

# TAX EDGE

Monthly Tax & Regulatory Updates



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# Measures to combat COVID-19



# Measures to combat COVID-19

## Union Health Ministry assures data privacy of Co-WIN portal

### Background

Reportedly, there have been media reports claiming breach of data of beneficiaries who have received COVID vaccination in the country. These reports allege breach of data from the Co-WIN portal of the Union Health Ministry, which is repository of all data of beneficiaries who have been vaccinated against COVID-19. Certain posts on Twitter have claimed that using a Telegram BOT (online messenger application), the personal data of individuals who have been vaccinated is being accessed. It is reported that the BOT has been able to pull individual data by simply passing the mobile number or aadhaar number of a beneficiary.

### Clarification issued by Health Ministry

Union Health Ministry has clarified that all such reports are baseless and mischievous in nature. CoWIN portal is completely safe with adequate safeguards for data privacy. Security measures are in place on the portal, with Web Application Firewall, Anti-DDoS, SSL/TLS, regular vulnerability assessment, Identity & Access Management etc. Only One Time Password (OTP) authentication-based access of data is provided. All steps have been taken and are being taken to ensure security of the data on the portal. Co-WIN was developed and is owned and managed by the Ministry of Health and Family Welfare (MoHFW).

### Co-WIN data access

Presently, individual level vaccinated beneficiary data access is available at 3 levels as below:

- Beneficiary dashboard - The person who has been vaccinated can have an access to the Co-WIN data through use of registered mobile number with OTP authentication
- Co-WIN authorized user- The vaccinator with use of authentic login credential provided can access personal level data of vaccinated beneficiaries. However, the Co-WIN system tracks and records each time an authorized user accesses the Co-WIN system
- Application Programming Interface (API) based access – The 3<sup>rd</sup> party applications who have been provided authorised access of Co-WIN APIs can access personal level data of vaccinated beneficiaries only through beneficiary OTP authentication

# Measures to combat COVID-19

## Telegram BOT

- Without OTP vaccinated beneficiaries' data cannot be shared to any BOT
- Only Year of Birth (YOB) is captured for adult vaccination but it seems that on media posts it has been claimed otherwise
- There is no provision to capture address of beneficiary

The development team of Co-WIN has confirmed that there are no public APIs where data can be pulled without an OTP. In addition to the above, there are some APIs which have been shared with 3<sup>rd</sup> parties (such as *Indian Council of Medical Research*) for sharing data. It is reported that one such API has a feature of sharing the data by calling using just a mobile number of Aadhaar. However, even this API is very specific and the requests are only accepted from a trusted API which has been white-listed by the CoWIN application.

Union Health Ministry has requested the Indian Computer Emergency Response Team (CERT-In) to look into this issue and submit a report. In addition, an internal exercise has been initiated to review the existing security measures of Co-WIN. CERT-In in its initial report has pointed out that backend database for Telegram Bot was not directly accessing the APIs of Co-WIN database.

Please [Click Here](#) to read the Press Release dated 12 June 2023.



