



# AINO Communique

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November 2017



**AINO Management Consultancy Pvt Ltd**

No. 18/1, Jain Bhawan, First Floor, Andree Road, Shanthinagar, Bangalore – 560027

Tel : 080 22222143 | 7353444222 |

E-Mail : [info@ainoglobal.com](mailto:info@ainoglobal.com)

Web : [www.ainoglobal.com](http://www.ainoglobal.com)

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**Dear Professional Colleague,**

**Never forget your duty; health is your real beauty!**

Work-Life balance is at best an elusive ideal and at worst a complete myth, today's senior executives will tell you.

But by making deliberate choices about which opportunities they'll *pursue* and which they'll *decline*, rather than simply reacting to emergencies, **leaders** can and do engage meaningfully with work, family, and community. They've discovered through hard experience that prospering in the senior ranks is a matter of carefully combining work and home so as not to lose themselves, their loved ones, or their foothold on success.

We at **AINO** encourage our employees and our valued clients to achieve their desired goals in a healthy way.

We are pleased to bring you, our 49<sup>th</sup> edition of **AINO Monthly Communiqué** which summarizes latest significant tax and financial developments of last month.

The 22<sup>nd</sup> GST Council Meeting was held at New Delhi on the 6th of October 2017. In the meeting, various decisions and changes pertaining to GST return filing, composition scheme, and GST rates have been announced.

Under the Companies Act 2013, Relaxation of additional fee and extension of last date of filing of AOC-4 and AOC-4 up to 28.11.2017.

CBDT extends due date for furnishing CbC report for accounting year 2016-17 to March 31, 2018.

RBI has permitted to the resident entities with foreign currency exposures and non-resident entities with rupee exposures, other than individual to hedge underlying exchange rate risk arising out of transactions permitted under FEMA, 1999, subject to simplified terms and conditions as may be set forth in the directions issued by the RBI

We hope you find this journal is informative and of continued interest. We welcome your feedback at [communiqué@ainoglobal.com](mailto:communiqué@ainoglobal.com)

With warm Regards,



CA. Sudheer Javali

On behalf of **AINO** team!



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## Monthly Article

- The Payment of Bonus (Amendment) Act, 2015

## Statutory due dates in the month of November – 2017

Statutory Dues	Nature of payment/Return Filing	Due date
<b>Income tax return</b>	ITR Filing for Corporate other than Transfer Pricing filing F.Y 2016-17 (Extended)	7 <sup>th</sup> Nov
	ITR Filing for Non-corporate for whom Tax Audit is applicable F.Y 2016-17 (Extended)	7 <sup>th</sup> Nov
	ITR Filing for Assesse who covered under purview of Transfer Pricing	30 <sup>th</sup> Nov
<b>ROC</b>	ROC Annual Return Filing for F.Y 2016-17 (Extended)	28 <sup>th</sup> Nov
<b>TDS/TCS</b>	TDS payment	7 <sup>th</sup> Nov
<b>PF</b>	Monthly payment and return filing	15 <sup>th</sup> Nov
<b>ESIC</b>	Monthly payment and return filing	15 <sup>th</sup> Nov
	1 <sup>st</sup> Half Yearly Return	12 <sup>th</sup> Nov
<b>PT</b>	Monthly payment and return filing	20 <sup>th</sup> Nov
<b>GST</b>	Filing of GSTR 3B for October month	20 <sup>th</sup> Nov
	Filing of GSTR 2 for July month (Extended)	30 <sup>th</sup> Nov
	Filing of Tran 1 (Extended)	30 <sup>th</sup> Nov
	Filing of GSTR 4 of Q1	15 <sup>th</sup> Nov
	Filing of GSTR 6 of July Month	15 <sup>th</sup> Nov

## Foreign Exchange Fluctuation

Currency	As on 30 <sup>th</sup> September 2017	As on 31 <sup>th</sup> October 2017	Change
<b>USD</b>	65.3552	64.7745	0.5807 ↓
<b>GBP</b>	87.7067	85.5995	2.1072 ↓
<b>EURO</b>	77.0603	75.4234	1.6369 ↓

## Stock Exchange Fluctuation

Stock Exchange	As on 30 <sup>th</sup> September 2017	As on 31 <sup>st</sup> October2017	Change
<b>BSE Sensex</b>	31,272.23	33,213.13	1,940.90 ↑
<b>Nifty</b>	9,782.00	10,404.90	6,22.90 ↑

## Commodity Market (MCX)

Commodity	As on 30 <sup>th</sup> September 2017	As on 31 <sup>st</sup> October2017	Change
<b>Gold (10 grams) 22 carat</b>	28,600.00	27,340.00	1260.00 ↓
<b>Silver (1 kg)</b>	40,000.00	41,900.00	1,900.00 ↑

## INCOME TAX



### **Order under section 119 of the Income tax act, 1961**

Hereby further extends the due date for filing income-tax returns and reports of audit pertaining to Assessment year 2017-2018 from 31<sup>st</sup> October 2017 to 7<sup>th</sup> November 2017.

