



**M/s PRANJAL JOSHI & CO**  
CHARTERED ACCOUNTANTS  
Audit Consulting Tax IFRS Valuation

## Newsletter April 2014

Quarterly Newsletter on Finance

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## Interim Budget 2014 (Income Tax Rates)

### Tax rates for F.Y. 2014-15

#### Individuals, HUF, AoP and BOI

Income Slabs	Individuals Below 60 years of Age	Individuals having age from 60 years to 79 years	Individuals with age over 80 years
Up to Rs. 200,000	Nil	Nil	Nil
Rs. 200,001 - 250,000	10 %	Nil	Nil
Rs. 250,001 - 500,000	10 %	10 %	Nil
Rs. 500,001 - 10,00,000	20 %	20 %	20 %
Above Rs. 10,00,001	30 %	30 %	30 %

Surcharge - Surcharge at the rate of 10% of such income tax in case of a person having a total income exceeding INR 1 crore.

Education Cess - Education cess of 3% is leviable on the amount of income-tax (including surcharge, where applicable)

#### Partnership Firm, LLP and Corporates

Income Slabs	Partnership Firm and LLP	Domestic Company	Foreign Company
Regular Tax			
Up to Rs. 1 Crore	30.90 %	30.90 %	41.20 %
Rs. 1 Crore – Rs. 10 Crores	33.99 %	32.445 %	42.024 %
Above Rs. 10 Crores	33.99 %	33.99 %	43.26 %
AMT / MAT (of Book Profit)			
Up to Rs. 1 Crore	19.055 %	19.055 %	
Rs. 1 Crore – Rs. 10 Crores	20.961 %	20.008 %	19.055 %
Above Rs. 10 Crores	20.961 %	20.961 %	
Dividend Distribution Tax	-	16.995 %	-

All above rates are inclusive of Surcharge and Education cess wherever applicable

**Important TDS Rates for A.Y. 2015 - 16 (F.Y. 2014 - 15)**

Sr. No.	Section & Particulars	Rate of Tax
01	192 Payment of Salary	At normal rate as per slabs
02	194 Interest (other than Interest on Securities)	10 %
03	194C Payment to Resident Contractor & Sub contractor	Individual / HUF 1 % Other 2 % Transport Operator furnishing PAN 0 % Otherwise 20%
04	194 D Insurance commission to Residents	10 %
05	194 EE Payment of Deposit under NSS	Resident Individual 20% NRI 20.60%
06	194 H Commission or Brokerage	10%
07	194 I Rent for land & Building or Plant & Machinery	Plant & Machinery 2% Land, Building & Furniture 10%
08	194 J Payment of Professional Fees	10%
09	195 Payment to Non Resident	As per applicable — DTAA or as per Part-II of Sch. I of the Finance Act, whichever is beneficial to the assessee

**No Tax to be deducted, if -**

- Sec 192 - Salary is less than maximum exemption limit for the year
- Sec 194 - Interest p.a. is less than Rs. 10,000 p.a.
- Sec 194 C - Payment to contractor is less than Rs. 30,000 per contract or Rs. 75,000 for aggregate contracts p.a.
- Sec 194 D - Insurance commission is less than Rs. 20,000 p.a.
- Sec 194 EE - NSS amount is less than Rs. 2,500 p.a.
- Sec 194 H - Commission or Brokerage is less than Rs. 5,000 p.a.
- Sec 194 I - Rent paid is less than Rs. 1,80,000 p.a.
- Sec 194 J - Professional Fees paid are less than Rs. 30,000 p.a.

**Important circular -**

As per **CIRCULAR NO. 1/2014 [F.NO.275/59/2012-IT(B)]**, DATED 13-1-2014 tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid/payable without including such service tax component.

# Profession Tax Compliance in Maharashtra

## Governing Legislation and Rules -

- Act - The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975
- Rules - The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975.

In Maharashtra Profession Tax - Levy and assessment is administered by Sales tax Department itself.

