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TAX EDGE

Monthly Tax & Regulatory Updates



Audit



Tax



Regulatory

September 2019

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A nighttime photograph of a bridge structure, likely a suspension bridge, viewed from a low angle looking up. The bridge's massive steel towers and cables are illuminated with warm yellow and orange lights. The lights reflect on the dark water in the foreground. In the background, a city skyline is visible with various lights and structures. The sky is a deep twilight blue.

Goods & Services Tax

Goods & Services Tax

Highlights of 37th GST Council Meeting held on 20th September 2019

The 37th GST Council Meeting was held on 20th September, 2019 at Goa under the chairmanship of Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman.

The GST Council has recommended the following legal and procedural changes:

- Relaxation in filing of annual returns for MSMEs for FY 2017-18 and FY 2018-19 as under:
 - a. Waiver of requirement of filing Form GSTR-9A for Composition Taxpayers for the said tax periods; and
 - b. filing of Form GSTR-9 for those taxpayers who (are required to file the said return but) have aggregate turnover up to Rs. 2 crores made optional for the said tax periods.
- Committee of Officers to be constituted to examine the simplification of Forms for Annual Return and reconciliation statement.
- Extension of last date for filing of appeals against orders of Appellate Authority before the GST Appellate Tribunal as the Appellate Tribunals are yet not functional.
- In order to nudge taxpayers to timely file their statement of outward supplies, imposition of restrictions on availment of input tax credit (ITC) by the recipients in cases where details of outward supplies are not furnished by the suppliers in the statement u/s 37 of the CGST Act, 2017.
- New return system now to be introduced from April, 2020 (earlier proposed from October, 2019), in order to give ample opportunity to taxpayers as well as the system to adapt and accordingly specifying the due date for furnishing of return in Form GSTR-3B and details of outward supplies in Form GSTR-1 for the period October, 2019 - March, 2020.

Goods & Services Tax

- Issuance of circulars for uniformity in application of law across all jurisdictions:
 - a. procedure to claim refund in Form GST RFD-01A subsequent to favourable order in appeal or any other forum;
 - b. eligibility to file a refund application in Form GST RFD-01A for a period and category under which a NIL refund application has already been filed; and
 - c. clarification regarding supply of Information Technology enabled Services (ITeS services) (in supersession of Circular No. 107/26/2019-GST dated 18.07.2019) being made on own account or as intermediary.
- Rescinding of Circular No.105/24/2019-GST dated 28.06.2019, from beginning, which was issued in respect of post-sales discount.
- Suitable amendments in CGST Act, UTGST Act, and the corresponding SGST Acts in view of creation of UTs of Jammu & Kashmir and Ladakh.
- Integrated refund system with disbursal by single authority to be introduced from 24th September, 2019.
- In principle decision to link Aadhar with registration of taxpayers under GST and examine the possibility of making Aadhar mandatory for claiming refunds.
- In order to tackle the menace of fake invoices and fraudulent refunds, in principle decision to prescribe reasonable restrictions on passing of credit by risky taxpayers including risky new taxpayers.

Please [Click Here](#) to read the press release dated 20th September, 2019.

Goods & Services Tax

Exemptions/ Changes in GST Rates/ ITC Eligibility Criteria

The GST Council has recommended following changes in GST rates / ITC eligibility criteria:

GST rates reduction:

Services/ Goods	Type of Service/ Goods	New Rate	Old Rate
For services	Less than Rs. 1,000	Nil	Nil
	Rs. 1,000	Nil	12%
	Hotel Accommodation service with Transaction value per unit per day Rs. 1,001 to Rs. 2,499	12%	12%
	Rs. 2,500 to Rs. 7,499	12%	18%
	Rs. 7,500	12%	28%
	Rs. 7,501 and more	18%	28%
	Outdoor Catering Service other than in premises having daily tariff of Rs. 7,501 of accommodation of Rs 7501	5% without ITC (mandatory)	18% with ITC
	Job work services in relation to diamonds	1.5%	5%
Machine job work such as in engineering industry except supply of job work in relation to bus body building	12%	18%	
For Goods	Slide Fasteners	12%	18%
	Marine Fuel 0.5% (FO)	5%	18%
	Wet Grinders (consisting stone as a grinder)	5%	12%
	Dried Tamarind	Nil	5%
	Plates and cups made up of leaves/ flowers/bark	Nil	5%
	Cut and polished semi- precious stones	0.25%	3%
	Specified goods for petroleum operations undertaken under Hydrocarbon Exploration Licensing Policy (HELP)	5%	Applicable Rate

GST rates increase:

Services/ Goods	Type of Service/ Goods	New Rate	Old Rate	Remarks
For Goods	Goods, falling under chapter 86 of tariff like railway wagons, coaches, rolling stock (without refund of accumulated ITC)	12%	5%	To address the concern of ITC accumulation with suppliers of these goods
	Caffeinated Beverages	28% + 12% Comp. Cess	18%	-

Goods & Services Tax

Exemption from GST:

A. For Services:

- Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea
- Export freight by air or sea has been increased upto 30th September, 2020
- Services of 'Bangla Shasya Bima' (BSB) crop insurance scheme of West Bengal Government
- Life insurance business provided or agreed to be provided by the Central Armed Paramilitary Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the respective Group Insurance Schemes of these Central Armed Paramilitary
- Services provided by an intermediary to a supplier of goods or recipient of goods when both the supplier and recipient are located outside the taxable territory
- Services related to FIFA Under-17 Women's World Cup 2020 similar to existing exemption given to FIFA U17 World Cup 2017

B. For Goods:

- Imports of specified defence goods not being manufactured indigenously (upto 2024)
- Supply of goods and services to FIFA and other specified persons for organizing the Under-17 Women's Football World Cup in India
- Supply of goods and services to Food and Agriculture Organisation (FAO) for specified projects in India

Goods & Services Tax

Measures for Export Promotion:

- a. Exemption from GST:
 - On import on Silver/Platinum by specified nominated agencies
 - Supply of Silver/Platinum by specified nominated agency to exporters for exports of Jewellery,
 - Services by an intermediary to a supplier of goods or recipient of goods when both the supplier and recipient are located outside the taxable territory
- b. Inclusion of Diamond India Limited (DIL) in the list of nominated agencies eligible for Integrated Goods and Services Tax (IGST) exemption on imports of Gold/ Silver/Platinum so as to supply at Nil GST to Jewellery exporters
- c. To issue a notification under Section 13(13) of IGST Act notifying the place of supply of specified R&D services provided by Indian pharma companies to foreign service recipients, as the place location of the service recipient.
- d. To clarify that the place of supply of chip design software R&D services provided by Indian companies to foreign clients by using sample test kits in India is the location of the service recipient and section 13(3)(a) of IGST Act, 2017 is not applicable for determining the place of supply in such cases.