# Goods & Services Tax (`GST`)



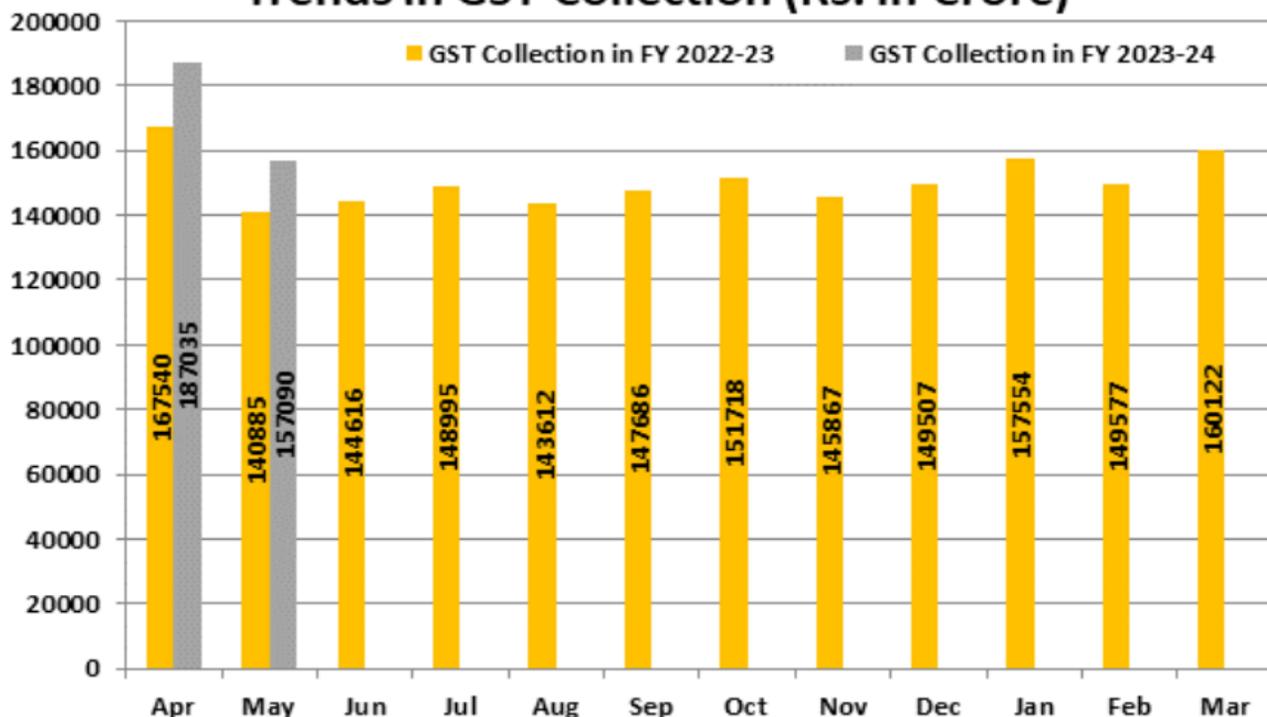
## GST revenue collection for May 2023 Rs. 157,090 Crore (12% higher than GST revenue collection in May 2022)

The gross GST collected in the month of May 2023 is Rs. 157,090 Crore as below:

IGST (Integrated Goods and Services Tax)	Rs. 81,362 Crore
CGST (Central Goods and Services Tax)	Rs. 28,411 Crore
SGST (State Goods and Services Tax)	Rs. 35,828 Crore
Compensation cess	Rs. 11,489 Crore
<b>Total</b>	<b>Rs. 157,090 Crore</b>

The revenues for the month of May 2023 are 12% higher than the GST revenues in May 2022. During the month, revenues from import of goods are 12% higher and revenues from domestic transactions (including import of services) are 11% higher than the revenues from these sources during the same month last year.

### Trends in GST Collection (Rs. In Crore)



Please [Click Here](#) to read Press Release dated 1 June 2023.

# GST Network issues advisory on enablement status of e-Invoicing for taxpayers having Aggregate Annual Turnover (AATO) > Rs. 10 Crore

## What is e-invoicing and its applicability?

E-Invoicing is a system in which invoices are authenticated electronically by GST Network (GSTN) for further use on the common GST portal. Under the electronic invoicing system, an identification number is issued against every invoice by the Invoice Registration Portal (IRP) to be managed by the GSTN.

Currently, e-invoicing is applicable to the taxpayers having *Annual Aggregate Turnover (AATO) > Rs. 10 Crore* in FY 2017-18 onwards. Further, CBIC has reduced the annual threshold criteria of AATO for applicability of e-invoicing from Rs. 10 Crore to *Rs. 5 Crore* with effect *from 1 August 2023 onwards*.