## Basis of levy and Charge of Tax -

- Profession Tax levy is of two types -
  - For self (called as Enrolment Certificate - PTEC) - All persons covered except for Partnership Firm and HUF, and
  - As employer - For deduction and payment of Profession tax out of employees salary (called as Registration Certificate - PTRC)
- Maximum Profession Tax liability is Rs. 2500/- p.a. In case of PTEC it is to be paid before 30<sup>th</sup> June every year.
- In case of PTRC - it is to be deducted and paid on monthly basis.

## Slabs for Deduction and Payment of Profession tax for PTRC -

Persons whose monthly salaries or wages - DO not exceed Rs. 5,000/- p.m.	Nil
Between Rs. 5001 to 10,000 p.m.	@ Rs. 175/- p.m.
Rs. 10,001 and above	@ Rs. 200/- p.m. except February @ Rs. 300/- p.m. for February

## Payment challan and filing of returns -

Payment of Profession tax is to be made in MTR-6 challan. All PTRC Holders and PTEC Holders may opt to make Profession Tax payment electronically through the net banking facilities

Till 2011, payment challan cum return was same. Thus once you make the payment of Profession tax, it was considered as full compliance under the law.

However from 2011-12 onwards, Profession tax payment and Profession tax e-return are two different compliances and hence even you may have paid Profession Tax in time, but if you fail to file e-return then penalty of Rs. 1000 p.m. is applicable.

Profession Tax e-return is to be filed as per following periodicity (for FY 2014-15) -

- for those employers who have paid PT in 2012-13 upto Rs. 50,000 - Annual Return to be filed on or before 31st March, 2015
- for those employers who have paid PT during 2012-13 beyond Rs. 50,000 - Monthly return to be filed before the end of next month.

### Other important points and issues -

- Profession Tax is to be deducted and paid to Govt each month for all employees drawing salary over Rs. 5000/- p.m.
- Profession Tax deduction is to be made by all employers irrespective of status (Proprietor, Partnership Firm, HUF, Company, LLP etc) having at least 1 employee.
- All persons whose expenses are booked under "Salary and Wages" under P&L and who may be subject to PF / ESI etc. are to be covered under Profession Tax compliance (except Gratuity and Bonus) as during the assessment, this reconciliation is required to be given to Dept.
- Delay in filing Profession tax Return even though payment of Profession Tax may have been made in time attracts late fee of Rs. 1000/- per return.
- Even businessmen not having trading business (not eligible for vat) also need to comply with these provisions.
- PTRC and PTEC both are online registrations available from Vat Dept website.
- Delay in making registration also leads to penal consequences.

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**Dr. Masaru Emoto** is a Japanese scientist, who after series of experiments on water concluded that human consciousness has an effect on the molecular structure of water.

His experiment shows that molecular structure of water becomes hexagonal (beautiful structures are formed) after giving good words, playing good music, and showing, playing, or offering pure prayer to water. Alternatively, when rock song is played or bad words are spoken then the structures becomes ugly or distorted.

He claim this study to be of very much important for human being as our body is made up of 70% or more of water or brain which contains 90% or more water.

His experiments incl. Pictures and videos are available on <http://www.masaru-emoto.net/english/water-crystal.html>

## Major Amendment in Vat Return filing procedure w.e.f. 01.04.2014

- Dept of Sales Tax has issued Circular No.9T of 2014 dated 25-03-2014 requiring dealers **to file Annexures J1 and J2 before submitting every Return for the period starting from 01-04-2014 and onwards** as per periodicity.
- The Composite dealers other than Works Contractors and Mandap Decorators are required to file Annexure J2 only.
- All dealers are liable to comply with these provisions (i.e. irrespective of whether Vat Audit is applicable to dealer or not). The 704 filers should upload J1 and J2 for all returns as per their periodicity as well as upload annual summary in 704.
- A dealer who files return in more than one return form (213 + 233 etc) shall upload separate Annexures J1 and J2 pertaining to the sales and purchases turnovers related to separate return forms.
- Further in case, dealers revise the return in 20(4)(a) as per their periodicity, then again they shall upload revised J1 and J2 in accordance with the revised figures.

