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# Important Circulars & Notifications

**August'2016**

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# Index



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# 1. Income Tax

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Title	Category	Description	Section/ Chapter/ Rule	Date
<b>Exemption u/s 54F despite delayed investment in Capital Gain Account Scheme</b>	Case Law	<p><b>ACIT Vs. Smt. Umayal Annamalai (ITAT Chennai)</b></p> <p><b>Facts:</b></p> <ul style="list-style-type: none"><li>▪ The Assessee Officer denied the exemption to the Assessee u/s 54F as the Assessee has not complied capital gain accounts scheme before the due date and has utilized net consideration only after due date of filing of return under section 139(1).</li></ul> <p><b>Held:</b></p> <ul style="list-style-type: none"><li>▪ It was held that the Assessee complied with the conditions under section 54F(1) of the Act by purchasing and construction of residential property within three years from the date of transfer of original asset.</li><li>▪ Further it was clarified that the provisions of section 54F are beneficial provisions and are to be considered liberally in the aspect of limitation period.</li></ul> <p><b>Contd...</b></p>	Section 54F	13 <sup>th</sup> August, 2016



## ...contd. [Income Tax]

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Title	Category	Description	Section/ Chapter/ Rule	Date
<b>...contd</b> (Exemption u/s 54F despite delayed investment in Capital Gain Account Scheme)	Case Law	<ul style="list-style-type: none"><li>Hence, the exemption u/s 54F shall be available in spite of the fact that the investment in Capital Gain Account Scheme was not made before 139(1) of the Act.</li></ul> <a href="#">[Read More]</a>	Section 54F	13 <sup>th</sup> August, 2016



...contd. [Income Tax]

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Title	Category	Description	Section/ Chapter/ Rule	Date
<b>Foreign Exchange fluctuation loss arising out of restatement of current liabilities shall be allowed</b>	Case Law	<p><b>Silicon Graphics Systems (India) Pvt. Ltd vs. DCIT (ITAT Delhi)</b></p> <p><b>Facts:</b></p> <ul style="list-style-type: none"><li>▪ The Assessing Officer disallowed the foreign exchange fluctuation loss as claimed by Assessee on the ground that the Assessee did not furnish any evidence/details of restatement of foreign currency.</li><li>▪ The appellant challenged the assessment order in appeal before the CIT(A) who confirmed the disallowance, but on different reason that the Assessee has claimed foreign exchange fluctuation loss on the entire amount of current liabilities and not on the transactions pertaining to the current year.</li></ul> <p><b>Held:</b></p> <p><b>Contd...</b></p>	Section 37(1) AS-11	24 <sup>th</sup> August, 2016

## ...contd. [Income Tax]

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Title	Category	Description	Section/ Chapter/ Rule	Date
...contd. (Foreign Exchange fluctuation loss arising out of restatement of current liabilities shall be allowed)	Case Law	<ul style="list-style-type: none"> <li>It was held that the Accounting Standard-11 provides that at each balance sheet date the outstanding foreign currency monetary items should be reported using the closing rates and the exchange differences will have to be duly accounted for in all the intervening period till the transaction is settled.</li> <li>Hence, Foreign exchange fluctuation loss arising consequent to restatement of current liabilities as per the year end rates in accordance with AS-11 is allowable as a deduction.</li> </ul> <p><a href="#">[Read More]</a></p>	Section 37(1) AS-11	24 <sup>th</sup> August, 2016



...contd. [Income Tax]

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Title	Category	Description	Section/ Chapter/ Rule	Date
<b>Salary of employees pursuant to a secondment agreement is not subject to TDS in the assessee's hands</b>	Case Law	<p><b>DCIT vs. Mahanagar Gas Ltd (ITAT Mumbai)</b></p> <p><b>Facts:</b></p> <ul style="list-style-type: none"><li>▪ The Assessee, Mahanagar Gas Ltd deducted TDS on the salary paid to the employees, pursuant to a secondment agreement, who are actually were appointed by the British Gas.</li></ul> <p><b>Held:</b></p> <ul style="list-style-type: none"><li>▪ It was held that since these expatriate seconded employees are not the employees of the Assessee but the employees of British Gas, therefore TDS on salary shall be deducted by the British Gas.</li><li>▪ Further, all taxes have been paid by the British Gas to the Government of India, so TDS cannot be deducted again, by the Mahanagar Gas Ltd, on the same amount.</li></ul> <p><a href="#">[Read More]</a></p>	Section 40(a)(ia) & 192	22 <sup>nd</sup> April, 2016