GST concession for specific period:

- a. Exemption to Fishmeal for the period 01.07.17 to 30.09.19. However, any tax collected for this period shall be required to be deposited
- b. 12% GST shall be leviable on pulley, wheels and other parts (falling under Heading 8483) and used as parts of agricultural machinery during the period 1.07.2017 to 31.12.2018,
- c. Compensation cess of 1% for petrol and 3% for diesel vehicle rate for vehicles having engine capacity 1500 cc in case of diesel, 1200 cc in case of petrol and length not exceeding 4000mm designed for carrying more than 10 persons but upto 13 persons. (Presently these vehicles attract compensation cess at the rate of 15%)

Goods & Services Tax

Other miscellaneous changes:

- a. Registered authors will be given an option to pay GST on royalty charged from publishers under forward charge (FC).
- b. Grant of liquor licence by State Governments against payment of license fee shall be treated as “no supply”
- c. Aerated drink manufacturers shall be excluded from composition scheme.
- d. Option to pay GST @ 18% on transaction value at the time of disposal of specified goods for petroleum operations (on which concessional GST rate of 5% was paid at the time of original supply) provided that the goods are certified by Director General Hydrocarbon (DGH) as non-serviceable.
- e. Restriction on refund of compensation cess on tobacco products (in case of inverted duty structure)
- f. Prescribing modalities for allowing concessions on spare parts imported temporarily by foreign airlines for repair of their aircraft, while in India in transit in terms of the Chicago Convention on Civil Aviation.
- g. Certain other changes of technical nature for the sake of clarity in application of notification

Rationalization/ Trade Facilitation Measures:

- a. To allow GST on securities lending service under reverse charge mechanism (RCM) at 18% and to clarify that GST on securities lending service for period prior to RCM period shall be paid on FC basis. IGST shall be payable on supply of these services and in cases where CGST/SGST/UTGST have been paid, such taxpayers will not be required to pay tax again.
- b. To allow RCM to suppliers paying GST @ 5% on renting of vehicles, from registered person other than body corporate (LLP, proprietorship) when services provided to body corporate entities

Goods & Services Tax

Clarifications:

- a. The scope of the entry ‘services of exploration, mining or drilling of petroleum crude or natural gas or both’.
- b. Taxability of Passenger Service Fee (PSF) and User Development Fee (UDF) levied by airport operators
- c. Mere heating of leguminous vegetables (gram/lentil) for removing moisture, or to soften and puff it or removing the skin, and not subjecting to any other processing or addition of any other ingredients (salt, oil etc.) would be classified under HS code 0713
- d. All “mechanical sprayers” falling under HS Code 8424 would attract 12% GST
- e. Parts like Solar Evacuation tubes for solar power based devices like solar water heater, solar steam, generation systems, would be eligible to 5% GST rate
- f. Exclusive parts and accessories suitable for use solely or principally with a medical device (falling under headings 9018, 9019, 9021 or 9022) would fall in respective headings and attract GST at the concessional rate of 12%
- g. Almond milk is classifiable under HS code 22029990 and attracts GST rate of 18%.
- h. Imported stores for Navy would be entitled to exemption from IGST

Please [Click Here](#) to read the press release dated 20th September, 2019 for GST rates on services.

Please [Click Here](#) to read the press release dated 20th September, 2019 for GST rates on goods.

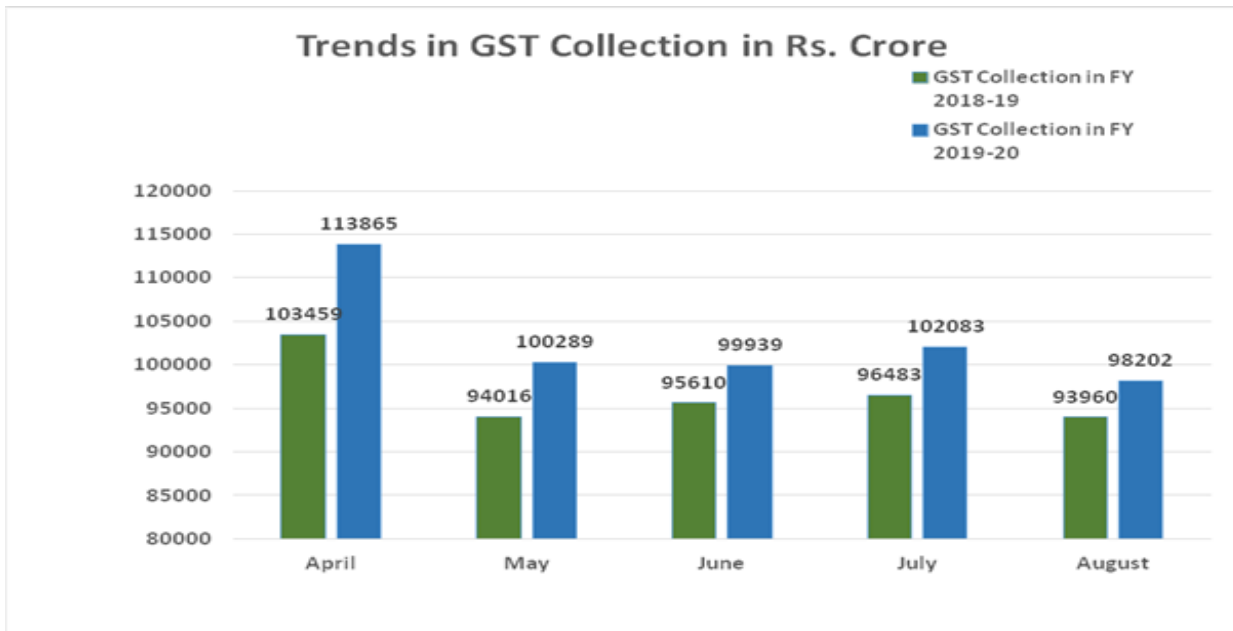
Note: It is proposed to issue notifications giving effect to these recommendations of the Council on 1st October, 2019.

