such international transactions such as: a) A description of the ownership structure of the assessee enterprise with details of shares or other ownership interest held therein by other enterprises. b) A profile of the multinational group of which the assessee enterprise is a part along with the name, address, legal status and country of tax residence of each of the enterprises comprised in the group with whom international transactions 56b[or specified domestic transactions, as the case may be,] have been entered into by the assessee, and ownership linkages among them. c) A broad description of the business of the assessee and the industry in which the assessee operates, and of the business of the associated enterprises with whom the assessee has transacted. d) The nature and terms (including prices) of international transactions 56b[or specified domestic transactions] entered into with each associated enterprise, details of property transferred or services provided and the quantum and the value of each such transaction or class of such transaction. e) A description of the functions performed, risks assumed and assets employed or to be employed by the assessee and by the associated enterprises involved in the international transaction 56b[or the specified domestic transaction]. f) A record of the economic and market analyses, forecasts, budgets or any other financial estimates prepared by the assessee for the business as a whole and for each division or product separately, which may have a bearing on the international transactions 56b[or the specified domestic transactions] entered into by the assesse. g) A record of uncontrolled transactions taken into account for analysing their comparability with the international transactions 56b[or the specified domestic transactions] entered into, including a record of the nature, terms and conditions relating to any uncontrolled transaction with third parties which may be of relevance to the pricing of

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the international transactions 56b[or specified domestic transactions, as the case may be]. h) A record of the analysis performed to evaluate comparability of uncontrolled transactions with the relevant international transaction 56b[or specified domestic transaction]. i) A description of the methods considered for determining the arm's length price in relation to each international transaction 56b[or specified domestic transaction] or class of transaction, the method selected as the most appropriate method along with explanations as to why such method was so selected, and how such method was applied in each case. j) A record of the actual working carried out for determining the arm's length price, including details of the comparable data and financial information used in applying the most appropriate method, and adjustments, if any, which were made to account for differences between the international transaction 56c[or the specified domestic transaction] and the comparable uncontrolled transactions, or between the enterprises entering into such transactions. k) The assumptions, policies and price negotiations, if any, which have critically affected the determination of the arm's length price. l) Details of the adjustments, if any, made to transfer prices to align them with arm's length prices determined under these rules and consequent adjustment made to the total income for tax purposes. m) Any other information, data or document, including information or data relating to the associated enterprise, which may be relevant for determination of the arm's length price. above shall not apply in a case where the aggregate value, as recorded in the books of account, of international transactions entered into by the assessee does not exceed $ 153,846. For further details please access following link : Sec 92A, 92B, 92D of Income tax act 1961.

31. What are the common tax compliances under Indian tax laws?

There are two types of taxes levied in India - Direct tax and Indirect tax. Common compliances under both are described below- Direct Taxes Direct tax in India is governed by Indian Income-tax Act, 1961. Major compliances are as follows- PAN PAN is a 10-digit alphanumeric number, mandatory to quote on return of income, correspondence with any income tax authority and on documents pertaining to specified financial transactions. TAN Persons who are responsible for deducting tax at source at the time of making payment or who are required to collect tax at source at the time of selling certain specified products, should obtain a 10-digit alphanumeric number known as TAN. Advance Tax It refers to paying part of your taxes in instalments (4 instalments), before end of the tax year. Every person whose income tax liability is more than INR 10,000 in a year is required to pay advance tax on the income earned or expected to be earned on an estimation basis in the tax year Withholding taxes Any company or a person making specified payment, is required to deduct tax at source, file quarterly TDS return and deposit the same with the government, if the specified payment exceeds specified threshold limit. Tax Audit Any person carrying on business/profession must get his accounts audited under Indian tax laws, if turnover/ sales/ gross receipts exceed the specified limit. Returns It is mandatory for every taxpayer to report income to the Income-tax Department, in the prescribed form known as return of income. Indirect Tax From 1st July 2017, indirect taxes such as service tax, VAT

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would be subsumed by Goods and Service tax ("GST") which is a comprehensive levy on manufacture, sale, and consumption of goods and services. GST Registration Number It is 15 digit identification that is allotted to taxpayer based on PAN and state of the applicant. Returns Under GST, generally, a person would require to file 3 monthly returns and an annual return.