Title	Category	Description	Section/ Chapter/ Rule	Date
<b>Transactions to be entered at an Arm Length's Price irrespective of the profit or loss yielded</b>	Case Law	<p><b>Knorr-Bremse India Pvt. Ltd., vs. ACIT (ITAT Delhi)</b></p> <p><b>Facts:</b></p> <ul style="list-style-type: none"> <li>▪ The Transfer Pricing Authorities contended that whether a transaction is at an arm's length price or not depends on justification of Assessee that the payment for the services had actually increased its profits.</li> <li>▪ The Assessee claimed whether a transaction is at an arm's length price or not is not dependent on whether or not the transaction resulted in an increase in its profit.</li> </ul> <p><b>Held:</b></p> <ul style="list-style-type: none"> <li>▪ It was held that the contention of TPO is in contrary to the established manner in which business is conducted by people and by enterprises. All businesses are not profitable. Losses are also an incidence of business.</li> </ul> <p style="text-align: right;"><b>Contd...</b></p>	Section 92CA	2 <sup>nd</sup> Sep, 2016





## ...contd. [Income Tax]

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Title	Category	Description	Section/ Chapter/ Rule	Date
<b>...contd</b> (Transactions to be entered at an Arm Length's Price irrespective of the profit or loss yielded)	Case Law	<ul style="list-style-type: none"><li>Hence, any international transaction shall always be entered at an Arm Length's Price, whether or not an Assessee is able to establish financial or other commercial benefits arising from a transaction.</li></ul> <a href="#">[Read More]</a>	Section 92CA	2 <sup>nd</sup> Sep, 2016



## 2. Service Tax

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Title	Category	Description	Section/ Chapter/ Rule	Date
<b>No service tax could be levied if there was a transfer of right to use goods. irrespective of the fact that the transfer was non-exclusive</b>	Case Law	<p><b>SICPA India (P.) Ltd. [(2016) 67 taxmann.com 142 (AAR – New Delhi)]</b></p> <p><b>Facts:</b></p> <ul style="list-style-type: none"><li>▪ The Applicant's contention was that the system delivery agreement undertaken by him was a transfer of right to use that goods and the same was excluded from the definition of a 'service'.</li><li>▪ The Revenue's contention was that the transaction will not come under the category of 'transfer of the right to use the goods' as in this case the right to use the goods is non-exclusive.</li></ul> <p><b>Held:</b></p> <ul style="list-style-type: none"><li>▪ It was held that the transaction in question qualifies as a transfer of right to use goods and consequently be outside the definition of 'service' u/s 65B(44) of the Finance Act, 1994 and hence no service tax to be levied on such transaction.</li></ul> <p><a href="#">[Read More]</a></p>	Section 65B(44) of the Finance Act, 1994.	22 <sup>nd</sup> Jan, 2016

Title	Category	Description	Section/ Chapter/ Rule	Date
<b>Service-tax on alcoholic liquor manufacture on job work basis for human consumption valid</b>	Case Law	<p><b>Carlsberg India Private Limited Vs. Union Of India &amp; Ors. (Delhi High Court)</b></p> <p><b>Facts:</b></p> <ul style="list-style-type: none"> <li>▪ The Parliament vide a notification no. 14/2015 dated 19<sup>th</sup> May 2015 levied a service tax @14% w.e.f 1<sup>st</sup> June 2015, on manufacture of alcoholic liquor for human consumption on job work basis.</li> <li>▪ The Petitioner challenged the imposition of the service tax on the grounds that the Parliament lacks the legislative competence to do so since the activity of manufacture of alcoholic liquor lies exclusively within the domain of the state legislature.</li> </ul> <p><b>Held:</b></p> <ul style="list-style-type: none"> <li>▪ It was held that service tax is introduced by the way of Chapter V to the Finance Act 1994, which is within the legislative competence of the Parliament to levy and collect.</li> </ul> <p style="text-align: right;"><b>Contd...</b></p>	Notificati on No. 14/2015/ ST dated 19 <sup>th</sup> May 2015.	5 <sup>th</sup> August 2016