### ● **Income Tax Notice to non-filers who had done high value transactions – Compliance**

In 2013, Income Tax Department **issued letters** to 12,19,832 non-filers who had done high value transactions.

In 2014, Income Tax Department has **identified** additional 22,09,464 non-filers who have done high value transactions. You may be one of them. Act Now!

Log on to e-filing portal at <https://incometaxindiaefiling.gov.in>

- If you are not registered with the e-filing portal, use the '**Register Yourself**' link to register.
- You can view 'Information Summary' under the '**Compliance**' module and submit whether it pertains to you or any other person you know.
- If you have already filed the return, you should submit the details under 'Filing of Income Tax Return'. If not, you should pay your taxes and file the return.
- You can keep a print out of submitted response for record.

Source - <https://incometaxindiaefiling.gov.in>

## Local Body Tax (LBT) Annual Return

### Introduction -

Local Body Tax (LBT) was introduced in Maharashtra w.e.f. 1<sup>st</sup> April, 2013 in selected Municipal corporations in lieu of Octroi. Several amendments were made in the procedures owing to protest from dealers and others. The first year of LBT is coming to end soon and now many dealers have started receiving sms / email from local municipal corporation(s) for filing of annual returns.

An attempt in this article, has been made to guide dealers about the compliance of filing of annual return.

### Annual return form and Due Date -

As per information available, Annual Return is to be filed in Form E II within 90 days from the end of the financial year. However dealers are advised to contact respective jurisdictional officers / Seva Kendra's to get updated information on this.

### Overall contents of Annual Return -

Annual Return Form as available on official websites, appended to rules consist of Seven Parts, which are as follows -

- **Part I** - This requires reporting of 2 figures viz. Turnover of all sales and Details of receipt of goods (by Purchases, transfers, return or rejections)
- **Part II** - This consist of computation of LBT on goods received for consumption, use or sale - by Import, Transfer etc. Dealer can reduce the value of goods purchased from local registered dealer, transfer within city etc. while calculating goods / purchases liable to LBT. This part ends with commodity wise computation of LBT.
- **Part III** - This part deals with goods imported for export u/r 32 and computation of LBT thereon
- **Part IV** - This part deals with details of goods imported for processing on job work basis and computation of LBT on goods imported but not exported within 6 months
- **Part V** - This part deals with goods exported for processing out of city and imported duly processed.
- **Part VI** - This deals with computation of claim for refund of LBT u/r 32
- **Part VII** - This part is calculation of LBT, which shall be done as follows -  
LBT payable as per Part II + Part III + Part IV + Part V  
Less - Refund claim as per Part VI

Above information has been given only as a basic guidance to clients. However dealers are advised to contact respective jurisdictional officers / Seva Kendra's to get updated information on this.



## Due date Calender for April to June 2014

### Income Tax -

- 30<sup>th</sup> April - Payment of TDS for the Month of March, 2014
- 7<sup>th</sup> May - Payment of TDS for the Month of April, 2014
- 15<sup>th</sup> May - TDS return for Q4 FY 2013 - 14
- 7<sup>th</sup> June - Payment of TDS for the Month of May, 2014
- 15<sup>th</sup> June - Payment of Advance Income Tax Instalment for FY 2013-14

### VAT / Profession tax -

- 21<sup>st</sup> April - Filing of Vat Return by Monthly / Quarterly / Half Yearly filers
- 30<sup>st</sup> April - Filing of Profession tax Return by Monthly filers
- 21<sup>st</sup> May - Filing of Vat Return by Monthly filers
- 31<sup>st</sup> May - Filing of Profession tax Return by Monthly filers
- 21<sup>st</sup> June - Filing of Vat Return by Monthly filers
- 30<sup>th</sup> June - Filing of Profession tax Return by Monthly filers