Goods & Services Tax

GST revenue collection for August 2019 - growth of 4.5% over revenue for August 2018

Gross GST revenue collection in the month of August, 2019 is Rs. 98,202 crore (details given below), which is a growth of 4.5% over revenue collection for the same month last year (i.e., August 2018)

IGST	Rs. 17,733 crore
CGST	Rs. 24,239 crore
SGST	Rs. 48,958 crore
Compensation cess	Rs. 7,273 crore
Total	Rs.98,203 crore



Please [Click Here](#) to read press release dated 1st September, 2019.

[Waiver of requirement to file Form ITC-04 \(Job worker\), late fee for filing of Form GSTR-1 \(outward supply\) and GSTR-6 \(Input Service Distributor\)](#)

Central Government has waived the requirement of filing Form ITC-04 for the FYs 2017-18 and 2018-19. Only the details of all the challans in respect of goods dispatched to a job worker in the period July, 2017 to March, 2019 but not received from a job worker or not supplied from the place of business of the job worker as on 31st March, 2019, is required to be filled in serial number 4 of Form ITC-04 for the quarter April-June, 2019.

Also, Central Government has waived the late filing fee for Form GSTR-1 and GSTR-6 for the month of July, 2019 for the persons whose principal place of business is in specified districts of Bihar, Gujarat, Karnataka, Kerala, Maharashtra, Odisha and Uttarakhand or in the state of Jammu and Kashmir if such return is filed upto 20th September, 2019

Please [Click Here](#) to read the notification dated 31st August, 2019 for Form ITC-04.

Please [Click Here](#) to read the notification dated 31st August, 2019 for GSTR-1 and GSTR-6.



Direct Tax

Direct Tax

Extension of due date for filing tax return and tax audit report for FY 2018-19 to 31 October 2019

Due date for submission of tax return and tax audit report for FY 2018-19 has been extended from 30 September 2019 to 31 October 2019 for following categories of taxpayers:

- Company, or
- Other taxpayers whose accounts are required to be audited under the income-tax law or any other law, or
- Working partner of a firm whose accounts are required to be audited under the income-tax law or any other law for the time being in force

Interest u/s 234A for delay in filing of return, however, shall continue applicable where tax is payable.

Please [Click Here](#) to read CBDT's order dated 27th September 2019

Corporate tax rates slashed to 25.17% for existing manufacturing companies and 17.16% for new manufacturing companies to boost 'Make-in-India' campaign

The Government has introduced Taxation Laws (Amendment) Ordinance 2019 to make certain amendments in the Income-tax Act 1961 and the Finance (No. 2) Act 2019.

Highlights of amendments:

a. Reduction in corporate tax rate for Existing Manufacturing Companies

- In order to promote growth and investment, a new provision has been inserted with effect from FY 2019-20 which allows any domestic company an option to pay income-tax @ 22% subject to condition that they will not avail any exemption/incentive.
- Effective tax rate for these companies shall be 25.17% (inclusive of surcharge & cess).
- 'Minimum Alternate Tax' (MAT) shall not be applicable.

b. Reduction in corporate tax rate for New Manufacturing Companies

- In order to attract fresh investment in manufacturing and thereby provide boost to 'Make-in-India' initiative of the Government, another new provision has been inserted with effect from FY 2019-20 which allows any new domestic company incorporated on or after 1st October 2019 making fresh investment in manufacturing, an option to pay income-tax at an effective tax rate of 15%.
- The benefit is available to companies which do not avail any exemption/incentive *and* commences their production on or before 31st March, 2023.
- Effective tax rate for these companies shall be 17.01% (inclusive of surcharge & cess)
- MAT shall not be applicable.

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c. Option to opt for concessional tax regime and reduction in MAT rate

- A company which does not opt for the concessional tax regime and avails the tax exemption/incentive shall continue to pay tax at the pre-amended rate. However, these companies can opt for the concessional tax regime after expiry of their tax holiday/exemption period.
- After the exercise of the option they shall be liable to pay tax at the rate of 22% and option once exercised cannot be subsequently withdrawn.
- Further, in order to provide relief to companies which continue to avail exemptions/incentives, MAT rate has been reduced from existing 18.5% to 15%.

d. Relief from enhanced surcharge on capital gains arising on stock-exchange transaction

In order to stabilise the flow of funds into the capital market, it is provided that enhanced surcharge introduced by the Finance (No.2) Act, 2019 shall not apply on capital gains arising on sale of equity share in a company or a unit of an equity oriented fund or a unit of a business trust liable for securities transaction tax, in the hands of an individual, HUF, AOP, BOI and Artificial Judicial Person.

The enhanced surcharge shall also not apply to capital gains arising on sale of any security including derivatives, in the hands of Foreign Portfolio Investors (FPIs).

e. Relief from tax on buy-back of shares by listed companies

In order to provide relief to listed companies which have already made a public announcement of buy-back before 5th July 2019, it is provided that tax on buy-back of shares in case of such companies shall not be charged.

f. Expansion in scope of Corporate Social Responsibility (CSR) 2% funding

Going forward, CSR 2% fund can be spent on incubators funded by Central or State Government or any agency or Public Sector Undertaking of Central or State Government, and, making contributions to public funded Universities, IITs, National Laboratories and Autonomous Bodies (established under the auspices of ICAR, ICMR, CSIR, DAE, DRDO, DST, Ministry of Electronics and Information Technology) engaged in conducting research in science, technology, engineering and medicine aimed at promoting SDGs.

Total revenue foregone on account of above reliefs is estimated at Rs.1,45,000 crore.