## What is AATO?

AATO for this purpose means the aggregate value of all taxable supplies (excluding value of inward supplies on which tax is payable by a person under reverse charge), exempt supplies, export of goods or services or both and inter state supplies of persons having the same Permanent Account Number (PAN), to be computed on all India basis.

## Advisory by GST Network

GSTN has enabled all eligible taxpayers with AATO  $\geq$  Rs. 5 Crore as per GSTN records in any preceding financial year for e-Invoicing. These taxpayers are now enabled on all 6 IRP portals including NIC-IRP for e-Invoice reporting. Taxpayers can check the enablement status on the e-Invoice portal at <https://einvoice.gst.gov.in> by entering GSTIN.

The screenshot displays the 'Goods and Services Tax e - Invoice System' portal. The header includes the GST logo and the text 'Goods and Services Tax e - Invoice System' with a 'Login' link. The navigation bar contains 'Home', 'About -', 'Resources -', 'Search/Enable -', 'Help/Grievance Portal -', and 'Updates'. The 'Search/Enable -' dropdown menu is open, showing options: 'Check Enablement Status' (highlighted with a red box), 'Enable Me for e-Invoice', 'GSTINs Generating IRNs', 'HSN Search', 'View/Update AATO', 'Search IRNs', 'QR code', and 'E-Commerce'. Below the menu, the 'Status of e-Invoice Enablement' page is partially visible, featuring a 'GSTIN \*:' label, an 'Enter GSTIN' input field, and 'Search' and 'Cancel' buttons.



### Status of e-Invoice Enablement of Taxpayer

GSTIN \*:

\* Indicate mandatory fields

Search

Cancel

Print

GSTIN	Trade Name	Enablement Status	Registration Type
██████████	██	Enabled for e-Invoicing	Regular Taxpayer

Any taxpayer who is not auto-enabled on the e-Invoice portal, can *self-enable* for e-Invoicing using the functionality provided on the portal. The enablement status indicated on the e-Invoice portal does not indicate a legal obligation on taxpayers to use e-Invoicing. However, actual liability to generate IRN shall be checked by taxpayers with respect to applicable AATO criteria. While the listing of enabled GSTINs is purely based on the turnover criteria reported in Form GSTR-3B (summary return), it is mandatory for taxpayers to confirm whether they fulfil the AATO criteria outlined in the GST law. Hence, it is the legal responsibility of the concerned taxpayer to ensure compliance.

Please [Click Here](#) to read the advisory dated 16 June 2023.

Further, GSTN is holding webinars on e-Invoicing and IRPs, recording of which is available on GSTN's dedicated You Tube channel. Please [Click Here](#) to view the same.

## GST Network issues advisory on e-Invoice Verifier App

### E-Invoice Verifier App

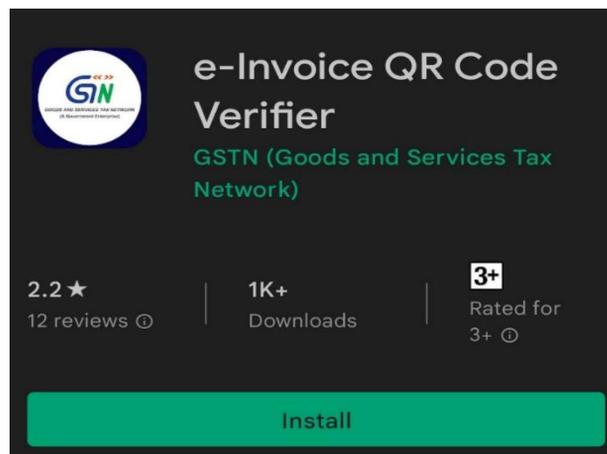
The e-Invoice Verifier App has been introduced which offers verification of e-Invoices and other related details. GSTN understands the importance of efficient and accurate e-invoice verification, and this app aims to simplify the processes.

