

# OFFSHORE ACCOUNTING AND TAXATION SERVICES PVT. LTD. (OATS)

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## Monthly Newsletter

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### Contents

1. Direct Taxes updates
2. Foreign Exchange Management Act- updates
3. Contact details

# 1. Direct taxes- recent changes

Tax deduction at Source (TDS) on payment to non-residents:

No obligation to withhold tax where assessee is under a *bona fide* belief that no part of payment is chargeable to tax.

Where the assessee had not applied to the tax officer for lower rate of TDS or nil TDS, under a *bona fide* belief that payment made to the non-resident is not chargeable to tax in India, then it is not under any statutory obligation to deduct TDS from any part of such payment.

[ITO vs. Prasad Productions Ltd.]

## Special territories notified:

Central Government notified ten specified territories with whom it can initiate and negotiate agreements for exchange of information for the prevention of evasion or avoidance of income tax and assistance in collection of income tax :

(i) Bermuda, (ii) British Virgin Islands, (iii) Cayman Islands, (iv) Gibraltar, (all British Overseas Territories); (v) Guernsey, (vi) Isle of Man, (vii) Jersey, (all British Crown Dependencies); (viii) Netherlands Antilles (an Autonomous Part of the Kingdom of Netherlands); and (ix) Macau (a Special Administrative Region of the People's Republic of China) (x) Hong Kong.

## 2. FEMA updates

### New pricing norms for issue of shares to person resident outside India

Following are the key amendments:

	Listed companies	Non-Listed companies
<b>For Right Shares</b>	the offer on right basis can be at a price determined by the Company	the offer on right basis will not be less than the price offered to resident shareholders
<b>For Other Issues</b>	the price of such shares will not be less than the price worked out in accordance with SEBI Guidelines	the price of such shares will not be less than the fair valuation of shares done by a SEBI registered Category-I Merchant Banker or a CA as per the Discounted Free Cash Flow (DCF) Method

If the issue of shares is on **Preferential Allotment** then the price of such shares will not be less than the price as applicable to transfer of shares from resident to nonresident as per the RBI pricing guidelines.

Source: Reserve Bank of India notification dated 7 Apr 2010 effective from 21 April 2010.

### Revision in form FCGPR Part B

The format of the FCGPR Part B has been slightly revised by the Reserve Bank of India,

- (i) Retained profit has been changed to Retained Profit (+)/ retained Loss (-) during the year, which is in proportion to FDI holdings in the company and not the complete retained profit/loss of company,
- (ii) Financial Derivatives to be reported at Mark to Market Value,
- (iii) Face Value per share at item 10 of return.

### 3. Contact details

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