## ...contd. [Service Tax]

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Title	Category	Description	Section/ Chapter/ Rule	Date
...contd. (Service-tax on alcoholic liquor manufacture on job work basis for human consumption valid)	Case Law	<ul style="list-style-type: none"><li>Further, it was upheld the service tax was not levied on the manufacture of alcohol but on the service aspect of the contract of manufacturing of alcohol.</li></ul> <a href="#">[Read More]</a>	Notificati on No. 14/2015/ ST dated 19 <sup>th</sup> May 2015.	5 <sup>th</sup> August 2016

Title	Category	Description	Section/ Chapter/ Rule	Date
<b>Service-tax billed on rendering of services is not includible as trading receipts</b>	Case Law	<p><b>CIT vs. Knight Frank (India) Pvt. Ltd (Bombay High Court)</b></p> <p><b>Facts:</b></p> <ul style="list-style-type: none"> <li>The Assessing Officer sought to include the service tax billed by the Assessee for rendering services as trading receipts by invoking Sec 145A of the Income Tax Act.</li> <li>The Assessee claimed that Sec145A covers cases where the amount of tax, duty, cess or fee is actually paid or incurred by the Assessee to bring the goods to the place of its location and condition but in this case assessee is rendering services which does not fall under the scope of Section 145A.</li> </ul> <p><b>Held:</b></p> <ul style="list-style-type: none"> <li>It was held that since the the Assessee is rendering services and Sec 145A applies only to goods and not services. Hence, it is fairly evident that the provisions of Sec 145A would not apply to the service tax billed on rendering of services.</li> </ul> <p style="text-align: right;"><b>Contd...</b></p>	Section 145A 43B	16 <sup>th</sup> August 2016

## ...contd. [Service Tax]

Title	Category	Description	Section/ Chapter/ Rule	Date
...contd. (Service-tax billed on rendering of services is not includible as trading receipts)	Case Law	<ul style="list-style-type: none"> <li>Hence. Service-tax billed on rendering of services is not includible as trading receipts. Also, No disallowance u/s 43B can be made for the unpaid service-tax liability which is not claimed as a deduction.</li> </ul> <a href="#">[Read More]</a>	Section 145A 43B	16 <sup>th</sup> August 2016
<b>Service Tax liability in case of hiring of goods without the transfer of right to use goods</b>	Circular	<ul style="list-style-type: none"> <li>In terms of section 66E(f) of the Finance Act, 1994, the transfer of goods by the way of hiring, leasing, licensing or in any such manner without the transfer of right to use such goods is a "declared service".</li> <li>Hence such "declared service" shall be liable to service tax.</li> </ul> <a href="#">[Read More]</a>	Section 66E(f) of the Finance Act, 1994.	17 <sup>rd</sup> August, 2016



### 3. GST – Goods & Service Tax

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Title	Description
<b>GST Bill passed in the Parliament</b>	<ul style="list-style-type: none"><li>▪ The 122<sup>nd</sup> Constitution Amendment Bill, 2014 which will enable the introduction of Goods and Services Tax(GST), was passed in the Lok Sabha on 6<sup>th</sup> May 2015 and finally got passed in the Rajya Sabha as well, unanimously, on 3<sup>rd</sup> August 2016 along with the key amendments.</li></ul>
<b>Assam becomes the first state in the country to pass GST Bill</b>	<ul style="list-style-type: none"><li>▪ Assam has become the first state in the country to ratify and pass Constitution Amendment Bill on Goods and Service Tax (GST).</li><li>▪ The state Assembly unanimously passed the GST bill on 12<sup>th</sup> August 2016 following its passage by both the Houses of Parliament.</li><li>▪ Also, eighteen of the country's 31 states have now ratified the GST - a constitutional amendment bill that needs ratification from 50 per of the states.</li></ul>
<b>Updates and clarifications on GST</b>	<ul style="list-style-type: none"><li>▪ Under GST Valuation Rules to be applied even in case of supplies to Employee as he is deemed to be related to Employer u/s 2(82).</li><li>▪ Under GST, apply for registration in 30 days to get input tax credit for period prior to registration. Else get ITC from date of registration.</li></ul>