### Features & Benefits

Key Feature	Detail
QR code verification	Allows users to scan the QR code mentioned on an e-Invoice and identify its accuracy and authenticity
User-friendly, Non-Login based interface	<ul style="list-style-type: none"> <li>Provides a user-friendly interface with intuitive navigation, making it easy for users to navigate through the app's features and functionalities</li> <li>Operates on a non-login basis. Users are not required to create an account or provide sensitive personal information to access its functionalities</li> </ul>
Comprehensive coverage	Supports verification of e-Invoices reported across all 6 IRPs ensuring comprehensive coverage and convenience

### How to use?

Visit the Google Play Store and search for 'E-Invoice QR Code Verifier'. Download and install the app on mobile phone device free of charge. The iOS version will be available shortly.



Scan the QR codes mentioned on e-Invoice. The app will authenticate the information embedded in the code and user can compare it with information printed on the invoice. For detailed information, please see the FAQs in the app. This comprehensive FAQ document will provide an additional guidance on using the app and resolving any queries.

Please [Click Here](#) to read the advisory dated 8 June 2023.

## Central Board of Indirect Taxes & Customs (CBIC) issues Standard Operating Procedure (SOP) for scrutiny of GST returns for Financial Year (FY) 2019-20 onwards

### Background

CBIC vide Instruction No. 02/2022 - GST dated 22 March 2022 had issued SOP for scrutiny of returns for FYs 2017-18 and 2018-19 till the time a scrutiny module for online scrutiny of returns is made available. Directorate General (DG) Systems has now developed a functionality 'Scrutiny of Returns' containing the online workflow for scrutiny of returns in the CBIC ACES-GST application. Now CBIC has issued revised SOP which contains detailed guidelines for selection of returns, scrutiny process, schedule, timelines, reporting and monitoring of such scrutiny of returns for FY 2019-20 onwards.

### What is ACES-GST application?

An application primarily meant for back-end processing of various GST functionalities like refund, investigation, adjudication, etc. by the GST officers.

### SOP issued by CBIC

SOP	Detail
Selection of returns	<ul style="list-style-type: none"> <li>• Directorate General of Analytics &amp; Risk Management (DGARM) based on identified risk parameters will select the GSTINs whose returns are to be scrutinized for a FY</li> <li>• Details of such GSTINs along with the details of risk parameters and amount of GST discrepancy involved will be made available to the concerned Central Tax GST officer on ACES-GST application</li> <li>• Since the data may undergo change at the time of scrutiny due to subsequent compliances carried out by the taxpayer, the officer should rely upon the latest available data</li> </ul>
Scrutiny schedule	<ul style="list-style-type: none"> <li>• Upon receiving the list of GSTINs, the GST officer shall finalize a month-wise scrutiny schedule with prior approval of the divisional Assistant / Deputy GST Commissioner</li> <li>• While preparing the scrutiny schedule, the scrutiny of the GSTINs which appear to be riskier based on the likely higher revenue implication may be prioritized</li> <li>• The Principal Commissioner/ Commissioner of the concerned Commissionerate will monitor and ensure that the scrutiny schedule is adhered to by the officers under his jurisdiction</li> <li>• The GST officer shall conduct scrutiny of returns pertaining to minimum of 4 GSTINs per month. Scrutiny of returns of 1 GSTIN shall mean scrutiny of all returns pertaining to a FY for which the said GSTIN has been selected for scrutiny</li> </ul>