### Service Tax -

- 25<sup>th</sup> April - Service Tax Return for Half Year Ending 31<sup>st</sup> March, 2014
- 5<sup>th</sup> May - Payment of Service tax (other than Individual and Partnership Firms)
- 5<sup>th</sup> June - Payment of Service Tax (other than Individual and Partnership Firms)

#### **Cenvat Credit (Third Amendment) Rules, 2014 w.e.f 1st April, 2014**

Rule 7 pertaining to credit distribution by input service distributor has been amended.

Now onwards, service tax credit attributable to service used by one or more units exclusively engaged in exempted goods manufacture/exempted service rendition, shall be barred from distribution.

Further, credit of service used wholly by a unit shall be distributed only to that unit.

Pro rata distribution of service tax credit shall be based on turnover of units using said service during relevant period to total turnover of all its units operational in current year, during said relevant period.



## RBI Framework for Revitalising Distressed Assets in the Economy

### Background -

With the slowdown of the Indian economy, a number of companies/projects are under stress. As a result, the Indian banking system has seen increase in Non-Performing Assets (NPAs) and restructured accounts during the recent years. Distressed assets not only produce less than economically possible but also deteriorate quickly in value.

Therefore it is necessary for lenders to ensure that it recognises financial distress early, takes prompt steps to resolve it and ensures fair recovery. To achieve this, the Framework has been developed outlining a corrective action plan that will incentivize early identification of problem account, timely restructuring of accounts which are considered to be viable and taking prompt steps by lenders for recovery or sale of unviable accounts.

### Following are the main proposals of the Framework -

- Centralised reporting and dissemination of information on large credit -
  - Banks are required to identify incipient stress in the account by creating a sub-asset category viz. 'Special Mention Accounts' (SMA) with categorising it as "overdue up to 30 days - SMA 0, between 31 to 60 days SMA -1 and above 61 days to 90 days as SMA -2".
  - RBI shall set up Central Repository of Information on Large Credits (CRILC) to collect, store, and disseminate credit data to lenders.
  - Banks will have to furnish information to CRILC for borrowers having aggregate fund-based and non-fund based exposure of Rs.50 million and above with them.
  - Banks will be required to report, among others, the SMA status of the borrower to the CRILC.
  - Individual banks will have to closely monitor the accounts reported as SMA
- Early formation of a lenders' committee with timelines to agree to a plan for resolution -
  - As soon as an account is reported to CRILC as SMA-2, the lenders, should form a lenders' committee to be called Joint Lenders' Forum (JLF) under a convener and formulate a joint corrective action plan (CAP) for early resolution of the stress in the account. (mandatory for distressed borrowers irrespective of activity, with aggregate FB and NFB of Rs.1000 million and above.
  - Existing Consortium Arrangement for consortium accounts will serve as JLF (with Consortium Leader as convener), while for accounts under Multiple Banking Arrangements (MBA), the lender with the highest exposure (fund-based plus non-fund based) will convene JLF to facilitate exchange of credit information on the account.
- Incentives for lenders to agree collectively and quickly to a plan - better regulatory treatment of stressed assets if a resolution plan is under way, or accelerated provisioning if no agreement can be reached.

- Improvement in current restructuring process: Independent evaluation of large value restructurings mandated, with a focus on viable plans and a fair sharing of losses (and future possible upside) between promoters and creditors.
- More expensive future borrowing for borrowers who do not co-operate with lenders in resolution
- More liberal regulatory treatment of asset sales:
  - Lenders can spread loss on sale of loan assets over two years provided the loss is fully disclosed.
  - Takeout financing/refinancing possible over a longer period and will not be construed as restructuring.
  - Leveraged buyouts will be allowed for specialised entities for acquisition of 'stressed companies'.
  - Steps to enable better functioning of Asset Reconstruction Companies mooted.
  - Sector-specific Companies/Private Equity (PE) firms encouraged to play active role in stressed assets market.

