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Demystifying Complexities

TAX EDGE

Monthly Tax & Regulatory Updates



Audit



Tax



Regulatory

October 2019

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A nighttime photograph of a bridge structure, likely a suspension or cable-stayed bridge, viewed from below. The bridge's massive steel truss towers are illuminated with warm yellow lights, and their reflection is visible in the dark water below. The sky is a deep purple and blue. A semi-transparent teal rectangular box is overlaid across the middle of the image, containing the text "Goods & Services Tax" in white, bold, sans-serif font.

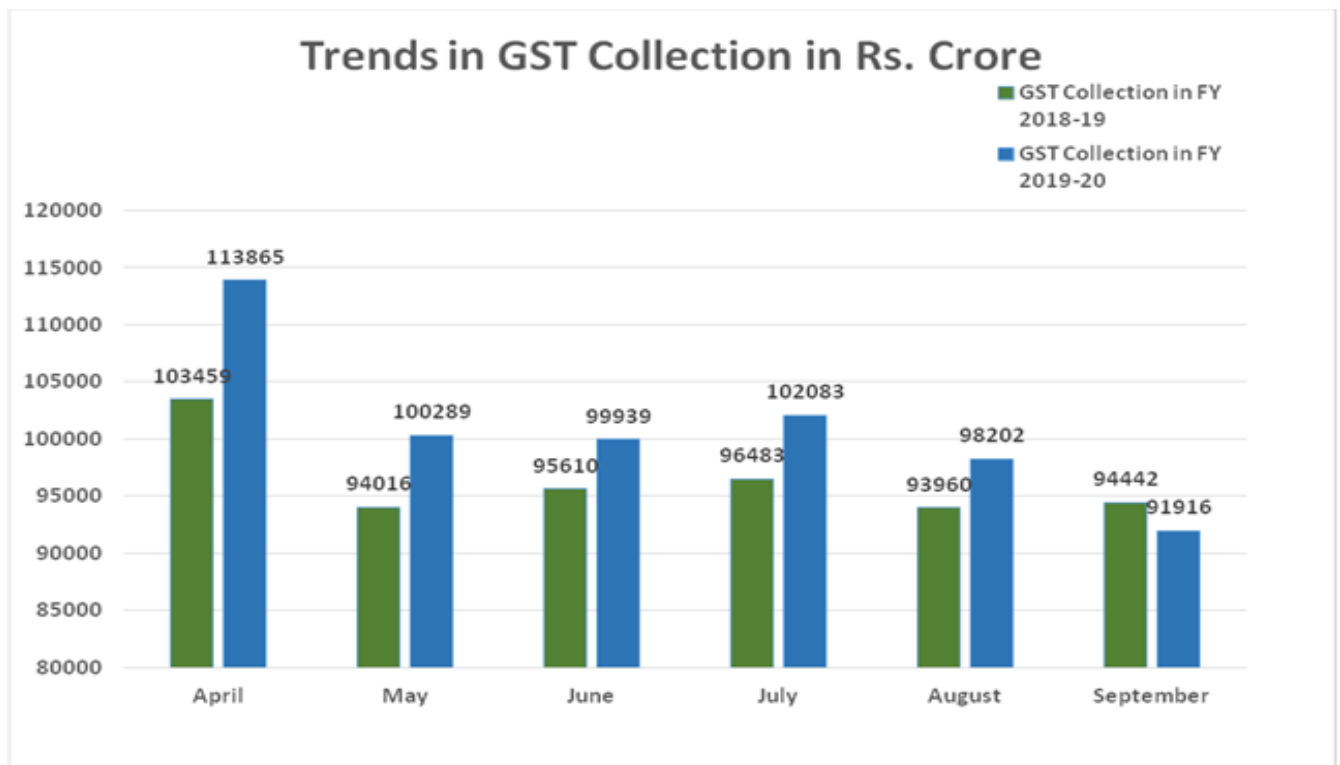
Goods & Services Tax

Goods & Services Tax

GST revenue collection for September 2019 - decline of 2.67% over revenue for September 2018

Gross GST revenue collection in the month of September, 2019 is Rs. 91,916 crore (details given below), a declined by 2.67% over revenue collection for the same month last year (i.e., September 2018)

IGST (Integrated Goods and Services Tax)	Rs. 45,069 crore
CGST (Central Goods and Services Tax)	Rs. 16,630 crore
SGST (State Goods and Services Tax)	Rs. 22,597 crore
Compensation cess	Rs. 7,620 crore
Total	Rs. 91,916 crore



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

Goods & Services Tax

Notification of time limit for filing GST returns for the period October, 2019 to March, 2020

The prescribed due dates are tabulated below:

Returns	Tax Period	Due Dates
Monthly GSTR-1 by taxpayers having annual aggregate turnover > Rs.1.5 crore in preceding financial year or current financial year	October 2019	11 th November, 2019
	November 2019	11 th December, 2019
	December 2019	11 th January, 2020
	January 2020	11 th February, 2020
	February 2020	11 th March, 2020
	March 2020	11 th April, 2020
Quarterly GSTR-1 by taxpayers having annual aggregate turnover upto Rs.1.5 crore in preceding financial year or current financial year	October - December 2019	31 st January, 2020
	January - March 2020	30 th April, 2020
Monthly GSTR-3B Summary return including discharge of tax liability	October 2019	20 th November, 2019
	November 2019	20 th December, 2019
	December 2019	20 th January, 2020
	January 2020	20 th February, 2020
	February 2020	20 th March, 2020
	March 2020	20 th April, 2020

Please [Click Here](#) to read the notification dated 9th October, 2019 for Monthly GSTR-1.