SOP	Detail
Process of scrutiny	<ul style="list-style-type: none"> <li>• The GST officer shall scrutinize the returns and related particulars furnished to verify its correctness. Information available on the system in the form of various returns and statements furnished and the details made available through various sources may be relied upon for this purpose</li> <li>• For convenience of the GST officers, the details of risk parameters along with the amount of GST discrepancy involved will be provided</li> <li>• The GST officer shall issue a notice in Form GST ASMT-10 (notice for discrepancies in GST returns) informing the taxpayer about discrepancies noticed along with amount of tax, interest or any other amount payable in relation to such discrepancy and seeking his explanation thereto. In case where the taxpayer has already made additional payment of tax after filing of returns through Form DRC-03 (intimation of voluntary tax payments), such payments may also be taken into consideration by the officer</li> <li>• The notice shall be communicated on the common portal and there will be no need to send any physical communication</li> <li>• The GST officer shall mention the parameter-wise details of the discrepancies noticed in Form GST ASMT-10 and shall also upload the worksheets &amp; supporting documents. A single compiled notice may be issued for all returns for that FY</li> <li>• Where the taxpayer accepts the discrepancy and pays all amounts or where the explanation furnished by the taxpayer in GST ASMT -11 (reply letter for Form ASMT-10) is found acceptable, the GST officer shall conclude the proceeding</li> <li>• Where no satisfactory explanation is furnished or where the taxpayer after accepting the discrepancy, fails to pay such amount, the GST officer may initiate appropriate action u/s 73 or 74 of the CGST Act</li> <li>• If GST officer is of the opinion that the matter needs to be pursued further through audit or investigation to determine the correct liability, then he may take the approval of the jurisdictional Principal Commissioner / Commissioner for referring the matter to the Audit Commissionerate or anti-evasion wing of the Commissionerate, as the case may be</li> </ul>



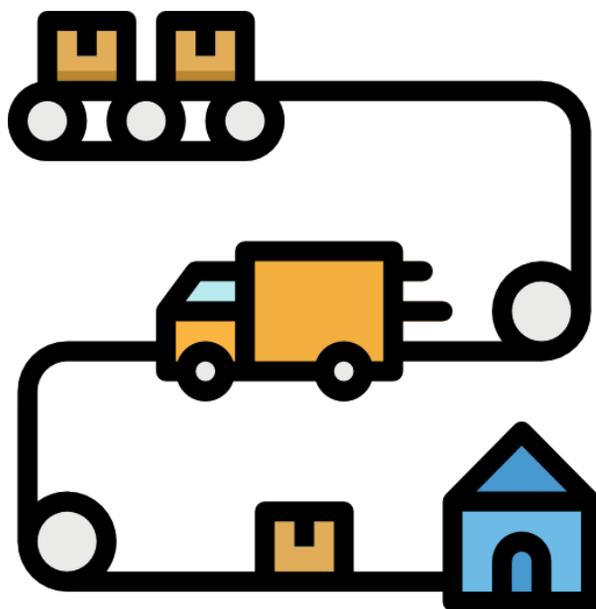
SOP	Detail																		
<p>Timelines for scrutiny of returns</p>	<ul style="list-style-type: none"> <li>Scrutiny of returns is to be conducted in a time bound manner as mentioned below so that the cases may be taken to their conclusion</li> </ul> <table border="1" data-bbox="282 369 1348 1354"> <thead> <tr> <th data-bbox="282 369 815 430">Event</th> <th data-bbox="815 369 1348 430">Timeline</th> </tr> </thead> <tbody> <tr> <td data-bbox="282 430 815 527">Communication of GSTINs selected for scrutiny by DGARM</td> <td data-bbox="815 430 1348 527">From time to time</td> </tr> <tr> <td data-bbox="282 527 815 624">Finalization of scrutiny schedule</td> <td data-bbox="815 527 1348 624">7 working days of receipt of details of concerned GSTINs</td> </tr> <tr> <td data-bbox="282 624 815 720">Issue of notice for intimating discrepancies</td> <td data-bbox="815 624 1348 720">1 month</td> </tr> <tr> <td data-bbox="282 720 815 855">Reply by taxpayer</td> <td data-bbox="815 720 1348 855">30 days from notice or such further period as may be permitted by the GST officer</td> </tr> <tr> <td data-bbox="282 855 815 952">Issue of order for acceptance of reply furnished by taxpayer</td> <td data-bbox="815 855 1348 952">30 days from receipt of reply</td> </tr> <tr> <td data-bbox="282 952 815 1049">Initiation of action where no reply is furnished</td> <td data-bbox="815 952 1348 1049">15 days after completion of 30 days from issuance of notice</td> </tr> <tr> <td data-bbox="282 1049 815 1145">Initiation of action where reply furnished is not found acceptable</td> <td data-bbox="815 1049 1348 1145">30 days from receipt of reply</td> </tr> <tr> <td data-bbox="282 1145 815 1354">Reference to the Audit Commissionerate or anti-evasion wing</td> <td data-bbox="815 1145 1348 1354">30 days from receipt of reply or 45 days from issuance of notice in case no reply furnished</td> </tr> </tbody> </table>	Event	Timeline	Communication of GSTINs selected for scrutiny by DGARM	From time to time	Finalization of scrutiny schedule	7 working days of receipt of details of concerned GSTINs	Issue of notice for intimating discrepancies	1 month	Reply by taxpayer	30 days from notice or such further period as may be permitted by the GST officer	Issue of order for acceptance of reply furnished by taxpayer	30 days from receipt of reply	Initiation of action where no reply is furnished	15 days after completion of 30 days from issuance of notice	Initiation of action where reply furnished is not found acceptable	30 days from receipt of reply	Reference to the Audit Commissionerate or anti-evasion wing	30 days from receipt of reply or 45 days from issuance of notice in case no reply furnished
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Please [Click Here](#) to read Instruction No. 02/2023 – GST dated 26 May 2023.

