

CHOKSHI GROUP (INDIA)

Keeping you ahead

Update on Tax & Regulatory Affairs (For the period ended 14/09/2013)



RBI

1. **Know Your Customer (KYC) Norms/Anti Money Laundering (AML) Standards/Combating Financing of Terrorism (CFT)/Obligation of Banks under PMLA, 2002 - e-KYC Service of UIDAI**

It is notified that while opening accounts based on Aadhaar, if the address provided by the account holder is the same as that on Aadhaar letter, it may be accepted by the bank as a proof of both identity and address.

[\(Reference: RBI/2013-14/209/ Dated 2nd SEPTEMBER, 2013\)](#)

2. **Foreign students studying in India – KYC procedure for opening of bank accounts**

- (i) Banks may open NRO account of a foreign student on the basis of his/her passport and a letter offering admission from the educational institution.
- (ii) Within a period of 30 days of opening the account, the foreign student should submit a valid address proof giving local address, in the form of a rent agreement or a letter from the educational institution as a proof of living in a facility provided by the educational institution.
- (iii) During the 30 days period (pending verification of address.), the account should be operated with a condition of allowing foreign remittances not exceeding USD 1,000 into the account and a cap of monthly withdrawal to Rs. 50,000.
- (iv) On submission of the proof of current address, the account would be treated as a normal NRO account, and will be operated in terms of instructions contained in RBI's Master Circular on Non-Resident Ordinary Rupee (NRO) Account.
- (v) Students with Pakistani nationality will need prior approval of the Reserve Bank for opening the account.

[\(Reference: RBI/2013-14/210/ Dated 2nd SEPTEMBER, 2013\)](#)

3. **Overseas Direct Investments – Rationalization/Clarifications**

- (i) All financial commitments made on or before August 14, 2013, in compliance with the earlier limit of 400% of the net worth of the Indian Party under the automatic route (without approval of RBI) will continue to be allowed.
- (ii) The limit of financial commitments for an Indian Party (presently 100% of its net worth) shall not apply to the financial commitments funded out of EEFC account of the Indian Party or out of funds raised by way of ADRs / GDRs by the Indian Party.
- (iii) It has been decided further to retain the limit of 400% of the net worth of the Indian Party for the financial commitments funded by way of eligible External Commercial Borrowing (ECB) raised by the Indian Party as per the extant ECB guidelines issued by the Reserve Bank of India from time to time.

[\(Reference: RBI/2013-14/220/ Dated 4th SEPTEMBER, 2013\)](#)

4. **External Commercial Borrowings (ECB) from the foreign equity holder**

Eligible borrowers can avail ECB under the approval route from their foreign equity holder company with minimum average maturity of 7 years for general corporate purposes subject to the following conditions:

- (i) Minimum paid-up equity of 25 per cent should be held directly by the lender
- (ii) Such ECBs would not be used for any purpose not permitted under extant the ECB guidelines (including on-lending to their group companies / step-down subsidiaries in India)
- (iii) Repayment of the principal shall commence only after completion of minimum average maturity of 7 years. No prepayment will be allowed before maturity.

[\(Reference: RBI/2013-14/221/ Dated 4th SEPTEMBER, 2013\)](#)

5. Liberalized Remittance Scheme – Clarifications

- (i) LRS can be used to acquire both listed and unlisted shares of an overseas company.
- (ii) The following remittances can be made over and above the annual limit of USD 75000 permissible under LRS:
 - A resident individual can make remittances for meeting expenses for medical treatment abroad up to the estimate from a doctor in India or hospital/ doctor abroad under general permission without any RBI approval
 - A resident individual can make remittances up to USD 25,000 for maintenance expenses of a patient going abroad for medical treatment or check-up abroad or for accompanying as attendant to a patient going abroad for medical treatment/ check-up without any RBI approval.
 - A resident individual can make remittances for studies up to the estimates from the institutions abroad or USD 100,000, whichever is higher without any RBI approval.
 - Resident individuals are permitted to make remittances for acquiring immovable property within the annual limit of USD 75000 for already contracted cases i.e. on or before August 14, 2013, subject to satisfaction of the genuineness of the transactions by the AD bank. Such cases should be immediately reported post facto to the Reserve Bank of India by the A D banks.

[\(Reference: RBI/2013-14/222/ Dated 4th SEPTEMBER, 2013\)](#)

6. Risk Management and Inter Bank Dealings

On a review of the evolving market conditions and with a view to providing operational flexibility to exporters and importers to hedge their foreign exchange risk, it has now been decided to:

- (i) Allow exporters to cancel and rebook forward contracts to the extent of 50 percent of the contracts booked in a financial year for hedging their contracted export exposures
- (ii) Allow importers to cancel and rebook forward contracts to the extent of 25 percent of the contracts booked in a financial year for hedging their contracted import exposures.

[\(Reference: RBI/2013-14/227/ Dated 4th SEPTEMBER, 2013\)](#)

7. Issue of Bank Guarantee on behalf of person resident outside India for FDI transactions

It has been decided to permit AD Category –I bank to issue bank guarantee, without prior approval of the Reserve Bank, on behalf of a non-resident acquiring shares or convertible debentures of an Indian company through open offers/ delisting/exit offers, provided :

- (i) The transaction is in compliance with the provisions of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) [SEBI(SAST)] Regulations
- (ii) The guarantee given by the AD Category –I bank is covered by a counter guarantee of international bank.