## ...contd. [GST – Goods & Service Tax]

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Title	Description
<b>Registration under GST</b>	<ul style="list-style-type: none"><li>▪ All existing taxpayers who are registered under any VAT, Service Tax and Excise Act, will initially get a provisional registration which will be valid for a period of 6 months and will get the final registration thereafter when the necessary details are submitted.</li><li>▪ The registration number will be PAN based and dealers would be given a unique id called GSTIN.</li><li>▪ Every supplier shall be liable to be registered under this Act in the State from where he makes a taxable supply of goods and/or services if his aggregate turnover in a financial year exceeds Rs. nine lakh [Rs. four lakhs in case of NE States including Sikkim].</li><li>▪ The taxable threshold shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals.</li></ul>





## ...contd. [GST – Goods & Service Tax]

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Title	Description
<b>Composition Levy under GST</b>	<ul style="list-style-type: none"><li>▪ A person can opt for composition scheme whose aggregate turnover in a financial year does not exceed fifty lakhs of rupees.</li><li>▪ Under the scheme, the amount payable in lieu of tax payable shall not be less than 1% of the turnover during the year.</li><li>▪ No composition levy shall be granted to a taxable person who effects any inter-state supplies of goods and/or services.</li><li>▪ Such eligible person shall not collect tax on the supplies made by him.</li><li>▪ Input tax credit can not be availed if a person opts for a composition scheme.</li><li>▪ A Composition Supplier can register in multiple states if his total sales are up to 50 lacs.</li></ul>

## 4. Others

Title	Category	Description	Section/ Rule	Date
<b>RBI launches "Sachet" portal to check illegal money collection</b>	News	<ul style="list-style-type: none"> <li>On 01.09.2016, the Reserve Bank of India launched a portal named "Sachet", to curb illegal collection of money by companies.</li> <li>The website will enable public to obtain information regarding entities who accept deposits, lodge complaints and it would also help enhance coordination among regulators and state government agencies.</li> </ul> <a href="#">[Read More]</a>	Reserve Bank of India	01 <sup>st</sup> Sep, 2016
<b>ICAI releases BGM on Model GST Law</b>	News	<ul style="list-style-type: none"> <li>The Indirect Taxes Committee of ICAI, earlier in 2014 had launched a background material on GST, which now has been revised by it.</li> <li>It is an all-inclusive material providing an insight to the basic concepts of the proposed GST regime.</li> </ul> <p><b>Contd...</b></p>	ICAI	15 <sup>th</sup> August, 2016



...contd. [Others]

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Title	Category	Description	Section/ Rule	Date
...contd. (ICAI releases BGM on Model GST Law)	News	<ul style="list-style-type: none"><li>▪ The updated BGM includes standardized PPT on GST, Report of Rajya Sabha Select Committee on GST, the GST business processes, extracts of 13th &amp; 14th Finance Commission Report, present state of GST reforms in India etc.</li><li>▪ The BGM can be <a href="#">ordered online</a> or a soft copy of it can also be <a href="#">downloaded</a>.</li></ul>	ICAI	15 <sup>st</sup> August, 2016
<b>Amendment of AOC-4 to include mandatory CSR/ CARO related details</b>	Company law	<ul style="list-style-type: none"><li>▪ AOC-4 (XBRL) for filing Annual Financial Statements is being amended to include mandatory CSR / CARO related details.</li><li>▪ The revised AOC-4 (XBRL) eForm along with the updated C&amp;I Taxonomy is not yet finalized and is likely to be available on the MCA portal in September 2016.</li></ul> <a href="#">[Read More]</a>	MCA Notice	08 <sup>th</sup> August, 2016