#### ● Prudential Norms on Asset Classification and Provisioning –

- As an incentive for quick implementation of a restructuring package, the special asset classification benefit on restructuring of accounts as per extant instructions would be available for accounts undertaken for restructuring under this Framework, subject to adherence to the overall timeframe for approval of restructuring package and implementation of the approved package within 90 days from the date of approval.
- The asset classification status as on the date of formation of JLF would be the relevant date to decide the asset classification status of the account after implementation of the final restructuring package.
- However, the special asset classification benefit as above will be withdrawn for all restructurings with effect from April 1, 2015 with the exception of provisions related to changes in Date of Commencement of Commercial Operations (DCCO) in respect of infrastructure and non-infrastructure project loans.

#### ● Penal Measures for non-adherence -

In cases where banks/notified NBFC fail to report SMA status of the accounts to CRILC or resort to methods with the intent to conceal the actual status of the accounts or evergreen the account, banks/notified NBFCs will be subjected to accelerated provisioning shall range from 25% to 100% based on asset classification. This has been revised upwards as compared to current provisioning norms.

Presently, asset classification is based on record of recovery at individual banks and provisioning is based on asset classification status at the level of each bank. However, if lenders fail to convene the JLF or fail to agree upon a common CAP within the stipulated time

## Foreign Contribution Regulation Act (FCRA)

### ● Objective -

The objective of FCRA is to *regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain persons or associations*

### ● Important Definitions -

A foreign contribution means the donation, delivery or transfer, made by any foreign source of any -

- a) article, not given to a person as a gift for personal use, if the market value, in India, of such article exceeds one thousand rupees;
- b) currency, whether Indian or foreign; or,
- c) foreign security

A foreign source includes the government of any foreign country or territory or its agency; an international agency; a foreign company; and citizen of a foreign country.

Contributions made by a citizen of India living in another country (i.e. Non-Resident Indian), from his personal savings, through the normal banking channels, is not treated as a foreign contribution. However, while accepting any donations from such NRI, it is advisable to obtain his passport details to ascertain that he/she is an Indian passport holder.

### ● How to obtain Foreign Contribution -

Particulars	Registration with Ministry of Home Affairs mode	Prior permission mode
Form in which application to be made	Form FC - 8	Form FC- 1A
Intimation of foreign contribution	Form FC-3 in duplicate by July	Form FC-3 in duplicate by July
Bank account	Foreign contributions should be received and utilised only through designated bank account	Foreign contributions should be received and utilised only through designated bank account
Time period of disposal	6 months	90 - 120 days
Application to be made to	Ministry of Home Affairs	Ministry of Home Affairs
Documents to be submitted	(i) Certified copy of registration certificate and Trust deed (ii) Details of activities during the last three years; (iii) Copies of audited	(i) Certified copy of registration certificate and Trust deed (ii) Details of activities during the last three years; (iii) Copies of audited

	statements for the past three years	statements for the past three years .
Additional documents required	-	Commitment letter from foreign donor specifying the amount of foreign contribution. A copy of the project for which foreign contribution was solicited/is being offered

### Accounting requirements by Registered Associations -

Section 13 of the Foreign Contribution (Regulation) Act, 1976 requires that every association, referred to in section 6, to maintain prescribed records of:

- ✓ an account of any foreign contribution received by it and a record as to the manner in which such contribution has been utilized by it.
- ✓ Rule 8 requires a separate set of accounts and records shall be maintained,
- ✓ exclusively for foreign contribution received and utilized.
- ✓ Form FC-6
- ✓ Cash book
- ✓ Ledger account on double entry basis
- ✓ Form FC-7