32. What are the elements of employment compensation, that enjoy exemption from tax?

Generally, subject to certain conditions, following items of compensation are not taxable in the hands of employees: 1) House Rent Allowance (HRA): HRA is an allowance granted to meet housing costs of employees. This exemption is not available if the employee resides in his own house, or in a house for which he does not incur any rent. 2) Certain travel/tour allowances: Allowances granted to meet the cost of travel for official purposes are exempt (on actual basis). 3) Reimbursement of medical expenses up to specified limits: Reimbursement of medical expenses actually incurred by an employee for self or any member of his/her family is exempt up to US$ 217.50 per tax year. 4) Leave travel concession (LTC): LTC granted to an employee for vacation at any place in India is exempt for upto two journeys in a block of four calendar years, subject to certain conditions. 5) Tax borne by an employer on non-monetary perquisites: Tax borne by an employer on non-monetary perquisites provided to its employee, is exempt from tax, provided the employer does not claim it as a deduction against its taxable income. 6) Gratuity: Gratuity received by an employee on retirement/termination of employment or by family on the death of employee tax-payer is exempt from tax subject to specified limit (presently US$ 14,505). 7) Leave encashment: Leave encashment received by an employee on retirement is exempt from tax subject to specified limit (presently INR 300,000). 8) Employer Provident Fund contribution:Employer's contribution towards Provident Fund is exempt from tax subject to fulfilment of certain conditions. Apart from above, there are other allowances such as Children's allowance, hostel allowance, etc., which form part of salary and are exempt from tax but subject to certain conditions and/or monetary limits. For further details please access following link.

33. What are 'Investment Linked Incentives' under the Indian Tax Act, and which businesses are eligible for such incentives?

With the objective of creating infrastructure and environment friendly alternative means for transportation of bulk goods, Investment linked incentives have been introduced in Indian tax laws for certain specified businesses. Under these incentives, any capital expenditure incurred for specified businesses is allowed as a deduction in the year in which it is incurred (instead of amortizing the same over several years). Following are the specified businesses, eligible for this incentive: 1) Setting up and operating a semi-conductor water fabrication manufacturing unit. 2) Laying and operating a slurry pipeline for the transportation of iron ore. 3) Production of fertilizers. 4) Building and operating a hotel

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of two star or above category, anywhere in India. 5) Developing and/or operating and maintaining a new infrastructure being a road, bridge, rail system, highway project, water supply project, water treatment system, irrigation project, a port, airport, inland waterway, inland port or navigational channel in the sea, etc. 6) Building and operating a hospital with atleast 100 beds for patients, anywhere in India. 7) Developing and building a housing project under specified schemes. 8) Setting up and operating an inland Container Depot or a container freight station. 9) Setting up and operating cold chain facilities/warehousing facilities. 10) Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution including storage facilities being an integral part of such network. For further details please access following link for Sec 35AD (income tax act 1961).

34. What are the incentives available under the Income tax Act, to business units established in Special Economic Zone?

A tax holiday for 15 years is granted to units located in a Special Economic Zones (SEZ) that are engaged in export of goods and services. This tax holiday is computed with reference to profits from such exports and is allowed as under. 1) 100% IncomeTax exemption on export income for first 5 tax years. 2) 50% for next five tax years thereafter 3) 50% of the export profit for next five tax years provided an equal amount of profit is retained or transferred to a special reserve in the books of accounts. Only units which become operational on or before 31 March 2020 can claim this tax holiday. For further details please access following link.

35. How long does it take to incorporate a company / LLP in India, and to obtain its basic tax registrations (that is, Permanent Account Number)?

As per the time for incorporation of company, it usually takes 7-10 working days to incorporate a company/ LLP in India, and to obtain a Permanent Account Number. This duration is expected to be shortened to 2-3 days shortly through SPICe. SPICe stands for ‘Simplified Proforma for Incorporating Company electronically’ through which one can apply for all the following registrations by way of a single integrated form. • Name Reservation; • Allotment of Director Identification number (“DIN”); • Incorporation of New Company; • PAN; and • TAN

36. How tax residence of an individual is determined under Indian tax laws? In case he/she qualifies as a tax resident of his/her home country as well as that of India, how is such conflict resolved?

In accordance with Indian tax laws, in any tax year (i.e. 1st April – 31st March), an individual qualifies