Please [Click Here](#) to read the Press Release dated 20th September 2019

Please [Click Here](#) to read the Taxation laws (Amendment) Ordinance 2019 dated 20th September 2019

Direct Tax

Section 194N (withholding tax @ 2% on cash payments in excess of Rs.1 crore) inapplicable to commission agent / trader operating under Agricultural Produce Market Committee (APMC)

Background:

To discourage cash transactions and to encourage transition towards a less cash economy, new section 194N was inserted by the Central Board of Direct Taxes (CBDT) in Budget 2019 to provide for levy of TDS @ 2% on cash payments in excess of Rs 1 crore by a Bank or Post-office.

However, the above provision is not applicable to following category of payees.

- a. Any government body
- b. Any bank including co-operative banks
- c. Any business correspondent of a banking company (including co-operative banks)
- d. Any white label ATM operator of any bank (including co-operative banks)
- e. Such other person or class of persons, which the Central Government may notify in consultation with Reserve Bank of India (RBI).

CBDT Notification dated 20th September 2019:

Consequent to (e) above, Government has notified payment to commission agent / trader, operating under Agriculture Produce Market Committee (APMC), as exempt from TDS liability, provided:

- The agent / trader is registered under any Law relating to APMC of the concerned State, who has intimated to the bank or co-operative society or post office his account number through which he wishes to withdraw cash in excess of Rs.1 crore in the previous year along with his Permanent Account Number (PAN) and the details of the previous year
- It has been certified to the bank or co-operative society or post office that the withdrawal of cash in excess of Rs.1 crore is for paying to farmers against purchase of agriculture produce and the bank or co-operative society or post office has ensured that the PAN quoted is correct and the commission agent or trader is registered with the APMC, and for this purpose necessary evidences have been collected and placed on record.

Please [Click Here](#) to read the notification dated 20th September 2019

Direct Tax

E-assessment scheme notified by CBDT

The Finance Ministry has notified the 'E-Assessment Scheme, 2019' for conducting faceless scrutiny assessment of income-tax Returns (ITRs). Key Highlights of the Scheme are given below:

Framework under the new E-assessment Scheme, 2019

- *National E-Assessment Centre (NEC)*: To facilitate conduct of e-assessment proceedings in a centralized manner
- *Regional E-Assessment Centre*: To facilitate the conduct of e-assessment proceedings in the cadre controlling region of a Principal Chief Commissioner
- *Assessment Units*: To perform the function of making assessment, which includes identification of points for the determination of any liability (including refund), seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee etc. for the purposes of making assessment
- *Technical Units*: To perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter which may be required in a particular case or a class of cases
- *Review Units*: To perform the function of review of the draft assessment order, which includes checking whether the relevant and material evidence has been brought on record etc.

Each of the Units respectively [i.e Assessment, Technical and Review Units], shall comprise of the following authorities:

- Additional Commissioner or Additional Director or Joint Commissioner or Joint Director
- Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer
- Such other income-tax authority, ministerial staff, executive or consultant, as considered necessary by the Board

Direct Tax

Assessment Procedure under the new Scheme:

1. The NEC shall serve a notice on the assessee u/s. 143(2) specifying the issues for selection of his case for assessment
2. The assessee shall file response within 15 days from the date of receipt of notice to the NEC. The notice will be sent electronically on the assessee's e-filing account, or on assessee's registered email ID or on assessee's mobile app
3. The National e-assessment Centre shall assign the case to 'a specific assessment unit' in any one Regional e-assessment Centre through an automated allocation system
4. The assessment unit shall make a request to the NEC for:
 - obtaining such further information, documents or evidence from the assessee or any other person, as it may specify
 - conducting of certain enquiry or verification by verification unit; and
 - seeking technical assistance from the technical unit;
5. Based on the request from assessment unit, the NEC shall issue appropriate notice or requisition to the assessee / verification unit / technical unit through an automated allocation system
6. The assessment unit shall, after taking into account all the relevant material available on the record, make in writing, a draft assessment order either accepting the returned income of the assessee or modifying the returned income of the assessee, as the case may be (along with the details of penalty proceedings to be initiated, if any), and send a copy of such order to the NEC
7. The NEC shall examine the draft assessment order in accordance with the risk management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to –
 - finalize the assessment as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; or
 - Provide an opportunity to the assessee, in case a modification is proposed, by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the draft assessment order; or
 - Assign the draft assessment order to a review unit in any one Regional e-assessment Centre, through an automated allocation system, for conducting review of such order;

Direct Tax

8. The Review unit shall conduct review of the draft assessment order, referred to it by the NEC whereupon it may decide to:
 - concur with the draft assessment order and intimate the NEC about such concurrence or
 - suggest such modification, as it may deem fit, to the draft assessment order and send its suggestions to the NEC
9. NEC shall, upon receiving concurrence of the review unit, follow the specified procedure and upon receiving suggestions for modifications from the review unit, communicate the same to the Assessment unit.
10. The Assessment unit shall, after considering the modifications suggested by the Review unit, send the final draft assessment order to the NEC
11. The NEC shall, upon receiving final draft assessment order, follow the specified procedures
12. Upon the show cause notice issued, the assessee shall furnish his response to the NEC on or before the date and time specified in the notice, failing which the assessment shall be finalized based on draft assessment order
13. NEC shall, after completion of assessment, transfer all the electronic records of the case to the AO having jurisdiction over such case, for
 - Imposition of penalty
 - Collection and recovery of demand
 - Rectification of mistake
 - Giving effect to appellate orders
 - Submission of remand report, or any other report to be furnished, or any representation to be made, or any record to be produced before the Commissioner (Appeals), Appellate Tribunal or Courts, as the case may be
 - Proposal seeking sanction for launch of prosecution and filing of complaint before the Court

Penalty proceedings for non-compliance:

- Any unit may, in the course of assessment proceedings, for non-compliance of any notice, direction or order issued on the part of the assessee, may send a recommendation for initiation of any penalty proceedings under Chapter XXI (providing for penalties imposable), to the NEC, if it considers necessary to do so.
- NEC shall, on receipt of such recommendation, issue a show cause notice to the assessee. The response to the show cause notice furnished by the assessee shall be sent by the NEC to the concerned unit which has made the recommendation for penalty.
- The said unit (i.e after taking into consideration response by assessee), shall, make a draft order of penalty and send a copy to the NEC; or drop the penalty after recording reasons, under intimation to the said Centre.

