

NewsBites

Sixteenth Edition

Greetings!

We are delighted to present our news bites for the month of July 2019. This News Bites intends to give an overview of what is happening in the sphere of direct and indirect taxation, audit and assurance and also in the industry.

We hope you find this useful. For any feedback you can reach to us at info@sanca.in.

Best Regards,
S A N & CO.
Chartered Accountants

Contents

Income Tax

- | | |
|---|---|
| 1. 10 reasons why you may get a notice from the income tax department | 2 |
| 2. CBDT gives 2 months extension to I-T Dept to finalise assessment in DeMo cases | 3 |
| 3. Tighten scrutiny of tax exemption claims on farm income: CAG to I-T Department | 3 |

Goods & Service Tax

- | | |
|--|---|
| 1. 36th GST Council Meeting: News & Updates – Highlights | 4 |
| 2. GST Quick Bytes | 4 |
| 3. Highlights of 35th GST Council Meeting | 5 |
| 4. Amending Invoices reported in Form GSTR 1, pertaining to financial year 2017-18 | 6 |

Companies Act

- | | |
|--|---|
| 1. Corporate Social Responsibility (CSR): Section 135 of the Companies Act, 2013 | 7 |
| 2. The Companies (Incorporation) Sixth Amendments Rules, 2019 | 7 |
| 3. E-Form DIR-3 KYC for Financial year 2018-19 | 7 |
| 4. Companies (Significant Beneficial Owners) Second Amendment Rules, 2019 | 8 |
| 5. Nidhi (Amendment) Rules, 2019 and Form NDH-4 | 8 |
| 6. Unique Document Identification Number (UDIN) Guidelines for Company Secretary | 8 |

Reserve Bank of India

- | | |
|--|---|
| 1. RBI has launched the “Complaint Management Systems (CMS)” | 9 |
| 2. RBI with effect from June 29, 2019 | 9 |
| 3. External Commercial Borrowings (ECB) Policy – Rationalization of End-use Provisions | 9 |

- | | |
|---|-----------|
| Insolvency and Bankruptcy Code | 10 |
|---|-----------|



Income Tax

10 reasons why you may get a notice from the income tax department

Excerpts from ET.26-07-2019

1. For delay filing I-T return

If you have not filed your return by the deadline, you will receive a reminder notice from the income tax department. You get this notice before the end of the assessment year for which the return is due.

2. Misreporting LTCG from equity

You need to report any realised long-term capital gains (LTCG) on listed equity and equity-related mutual funds at the time of filing ITR. LTCG above Rs 1 lakh in a year on listed equity and equity-related mutual funds on which STT has been paid will be taxed at 10 percent. Reporting LTCG on equity can be a bit complex for taxpayers from the financial year 2018-19 onwards.

3. For TDS claimed not matching with Form 26AS

While filing ITR, the TDS should ideally have to be the same in Form 26AS and Form 16 or 16A. However, there can be several reasons why some details may mismatch. Notices for TDS mismatch are issued under section 143(1). The reason for getting this notice is a mismatch in the TDS reported by the deductor to the revenue authorities and the TDS claimed in the return of income by the assessee.

4. For non-disclosure of income

Revenue authorities obtain information about income of assesses from different sources like banks, employers, tenants, mutual exchange of information between countries etc. If you have not shown some income in your ITR, then you may get a notice from the income tax department if they detect the non-reportage. Notice is issued under section 139(9) or 143(1) for non-disclosure of income.

5. For not declaring investments made in the name of spouse

At times, it may happen that you would have made investments in the name of your spouse but have not shown the income from those investments in your return. In such a scenario, any income from such investments can be taxable in your hands and you have to declare it at the time of filing returns. For instance, as per the income tax law, if an asset is acquired in the name of the spouse through the income of the of the taxpayer, the income arising out of such asset, if any, needs to be clubbed in the hands of the taxpayer.

6. For filing defective return

If you do not file the income tax return in the correct form, you will receive a defective return notice from the income tax department. You get a defective return notice under section 139(9) of the Income Tax Act.

7. If you have done high-value transactions

You may receive a notice if you have done high-value transactions. The income tax department identifies taxpayers who have made high-value transactions in any financial year but not yet filed an income tax return.

8. If your return is picked for scrutiny

You may anytime come under the taxman's lens. The department can randomly scrutinize returns to enforce tax compliance.

9. For setting off refunds against remaining tax payable

If you have claimed a refund on the tax paid but there are still some previous tax dues payable by you, the Assessing Officer (A.O) may send you a notice.