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as a ‘Resident’ in India if either of the following criteria are satisfied: 1) Such individual was present in India for a period of 182 days or more in that tax year. 2) Such individual was present in India for 60 days or more during that tax year and for 365 days or more in 4 preceding tax years. Further, once an individual becomes a ‘Resident’, the next step is to determine whether the individual is a ‘Resident and Ordinarily Resident’ (ROR) or ’Resident but Not Ordinarily Resident’ (RNOR) in India. An individual would be qualified as RNOR, if either of the following conditions are satisfied: a) Such individual was a non-resident in India, in 9 years out of 10 preceding tax years. b) Such individual was present in India for a 729 days or less, in 7 preceding tax years. An individual who qualifies as a tax resident of both countries i.e., his/her home country as well as that of India is known as Dual Resident. India has entered into Double Taxation Avoidance Agreements (‘DTAA’ or ‘treaties’) with several countries which provide specific relief to persons subject to taxation in more than one country. Most of the treaties have stipulated ’tie-breaker’ rules for resolving the conflict of dual residency. These rules are applied in the same sequence in which they appear in the treaty for determining residency. The tie-breaker rules in most treaties provides the following: a) Location of permanent home: An individual shall be deemed to be a resident of the country in which a permanent home is available to such individual. b) Centre of vital interests: If such individual has a permanent home available in both India as well as in home country of such individual, then such person should be deemed to be a resident of the country where such individual has center of vital interests i.e. close personal and economic relations. c) Habitual abode: If the country in which such individual has center of vital interests cannot be determined or if such person does not have a permanent home available in either of the countries, he/she should be deemed to be a resident of the country in which he/she has a habitual abode. d) Nationality: If such individual has habitual abode in both countries or in neither of them, he/she should be deemed to be a resident of the country of which he/she is a national and if e) is satisfied. e) Mutual agreement: If such individual is a national of both countries or of neither of them, the competent authorities of the countries should settle the question by mutual agreement. For further details please access following link : Section 6 (Income tax Act 1961).

37. Is tax applicable to stock-based income?

Yes, tax is applicable on stock-based income. A two-step taxation procedure is applicable in this case: At the time of allotment of shares, as compensation income At the time of sale, as capital gains. Certain exemptions and/or concessional tax rates are available on the sale of shares listed on a recognized stock exchange in India, depending on the period of holding.

38. How to file the return of income electronically?

Section 10 provides list of incomes which are exempt from tax Amongst these the major exemptions

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relating to capital gains are listed below: Section 10(33) : Long-term or short-term capital gain arising on transfer of units of Unit Scheme, 1964 (US 64) (transferred on or after 1-4-2002). Section 10(37) : An individual or Hindu Undivided Family (HUF) can claim exemption in respect of capital gain arising on transfer of agricultural land situated in an urban area by way of compulsory acquisition. This exemption is available if the land was used by the taxpayer (or by his parents in the case of an individual) for agricultural purpose for a period of 2 years immediately preceding the date of its transfer . Section 10(37A) : An individual or Hindu Undivided Family (HUF) can claim exemption in respect of capital gain arising on transfer of land or building or both under Land Pooling Scheme under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015. This exemption is available if individual or HUF was owner of such land as on 02-06-2014. [Inserted by the Finance Act 2017 w.e.f. 01-04-2015]. Section 10(38) : Long-term capital gain arising on transfer of equity shares or units of equity oriented mutual fund (*) or a unit of a business trust other than a unit allotted by the trust in exchange of shares of a special purpose vehicle as referred to in section 47(xvii), will be exempt from tax, if the following conditions are satisfied: The asset transferred should be equity shares of a company or units of an equity oriented mutual fund or a unit of a business trust other than a unit allotted by the trust in exchange of shares of a special purpose vehicle as referred to in section 47?. The transaction should be liable to securities transaction tax (STT) at the time of transfer. Such asset should be a long-term capital asset. Transfer should take place on or after October 1, 2004.? Note 1 : Any long-term capital gain arising from a transaction undertaken in recognized stock exchange located in an International Financial Service Center shall be exempt from tax. Such exemption is available if such transaction is undertaken in foreign current and even if no STT is paid on such transaction. Long term capital gain exemption on transfer of equity share acquired or on after 01-10-2004 shall be available only if the acquisition of share is chargeable to STT. However, the exemption shall continue in genuine cases where the STT could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed company, acquisition by non-resident in accordance with FDI policy, etc. [Inserted by Finance Act 2017] (*) Equity oriented mutual fund means a mutual fund specified under section 10(23D) and 65% of its investible funds, out of total proceeds of such fund are invested in equity shares of domestic companies.? Exemption for long-term capital gains arising from transfer of listed securities as referred to in Section 10(38) has been withdrawn by the Finance Act, 2018 w.e.f. Assessment Year 2019-20 and a new section 112A is introduced in the Income-tax Act. As per Section 112A, long-term capital gains arising from transfer of an equity share, or a unit of an equity oriented fund or a unit of a business trust shall be taxed at 10% (without indexation) of such capital gains. The tax on capital gains shall be levied in excess of INR 1 lakh.