Direct Tax

Appellate Proceedings

The Scheme provides that an appeal against an assessment made by the NEC shall lie before the relevant Commissioner (Appeals) having jurisdiction over the jurisdictional Assessing Officer.

Exchange of communication exclusively by electronic mode

The Scheme provides that all communications between the NEC and the assessee, as also all internal communications between the respective centres and units shall be exchanged exclusively by electronic mode.

Power to specify format, mode, procedure and processes

The Principal Chief Commissioner or the Principal Director General, in charge of the NEC shall lay down the standards, procedures and processes for effective functioning of the various centers/units in an automated and mechanized environment.

No personal appearance in the Centers or Units

- The scheme provides that a person shall not be required to appear either personally or through authorized representative in connection with any proceedings under this scheme before the Income-tax authority.
- However, in a case where a modification is proposed in the draft assessment order, and an opportunity is provided to the assessee, the assessee shall be entitled to seek personal hearing so as to make his oral submissions or present his case before the income-tax authority in any unit under this Scheme.
- Such hearing shall be conducted exclusively through video conferencing, including use of any telecommunication application software which supports video telephony, in accordance with the procedure laid down by the Board.

Please [Click Here](#) to read the notification dated 12th September 2019

CBDT notifies higher depreciation rates for motor-cars / vehicles acquired between 23rd August 2019 to 31st March 2020

In order to uplift the automobile sector, the CBDT vide Income-tax (9th Amendment) Rules, 2019 has enhanced the rate of depreciation for:

- Motor-cars (other than those used in a business of running them on hire)
- Motor buses, motor lorries and motor taxis used in a business of running them on hire

The revised depreciation schedule is as below:

Block of Assets	Existing Rate	Revised Rate (acquired and put to use between 23 rd August to 31 st March 2020)
Motor Car (other than those used in a business of running them on hire)	15%	30%
Motor buses, motor lorries and motor taxis used in a business of running them on hire	30%	45%

Please [Click Here](#) to read the notification dated 20th September 2019

Direct Tax

[CBDT notifies news rules/form relating to reference, remuneration & procedure before General Anti Avoidance Rules \(GAAR\) 'Approving Panel'](#)

Background:

- As per section 144BA of the Income-tax Act, if the Assessing Officer at any stage of assessment or reassessment, considers that it is necessary to declare an arrangement as an impermissible avoidance arrangement under the GAAR, he may make reference to the Principal Commissioner or Commissioner in this regard.
- The Principal Commissioner or Commissioner may issue notice to the taxpayer providing him opportunity of being heard before invoking GAAR provisions. If the taxpayer does not furnish any objection to the notice within the specified time, the Principal Commissioner or Commissioner shall issue appropriate direction in respect of declaration of the arrangement to be an impermissible avoidance arrangement.
- In case the taxpayer objects to the application of GAAR provisions and if the Principal Commissioner or Commissioner is not satisfied by the explanation of the taxpayer, he shall make a reference to the Approving Panel.
- As per Section 144BA(18), the chairperson and members of the Approving Panel shall meet, as and when required, to consider the references made to the Approving Panel and shall be paid such remuneration as may be prescribed. Further as per Section 144BA(21), the CBDT may make rules for the purposes of the constitution and efficient functioning of the Approving Panel and expeditious disposal of the references.

CBDT Notification:

CBDT has issued Notification amending the Income-tax Rules, 1962 to introduce new rules and form with respect to functioning of the Approving Panel. The said Rules will come into force from 17th September 2019.

The new Rule 10UD prescribes the procedure for making reference to the Approving Panel which is as below:

- Reference shall be made in the Form No. 3CEIA (form for making reference to the Approving Panel) along with a copy of Form No. 3CEI (recording the satisfaction by Commissioner before making a reference to the Approving Panel) and such other documents which the Principal Commissioner or the Commissioner deems fit.
- It should be submitted in 4 sets, either in Hindi or English.

New Rule 10UE prescribes the following procedure before the Approving Panel:

- A reference received u/r 10UD shall be circulated by the chairperson of the said Panel among the other members within 7 days from the date of receipt of such reference.
- The Chairperson of the Approving Panel shall cause to be issued notice to the Assessing Officer and the taxpayer affording an opportunity of being heard specifying therein the date and place of hearing.
- The meetings of the Approving Panel shall take place at such place as the Approving Panel may decide.

New rule 10UF provides that for attending the meeting of an Approving Panel, the Chairperson and other members of the said Panel shall be entitled to:

- Sitting fee of Rs. 6,000 per day; and
- Travel allowance / daily allowance as admissible to an officer of the rank of Special Secretary to the Government of India.

Please [Click Here](#) to read the notification dated 17th September 2019.

Direct Tax

[CBDT waives lock-in period for non-residents investing in Infra Debt Fund bonds](#)

[Background:](#)

Section 10(47) exempts from tax income of a (prescribed) infrastructure debt fund from. Rule 2F of the Income-tax Rules, prescribe guidelines for setting up the Infrastructure Debt Fund in order to qualify for exemption u/s 10(47). Sub-rule (3) & (4) empowers Infrastructure Debt Fund to issue rupee denominated bonds or foreign currency bonds in accordance with RBI directions. Sub-rule (5) thereto provides that, 'in case of an investor in the aforesaid bond being a non-resident, the original or initial maturity of bond, at time of 1st investment by such non-resident investor, shall not be less than 5 years.' However, Proviso to sub-rule (5) provides that the investment made by a non-resident investor in such bonds shall be subject to a lock in period 3 years.

[CBDT Notification:](#)

CBDT vide its notification dated 16th September 2019 has done away with the requirement of lock-in period of 3 years mentioned above.

Please [Click Here](#) to read the notification dated 16th September 2019

[Cost Inflation Index \(CII\) for FY 2019-20 notified at 289](#)

CBDT has notified CII for FY 2019-20 at 289 for the purpose of computing indexed cost of acquisition for capital gains purposes.