10. For Tax evasion in earlier years

The Income Tax Act gives the I-T department power to reassess previously filed I-T returns. An Assessing Officer can pick tax returns for reassessment based on certain pre-defined criteria. Notice for reassessment is sent only when tax officer has reasons to believe that income which was chargeable to tax has escaped assessment.

CBDT gives 2 months extension to I-T Dept to finalise assessment in Demo cases Excerpts from Mint Dt. 26-07-2019

The CBDT on Friday said that it has extended the taxman's deadline by another two months till September to complete the final assessment of about 87,000 entities across the country who made suspicious deposits post-demonetisation.

The CBDT said the extension of time is being granted after considering "various difficulties (being faced by assessing officers) related to completion of assessments in Operation Clean Money (OCM) cases" by July end.

"The timeline for completion of assessment in such OCM cases is hereby extended and it should be completed by September 30," the CBDT order accessed by PTI said.

It had launched the 'Operation Clean Money' to check black money post-demonetisation.

The assessing officers (AOs) of the Income Tax Department had earlier this month petitioned the Central Board of Direct Taxes (CBDT) to extend the deadline, saying it was "humanly impossible" to finish the task by July as it requires a lot of "paperwork and manpower."

Tighten scrutiny of tax exemption claims on farm income: CAG to I-T Department Excerpts from Mint Dt. 31-07-2019

Claims of tax exemption on farm income have attracted the attention of the Comptroller and Auditor General of India (CAG), which has called for greater efforts to check tax evasion in this key area.

In an audit report of the revenue department tabled in Parliament on Tuesday, the government's statutory auditor said claims of tax exemption on farm income have been allowed by the department based on "inadequate verification or incomplete documentation" in more than a fifth of the 6,778 cases it has looked into.

The CAG report also flagged the issue of abuse of tax exemption granted to charitable trusts and institutions which has resulted in assesseees whose activities were not 'charitable' in nature getting the tax benefit. Abuse of tax relief given on agriculture income and on the earnings of charitable trusts have been two areas the income tax department has been battling for some time.

In May, the Central Board of Direct Taxes (CBDT) had proposed a new audit format requiring religious and charitable trusts to be more open about their affairs. It had also proposed new rules that require these institutions to make more detailed disclosures about their transactions.

Goods & Service Tax

36th GST Council Meeting: News & Updates – Highlights

• Rate slashes to boost EV sector

The GST Council has reduced the GST rate on electric vehicles (EV) from 12% to 5%. Also, the GST rate on chargers or charging stations for electric vehicles is slashed from 18% to 5%. Further, the e-buses (seating capacity exceeds 12 passengers) can now be hired by all the local authorities without charging GST. The changes will come into effect from 1 August 2019.

• Extension in time limit helps service sector under Composition Scheme

The time limit to opt for Composition Scheme in CMP-02 is extended till 30 September 2019. Only the service providers notified under notification No. 2/2019-Central tax (rate) dated 07.03.2019 for a special Composition Scheme can avail the benefit of the extension. The deadline was earlier announced to be till 31 July 2019. Also, the due date for paying GST in CMP-08 (for the quarter April-June 2019) for all the composition dealers has been further extended to 31 August 2019 from the earlier due date of 31 July 2019. The announcement was a much-needed one as the GSTN is yet to make the CMP-08 facility available for taxpayers on the portal.

GST Quick Bytes

- A registered person can use FORM GST PMT-09 to transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess.
- Quick Response (QR) code may be made mandatory in the Tax Invoice and Bill of supply at a later date to be notified.
- Refund of taxes to the retail outlets established in the departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist by filling FORM GST RFD-10B on a monthly or quarterly basis.
- Suppliers of Online Information Database Access and Retrieval Services ("OIDAR services") have been exempted from the furnishing of Annual Return / Reconciliation Statement.
- The new format of GSTR-4, for composition dealer to be filed on an annual basis, has been notified. (applies to FY 2019-2020 onwards).



1 billion reinvested in travel businesses

Branding is defined as the process of coming up with or making a unique name or design for a certain product.

Having a good brand strategy allows you to have a major advantage in gaining a large increase in your market competitions. Your brand tells your customers what they can have or expect from the products and services you offer.

Are you innovative or are you the experienced type? or do you offer a high-cost, high-quality product, or a low-cost, high-value products? It's impossible to be both. You should consider on thinking what your customers need you to be. Your logo is the main foundation of your brand. All the promotional materials should be connected with your logo to communicate with your brand.