Please [Click Here](#) to read Instruction No. 02/2022 – GST dated 22 March 2022.



SOP	Detail
Reporting and Monitoring	<ul style="list-style-type: none"> <li>• The details of action taken by GST officer will be available in the form of 2 MIS reports on the ACES-GST application</li> <li>• MIS report Monthly Scrutiny Progress Report (MSPR) shall display summary information of the status of scrutiny of returns for the selected month of a FY</li> <li>• The GSTIN-wise details of action taken in respect of scrutiny of returns of the allotted GSTINs shall be made available in the MIS report Scrutiny Register</li> </ul>
Others	<ul style="list-style-type: none"> <li>• The requirement of compiling and sending the MSPR to Directorate General of GST (DGGST) as per the earlier Instruction is dispensed from FY 2019-20 onwards. The progress of the scrutiny exercise shall be monitored by the Principal Commissioner/ Commissioner on monthly basis</li> </ul>



# Direct Tax



## New tax regime for Individuals & Hindu Undivided Families (HUFs) u/s 115BAC of Income-tax Act, 1961 – Central Board of Direct Taxes (CBDT) amends certain perquisite valuation rules & introduces new Form 10IEA for taxpayers to opt in or out of the new tax regime

### Background

Vide Finance Act, 2020, the Government of India introduced a new and alternative scheme of taxation to Individuals and Hindu Undivided Families (HUFs) applicable for Assessment Year 2021-22 onwards. The salient features of the scheme were as below:

- Individuals and HUF allowed, at their option, to be governed by an alternative slab-rate of taxation on fulfillment of certain conditions
- Income to be computed without exemption / deduction under other provisions of the Income-tax Act, 1961
- In case taxpayer has business income, option once exercised for a year can be withdrawn only once in any subsequent year. Thereafter, the person shall be disentitled to exercise the option again for any year unless he ceases to have business income
- Taxpayer has option to be governed by old / existing slab-rate of taxation if it is more beneficial to him

The above scheme of taxation was embodied by way of insertion of new section 115BAC in the Income-tax Act, 1961. Vide Finance Act, 2023, the Government of India made the following changes to the above new scheme of taxation:

- New (relaxed) tax rates introduced with effect from AY 2024-25 onwards
- The new scheme of taxation to be the default regime of taxation for individuals, HUFs (in line with Government's intention to gradually do away with all exemptions / deductions under the Income tax law in a phased manner)
- Taxpayers to file a form with tax authorities in case they choose to opt for the old tax regime
- Certain deductions allowable under the new tax regime, such as
  - ✓ Standard deduction of Rs. 50,000
  - ✓ Family pension of upto Rs.15,000,
  - ✓ Contribution towards a special Agniveer corpus fund (created under law for benefit of armed forces)