Title	Category	Description	Section/ Rule	Date
<b>Extension of last date of filing AOC-4, AOC-4 XBRL, AOC-4 CFS &amp; MGT-7</b>	Company law	<ul style="list-style-type: none"> <li>Form AOC-4 has been revised by the MCA and Form AOC-4(XBRL), AOC-4(CFS) are also under revision.</li> <li>The last date of filing the financial statements and Annual returns has been extended to 29.10.2016 without the payment of any additional filing fee.</li> </ul> <a href="#">[Read More]</a>	Circular	29 <sup>th</sup> July, 2016
<b>No disallowance of ITC for mere technical defect in VAT invoice</b>	Case Law	<p><b>M/s Avdesh Tracks Private Limited Vs. The State of Punjab and another (Punjab &amp; Haryana High Court)</b></p> <p><b>Facts:</b></p> <ul style="list-style-type: none"> <li>The Tribunal rejected the claim of input tax credit due to a technical defect in the VAT invoice.</li> <li>The High Court while accepting the appeal against the Tribunal's order further held that the Tribunal was not justified in rejecting the claim of input tax credit merely on technicalities.</li> </ul> <a href="#">[Read More]</a>	VAT (Punjab)	02 <sup>th</sup> August, 2016



....contd. [Others]

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Title	Category	Description	Section/ Rule	Date
<b>The Factories (Amendment) Bill, 2016 has been passed in Lok Sabha</b>	<a href="#">The Factories (Amendment) Bill, 2016</a>	<ul style="list-style-type: none"><li>▪ Lok Sabha passed the Factories (Amendment) Bill, 2016 that seeks to increase the working overtime hours from 50 hours to 100 hours per quarter.</li><li>▪ It also proposes to increase the overtime working hours for factories with "exceptional" workload from 75 hours to 115 hours in a quarter.</li><li>▪ The Bill also empowers the Central Government to make exempting rules relating to the overtime hours.</li></ul> <a href="#">[Read More]</a>	Press Release	10 <sup>th</sup> August, 2016
<b>Govt. to bear the transaction cost on Debit card, Credit card &amp; Net Banking payments</b>	Government Of India	<ul style="list-style-type: none"><li>▪ The MDR(Merchant Discount Rate) cost on payments to the government through debit cards or credit cards or digital means, which earlier was borne by the customers, will now be borne by the government.</li></ul> <a href="#">[Read More]</a>	Press Release	16 <sup>th</sup> August, 2016

Title	Category	Description	Section/ Rule	Date
<b>The Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Bill, 2016 passed in the Parliament</b>	<u><a href="#">The Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Bill, 2016</a></u>	<ul style="list-style-type: none"> <li>▪ The Enforcement of security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Bill, 2016 got passed in the Parliament, which seeks to amend four laws for quick recovery of bad loans by the banks.</li> <li>▪ The Bill shall quicken the process of resolving the debt issues burdening the creditors including the banks and the financial institutions.</li> <li>▪ It will also seek to strengthen Debt Recovery Tribunals and computerized processing of cases to expedite resolution on stressed assets.</li> </ul> <p><u><a href="#">[Read More]</a></u></p>	Press Release	12 <sup>th</sup> August, 2016



....contd. [Others]

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Title	Category	Description	Section/ Rule	Date
<b>India Cyprus Tax Treaty revised with source based taxation of capital Gains</b>	India Cyprus Tax Treaty	<ul style="list-style-type: none"><li>▪ The revised Double Taxation Avoidance Agreement (DTAA) with Cyprus has been approved by the Union Cabinet enabling Indian authorities to tax capital gains on investments routed through Cyprus.</li><li>▪ It will also remove Cyprus from the Indian government blacklist notification.</li><li>▪ The DTAA provides for source based taxation of capital gains on transfer of shares, instead of residence based taxation.</li></ul> <a href="#">[Read More]</a>	Press Release	28 <sup>th</sup> August, 2016