39. What is the meaning of presumptive taxation scheme?

As per sections 44AA of the Income-tax Act, 1961, a person engaged in business is required to

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maintain regular books of account under certain circumstances. To give relief to small taxpayers from this tedious work, the Income-tax Act has framed the presumptive taxation scheme under sections 44AD, sections 44ADA and sections 44AE. A person adopting the presumptive taxation scheme can declare income at a prescribed rate and, in turn, is relieved from tedious job of maintenance of books of account.

40. What is tax deducted at source?

For quick and efficient collection of taxes, the Income-tax Law has incorporated a system of deduction of tax at the point of generation of income. This system is called as "Tax Deducted at Source", commonly known as TDS. Under this system tax is deducted at the origin of the income. Tax is deducted by the payer and is remitted to the Government by the payer on behalf of the payee. The provisions of deduction of tax at source are applicable to several payments such as salary, interest, commission, brokerage, professional fees, royalty, contract payments, etc. In respect of payments to which the TDS provisions apply, the payer has to deduct tax at source on the payments made by him and he has to deposit the tax deducted by him to the credit of the Government.

41. What is Form 26AS?

A taxpayer may pay tax in any of the following forms: (1) Tax Deducted at Source (TDS) (2) Tax Collected at Source (TCS) (3) Advance tax or Self-assessment Tax or Payment of tax on regular assessment. The Income-tax Department maintains the database of the total tax paid by the taxpayer (i.e., tax credit in the account of a taxpayer). Form 26AS is an annual statement maintained under Rule 31AB? of the Incom?e-tax Rules disclosing the details of tax credit in his account as per the database of Income-tax Department. In other words, Form 26AS will reflect the details of tax credit appearing in the Permanent Account Number of the taxpayer as per the database of the Income-tax Department. The tax credit will cover TDS, TCS and tax paid by the taxpayer in other forms like advance tax, Self-Assessment tax, etc. Income-tax Department will generally allow a taxpayer to claim the credit of taxes as reflected in his Form 26AS. ?

42. Is it necessary to attach any documents along with the return of income?

ITR return forms are attachment less forms and, hence, the taxpayer is not required to attach any document (like proof of investment, TDS certificates, etc.) along with the return of income (whether filed manually or filed electronically). However, these documents should be retained by the taxpayer and should be produced before the tax authorities when demanded in situations like assessment,

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inquiry, etc.

43. How to deposit Self Assessment Tax or Advance tax to the credit of Government?

?Self Assessment Tax or Advance Tax is to be deposited to the credit of Government by using the challan prescribed in this behalf, i.e., ITNS 280. The Challan can be downloaded from www.incometaxindia.gov.in Tax can be paid in the designated banks through two modes, viz., physical mode, i.e., cash/cheque or e-payment mode by using debit card or internet banking. ??

44. Where should the books of account of business be kept and for how long?

All the books of account and related documents should be kept at the principal place of business, i.e., where the business or profession is generally carried on. These documents should be preserved for a minimum of six years from the end of relevant Assessment year i.e. for a total of 7 financial year from the end of relevant year. However, when the assessment has been reopened, all books of account and other documents which were kept and maintained at the time of reopening of assessment should continue to be so kept and maintained till the assessment so reopened has been completed.?

45. What books of account have been prescribed to be maintained by a person carrying on business/profession under the Income-tax Act?

The Income-tax Act does not prescribe any specific books of account for a person engaged in business or in non-specified profession. However, such a person is expected to keep and maintain such book of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of the Act, if:-. In case of existing business or profession, income or gross turnover in any one of the 3 preceding previous years exceeds the following-
Individual/HUF Other • Income from business or profession
INR 2,50,000 INR 1,20,000 • Turnover/gross receipts in the business or profession
Rs. 25,00,000 INR 10,00,000 In case of newly setup business or profession, income or gross turnover of the first previous year is likely to exceed the following-
Individual/HUF Other • Income from business or profession
INR 2,50,000 INR 1,20,000 • Turnover/gross receipts in the business or profession
INR 25,00,000 INR 10,00,000 For companies the books of account are prescribed under the Companies Act. Further, the Institute of Chartered Accountants of India has prescribed various Accounting Standards and Guidelines that are required to be followed by the business entities As regards the maintenance of books of account by a professional, who is engaged in specified

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profession has to maintain certain prescribed books of account, if the annual receipts from the profession exceed Rs. 1,50,000 in all the three years immediately preceding the previous year (in case of newly set up profession, his annual receipts in the profession for that year are likely to exceed Rs. 1,50,000). Specified profession covers profession of legal, medical, engineering, architectural, accountancy, company secretary, technical consultancy, interior decoration, authorised representative, film artist or information technology. For more details on the provisions relating to maintenance of books of account you may refer provisions of section 44AA read with Rule 6F of the Income-tax Rules, 1962.