Please [Click Here](#) to read the notification dated 9th October, 2019 for Quarterly GSTR-1.

Please [Click Here](#) to read the notification dated 9th October, 2019 for Monthly GSTR-3B.

Goods & Services Tax

Changes in CGST Rules, 2017

Government has made following changes in CGST Rules, 2017:

- Input tax credit (ITC) to be availed in respect of invoices, which have not been uploaded by the suppliers in GSTR-1, shall not exceed 20% of the eligible credit in respect of invoices which have been uploaded by the suppliers in GSTR-1.
- Assessee would not be required to file Form GSTR-3 where returns are required to be filed in Form GSTR-3B. Also, Form GSTR-3B would be considered as a return specified in section 39(1) (Rule 61 of the Rules has been amended retrospectively from 1 July 2017) to nullify the recent judgement of the Gujarat High Court which says that GSTR-3B as an interim arrangement did not tantamount to a monthly return under section 39 of the Act, being Form GSTR-3.
- Enabling Central Government to disburse refunds for claims made to both the Central and State Governments, under a consolidated payment advice, in case of provisional refunds.
- Due date for filing Form GST TRAN-1 has been extended to 31 December 2019. For Form GST TRAN-2 where an assessee is filing declaration in Form GST TRAN-1 in accordance with Rule 117(1A) of the Rules the due date has been extended to 31st January 2020.

Please [Click Here](#) to read the notification dated 9th October, 2019.



Goods & Services Tax

Clarification in respect of filing a refund application where inadvertently a NIL refund application has already been filed

Background:

Several registered persons have inadvertently filed a NIL refund claim for a certain period on the common portal in Form GST RFD-01A/RFD-01 in spite of the fact that they had a genuine claim for refund for that period. Once a NIL refund claim is filed, the common portal does not allow the registered person to re-file the refund claim for that period under the said category.

Representations have been received to allow re-filing of refund claim for that period. The matter has been examined and clarification is as under.

Clarifications issued by Government:

A registered person who has filed a NIL refund claim for a given period under a particular category, may again apply for refund for the said period under the same category only if he satisfies the following 2 conditions:

- I. The registered person must have filed a NIL refund claim in FORM GST RFD-01A/RFD-01 for a certain period under a particular category; and
- II. No refund claims in Form GST RFD-01A/RFD-01 must have been filed by the registered person under the same category for any subsequent period - This condition shall apply only for refund claims falling under following categories:
 - Refund of unutilized ITC on account of exports without payment of tax
 - Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax
 - Refund of unutilized ITC on account of accumulation due to inverted tax structure

Registered persons satisfying the above conditions may file the refund claim under 'Any Other' category instead of the category under which the NIL refund claim has already been filed. However, the refund claim should pertain to the same period for which the NIL application was filed. The application under the 'Any Other' category shall also be accompanied by all the supporting documents which would be required to be otherwise submitted with the refund claim.

On receipt of the claim, the concerned officer shall calculate the admissible refund amount. If the officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer in writing, if required, to debit the said amount from his electronic credit ledger through Form GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in Form GST RFD-06 and the payment order in Form GST RFD-05b

Please [Click Here](#) to read the circular dated 3rd October, 2019.

Goods & Services Tax

Clarification regarding procedure to claim refund subsequent to favourable order in appeal or any other forum

Background:

Doubts have been raised on the procedure to be followed to claim refund subsequent to a favourable order in appeal or any other forum against rejection of a refund claim in Form GST RFD-06.

Clarifications issued by Government:

- Appeals against rejection of refund claims are being disposed offline as the electronic module for the same is yet to be made operational. As per CGST Rules, 2017, where an appeal is filed against the rejection of a refund claim, re-crediting of the amount debited from the electronic credit ledger is not done till the appeal is finally rejected. Therefore, such rejected amount remains debited in respect of the particular refund claim filed in Form GST RFD-01.
- In case a favourable order is received in appeal or in any other forum in respect of a refund claim rejected through issuance of an order, the registered person would file a fresh refund application under the category 'Refund on account of assessment/provisional assessment/appeal/any other order' claiming refund of the amount allowed in appeal or any other forum. Since the amount debited at the time of filing refund application was not re-credited, the registered person shall not be required to debit the said amount again at the time of filing of the fresh refund application. The registered person shall be required to give details of the order (appeal/any other order) and also upload copy of appellate order and copy of the refund rejection order in Form GST RFD 06.
- Upon receipt of the such fresh application for refund, the officer would sanction the amount of refund as allowed in appeal or in subsequent forum which was originally rejected and shall make an order in Form GST RFD 06 and issue payment order in Form GST RFD 05 accordingly. The proper officer disposing the such fresh application for refund shall also ensure re-credit of any amount which remains rejected in the order of the appellate (or any other authority).

Illustration:

Consider a registered person who makes an application for refund of unutilized ITC on account of export to the extent of Rs.100 and debits the said amount from his electronic credit ledger. The officer disposes the application by allowing refund of Rs.70 and rejecting the refund of Rs. 30. However, he does not recredit Rs.30 since appeal is preferred by the claimant and accordingly Form GST RFD 01B is not uploaded. Assuming that the appellate authority allows refund of only Rs.10 (out of Rs.30) for which the registered person went in appeal, this Rs.10 shall be claimed afresh under the category 'Refund on account of assessment/provisional assessment/appeal/any other order' and processed accordingly. However, subsequent to processing of this claim of Rs.10 the proper officer shall re-credit Rs.20 to the electronic credit ledger of the claimant, provided that the registered person is not challenging the order in a higher forum. For this purpose, Form GST RFD 01B under the original ARN which has so far not been uploaded will be uploaded with refund sanctioned amount as Rs.80 and the amount to be re-credited as Rs. 20. In case, the proper officer who rejected the refund claim is not the one who is disposing the application under the category 'Refund on account of assessment/provisional assessment/appeal/any other order', the latter shall communicate to the proper officer who rejected the refund claim to close the ARN as above only after obtaining the undertaking as referred in para 4.2 of Circular no. 59/33/2018 – GST dated 4 September 2018.