Brand messages are delivered and planned based on the questions how, what, when, to whom and where your brand strategy is. Advertisement, visual communication and distribution channels are parts of brand strategy.

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Imagine a revenue of hundred
Thousand dollars

Highlights of 35th GST Council Meeting

1. GST annual return due date extended till 31 August 2019 for FY 2017-18

The due date for filing GSTR-9, GSTR-9A, and GSTR-9C for the FY 2017-18 has been extended by two months, till 31 August 2019. Official notification can be made anytime soon.

2. Aadhaar-enabled GST Registration introduced:

In order to ease the current process of GST registration and reduce the paperwork involved, GST Council has given a go-ahead to a new system for verification of taxpayers registering themselves under GST. Aadhaar number shall be linked to the GSTIN while generation.

3. NAA tenure extended by two years

Tenure of National Anti-profiteering Authority (NAA) was due to end by 30 November 2019. GST Council has further extended this tenure by two years, to enable it to take up all the pending cases. Hence, the authority can take up new cases in future due to rate cut issues, indicating that the GST Council has plans for further rationalisation of GST rates.

4. 10% penalty to apply for any delay in depositing profiteered amount

GST Council has approved a levy of 10% penalty for delay in depositing the profiteered amount by more than 30 days. This is a fair measure that would encourage timely compliance by the taxpayer.

5. E-invoicing to start from January 2020

The new system for raising all the tax invoices on the GST portal has received in-principle approval for implementation from 1 January 2020. This applies to only B2B invoicing. By this system, no separate e-way bill will be required in case of e-invoice. Returns to be framed from these e-invoices. A phased implementation is being worked out.

Earlier, the government had fixed Rs 50 crore as the limit for the applicability of e-invoicing.

6. E-ticketing made mandatory for multiplexes

Among other major decisions, the GST Council approved the electronic ticketing system, for multiplexes, having multi-screens. This will help curb cases of tax evasion and the use of black tickets that have been prevalent.

7. Rate cut for lottery put on hold; Matter to be referred before an Attorney General

The previous council meet had not tabled the rate cut matter for lotteries. The 35th GST Council meeting discussed the matter at length and also brought to light two pending cases on this matter before the high court and Supreme Court respectively. Although the courts had referred the matter back to GST Council, the Council has decided to consult the Attorney General of India.

8. GSTAT to be GST Appellate Tribunal.

The GST council also definitively stated the Goods and Service Tax Appellate Tribunal will be the appellate authority and will adjudicate on appeals arising from central and state tax authorities' in-house dispute resolution system. The states will decide the number of GSTAT required by them as a result of which there can be two tribunals in a single state.

9. For non-filing of GST returns, E-way bills to be blocked

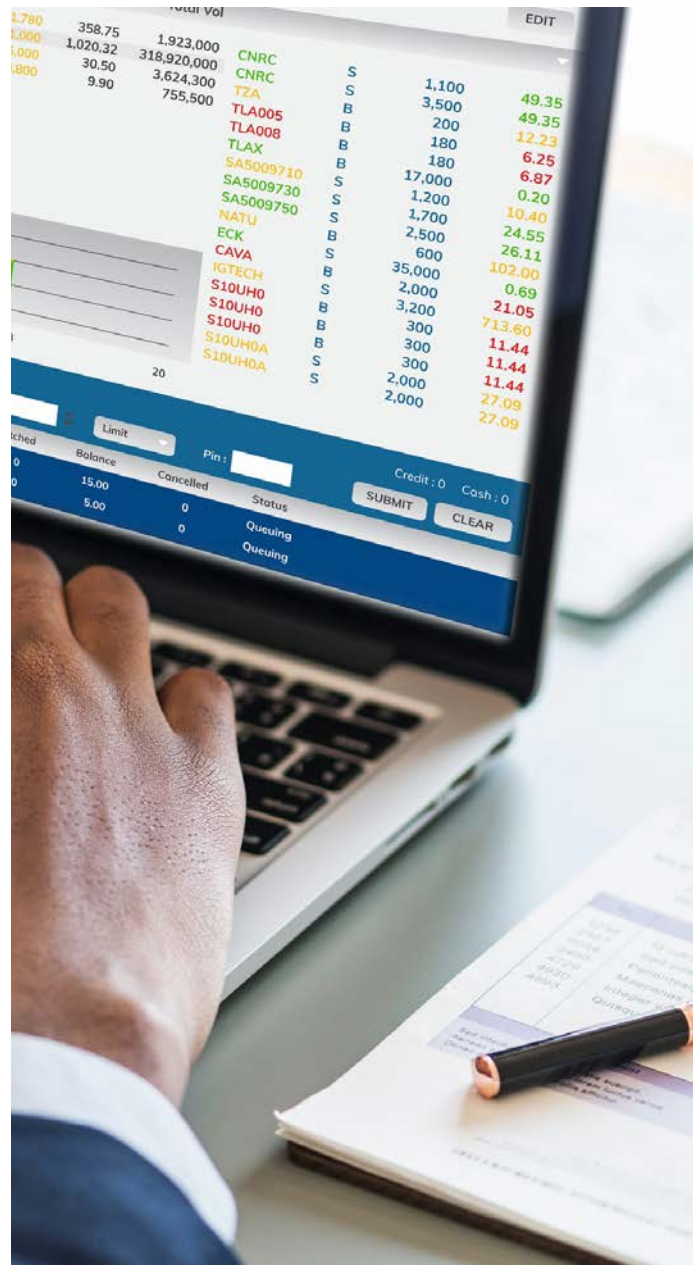
The law stated that where the GST returns in GSTR-3B/GSTR-4 is not filed for two consecutive tax periods, e-way bill generation for such taxpayers would be disabled. This will be brought into effect from 21 August 2019, instead of the earlier notified date of 21st June 2019.