[\(Reference: RBI/2013-14/230/ Dated 5th SEPTEMBER, 2013\)](#)

8. Cash withdrawal at Point of Sale (POS) - Prepaid Payment Instruments issued by banks

The facility of cash withdrawal of Rs.1000/- per day at POS with debit cards may be extended to 'open system prepaid payment instruments' issued by banks in India.

[\(Reference: RBI/2013-14/231/ Dated 5th SEPTEMBER, 2013\)](#)

9. Purchase of shares on the recognized stock exchanges in accordance with SEBI (Substantial Acquisition of Shares and Takeover) Regulations

Non-resident including a Non Resident Indian may acquire shares of a listed Indian company on the stock exchange through a registered broker under FDI scheme provided that:

- (i) The non-resident investor has already acquired and continues to hold the control in accordance with SEBI (Substantial Acquisition of Shares and Takeover) Regulations;
- (ii) The amount of consideration for transfer of shares to non-resident consequent to purchase on the stock exchange may be paid by inward remittance, by debit to the NRE/FCNR account or by debit to non-interest bearing Escrow account.
- (iii) The pricing for subsequent transfer of shares to non-resident shareholder shall be in accordance with the pricing guidelines under FEMA;

[\(Reference: RBI/2013-14/232/ Dated 6th SEPTEMBER, 2013\)](#)

10. Export and Import of Currency

Any person resident in India:

- (i) May take outside India (other than to Nepal and Bhutan) currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.10,000 per person; and
- (ii) Who had gone out of India on a temporary visit, may bring into India at the time of his return from any place outside India (other than from Nepal and Bhutan), currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.10,000 per person.

[\(Reference: RBI/2013-14/233/ Dated 6th SEPTEMBER, 2013\)](#)

11. Finance for Housing Schemes – Primary (Urban) Co-operative Banks – Loans for repairs / additions / alterations – enhancement of limits

- (i) It has been decided to enhance the ceiling on loans to individuals for carrying out repairs / additions / alterations to their dwelling units to Rs. 2 lakh in rural and semi-urban areas and Rs 5 lakh in urban areas.

[\(Reference: RBI/2013-14/236/ Dated 10th SEPTEMBER, 2013\)](#)

12. Export of Goods and Services - Simplification and Revision of Declaration Form for Exports of Goods/ Software

- (i) In order to simplify the existing form used for declaration of exports of Goods/Softwares, a common form called “Export Declaration Form” (EDF) has been devised to declare all types of export of goods from **Non-EDI** ports and a common “SOFTEX Form” to declare single as well as bulk software exports. The EDF will replace the existing GR/PP form used for declaration of export of Goods.
- (ii) Under the revised procedure, the exporters will have to declare all the export transactions, including those less than US\$25000, in the form as applicable.

[\(Reference: RBI/2013-14/254/ Dated 13th SEPTEMBER, 2013\)](#)

SEBI

1. Debt Allocation Mechanism for FII/QFI - Government debt securities

- (i) FIIs/ sub-accounts may avail limits in the Corporate Debt – Long Term Infra category without obtaining SEBI approval till the overall FII investments reaches 90%, after which the auction mechanism shall be initiated for allocation of remaining limits
- (ii) FIIs which had obtained Government Debt limits in the debt limit auctions held on August 20, 2013, the time period for utilization of limits allocated through the bidding process shall be in terms of the SEBI circular.

[\(Reference: CIRCULAR NO. CIR/IMD/FIIC/15/2013/Dated 13th SEPTEMBER, 2013\)](#)

DIRECT TAX

1. Substitution of Rule 37BB and Form Nos. 15CA and 15CB

In the Income-tax Rules, 1962 , for rule 37BB, the following rule shall be substituted, namely:—

- (i) The information in Part A of Form No.15CA, if the amount of payment does not exceed Rs.50,000 and the aggregate of such payments made during the financial year does not exceed Rs.2,50,000;
- (ii) The information in Part B of Form No.15CA for payments other than the payments referred in above clause after obtaining a certificate in Form No. 15CB from an accountant as defined in the Explanation below sub-section (2) of section 288; or
 - a) a certificate from the Assessing Officer under section 197; or
 - b) an order from the Assessing Officer under sub-section (2) or sub-section (3) of section 195

[\(Reference: NOTIFICATION NO. 67/2013, DATED 2nd SEPTEMBER, 2013\)](#)



CUSTOMS

1. Anti Dumping Duty

Seeks to levy anti-dumping duty on imports of Sodium Perchlorate, Zinc Oxide, originating in, or exported from, People's Republic of China for a period of five years.

(Reference: [NOTIFICATION NO. 21/2013-CUSTOMS \(ADD\) DATED 6th SEPTEMBER, 2013](#))



SERVICE TAX

1. Ad-Hoc Exemption

The Central Government exempts the taxable service provided to any person in the State of Uttarakhand, from the whole of service tax leviable thereon under section 66B of the Finance Act, 1994 (32 of 1994), namely:-

- (i) Services by way of renting of a room in a hotel, inn, guest house, club, campsite or other commercial place meant for residential or lodging purposes.
- (ii) Services provided in relation to serving of food or beverages by a restaurant, eating joint or mess.
- (iii) This exemption order is applicable for the above mentioned taxable services provided during the period 17th September, 2013 to 31st March, 2014.

(Reference: [NOTIFICATION NO. AD-HOC EXEMPTION ORDER NO.1/1/2013 DATED 17th SEPTEMBER, 2013](#))

Disclaimer: This is not a substitute for specific professional advice and before acting upon these updates necessary advice may be procured.

SOURCE: Legal Pundits/Taxmann/BCAS/AAR/CITC/CBEC/CITC/MCA/Incometaxindia/NSDL

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