Please [Click Here](#) to read the circular dated 3rd October, 2019.

Goods & Services Tax

Clarification on levy of GST on the service of display of name of the donor in the premises of charitable organizations receiving donation from individual donors

Background:

Representations have been received seeking clarification whether GST is applicable on donations or gifts received from individual donors by charitable organisations involved in advancement of religion, spirituality or yoga which is acknowledged by them by placing name plates in the name of the individual donor.

Clarifications:

Individual donors provide financial help or any other support in the form of donation or gift to religious/charitable institutions/ organizations etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor which would be an advertising or promotion of his business. It can be said that there is no supply of service for a consideration (in the form of donation). Therefore, there is no GST liability on such consideration.

In other words, if there is no reference of any business activity of the donor which otherwise would have got advertised, GST shall not be leviable.

Summary:

GST is not leviable where *all* the 3 conditions mentioned below are satisfied:

- Gift or donation is made to a charitable organization,
- Payment has the character of gift or donation
- Purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement

Examples:

- 'Good wishes from Mr. Rajesh' printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution\
- 'Donated by Smt. Malati Devi in the memory of her father' written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

Please [Click Here](#) to read the circular dated 11th October, 2019.

Grant of alcoholic liquor licence is neither supply of goods nor service

Government has notified that 'Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee' is neither supply of goods service under GST law.

Please [Click Here](#) to read notification dated 30th September, 2019.

Goods & Services Tax

GST rates notified, exemption provided for certain goods / services from 1st October, 2019 onwards

Central Government has notified/ amended the GST rates and exempted certain goods/ services as given below:

Notified/ amended GST rates for Services:

Nature of Service	GST rate
Supply of 'hotel accommodation' having value of supply of a unit of accommodation above Rs. 1,000 but less than or equal to Rs. 7,500 per unit per day or equivalent.	12%
Supply of 'restaurant service' other than at 'specified premises'	2.5%
Supply of goods, being food or any other article for human consumption or any drink, by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms.	Provided that ITC charged on goods and services used in supplying the service has not been taken
Supply of 'outdoor catering', at premises other than 'specified premises' provided by any person other than- (a) suppliers providing 'hotel accommodation' at 'specified premises', or (b) suppliers located in 'specified premises'.	
Composite supply of 'outdoor catering' together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) at premises other than 'specified premises' provided by any person other than- (a) suppliers providing 'hotel accommodation' at 'specified premises', or (b) suppliers located in 'specified premises'.	
Accommodation, food and beverage services other than 1 to 5 above <ul style="list-style-type: none"> ✓ This entry covers supply of 'restaurant service' at 'specified premises' ✓ This entry covers supply of 'hotel accommodation' having value of supply of a unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent ✓ This entry covers supply of 'outdoor catering', provided by suppliers providing 'hotel accommodation' at 'specified premises', or suppliers located in 'specified premises' ✓ This entry covers composite supply of 'outdoor catering' together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) provided by suppliers providing 'hotel accommodation' at 'specified premises', or suppliers located in 'specified premises' 	9%
Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both	6%
Services by way of job work in relation to diamonds falling under chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);	1.5%
Services by way of job work in relation to bus body building;	9%
Other job work services which are not elsewhere specified	6%

Goods & Services Tax

[Notified/ amended GST rates for Goods:](#)

Nature of Goods	GST rate
Marine Fuel 0.5% (FO)	5%
Wet grinder consisting of stone as grinder	5%
Woven and non-woven bags and sacks of polyethylene or polypropylene strips or the like, whether or not laminated of a kind used for packing of goods	12%
Goods, falling under chapter 86 of tariff like railway wagons, coaches, rolling stock (without refund of accumulated ITC)	12%
Caffeinated Beverages	28%

[Exempted services:](#)

- Services provided by and to Federation International de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India (provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020).
- 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, coffee and tea.
- Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.
- Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020.

[Exempted goods:](#)

- Tamarind dried
- Plates and cups made up of all kinds of leaves/ flowers/bark

Please [Click Here](#) to read notification dated 30th September, 2019 for notified GST rates for services.

Please [Click Here](#) to read notification dated 30th September, 2019 for notified GST rates for goods.

Please [Click Here](#) to read notification dated 30th September, 2019 for exempted services.

Please [Click Here](#) to read notification dated 30th September, 2019 for exempted goods.

Goods & Services Tax

Certain services notified under reverse charge mechanism (RCM)

Central Government has prescribed the following services under RCM from 1st October, 2019 onwards:

Nature of Service	Supplier of service	Recipient of Service
Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1)(a) of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory.
Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1)(a) of Copyright Act, 1957 relating to original literary works to a publisher.	Author	Publisher located in the taxable territory (subject to conditions)
Services provided by way of renting of a motor vehicle provided to a body corporate.	Any person other than a body corporate, paying CGST @ 2.5% on renting of motor vehicles with ITC only of input service in the same line of business	Any body corporate located in the taxable territory.
Services of lending of securities under Securities Lending Scheme, 1997 of Securities and Exchange Board of India (SEBI)	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

Please [Click Here](#) to read notification dated 30th September, 2019.