Goods & Service Tax

Amending Invoices reported in Form GSTR 1, pertaining to financial year 2017-18

1. Some taxpayers have reported that they are not able to amend the invoices reported in their Form GSTR 1, pertaining to financial year 2017-18.
2. In this context attention of taxpayers is brought to point number 3 of the Removal of Difficulty Order No. 02/2018-Central Tax, dated 31st December, 2018, issued by Government of India, Ministry of Finance, which is reproduced below:

“3. In sub-section (3) of section 37 of the said Act, after the existing proviso, the following proviso shall be inserted, namely : -- “Provided further that the rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September, 2018 till the due date for furnishing the details under subsection (1) for the month of March, 2019 or for the quarter January, 2019 to March, 2019.”
3. Thus, taxpayers could have amended their invoices, reported in Form GSTR 1, pertaining to the financial year 2017-18, till the due date of filing of Form GSTR 1 of March, 2019. Since, due date of filing of Form GSTR 1, for the month of March, 2019 has already passed, no amendments in invoices reported in Form GSTR 1 pertaining to the financial year 2017-18, could be made now.



Companies Act, 2013

Corporate Social Responsibility (CSR): Section 135 of the Companies Act, 2013

- As per Companies (Amendment) Rules, 2019, any ongoing project, fulfilling such conditions as may be prescribed, undertaken by a company in pursuance of its Corporate Social Responsibility Policy, shall be transferred by the company within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the “Unspent Corporate Social Responsibility Account”;
- Further such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer;
- Failing which, the company shall transfer the same to a Fund specified in Schedule VII such as Prime Minister’s National Relief Fund, within a period of thirty days from the date of completion of the third financial year.

The Companies (Incorporation) Sixth Amendments Rules, 2019

- These Rules shall come into force with effect from August 15, 2019.
- Accordingly under these amendment rules, requirement of obtaining license under the provisions of the Section 8 from Registrar of Companies, before incorporation of company is now dispensed with.
- MCA has made necessary change in the E-Form INC-32 (Spice) and all the information / declaration are now part of the form and separate filling and processing of Form INC-12 is no longer required.

E-Form DIR-3 KYC for Financial year 2018-19

Companies (Appointment and Qualification of Directors) Third Amendment Rules, 2019 have been notified w.e.f. 25th July, 2019.

As per the said notification:

- E form DIR-3 KYC is to be filled by individual who holds DIN and is filling his KYC details for the first time or by the DIN holder who has already filled his KYC once but wants to update his details.
- Web service DIR-3 KYC WEB is to be used by the DIN holder who has submitted DIR-3 KYC e form in the previous financial year and no update is required.