Please [Click Here](#) to read the notification dated 12th September 2019

[CBDT provides 'one-time' relaxation of time-limit till 31 December 2019 for filing compounding application](#)

[Background:](#)

CBDT has been issuing guidelines time to time for compounding of offences under direct tax law, prescribing the eligibility conditions. 1 of the conditions is that the application for compounding should be filed within 12 months from filing of complaint in the court.

[Relaxation of time limit:](#)

To mitigate hardship for deserving taxpayers and to reduce pendency of existing prosecution cases before courts, CBDT has relaxed the condition of filing application for compounding within 12 months subject to following conditions:

- The application shall be filed before the Competent Authority on or before 31st December 2019
- Relaxation shall not be available in respect of an offence which is generally not compoundable

Application can be filed in all such cases where:

- Prosecution proceedings are pending before any court of law for more than 12 months, or
- Any compounding application for an offence filed previously was withdrawn by the applicant solely for the reason that such application was filed beyond 12 months, or
- Any compounding application for an offence had been rejected previously solely for technical reasons

Please [Click Here](#) to read circular dated 9th September 2019

Direct Tax

CBDT releases guidelines for manual selection of returns for Complete Scrutiny during FY 2019-20

The Ministry of Finance has released guidelines for selection of income tax scrutiny cases during FY 2019-20. The guidelines have been released for assessing officers to evaluate under-reporting income and loss of taxes with an unbiased view. The instructions for manually selecting the returns have been divided into two sections.

1st Section: Parameters of manual selection

- Cases involving addition in an earlier assessment year(s) on a recurring issue of law or fact which exceeds the threshold of Rs 25 Lakhs for metro cities (Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Mumbai and Pune)/ Rs.10 Lakhs for non-metro cities/ Rs 10 crore in case of Transfer Pricing and where such an addition:
 - a. has become final as no further appeal has been filed against the assessment order; or
 - b. has been confirmed at any stage of appellate process in favor of revenue and assessee has not filed further appeal; or
 - c. has been confirmed at the 1st stage of appeal in favor of revenue or subsequently; even if further appeal of assessee is pending, against such order.
- Cases relating to survey u/s 133A excluding those cases where:
 - a. books of accounts, documents, etc. were not impounded and
 - b. returned income is not less than that of preceding year

Where, however, assessee has retracted from disclosure made during survey, such cases will be selected for scrutiny

- Assessments in search and seizure cases to be made u/s 153A, 153C, 158BA, 158BC & 158BD read with section 143(3) and also for return filed for the year in which authorization for search and seizure was executed u/s 132 or 132A.
- Cases where registration/approval under u/s 12A, 35(1)(ii)/(iia)/(iii), 10(23C), etc. have not been granted or have been cancelled/withdrawn by tax office, yet the assessee has been found to be claiming tax-exemption/deduction in the return. However, where such orders of withdrawal have been reversed or set-aside in appellate proceedings, those cases will not be selected under this clause.
- Cases in respect of which specific information pointing out tax-evasion for the relevant year is given by any law-enforcement/intelligence/regulatory authority or agency. However, before selecting a return for scrutiny under this criterion, Assessing Officer shall take prior administrative approval.

Direct Tax

2nd Section: Computer-Aided Scrutiny Selection (CASS)

An electronic scrutiny (e-scrutiny) method has been introduced to identify tax evaders and segregate the broad list of taxpayers. The scrutiny process shall be applied through the CASS that sends emails to the taxpayers by probing tax details. The probing of CASS has been divided into limited Scrutiny and Complete Scrutiny. In respect of cases selected under CASS cycle 2019, the following guidelines are specified.

- Cases where returns are selected for scrutiny through CASS but are not verified by the assessee within the specified period of e-filing and such returns remain unverified before the due date for issue of notice u/s 143(2), should be reopened by issue of notice u/s 148
- Cases selected for 'Limited Scrutiny' but credible specific information has been/is received from any law-enforcement/intelligence/regulatory authority or agency regarding tax-evasion in such cases, then only issue(s) arising from such information can be examined during the course of conduct of assessment proceedings in such 'Limited Scrutiny' cases, with prior administrative approval. In such 'limited Scrutiny' cases, Assessing Officer shall not expand the scope of enquiry/investigation beyond the issue(s) on which the case was flagged for 'Limited Scrutiny' and the issue(s) arising from the information received from the above referred agency or authority.

Please [Click Here](#) to read circular dated 5th September 2019

Direct Tax

CBDT releases summarized consolidated circular for assessment of start-ups

Background:

In order to provide hassle-free tax environment to Start-ups, a series of announcements have been made by the Finance Minister in her Budget Speech of 2019 and also on 23rd August, 2019. To give effect to these announcements, CBDT issued various circulars/clarifications in the matter from time to time. Vide Circular No.22/2019 dated 30th August 2019, CBDT has consolidated all the circulars/clarifications issued on the matter till date as summarized below:

Simplification of process of assessment of Start-ups:

Circular No. 16/2019 dated 7th August, 2019 provided for the simplified procedure of assessment of Start-ups recognized by Department for Promotion of Industry and Internal Trade (DPIIT). The circular covered cases under 'limited scrutiny', cases where multiple issues including issue of section 56(2)(viib) i.e related to 'Angel tax' were involved or cases where Form No.2 was not filed by the Start-up entity. Detailed process of obtaining mandatory approval of the supervisory authorities for conducting enquiry was also laid down by this circular.

Time limit for completion of pending assessments of Start-ups:

The time limit for completion of pending assessments was also specified by CBDT. All cases involving 'limited scrutiny' were to be completed preferably by 30th September, 2019 and the other cases of Start-ups were to be disposed off on priority, preferably by 31st October, 2019.

Procedure for addition made u/s 56(2)(viib) in the past assessment:

Vide clarification issued on 9th August,2019 it was provided that the provisions of section 56(2)(viib) of the Act i.e. 'Angel tax' would also not be applicable in respect of assessment made before 19th February, 2019 if a recognized Start-up had filed declaration in Form No. 2. The timelines for disposal of appeals before CIT(Appeals) was also specified. Further, the addition made under section 56(2)(viib) would also not be pressed in further appeal.