GSTR-9 made optional for persons having taxable turnover upto Rs. 2 crore

Government has made return-filing in form GSTR-9 optional for FYs 2017-18 and 2018-19 for taxable persons having aggregate turnover upto 2 crore rupees in a financial year. The return shall be deemed to be furnished on the due date if it has not been furnished before the due date.

Please [Click Here](#) to read the notification dated 9th October, 2019.



Direct Tax

Direct Tax

CBDT clarifies on allowability of accumulated Minimum Alternate Tax (MAT) credit, additional depreciation for companies availing lower tax-rate

Background:

The Taxation Laws (Amendment) Ordinance, 2019 (the Ordinance) has been promulgated by the President of India on 20th September, 2019. The Ordinance, among others, inserted a new section 115BAA in the Income-tax Act with effect from 1st April 2020 and also amended section 115JB of the Act relating to MAT.

Section 115BAA so inserted provides that:

- A domestic company may, at its option, pay lower tax rate of 22% beginning from Assessment Year (AY) 2020-21 onwards, subject to certain conditions, including that the total income should be computed *without* claiming any deduction or exemption
- The option is required to be exercised by the company before the due date of furnishing return of income; the option, once exercised, cannot be subsequently withdrawn and shall apply to all subsequent assessment years.
- The Ordinance amended section 115JB of the Act relating to MAT so as to, provide that MAT shall not apply to a person who has exercised the option to pay tax u/s 115BAA.

Recent Clarification:

Consequent to queries raised by industry, the Central Board of Direct Taxes (CBDT) vide circular dated 2nd October 2019 has clarified the following issues:

Allowability of brought forward loss on account of additional depreciation:

- A domestic company which has availed benefit of lower tax rate of 22%, shall not be allowed to claim set off of any brought forward loss on account of additional depreciation for an AY for which the option to avail lower tax rate has been availed and for any subsequent assessment year
- As there is no time limit within which option u/s 115BAA can be exercised, a domestic company having brought forward losses on account of additional depreciation may, at its choice, exercise the option after set-off of the losses so accumulated.

Allowability of brought forward MAT credit:

- MAT credit shall not be available to a domestic company which has availed benefit of lower tax rate of 22%.
- Again, as there is no time limit within which option u/s 115BAA can be exercised, a domestic company having MAT credit may, at its choice, exercise the option after utilizing said credit against regular tax payable under the taxation regime existing prior to promulgation of Ordinance.

Please [Click Here](#) to read the circular dated 2nd October 2019

Direct Tax

CBDT launches Document Identification Number (DIN) system, enables facility to check authenticity of notices issued

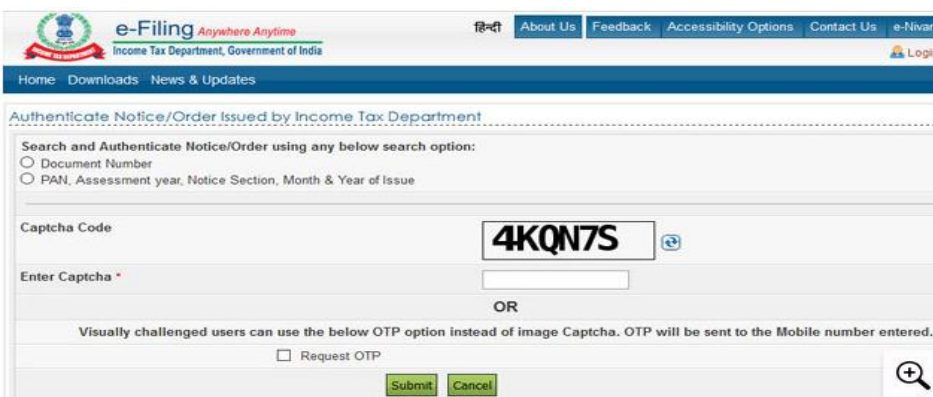
To increase transparency in functioning of Income-tax department, the Finance Minister Smt. Nirmala Sitharaman has started a new rule under which no communication should be made to any taxpayer without a computer-generated *Document Identification Number (DIN)*. Only under exceptional circumstances can a manual communication be issued but even those would have to be uploaded and regularized on the system within 15 days of issue.

CBDT in order to implement such measure has enabled a facility which would facilitate assessee to check the authenticity of the notice issued. The following steps needs to be followed to check the details online on tax department's website.

- Go to Income-tax department's e-filing website and click on "Notice/Order Issued by ITD" button on the left side.



- Assessee can search a notice online by any of 2 methods below:
 - On basis of Document Number
 - On basis of PAN, AY, notice section, month and year of issue



- Once the above details are provided, assessee shall be able to verify authenticity of the document.

On the very 1st day of operation, 17,500 DINs were issued. CBDT stated that the system of attaching a DIN to every notice or communication of CBDT will result in better services to taxpayers. Further, communication without DIN is allowed only in exceptional circumstances, which will have to be communicated to the chief commissioner of income tax in a particular format.

Please [Click Here](#) to read the Press release dated 01st October 2019

Direct Tax

Credit of tax deducted at source (TDS) u/s 194N on cash withdrawal

Background:

- Proposal for levy of TDS @ 2% on cash withdrawal over Rs. 1 crore was announced in the Budget of July 2019 by the Finance Minister. The new law came into effect from 1st September 2019.
- Rule 37BA of the Income-tax Rules deals with process of claiming TDS credit. It allows a deductee to pass on the credit of TDS to next year or to another person.