Companies Act, 2013

Companies (Significant Beneficial Owners) Second Amendment Rules, 2019

- “Significant beneficial owner” in relation to a reporting company means an individual referred to in subsection (1) of section 90, who acting alone or together, or through one or more persons or trust, possesses one or more of the following rights or entitlements in such reporting company, namely:-
 - (i) Holds indirectly, or together with any direct holdings, not less than ten per cent of the shares;
 - (ii) Holds indirectly, or together with any direct holdings, not less than ten per cent of the voting rights in the shares;
 - (iii) Has right to receive or participate in not less than ten per cent of the total distributable dividend, or any other distribution, in a financial year through indirect holdings alone, or together with any direct holdings;
 - (iv) Has right to exercise, or actually exercises, significant influence or control, in any manner other than through direct holdings alone.
- Every individual who is a significant beneficial owner in a reporting company shall file a declaration in Form No. BEN-1 to the reporting company within ninety days from such commencement.
- Upon receipt of such declaration from beneficial owner, the reporting company shall file a return in Form No. BEN-2 with the Registrar in respect of such declaration, within a period of thirty days from the date of receipt of such declaration by it, along with the fees as prescribed in Companies (Registration offices and fees) Rules, 2014.”
- MCA has vide notification dated July 29, 2019 extended the last date for filling of Form BEN-2 under the Companies Act, 2013 upto September 30, 2019 without payment of additional fee and thereafter fee and additional fee shall be applicable.

Nidhi (Amendment) Rules, 2019 and Form NDH-4

- MCA vide its notification dated July 01, 2019 has notified the Nidhi (Amendment) Rules, 2019 by introducing a new Form NDH-4 i.e. Form for filling an application for

obtaining status of a Nidhi Company and for updating of status by Nidhi's which shall come into force with effect from August 15, 2019.

- Now companies may claim Nidhi status by filling the NDH-4 form instead of registration. For every new Nidhi company, Form NDH-4 is required to be filed within sixty days after the expiry of one year from the date of its incorporation and for existing companies within a period of six month from the date of commencement of Nidhi Rules, 2019.
- In case a company does not comply with the requirements of this rule, it shall not be allowed to file Form SH-7 (Notice to registrar of any alteration of share capital) and Form PAS-3 (Return of Allotment).

Unique Document Identification Number (UDIN) Guidelines for Company Secretary

- The council of the Institute of Company Secretaries of India issued the Unique Document Identification Number (UDIN) Guidelines, 2019.
- The objective of issuing these Guidelines is to:
 - Enable the stakeholders to verify the authenticity of various documents certified by Company Secretaries in Practice;
 - Prevent counterfeiting of various attestations / certifications;
 - Provide ease of maintaining the Register of Attestation / Certification services rendered by practicing members etc.

Statutory Compliance required to be adhered to:

SR. No	Form	Due date	Description
1	E-Form DIR-3 KYC or DIR-3 KYC WEB	September 30, 2019	Application for KYC of Director
2	E-Form INC-20A	Within 6 months of Incorporation	Declaration for commencement of business
3	E-Form BEN-2	September 30, 2019	Declaration regarding Beneficial Owners

Reserve Bank of India

RBI has launched the “Complaint Management Systems (CMS)” of RBI which is a software application to facilitate RBI’s grievance redressal processes

- Members of the public can access the CMS portal at RBI’s website to lodge their complaints against any of the entities regulated by RBI.
- Keeping the convenience of the customers in mind, CMS has been designed to enable online filing of complaints.
- It provides features such as acknowledgment through SMS/Email notification(s), status tracking through unique registration number, receipt of closure advises and filing of Appeals, where applicable.
- It also solicits voluntary feedback on the customer’s experience.
- This system facilitates the regulated entities to resolve customer complaints received through CMS by providing seamless access to their Principal Nodal Officers/Nodal Officers.
- The system provides facilities for the generation of a diverse set of reports to monitor and manage grievances by the Regulated Entities.

RBI with effect from June 29, 2019, will replace the email based annual reporting of Foreign Liabilities and Assets (FLA) by direct investment companies, with web-based Foreign Liabilities and Assets Information Reporting (FLAIR) system

- The form will seek investor-wise direct investment and other financial details on a fiscal year basis, where all reporting entities are required to provide information on Foreign Liabilities and Assets related variables (it was mandatory only for subsidiary companies earlier).
- In addition, the revised form seeks information on the first year of receipt of FDI/ODI and disinvestment. Reporting entities will get system-generated acknowledgment receipt upon successful submission of the form.