Income-tax demand:

It has been reiterated time and again by CBDT that outstanding income-tax demand relating to additions made under section 56(2)(viib) would not be pursued and no communication in respect of outstanding demand would be made with the Start-up entity. Other income-tax demand of the Start-ups would not be pursued unless the demand was confirmed by ITAT.

Constitution of Start-up Cell:

Vide order dated 30th August 2019, CBDT has constituted a Start-up Cell under the aegis of Member(IT&C), to redress grievances and to address various tax related issues in the cases of Start-ups. Grievances can also be filed online at startupcell.cbdt@gov.in

Please [Click Here](#) to read the circular dated 30th August 2019

Direct Tax

[CBDT constitutes 'Start-up' Cell for addressing grievances related to Start-ups](#)

In order to redress grievances and address various tax related issues relating to Start-ups, CBDT has constituted a Startup cell with following ex-officio members:

Portfolio	Designation
Member (IT &C)	Chairman
JS-TPL-II	Member
CIT(ITA)	Member
Director (ITA-I)	Member Secretary
Under Secretary(ITA-I)	Member

Grievances relating to Start-ups may be filed with the office of Under Secretary, ITA-I, Room No.245A, North Block, New Delhi – 110001 as well as online at startupcell.cbdt@gov.in. The Cell is also accessible telephonically on 01123095479 /23093070 (F).

Start-up entities can approach the Cell for speedy resolution of their grievances. This initiative is the latest amongst the recent initiatives taken by CBDT to further ease the compliance issues pertaining to Start-ups.

Please [Click Here](#) to read the Press Release dated 30th August 2019





Company Law

Company Law

[Introduction of new form RD GNL-5 for filing addendum for rectification of defects or incompleteness](#)

Ministry of Corporate Affairs (MCA) has published the Companies (Incorporation) Seventh Amendment Rules, 2019 on 28th August, 2019.

Background:

Form RD-1 under Companies Act is required to be filed for the following purpose to the Regional Director (RD):

- Rectification of Name
- Change in FY
- Conversion of Public company into Private company

Highlights of the amendment:

- Existing version of Form RD-1 has been revised.
- New form RD GNL-5 has been introduced for resubmission of application after rectifying defects and incompleteness in the application made in Form RD-1, after Regional Director intimates about such defects or incompleteness.

Please [click here](#) to read the Rules dated 28th August, 2019

[Extension of due date for filing Annual Return by Auditor with National Financial Reporting Authority \(NFRA\)](#)

MCA has published the National Financial Reporting Authority (Amendment) Rules, 2019 on 5th September, 2019.

Background:

NFRA is a regulatory body for the establishment and enforcement of accounting and auditing standards and oversight of the work of auditors. NFRA is set to take charge of oversight of audits of larger corporates including listed companies from the Institute of Chartered Accountants of India (ICAI).

Highlights of the amendment:

- Due date for filling Annual Return by the auditor has been extended from 30th April to 30th November.
- Form NFRA-2 format for filling Annual Return by the auditor has been newly introduced, which was not specified under the NFRA Rules, 2018.

Please [click here](#) the rules dated 5th September, 2019

Company Law

Relaxation of additional fees and extension of last date of filing of Form BEN-2 and BEN-1

MCA has issued a circular dated 24 September 2019 for providing relaxation of additional fees and extension of last date for filing of Form BEN-2 and BEN-1.

Background:

Form BEN-2 is the declaration that a company is required to file with the ROC with respect to the Significant Beneficial owners of the company disclosing their interest in the company by way of shareholding or voting rights. Beneficial Owners are the shareholders holding Significant Beneficial Ownership (SBO) of not less than 10% of the shareholding or voting rights of the company either directly or indirectly.

Relaxation provided:

Time limit for filing e-form BEN-2 has been extended to 31 December 2019 without payment of additional fee.

Please [click here](#) to read the circular dated 24th September, 2019

Valuation under Companies Act, 2013 and Insolvency and Bankruptcy Code, 2016 required from Registered Valuer

The Insolvency and Bankruptcy Board of India (IBBI) has issued circular on 16th September, 2019 providing ready reference of cases where valuation is required by registered valuer, under the Companies Act and Insolvency code. A snapshot of the same is given below:

Valuation required under the Companies Act, 2013

Sl. No.	Section / Rules	Particulars
1	Section 62(1)(c) of the Companies Act, 2013 read with Rule 13(1) of the Companies (Share Capital and Debentures) Rules, 2014	Further issue of share capital
2	Section 177(4)(vi) of the Companies Act, 2013	Terms of reference of Audit Committee
3	Section 192(1) and 192(2) of the Companies Act, 2013	Restriction on non-cash transactions involving directors
4	Section 230(2)(c)(v) and Section 230(3) of Companies Act, 2013	Power to compromise or make arrangements with creditors and members
5	Section 232 (2)(d) and Section 232 (3)(h)(B) of the Companies Act, 2013	Merger and amalgamation of companies
6	Section 236(2) of the Companies Act, 2013	Purchase of minority shareholding
7	Section 247(1) of the Companies Act, 2013	Valuation by Registered Valuers
8	Section 281(1)(a) of the Companies Act, 2013	Submission of report by Company Liquidator
9	Rule 2(c)(ix) of the Companies (Acceptance of Deposit) Rules, 2014	Exclusions from deposits.
10	Rule 6(1) of the Companies (Acceptance of Deposit) Rules, 2014	Creation of security
11	Rule 8(6), (7), (9) and (12) of the Companies (Share Capital and Debentures) Rules, 2014	Issue of sweat equity shares
12	Rule 16(1)(c) of the Companies (Share Capital and Debentures) Rules, 2014	Provision of money by company for purchase of its own shares by employees or by trustees, for the benefit of employees
13	Rule 12(5) of the Companies (Prospectus and Allotment of Securities) Rules, 2014	Return of allotment

Company Law

Provisions under the Insolvency and Bankruptcy Code, 2016 and the Regulations

Sl. No.	Section/Regulation/ Rules	Particulars
1	Section 59(3)(b)(ii) of the Insolvency and Bankruptcy Code, 2016	Voluntary liquidation of corporate persons
2	Section 46(2) of the Insolvency and Bankruptcy Code, 2016	Relevant period for avoidable transactions
3	Regulation 27 read with regulation 35 of the IBBI(Insolvency Resolution Process for Corporate Persons) Regulations, 2016	1) Appointment of registered valuers; 2) Fair value and liquidation value
4	Regulation 35 of the IBBI(Liquidation Process) Regulations, 2016	Valuation of assets intended to be sold
5	Regulation 3(1)(b)(ii) of the IBBI (Voluntary Liquidation Process) Regulations, 2017	Initiation of liquidation
6	Regulation 26 of the IBBI(Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017	Appointment of registered valuer
7	Regulation 34 of the IBBI (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017	Fair value and liquidation value

Please [click here](#) to read the Circular dated 16th September, 2019.