Recent Clarification:

CBDT has inserted sub-rule 3A in rule 37BA, which provides that the credit for TDS u/s 194N shall be available to the deductee only. Further, the credit shall be allowed in the year of deduction itself. In other words, deductee shall not be allowed to carry forward the TDS credit to subsequent assessment years.

Please [Click Here](#) to read the notification dated 27th September 2019

CBDT releases direct-tax statistics based on Income-tax returns filed for AY 2018-19

CBDT has issued a detailed break-up of data collected from income tax returns (ITR) filed for AY 2018-18. According to the report, number of millionaire taxpayers in India shot up by 20% to 97,689 during AY 2018-19. The number of such individuals having taxable income of over Rs.1 crore stood at 81,344 during AY 2017-18.

Highlights:

- India's super-rich club of those earning taxable income of above Rs.500 crore has only 3 individuals. The report doesn't reveal their names.
- Over 1.7 lakh people filed income tax returns with zero income.
- There were at least 89,793 people in India who earned in between Rs.1-5 crore. In the Rs. 5-10 crore income bracket, India had 5,132 taxpayers while the Rs.10-25 crore range had a little more than 2,000 individuals.
- If the salary break-up is considered, most of the taxpayers (over 81 lakh) seem to be earning salary in between Rs. 5.5-9.5 lakh. The average salary income in this category is Rs.7.12 lakh.
- If taxpayers across categories like individuals, HUFs, companies, firms, etc are included, the number of those with taxable income of more than Rs.1 crore per annum rises to about 1.67 lakh, a 19% jump from the previous year.
- Over all, more than 5.87 crore income tax returns were filled, as per the statistics generated from e-filed returns (digitally signed, e-verified or where ITRV has been received) submitted up to 15th August, 2019.
- The data revealed that over 5.52 crore individuals, 11.3 lakh HUFs, 12.69 lakh firms and 8.41 lakh companies were among those who filed returns.

Please [Click Here](#) to read the complete report.

Direct Tax

CBDT extends time-limit for authorities to dispose condonation applications for belated audit reports filed in Form 10B

[Background:](#)

As per section 12A of Income-tax Act where the total income of a trust / institution as computed without giving effect to sections 11, 12 exceeds the basic exemption limit in any previous year, the accounts of the trust / institution for that year has to be audited by a Chartered Accountant and audit report in Form 10B is required to be furnished electronically along with the return of income. Failure to furnish audit report results in disentitlement of the trust / institution from claiming exemption u/s 11, 12 of the Act.

CBDT vide its circular dated 22nd May 2019, has provided the facility of filing of belated form 10B prior to AY 2018-19 and accordingly authorized the Commissioners of Income-tax to admit applications for condonation of delay in filing Form No. 10B for years prior to AY 2018-19 by 30th September 2019.

[Extension of time limit:](#)

CBDT vide its circular dated 27th September 2019 has extended the due date to 31st March 2020 instead of 30th September 2019.

Please [Click Here](#) to read the circular dated 27th September 2019.





International Taxation

International Taxation

OECD releases Public Consultation Document on Unified approach for taxing digital economy

Background:

The Programme of Work (PoW) adopted by the Inclusive Framework on BEPS at its meeting of 28-29 May 2019, and approved by the G20 Finance Ministers and Leaders at their respective meetings in Japan in June 2019, provides for two pillars to be developed, on a without prejudice basis, with a consensus solution to be agreed by the end of 2020.

For Pillar One, the PoW allocates work to explore the 3 proposals articulated so far, but recognises that for a solution to be delivered in 2020, the outlines of a unified approach would need to be agreed by January 2020. This outline will have to reduce the number of options available and bridge the remaining gaps to facilitate the task of arriving at a consensus on a unified approach to Pillar One in 2020. Consistent with that objective and to help expedite progress towards reaching a consensus solution to Pillar One issues, the Secretariat prepared a proposed 'Unified Approach'. It is built on the significant commonalities identified in the PoW, takes account of the views expressed during the March Public Consultation in Paris, and seeks to consider the different positions of the members of the Inclusive Framework. This proposal was discussed by the Task Force on the Digital Economy (TFDE) at its meeting on 1 October 2019 and is now released to the public for comments.

Public Consultation meeting to be held in Paris on 21, 22 November 2019:

The public consultation meeting on the above will be held on 21 and 22 November 2019 at the OECD Conference Centre in Paris, France. The objective is to provide external stakeholders an opportunity to provide input into the ongoing work. Another separate public consultation meeting on Pillar Two issues will be organised in December 2019, and the related public consultation document is expected to be released in early November 2019.

This consultation document describes, at a high-level, the 'Unified Approach' to Pillar One proposed by the Secretariat, and seeks comments from the public on a number of policy issues and technical aspects. The comments provided will assist members of the Inclusive Framework in the development of a solution for its final report to the G20 in 2020. Interested parties are invited to send their comments no later than Tuesday, 12 November 2019, noon Paris time, by email.

Please [Click Here](#) to read the detailed Public Consultation Document on Secretariat Proposal for a Unified Approach under Pillar One.

International Taxation

Transfer Pricing - Amendment in secondary adjustment law to clarify period for cash repatriation on conclusion of APA / MAP

Background:

CBDT has issued a notification on 30 September 2019 amending the provisions relating to cash repatriation and computation of notional interest under secondary adjustment provisions as per Rule 10CB of the Income-tax Rules. The amendments provide clarification on compliance and computation of secondary adjustment provisions, particularly on the conclusion of Advance Pricing Agreement (APA) and resolution under Mutual Agreement Procedure (MAP).