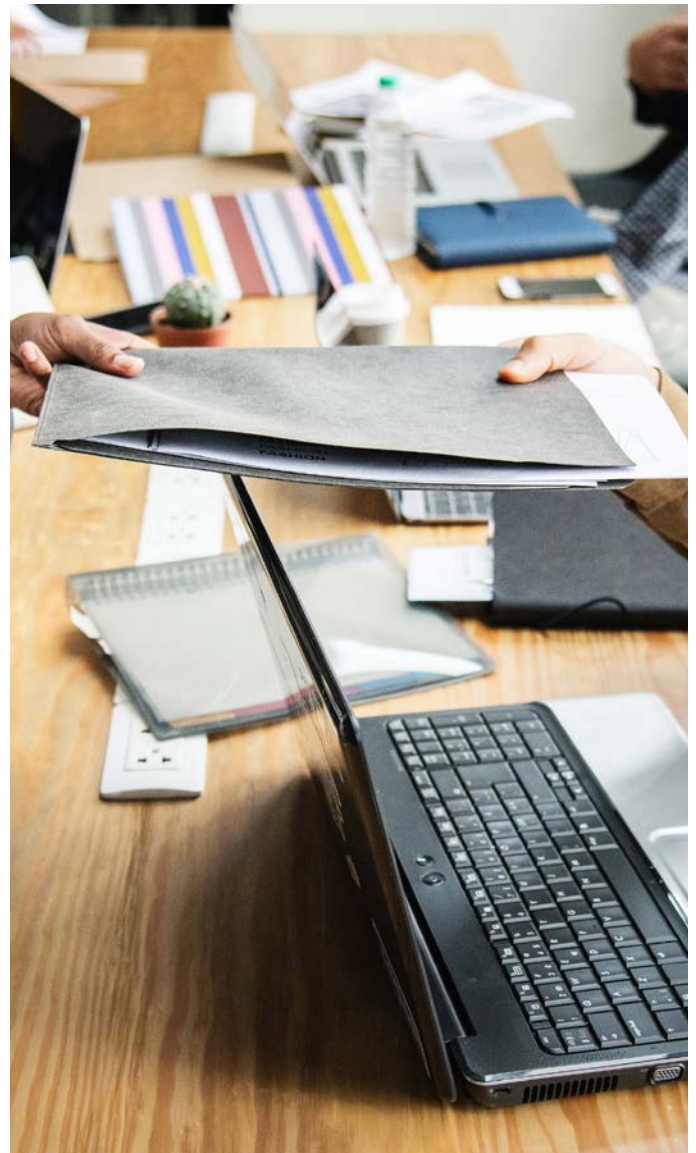
External Commercial Borrowings (ECB) Policy – Rationalization of End-use Provisions

- In consultation with the Government of India, ECB framework has been liberalized by relaxing the end-use restrictions.
- Accordingly, eligible borrowers will now be permitted to raise ECBs for the following purposes from recognized lenders, except foreign branches/overseas subsidiaries of Indian banks:
 - ECBs with a minimum average maturity period of 10 years for working capital purposes and general corporate purposes. Borrowing by NBFCs for the above maturity for on-lending for the above purposes is also permitted.
 - ECBs with a minimum average maturity period of 7 years can be availed by eligible borrowers for repayment of Rupee loans availed domestically for capital expenditure as also by NBFCs for on-lending for the same purpose. For repayment of Rupee loans availed domestically for purposes other than capital expenditure and for on-lending by NBFCs for the same, the minimum average maturity period of the ECB is required to be 10 years.
- It has been decided to permit eligible corporate borrowers to avail ECB for repayment of Rupee loans availed domestically for capital expenditure in manufacturing and infrastructure sector if classified as SMA-2 or NPA, under any one time settlement with lenders. Lender banks are also permitted to sell, through assignment, such loans to eligible ECB lenders, except foreign branches/overseas subsidiaries of Indian banks, provided, the resultant external commercial borrowing complies with all-in-cost, minimum average maturity period and other relevant norms of the ECB framework.



Insolvency & Bankruptcy Code

- The Insolvency and Bankruptcy Board of India (IBBI) has changed the process of liquidation to make it time-bound. The new rules say that the process must be finished within one year of its commencement.
- The new regulations also say that a compromise between the stakeholders must happen within 90 days of the liquidation order.
- The amendment requires the financial creditors to contribute towards the liquidation costs, when the company does not have resources. This can be recovered with interest later.
- When a company is up for liquidation, the rules mandate that every part of the company— employees, financial creditors, etc.— must form a committee, which would advise the official liquidator on the sale process. The company will also not be dissolved, even if it still has a going concern.
- The government tabled these amendments to the Insolvency and Bankruptcy Code in Parliament recently. These mandate completion of the process within 330 days, after which the debtor company goes for liquidation. This is an increase from the existing 270 days.
- At the liquidation stage, the order of payments would be the insolvency process costs, dues of workmen, secured creditors, unsecured creditors, statutory dues and then operational, according to the planned new amendments to the Code.



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