Reserve Bank of India

Reserve Bank of India

Cabinet approves proposal for review of FDI policy in various sectors such as Contract Manufacturing, Coal Mining, Single Brand Retail Trade (SBRT) and Digital Media

The Union Cabinet chaired by Prime Minister Modi has approved the proposal for review of FDI across various sectors. The changes in FDI policy are expected to result in making India a more attractive FDI destination, leading to benefits of increased investments, employment and growth.

Highlights

Sector	Existing FDI Policy	Amendment
Coal Mining	<p>100% FDI under automatic route is allowed for coal & lignite mining for captive consumption by power projects, iron & steel and cement units and other eligible activities.</p> <p>100% FDI under automatic route is also permitted for setting up coal processing plants like washeries subject to the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal processing plants for washing or sizing.</p>	<p>100% FDI under automatic route allowed for sale of coal, for coal mining activities including 'associated processing infrastructure' subject to provisions of Coal Mines (special provisions) Act, 2015 and the Mines and Minerals (development and regulation) Act, 1957 as amended from time to time, and other relevant acts on the subject.</p> <p>'Associated Processing Infrastructure' for this purpose includes coal washery, crushing, coal handling, and separation (magnetic and non-magnetic)</p>
Contract Manufacturing	<p>100% FDI under automatic route is allowed in manufacturing sector. There is no specific provision for Contract Manufacturing in the FDI Policy.</p>	<p>To provide clarity on contract manufacturing, it has been decided to allow 100% FDI under automatic route in contract manufacturing as well. Manufacturing activities may be conducted either by the investee entity or through contract manufacturing in India under a legally tenable contract, whether on Principal to Principal or Principal to Agent basis.</p>

Reserve Bank of India

Sector	Existing FDI Policy	Amendment
SBRT	<ul style="list-style-type: none"> The extant FDI Policy provides that 30% of value of goods has to be procured from India if SBRT entity has FDI more than 51%. As regards local sourcing requirement, the same can be met as an average during the first 5 years, and thereafter annually towards its India operations Regards local sourcing requirement, incremental sourcing for global operations by the non-resident entities undertaking SBRT, either directly or through their group companies, will also be counted towards local sourcing requirement for the first 5 years. However, prevalent business models involve not only sourcing from India for global operations by the entity or its group companies, but also through an unrelated third Party, done at the request of the entity undertaking SBRT or its group companies. Only that part of the global sourcing shall be counted towards local sourcing requirement which is over and above the previous year's value. Such requirement of year-on-year incremental increase in exports induces aberrations in the system as companies with lower exports in a base year or any of the subsequent years can meet the current requirements, while a company with consistently high exports gets unduly discriminated against. Present policy requires that SBRT entities have to operate through brick and mortar stores before starting retail trading of that brand through e-commerce. This creates an artificial restriction and is out of sync with current market practices. 	<ul style="list-style-type: none"> To provide greater flexibility and ease of operations to SBRT, it has been decided that all procurements made from India by the SBRT entity for that single brand shall be counted towards local sourcing, irrespective of whether the goods procured are sold in India or exported. Current cap of considering exports for 5 years only is proposed to be removed 'Sourcing of goods from India for global operations' can be done directly by the entity undertaking SBRT or its group companies (resident or non-resident), or indirectly by them through a 3rd party under a legally tenable agreement. Entire sourcing from India for global operations shall be considered towards local sourcing requirement (no incremental value) Retail trading through online trade can also be undertaken prior to opening of brick and mortar stores, subject to the condition that the entity opens brick and mortar stores within 2 years from date of start of online retail. Online sales will lead to creation of jobs in logistics, digital payments, customer care, training and product skilling.
Digital Media	49% FDI under approval route is allowed in Up-linking of 'News & Current Affairs' TV Channels.	26% FDI under government route shall be permitted for uploading/ streaming of News & Current Affairs through Digital Media, on the lines of print media.

Reserve Bank of India

Exim Bank's Government of India supported Line of Credit of USD 800 million to the Government of Maldives

- Export-Import Bank of India (Exim Bank) has entered into an agreement dated March 18, 2019 with the Government of Maldives for making available to the latter, a Government of India supported Line of Credit (LoC) of USD 800 million for the purpose of financing development projects in Maldives.
- Under the arrangement, financing of export of eligible goods, works and services from India, as defined under the agreement, would be allowed subject to their being eligible for export under the Foreign Trade Policy of the Government of India and whose purchase may be agreed to be financed by the Exim Bank under this agreement. Out of the total credit by Exim Bank under the agreement, goods, works and services of the value of at least 75% of the contract price shall be supplied by the seller from India and the remaining 25% of goods and services may be procured by the seller for the purpose of the eligible contract from outside India.
- The Agreement under the LoC is effective from 20th August, 2019. Under the LOC, the terminal utilization period is 60 months after the scheduled completion date of the project.
- Shipments under the LoC shall be declared in Export Declaration Form as per instructions issued by RBI from time to time.
- No agency commission is payable for export under the above LoC. However, if required, the exporter may use his own resources or utilize balances in his Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange. Authorised Dealer (AD) Category- I banks may allow such remittance after realization of full eligible value of export subject to compliance with the extant instructions for payment of agency commission.

Please [click here](#) to read notification dated 5th September, 2019.

Editorial Team



Editor



Direct Tax



Indirect Tax



Regulatory



Communications

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