The former rule for secondary adjustments had ambiguities in relation to timelines in cases where the primary TP adjustment is determined pursuant to MAP or an APA, which are typically concluded well after the due date for filing tax returns. This resulted in expiration of the deadline before the acceptance of the primary adjustment by the taxpayer. The amended rule is a welcome change, it not only addresses ambiguities in the former rule, but also provides clarity on aspects not covered under the former rule.

Amendment in relation to time limits for repatriation where primary adjustment has been determined by an APA / MAP:

Primary adjustment determined under	Erstwhile Rule	New Rule
APA	On or before 90 days from the due date for filing the tax return	<ul style="list-style-type: none">• Where APA has been entered into <u>on or before</u> the due date for filing tax return for the relevant year – On or before 90 days from the date for filing the tax return• If the APA has been entered into <u>after</u> the due date of filing the tax return for the relevant year – On or before 90 days from the end of the month in which APA has been entered into
MAP		On or before 90 days from the date on which the tax officer gives effect to the MAP resolution

International Taxation

Timeline from when the interest on excess money or part thereof shall be chargeable:

Primary adjustment arising due to	Interest chargeable from
<ul style="list-style-type: none">• Voluntary adjustment in the tax return• An APA entered into on or before the due date for filing the tax return for the relevant year• Safe harbor rules	Due date for filing the tax return for relevant year
Order of tax officer or Appellate Authority	Date of the order of the tax officer / appellate authority
APA entered into after the due date for filing the tax return	End of the month in which the APA has been entered into by the taxpayer
MAP	Date on which the tax officer gives effect to the MAP resolution

Please [Click Here](#) to read notification dated 30 September 2019.





Company Law

Company Law

Extension of due date for filing e-forms AOC-4 (Financial Statements) and MGT-7 (Annual Return)

MCA has extended due date for filing form AOC-4 till 30 November 2019 and form MGT-7 till 31 December 2019, for the financial year ended 31 March 2019.

Please [Click Here](#) to read the circular dated 29th October, 2019.

Last date for filing e-form DIR-3 KYC extended till 14th Oct 2019

Ministry of Corporate Affairs (MCA) has published the Companies (Appointment and qualification of directors) 4th amendment Rules, 2019 on 30th September 2019.

Background:

Every Director who has been allotted Director Identification No. (DIN) as on 31st March 2019, and whose DIN status is 'Approved', would be mandatorily required to file form DIR-3 KYC before 30th September 2019.

Relaxation provided:

Time limit for filing e-form DIR-3 KYC or web form DIR-3 KYC-WEB has been extended to 14th October 2019 without payment of additional fee.

Please [Click Here](#) to read the Rules dated 30th September 2019

Notification of Form NDH-4 for filing an application for declaration as Nidhi company and for updating status by Nidhi companies

MCA has notified an update on 10th October 2019 regarding the Form NDH-4 (form for filing an application for a declaration as Nidhi Company and for updating status by Nidhi's), which was notified through Nidhi (Amendment) Rules 2019 dated 1st July 2019 and shall be available for filing with effect from 11th October 2019.

Background:

The Form NDH-4 is for filing an application for a declaration as Nidhi Company and for updating of status by Nidhi's, which has come into force with effect from 15th August 2019.

Highlights:

Now, companies have to claim the Nidhi status by filing NDH-4 form instead of separate registration at the time of incorporation. Further, for every new Nidhi Company, Form NHD - 4 is required to be filed within 60 days after the expiry of 1 year from the date of its incorporation and for existing companies within a period of 6 months from the date of commencement of Nidhi Rules 2019.

Please [Click Here](#) the update dated 10th October 2019

Company Law

Enlargement of scope of establishment and contributions to incubators in Corporate Social Responsibility (CSR) activities

MCA has extended the scope of establishment and contributions to incubators in Corporate Social Responsibility (CSR) activities u/s 135 of the Companies Act, 2013 by including the following activities eligible for CSR fund:

- Contribution to incubators funded by Central Government or State Government or any agency or Public Sector Undertaking of Central Government or State Government
- Contributions to public-funded Universities, Indian Institute of Technology (IITs), National Laboratories and Autonomous Bodies (established under the auspices of Indian Council of Agricultural Research (ICAR), Indian Council of Medical Research (ICMR), Council of Scientific and Industrial Research (CSIR), Department of Atomic Energy (DAE), Defence Research and Development Organisation (DRDO), Department of Science and Technology (DST), Ministry of Electronics and Information Technology engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).

Please [Click Here](#) to read the notification dated 11th October 2019

Introduction of timeline to pass order by Regional Director (RD) in case of shifting of Registered Office

Earlier, there was no timeline prescribed for passing of order by RD in case of shifting of registered office from one jurisdiction to another jurisdiction of Registrar of Companies (ROC) but within the same State.

Going forward, in case of shifting of Registered Office from one jurisdiction to another jurisdiction of ROC but within the same State, the Regional Director (RD) has to pass the orders without hearing within 15 days of receipt of an application.

Relaxation in scope of filing form DIR-12 by an ACTIVE-non-compliant company

Earlier, ACTIVE non-compliant companies (i.e, companies which have not filed the ACTIVE form) were not allowed to file form DIR-12 for any changes relating to director's appointment/ resignation.