[https://incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF\\_News/Due\\_date\\_extension.pdf](https://incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF_News/Due_date_extension.pdf)

### **Circular No. 26/2017, dated 25<sup>th</sup> October 2017**

#### **CBDT extends due date for furnishing CbC report for accounting year 2016-17 to March 31, 2018**

The Central Board of Direct Taxes (CBDT) has extended due date for furnishing of country-by-country (CbC) report in respect of international group for reporting accounting year 2016-17 to 31<sup>st</sup> March, 2018.

FY 2016-17 will be the first reporting year for furnishing of CbCR. The rules for furnishing of CbCR are also still under consideration.

[http://www.incometaxindia.gov.in/communications/circular/circular26\\_2017.pdf](http://www.incometaxindia.gov.in/communications/circular/circular26_2017.pdf)

#### **Clarification relation related to guidelines for establishing “Place of Effective Management” (POEM) in India-reg**

The CBDT has issued Circular No. 25 of 2017 dated 23<sup>rd</sup> October 2017 by which it has provided clarification related to guidelines for establishing “Place of effective Management” (PoEM) in India. The CBDT has in particular addressed concerns that as per the extant guidelines, PoEM may be triggered in cases of certain multinational companies with regional headquarter structure merely on the ground that certain employees having multi-country responsibility or oversight over the operations in other countries of the region are working from India, and consequently, their income from operations outside India may be taxed in India.

[http://www.incometaxindia.gov.in/communications/circular/circular25\\_2017.pdf](http://www.incometaxindia.gov.in/communications/circular/circular25_2017.pdf)

#### **Notification of amendment of Rule 17A and Form 10A of IT Act**

Section 12A of the Income-tax Act, 1961 - Charitable Trust - Registration of - Draft Notification of Amendment of Rule 17A and Form 10A of the Income-tax Rules, 1962 - Comments and Suggestions Thereof.

<http://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/662/Press-Release-Draft-Notification-amendment-Rule-17A-Form-10A-18-10-2017.pdf>

## **BRIEF NOTE**

### **Discrepancies in Form 26AS or Form 16/16A won't be considered while processing ITR-1 u/s 143(1): CBDT**

Recently, it has been observed that taxpayers are receiving intimation under section 143(1)(a) in response to Income-tax return (ITR) filed for Assessment Year 2017-18. The Income-tax department is sending notices seeking response from taxpayers to the inconsistencies which require adjustments to the income/loss declared in ITR.

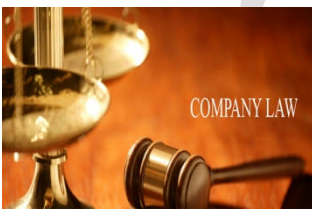
Clause (vi) of Section 143(1)(a) provides that while processing of return, the total income or loss shall be computed after making adjustment of addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the ITR.

Salaried persons who filed their ITR in form ITR-1 are the most aggrieved persons receiving section 143(1)(a) intimations. ITR-1 provides information about particular head or item of income only on net basis. Due to this a meaningful comparison between data/information contained in the Form 16, 16A or 26AS with the ITR-1 is not possible.

Considering the matter, the Central Board of Direct Taxes (CBDT) has now issued instructions that provision of section 143(1)(a)(vi) shouldn't be invoked to issue intimation proposing adjustment to the income or loss declared in ITR-1.

However, provision of section 143(1)(a)(vi) would continue to apply in case where any head/item of income is altogether omitted in return in ITR-1. All pending intimations shall be dealt with in accordance with these instructions.

## **COMPANY LAW**



### **Relaxation of additional fee and extension of last date of filing of AOC-4 and AOC-4 (XBRL non-IndAS) under the Companies Act 2013**

Keeping in view the requests received from various stakeholders, for allowing extension of time for filing of financial statements for the financial year ending on 31.03.2017 on account of various factors, it has been decided to extend the time of filing e-forms AOC-4 and AOC-4 (XBRL Non-IndAS) and the corresponding AOC-4 CFC e-forms upto 28.11.2017 without levying additional fees.