### Routine compliances by Registered Associations -

- ✓ Foreign contributions should be received and utilised only through designated bank account
- ✓ Separate set of accounts and records should be exclusively for foreign contributions received and utilized
- ✓ These separate books should be maintained on double entry books basis for the period 1st April to 31st March (financial year basis)
- ✓ These separate books should be audited
- ✓ Audited financial statements – balance sheet and receipts/payments account – should be submitted to the Ministry along with FC-3 duly filled in, signed by the association and certified by the auditor should be submitted on or before 31st July every year for the preceding financial year
- ✓ In case articles are received by way of foreign contribution, separate records must be maintained in FC-6
- ✓ Change in name, address, aims and objects, changes in office bearers and bank should be intimated to ministry through form FC – 8.

### Online FCRA services -

Ministry of Home Affairs has started certain services on online mode available at - <http://fcraonline.nic.in/register.aspx>

\* Source - ICAI publication (A study of Foreign Contribution Regulation Act, 1976)

# The Companies Act, 2013 – Provisions relating to Accounts

## Financial statements

New section 128 of the Companies act, 2013 (New Act) provides for books of accounts to be maintained by the company. The term 'Financial Statement' is defined for the first time in the new section 2(40).

- ✓ The term Financial statements has been defined for the first time in the Companies Act to include:
  - Balance Sheet
  - Profit and Loss Account/ Income and Expenditure Account
  - Cash flow statement
  - Statement of changes in equity, if applicable
  - Any explanatory note annexed to or forming part of the above

Only One Person Company (OPC), Small company and Dormant company need not include the Cash flow statement.

## Uniform Financial Year –

It may be noted that for the first time new section 2(41) defines the term “Financial Year” to mean the period ending on 31st March of every year.

- All companies are required to follow a uniform Financial Year Ending i.e. 31 March.
- All companies are required to align with new requirement within two years from commencement of New Act
- Any company which has been incorporated on/after 1 January will be required to close books on 31 March in the following year (i.e. more than 12 months period allowed for first year of incorporation)

Following companies shall enjoy the exceptions for Uniform Financial Year –

- Company/body corporate that is holding/subsidiary of a foreign company incorporated outside India. In such cases, however, application to Tribunal (NCLT) is necessary
- If required, to follow different Financial Years for consolidation of accounts outside India

## ● **Mandatory preparation of Consolidated Financial Statements -**

New section 129(3) prescribes, for the first time that if a company has one or more subsidiaries then it will have to compulsorily prepare a consolidated financial statement of the company and of all the subsidiaries.

This is to be prepared in the form as provided in the Schedule III.

Such company shall also be required to attach along with its financial statement, Separate statement containing the salient features of the financials of the subsidiary companies in such form as may be prescribed by the rules.

Further, if the company has interest in any associate company or a joint venture the accounts of that associate company as well as joint venture shall also be consolidated.

The term “Associate company” has been defined in new section 2(6) to mean a company in which the reporting company has significant influence (control of 20% or more of the total share capital of such company) or has control on the business decisions under an agreement.

## ● **Reopening of Accounts -**

Reopening of accounts is permissible u/s 130, if it appears to the directors that -

(i) the accounts for a particular year were prepared in a fraudulent manner or

(ii) the affairs of the company were mismanaged during the relevant period casting a doubt on the reliability of financial statements,

In such case, an application will have to be made by the Central Government, the Income tax Authorities, the SEBI, any other statutory regulatory body or authority or any concerned party to a competent Court or Tribunal.

Section 131 provides for voluntary revision of financial statements or Director's Report, where it appears to the directors that

(i) financial statement or (ii) report of the Board of Directors for a particular financial year does not comply with the provisions of the new sections 129 or 134.

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Section 12(3)(c) of Companies Act 2013, which will come into force from 1.4.2014, provides that every company shall get its name, address of its registered office and the Corporate Identity Number along with telephone number, fax number, if any, e-mail and website addresses, if any, printed in all its business letters, billheads, letter papers and in all its notices and other official publications.