Going forward, an ACTIVE-non-compliant company can also file Form DIR-12 in the following cases:

- Appointment of directors in such company where the total number of directors < minimum (i.e. 2 in case of private company and 3 in case of public company) on account of disqualification of all or any of the director u/s 164;
- Appointment of any director in such company where DINs of all or any it's director(s) have been deactivated;
- Appointment of director(s) for implementation of the order passed by the Court or Tribunal or Appellate Tribunal under the provisions of the Act.

Both the above changes (namely introduction of timeline to pass order in case of shifting of Registered Office and relaxation in scope of filing form DIR-12 by an ACTIVE-non-compliant company) have been introduced vide Companies (Incorporation) 8th Amendment Rules, 2019.

Please [Click Here](#) to read the rules dated 16th October 2019.

Company Law

Online proficiency self-assessment test for independent directors from December

MCA has notified the Companies (Creation and Maintenance of databank of Independent Directors) Rules, 2019 on 22nd October 2019.

Background:

Independent directors perform functions that are critical to good corporate governance and having qualified and upright independent directors on company boards are crucial for the development of capital markets.

MCA has published rules for creation and maintenance of data bank. As per the Rules, the Indian Institute of Corporate Affairs (IICA) shall create and maintain databank of persons willing and eligible to be appointed as independent directors and such databank shall be an online databank which shall be placed on the website of the institute.

The idea is to ensure that independent directors, who are expected to protect the interests of minority shareholders and keep an eye on the governance of the company, are qualified for the task.

Highlights:

- Directors who are willing and eligible to become independent director should within 3 months of these rules coming into force or before getting hired, apply for inclusion of their names in the list of eligible persons.
- Independent directors should pass a self-assessment test conducted by the Indian Institute of Corporate Affairs. Manesar-based IICA is authorized to conduct the exam
- IICA will create and maintain a data bank with names, addresses, and qualifications of people who are eligible to be appointed as independent directors for companies
- Boards of companies will have to disclose the results of these tests in their annual reports

Please [Click Here](#) to read the rules dated 22nd October 2019





Reserve Bank of India

Reserve Bank of India

India jumps to 63rd position in World Bank's Ease of Doing Business 2020 report

India has moved 14 places to be 63rd among 190 nations in the World Bank's ease of doing business ranking released on the back of multiple economic reforms by the Narendra Modi government. India was 77th among 190 countries last year, an improvement by 14 places. The report assesses improvement in ease of doing business environment in Delhi and Mumbai.

'Sustained business reforms over the past several years has helped India jump 14 places to move to 63rd position in this year's global ease of Doing Business rankings. India put in place four new business reforms during the past year and earned a place in among the world's top ten improvers for the 3rd consecutive year,' the World Bank Group's Doing Business 2020 study said.





Securities Exchange Board of India (SEBI)

Resignation of statutory auditors from listed entities and their material subsidiaries

SEBI has issued a circular on 18th October 2019 to impose certain obligations on the Statutory Auditors, listed entities and the material subsidiaries with respect to resignation of Statutory Auditors.

Background:

There have been a significant number of instances of abrupt resignation of statutory auditors from listed entities in recent times. In most of the cases, the statutory auditors have suddenly resigned without completing their assignments for the year, generally citing 'pre-occupation' as the reason for resignation.

Resignation of an auditor is understandable in exceptional circumstances. However, resignation of an auditor due to reasons such as pre-occupation before completion of the audit of the financial results for the year seriously hampers investor confidence, leaving them with lack of reliable information for taking their financial decisions.

The policy proposals aim to strengthen disclosures to investors and clarify the role of the audit committee. If the reason for the auditor's resignation is the entity not providing information, the auditor should provide an appropriate disclaimer in the audit report to that extent.

Highlights:

- All listed entities/material subsidiaries shall ensure compliance with the following conditions while appointing/re-appointing an auditor:
 - If the auditor resigns within 45 days from the end of a quarter of a financial year, then the auditor shall, before such resignation, issue the limited review/ audit report for such quarter.
 - If the auditor resigns after 45 days from the end of a quarter of a financial year, then the auditor shall, before such resignation, issue the limited review/ audit report for such quarter as well as the next quarter.
 - If the auditor has signed the limited review/ audit report for the first 3 quarters of a financial year, then the auditor shall, before such resignation, issue the limited review/ audit report for the last quarter of such financial year as well as the audit report for such financial year.
- SEBI has put in place stricter norms for auditors, including prompt disclosures about reasons for their resignation and requirement to approach chairman of audit committee directly in case of any concerns with the management of the firm concerned.
- An auditor has to approach the chairman of the audit committee in case of concern with the management of the firm such as non-availability of information or non-cooperation by the management that may hamper the audit process.
- The audit committee shall receive such concern directly and immediately without specifically waiting for the quarterly audit committee meetings.
- Further, SEBI has issued the format for information to be obtained from the auditor upon resignation and has asked the firms to cooperate with the auditor and provide information necessary for the audit review.
- SEBI requires listed firms to disclose reasons for resignation of the companies' auditor as soon as possible but not later than 24 hours of receipt of such reasons.