[http://www.mca.gov.in/Ministry/pdf/GeneralCircular14\\_28102017.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircular14_28102017.pdf)

### **Clarification regarding approval of resolution plans under section 30 and 31 of Insolvency and Bankruptcy Code, 2016**

The Ministry of Corporate Affairs (MCA) has issued a clarification regarding approval of resolution plans under Section 30 and 31 of Insolvency and Bankruptcy Code, 2016. These sections provide details related to submission of resolution plan to resolution professional and its approval from Adjudicating Authority.

MCA clarification is related to whether the approval of shareholders or members of the corporate debtor or company is required for a resolution plan at any stage during the process for its consideration and approval as per Section 30 and 31 of the code. It is now clarified by MCA that there is no requirement for obtaining approval of shareholders or members of the corporate debtor during the process as mentioned under Section 30 and 31 of the code.

[http://www.mca.gov.in/Ministry/pdf/CircularIBC\\_25102017.pdf](http://www.mca.gov.in/Ministry/pdf/CircularIBC_25102017.pdf)

## GENERAL PROVIDENT FUND



General Provident Fund (GPF) and other similar funds shall carry interest at the rate of 7.8% w.e.f 1<sup>st</sup> October 2017 to 31<sup>st</sup> December 2017

<https://www.caclubindia.com/news/provident-fund-to-carry-interest-of-7-8-says-govt--16386.asp>

EPFO members can now link their UAN with Aadhaar online

On the event of Deepawali Employees' Provident Fund Organisation (EPFO) is pleased to introduce a new facility for its esteemed members having Universal Account Number (UAN) and other relevant details to link their respective UAN with Aadhaar online. This, in turn, would facilitate the members, a better and speedy EPFO services.

<https://www.caclubindia.com/news/-epfo-members-can-now-link-their-uan-with-aadhaar-online-16381.asp>

## FEMA/RBI

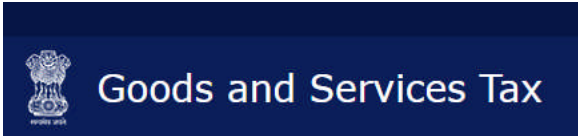


### **Notification No. FEMA.388/2017-RB/GSR 1324€ (F.NO.1/15/EM/2015).**

In exercise of the powers conferred by clause (h) of sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank hereby makes the following amendments in the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 (Notification No. FEMA 25/RB-2000 dated May 3, 2000)

<https://corporatelaws.taxmann.com//fileopennew.aspx?id=10401000000052821&mode=home&page=ts>

## **GOODS AND SERVICE TAX**



### **Notification No. 54/2017 – Central Tax**

Extension of time limits for filing Form GSTR-2 for the month of July 2017 upto 30<sup>th</sup> November 2017 (earlier 31<sup>st</sup> October 2017) and GSTR-3 for the month of July 2017 upto 11<sup>th</sup> December 2017 (earlier 10<sup>th</sup> November 2017).

<http://www.cbec.gov.in/resources/htdocs-cbec/gst/notfctn-54-central-tax-english.pdf>

### **Notification No. 46/2017- Central Tax**

To Opt Composition Scheme, Turnover Limit increased from Rs.75 lakh to Rs.1 crore. Turnover limit increased from Rs.50 lakh to Rs.75 lakh. (For special states)

<http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-46-cgst-english.pdf>

### **Notification No. 52/2017 – Central Tax**

CBEC has extended the due date for filing GST ITC Form Trans-1 from 31-oct-2017 to 30<sup>th</sup> Nov 2017

<http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-52-central-tax-english.pdf>

### **Notification No. 50/2017 – Central Tax**

In view of the difficulties being faced during the return filing process and in order to further facilitate taxpayers, the CBEC vide Notification No. 50/2017 – Central Tax Waived the late fee on filing of GSTR – 3B for the months of August and September 2017.

<http://www.cbec.gov.in/resources/htdocs-cbec/gst/notifctn-ct-50.pdf>

### **Notification No. 37/2017 – Central Tax**

#### **Clarification on issues related to furnishing of Bond/Letter of Undertaking for exports**

In view of the difficulties being faced by the exporters in submission of bonds/Letter of Undertaking (LUT for short) for exporting goods or services or both without payment of integrated tax, Notification No. 37/2017 – Central Tax dated 4<sup>th</sup> October, 2017 has been issued which extends the facility of LUT to all exporters under rule 96A of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as “the CGST Rules”) subject to certain conditions and safeguards. This notification has been issued in supersession of Notification No. 16/2017 – Central Tax dated 7<sup>th</sup> July, 2017 except as respects things done or omitted to be done before such supersession.

