
IMPORTANT UPDATES – DIRECT TAX

Relevant Update Details	Summary
Notification No: 6/2018 dated 06 December 2018	<ul style="list-style-type: none">• Under the existing provisions of section 194A of the Income Tax Act, 1961 (“the Act”) dealing with deduction of tax at source on interest other than interest on securities, no deduction of TDS shall be made when the payee is a senior citizen and when the aggregate amount of income credited or paid or likely to be credited during the financial year does not exceed INR 50,000• However considering that the above provisions are not being strictly complied with by various deductors/ banks, the CBDT has issued Notification 6/2018 clarifying that no tax deduction at source under section 194A shall be made in the case of Senior Citizens where the amount of such income or, the aggregate of the amounts of such income credited or paid during the financial year does not exceed fifty thousand rupees
Notification No:82/2018 dated 19 November 2018	<ul style="list-style-type: none">• The said notification relates to the amendment to Rule 114 of the Income Tax Rules, 1962 read with section 139A and section 295 of the Act.• Section 139A lays down the situations under which a PAN is to be obtained. Rule 114 deals with the guidelines to be followed with respect to filing an application for obtaining a PAN.• Rule 114(3) dealing with the timelines within which an application for PAN shall be filed has been amended to include the following timelines within which an application for PAN shall be preferred: (v) In the case of a person, being a resident, other than an individual, which enters into <u>a financial transaction</u> of an <u>amount aggregating to two lakh fifty thousand rupees or more in a financial year</u> and which has not been allotted any

	<p>permanent account number, on or before the 31st day of May immediately following such financial year</p> <p>(vi) In the case of a person, who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in clause (v) or any person competent to act on behalf of the person referred to in clause (v) and who has not been allotted any permanent account number, on or before the 31st day of May immediately following the financial year in which the person referred to in clause (v) enters into financial transaction specified therein</p> <ul style="list-style-type: none"> • An amendment has also been made to Form 49A and Form 49AA dealing with the application for PAN wherein it is no longer required to give the name of the father in case the mother is a single parent. • The above notification is effective from 05 December 2018
<p>Instruction No: F.No.173/14/2018-ITA-1 dated 24 December 2018</p>	<ul style="list-style-type: none"> • Pursuant to vehement protests from various persons that Assessing Officers are running amok and terrorizing start-ups and angel funds, the CBDT has issued a directive instructing AOs not to take coercive measures to recover outstanding demand until further notice. • The above instruction is post consideration of the letter dated 06.02.2018 on the above mentioned subject, wherein it was instructed by the CBDT that no coercive measures to recover the outstanding demand would be taken in case of 'Start Up', if additions have been made by the Assessing Officer under section 56(2)(viib) of the Act after modifying/rejecting the valuation so furnished under Rule 11UA(2)
<p>Circular 7/2018 dated 20 December 2018</p>	<ul style="list-style-type: none"> • The CBDT has issued Circular No. 7 / 2018 dated 20th December 2018 regarding the condonation of delay under section 119(2)(b) of the Income-tax Act, 1961 in filing of Form no. 10 and Form No. 9A by charitable trusts and institutions. • The said relief is applicable for AY 2016-17 only considering that this was the first year in which the requirement of such e forms were issued • It is however stated that the Commissioners shall, while entertaining such belated applications in Form No. 9A and Form No.10, satisfy themselves that the Assessee was prevented by reasonable cause from filing of applications in Form No. 9A and Form No.10 within the stipulated time. Further, in respect of Form No. 10 the Commissioners shall also satisfy themselves

	<p>that the amount accumulated or set apart has been invested or deposited in any one or more of the forms or modes specified in sub section (5) of section 11 of the Act.</p>
<p>Directive F. No. 240/8/201— A & PAC — II dated 14 December 2018</p>	<ul style="list-style-type: none"> • The CBDT has issued a directive dated 14th December 2018 requiring the registration process of charitable trusts / institutions to be audited by the Internal Audit Party. A detailed 'Procedure of Internal Audit of the Process of Registration of Charitable Trusts' has also been prescribed by the CBDT. • The directive is applicable with respect to applications processed (rejected/ approved) from FY 2018-19. • It has been mandated that atleast 50 cases be audited in FY 2019-20, post which target for future years would be set.
<p>Supreme Court decision in the case of Anil Kumar Nehru (Arising out of Special Leave Petition(C) No(s). 15715/2017)</p>	<ul style="list-style-type: none"> • It was held that the High Court should condone a delay in filing an Appeal before if a similar issue of the same assessee was already pending before the High Court for an earlier year, with respect to the determination of a question of law
<p>Miscellaneous</p>	<p>Mauritius issues guidelines on POEM for corporate tax residency</p> <ul style="list-style-type: none"> • The Mauritian tax authority has issued a Statement of Practice (SOP) laying down guidelines on the 'Place of Effective Management' test to decide corporate tax residence of an entity. A new section 73A has been inserted in the Finance Act, 2018 which provides that a company incorporated in Mauritius shall be treated as a tax resident of Mauritius if its place of effective management is situated in Mauritius. • The Mauritius Revenue Authority (MRA) would now examine all relevant facts and circumstance while determining the POEM of corporate taxpayers. • MRA has clarified that a company shall be deemed to have its place of effective management in Mauritius if the strategic decisions relating to the company's core income generating activities are taken in, or from, Mauritius. Further, while deciding the residential status of a company in Mauritius it shall also be considered where majority of the Board of directors' meetings are held or the executive management of the company is regularly exercised. • This is a major move in a jurisdiction whose image has been

	<p>crippled in the international tax arena. It is indeed welcoming to see the jurisdiction outlining its regulatory intentions in line with the principles laid down by the OECD under BEPS</p>
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