Please [Click Here](#) to read the circular dated 18th October 2019

Compliance Calendar

Compliance calendar for the month of November 2019

Compliance Due Date	Reporting Period	Compliance Detail	Applicable To
7 th November	October 2019	TDC/TCS deposit	Non-government deductors
		Equalization Levy deposit	All Deductors
10 th November		GSTR-7 (TDS return under GST)	Person required to deduct TDS under GST
		GSTR-8 (TCS return under GST)	Person required to deduct TCS under GST
11 th November		GSTR-1 (Outward supply return)	Taxable persons having turnover > Rs. 1.5 crore
13 th November		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
15 th November		Deposit of PF & ESI contribution	All Deductors
		July-September 2019	Quarterly TDS certificate (other than salary)
20 th November	October, 2019	GSTR-3B (Summary return)	All taxable person making outward supply (except composition dealer)
		GSTR-5 (Return by Non-resident)	Non-resident taxable person
		GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	OIDAR services provider
30 th November	FY 2018-19	Corporate tax return (where transfer pricing laws are applicable)	Taxpayers having international transactions and liable to submit transfer pricing report
		Report in Form 3CEB	
		Country-by-Country Report in Form 3CEAA	Constituent entity of an international group
		Filing of Financial statement in Form AOC-4	All companies

Editorial Team



Editor



Direct Tax



Indirect Tax



Regulatory



Communications

About KrayMan

KrayMan is an Accounting and Advisory Firm specializing in Assurance, Tax, Regulatory, Compliance & Outsourcing, Corporate Secretarial, Transaction Advisory and HR Advisory services. We cater to International & Domestic Clients.

We are a team of professionals comprising of Chartered Accountants, Company Secretaries, Cost and Management Accountants, Advocates and MBAs who are truly committed in providing timely, professional and quality services to our Clients thereby building a long term relationship with them.

We are members of following associations:

- **Japan Chamber of Commerce and Industry in India (JCCII)** – an organization of more than 400 Japanese companies working towards the welfare of Japanese companies in India
- **Prime Advisory Network (PAN), United Kingdom** - a network of Accountants and Lawyers with presence in more than 60 countries
- **Cross Border Associates (CBA), Germany** - specializing in mergers & acquisitions activities having presence in more than 95 countries
- **TiE Delhi** - world's largest entrepreneurial organization with 62 chapters in 18 countries

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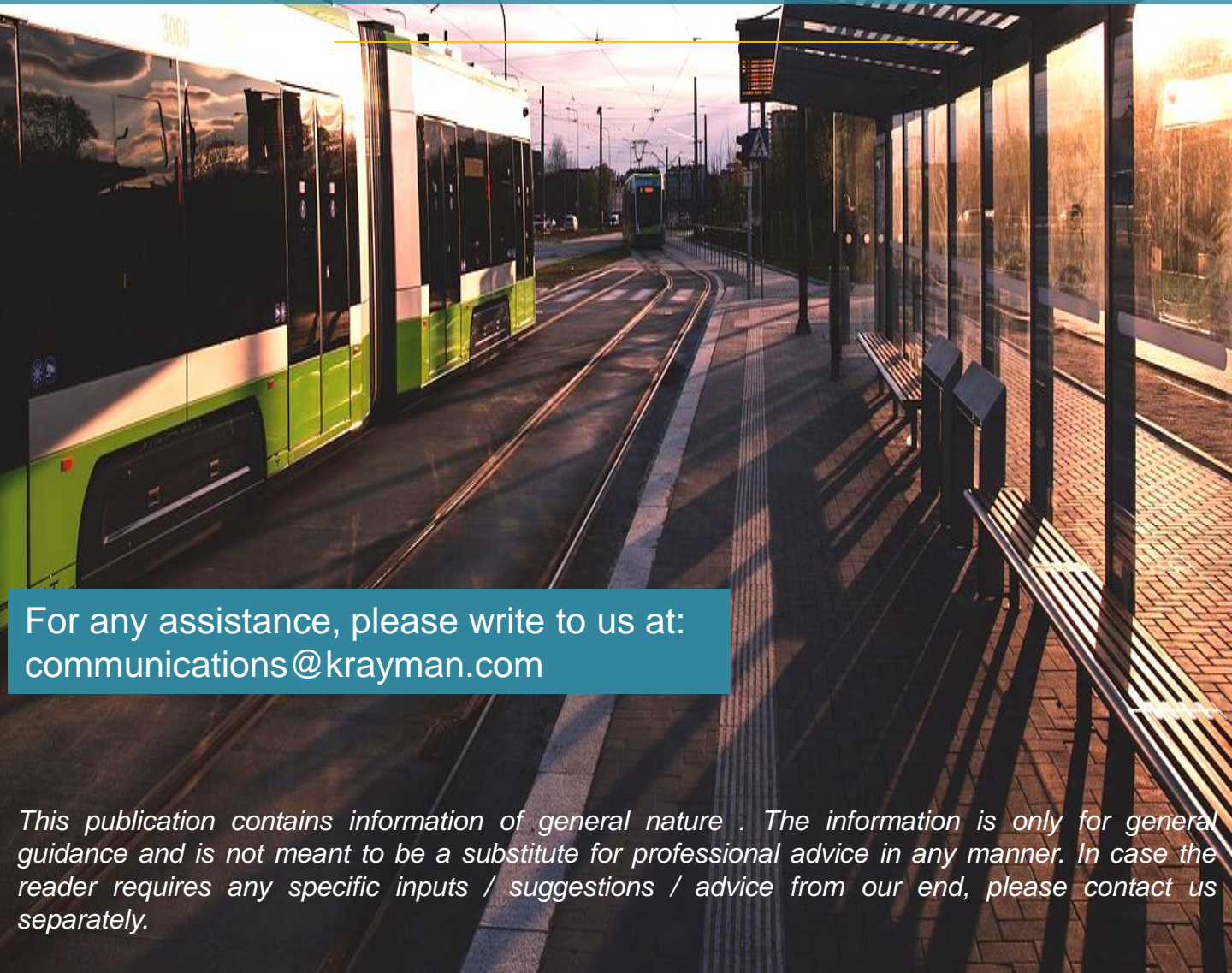
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