## 5. Interesting facts

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- Apple had a third founder, Ronald Wayne, who sold all his shares for \$800. Today, they would have been worth US\$ 35 billion.
- Alibaba has 300 million customers - just short of the entire US population i.e. 318 million as in 2014.
- Apple's iPad retina display is actually manufactured by Samsung.
- Samsung also makes about 30% of the A8 chips that go into Apple's iPhone 6.
- Amazon's warehouses have more square footage than 700 Madison Square Gardens (820,000 square feet each) and could hold more water than 10,000 Olympic Pools (each having a capacity of 660,430 gallons).
- Apple is worth more than the entire Russian stock market.
- Coca-Cola makes so many different beverages that if you drank one per day, it would take you more than nine years to try them all(i.e., approximately 3500 beverages).



## 6. About us

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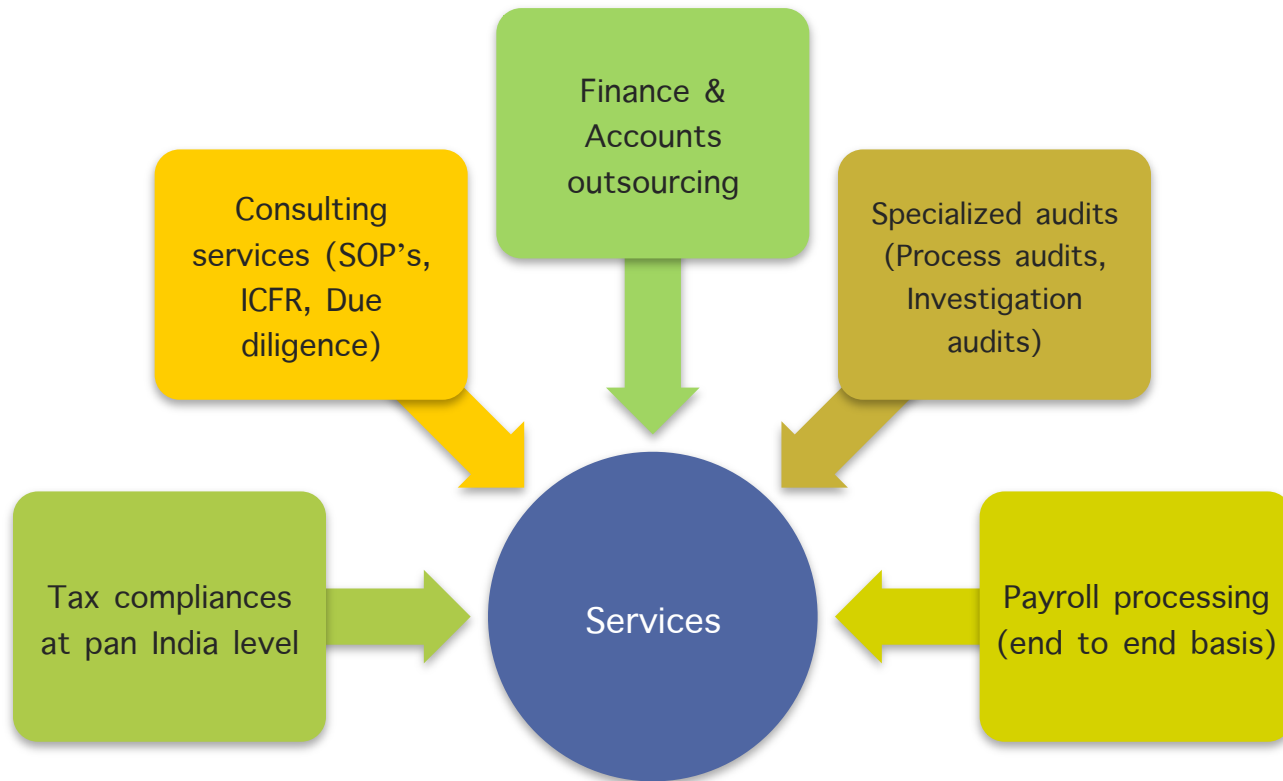
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