46. What is revenue receipt and capital receipt?

Receipts can be classified into two kinds: A) Revenue receipt, B) Capital receipt. Revenue receipts are recurring in nature like salary, profit from business, interest income, etc. Capital receipts are generally of isolated nature like receipt on account of sale of residential building, personal jewellery, etc. ?

47. What is exempt income and taxable income?

An exempt income is not charged to tax, i.e., Income-tax Law specifically grants exemption from tax to such income. Incomes which are chargeable to tax are called as taxable incomes.

48. What is tax on regular assessment and how is it paid?

Under the Income-tax Act, every person has the responsibility to correctly compute and pay his due taxes. Where the Department finds that there has been understatement of income and resultant tax due, it takes measures to compute the actual tax amount that ought to have been paid. This demand raised on the person is called as Tax on regular assessment. The tax on regular assessment-400 has to be paid within 30 days of receipt of the notice of demand.

49. From where can I take the help of any expert on Income-tax related matters?

You can take the help of tax professionals or the help of Public Relations Officer [PRO] in the local office of the Income-tax Department. You may also take assistance from Tax Return Preparers [TRPs]. You can locate your nearest TRP at link.

50. How will I know how much Income-tax I have to pay?

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???The rates of Income-tax and corporate taxes are available in the Finance Act passed by the Parliament every year. You can also check your tax liability by using the free online tax calculator available at link.

51. How does the Government collect Income-tax?

Taxes are collected by the Government through three means: a) voluntary payment by taxpayers into various designated Banks. For example, Advance Tax and Self Assessment Tax paid by the taxpayers, b) Taxes deducted at source [TDS] from the income of the receiver, and c) Taxes collected at source [TCS]. It is the constitutional obligation of every person earning income to compute his income and pay taxes correctly.?

52. What is the administrative framework of Income-tax?

The revenue functions of the Government of India are managed by the Ministry of Finance. The Finance Ministry has entrusted the task of administration of direct taxes like Income-tax, Wealth tax, etc., to the Central Board of Direct Taxes (CBDT). The CBDT is a part of Department of Revenue in the Ministry of Finance.CBDT provides essential inputs for policy framing and planning of direct taxes and also administers the direct tax laws through the Income-tax Department. Thus, Income-tax Law is administrated by the Income-tax Department under the control and supervision of the CBDT.?

53. What is Income-tax?

??It is a tax levied by the Government of India on the income of every person. The provisions governing the Income-tax are covered in the Income-tax Act, 1961.?

54. What duties will be levied on import of goods?

Customs duty and cess as applicable + IGST+ GST compensation cess. IGST and GST compensation cess shall be paid after adding all customs duty and customs cess to the value of imports.

55. What tax benefits are available to the business units in Special Economic Zones?

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A tax holiday for 15 years is granted to units located in Special Economic Zones (SEZ) that are engaged in export of goods and services. 100% Income Tax exemption on export income for first 5 tax years. 50% for next five tax years thereafter. 50% of the export profit for next five tax years provided an equal amount of profit is retained or transferred to a special reserve in the books of accounts. Only units which become operational on or before 31 March 2020 can claim this tax holiday. For more information, click here.

56. Who is required to register for Goods and Service Tax payment?

Every supplier is liable to get registered under this Act if his/her aggregate turnover in a financial year exceeds INR 40 lakhs / 20 lakhs in case of special category states (North Eastern and Hilly States). Section 24 of GST Act also specifies compulsory registration for people irrespective of the above threshold limits.

57. What components of salary are exempted from income tax?

Generally, subject to certain conditions, the following items of compensation are not taxable in the hands of employees: House Rent Allowance (HRA) Certain travel/ tour allowances Reimbursement of medical expenses up to specified limits Leave travel concession Tax borne by an employer on non-monetary perquisites Gratuity Leave encashment Employer Provident Fund contribution Apart from above, there are other allowances such as children's allowance, hostel allowance, etc., which form part of salary and are exempt from tax but subject to certain conditions and/or monetary limits. For more information, click here.

58. Which tax is to be applied by the service provider on invoice issued on or after 1 July 2017 for services rendered up to 30 June 2017?

The time of supply being issuance of invoice under the CGST Act, 2017, the supplier of services must charge GST in this case. However, where the payment for such supplies has been made (prior to issuance of invoice) as advance before the 1 July 2017, the tax would be payable under the law prevalent prior to 1 July 2017, as the point of taxation had arisen before this date to the extent of the advance. For more information, click here.

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