<http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-37-central-tax-english.pdf>



## INDIAN BONUS ACT – 1965



On 31 December 2015 the President gave his assent to certain amendments to the Payment of Bonus Act, 1965. The amendments have increased the wage threshold for determining applicability of the Act from INR 10,000 to INR 21,000 per month.

The Payment of Bonus Act, 1965 (**Bonus Act**) has been recently amended to bring about certain key changes (**the Amendments**).

- (a) **Revision of wage threshold for eligibility:** The wage threshold for determining eligibility of employees has been revised from INR 10,000 to INR 21,000 per month.



- (b) **Change in the wage ceiling used for calculation of bonus:** Previously the maximum bonus payable was 20% of INR 3500 per month. The minimum bonus payment was also capped at 8.33% of INR 3500 per month or INR 100, whichever is higher. The calculation ceiling of INR 3500 has now been doubled to INR 7000 per month "or the minimum wage for the scheduled employment, as fixed by the appropriate Government" (whichever is higher).

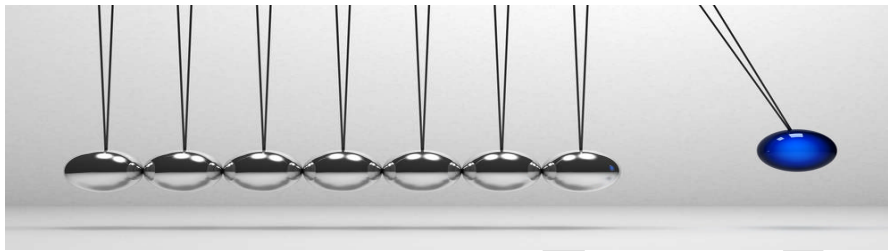
- (c) **Retrospective Effect:**



The amendment has been brought into effect from 1 April 2014. The Bonus Act applies to every factory and every establishment that employs 20 or more persons, and unlike other performance linked incentives offered by companies, the bonus payable under this law is not linked to the performance of the employee.

All employees earning up to the wage threshold (increased to INR 21,000 by the Amendments), and who have worked in the establishment for not less than 30 working days in the year are eligible to receive this statutory bonus.

### **IMPACT OF THE AMENDMENTS AND POTENTIAL CHALLENGES**



- a) **INR 10,000 to INR 21,000:** As with many other labour statutes, the Bonus Act also contains a separate definition of 'wages'. Broadly, 'salary or wage' under the Bonus Act includes all guaranteed components of an employee's salary (not just the basic salary) and specifically excludes certain allowances and concessions. Salary structures adopted by organizations these days can be fairly complex, with multiple allowances and incentives built into the compensation structure.
- b) **Reference to minimum wages under the Minimum Wages Act (MW Act):**



The insertion of a reference to the minimum wage under the MW Act to calculate bonus payments has created an additional challenge for companies. The appropriate Governments (i.e. State Governments) fix different minimum wages for various scheduled employments. Employers would have to carry out an assessment of the applicable wage rates for different categories of employees in order to calculate the statutory bonus payable.

This issue would be even more significant for employers having offices in multiple States since the minimum wages for the same scheduled employment also vary from one State to another, and the variation can sometimes be quite significant.

- c) **Complexities in paying the bonus retrospectively:** Under the Bonus Act, an employer is required to pay bonus within 8 months from the close of the accounting year. Employers in India usually follow a financial year from 1 April to 31 March and close their books of accounts accordingly.

### **Impact on ESI**

statutory bonus paid annually does not count for contribution since it does not form part of the definition of wages under Sec.2(22) of the SSI Act as it is paid annually i.e. at an interval of more than two months.

### ***Time duration to pay bonus payment***

As per sec 19 of the Payment of Bonus Act 1965 Statutory bonus shall be paid within 8 months from the date of closing of accounting year unless the Govt. extends the time limit.

# Thank you!!

We are encouraged by our readers and the complements received. In our endeavour to improve our quality, we request you to spend your two minutes time to give feedback.

Thanking you,  
**AINO team**

Write us at: [communique@ainoglobal.com](mailto:communique@ainoglobal.com)

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