# Direct Tax

## Notification no. 43 issued by CBDT on 21 June 2023

CBDT has issued a notification on 21 June 2023 vide which:

- A new *Form 10IEA* has been introduced for taxpayers to opt in or out of the new scheme of taxation mentioned in section 115BAC of the Income-tax Act. The form needs to be submitted electronically.
- Perquisite valuation rule has been amended to say that tax exemption available in hands of an employee on account of free food vouchers given by an employer, shall not be available to an employee who opts for the new regime of taxation
- Following allowances shall be tax exempt in hands of an employee who has opted for new scheme of taxation
  - ✓ Allowance granted by an employer to meet the cost of travel on tour or transfer
  - ✓ Allowance granted by an employer to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty
  - ✓ Allowance granted by an employer to meet conveyance expenditure incurred in performance of official duties
  - ✓ Transport allowance to a blind / physically handicapped employee to meet official travel expenses (Rs. 3,200 per month)

Please [Click Here](#) to read Notification no. 43 dated 21 June 2023.



## CBDT revises monetary limits for deciding application for condonation of delay in filing Income-tax Returns (ITRs) claiming refund & carry forward of losses

CBDT earlier in 2015 has issued circular No. 9 dated 09 June 2015 wherein it prescribed comprehensive guidelines on the conditions and procedures to be followed for deciding applications for condonation of delay in filing Income-tax Returns (ITRs) claiming refund and ITRs claiming carry forward and set off of loss.

Now, vide Circular No. 7/ 2023, CBDT has revised the monetary limits regarding the powers vested with various authorities for acceptance / rejection of such application / claims as below:

Amount of Claim (for a single Assessment Year)	Designated Authority
≤ Rs. 50 lakh	Principal Commissioner of Income tax Commissioner of Income tax
Rs. 50 lakh to Rs. 2 Crore	Chief Commissioner of Income tax
Rs. 2 Crore to Rs. 3 Crore	Principal Chief Commissioners of Income Tax
> Rs. 3 Crore	CBDT

The above revised monetary limits are applicable to applications / claims filed on or after 1 June 2023. Other guidelines prescribed in circular 9/2015 shall continue to remain valid for applications / claims filed before 1 June 2023.

Please [Click Here](#) to read Circular no. 7 dated 31 May 2023.



## Exemption of notional income arising in hands of recipient of equity shares in case of Strategic Disinvestment of public sector / Government owned companies – Scope of exemption under Rule 11UAC(4) widened to include receipt of equity shares from Public Sector Companies (in addition to Central Government & / or State Government)

- To encourage private sector investment in Government owned companies, the Government of India gives certain tax benefits (such as carry forward and set off of losses) in case of amalgamation, demerger and '*Strategic disinvestment*'.
- '*Strategic disinvestment*' for this purpose, prior to amendment by Finance Act 2023, has been defined u/s 72A(1)(d) Explanation (iii) as sale of shares by Central Government or State Government in a Public Sector Company which results in reduction of its shareholding < 51% along with transfer of control to buyer
- The definition / scope of '*Strategic disinvestment*' has been expanded vide Finance Act 2023 to mean sale of shares by Central Government, State Government or *Public Sector Company* in a public sector company or *any other Company* which results in:
  - ✓ Reduction of its shareholding < 51% (applicable in case shareholding > 51% before such sale), and
  - ✓ Transfer of control to buyer (may be carried out by either Central Government or State Government or Public Sector Company or any 2 or all of them)
- Section 56(2)(x) of the Income-tax Act is in the nature of an anti-abuse provision which calls for levy of tax (on notional income) under the head 'income from other sources' in the hands of recipient in case the latter receives an asset at less than its fair value computed as per Income-tax Rules
- Rule 11UAC of the Income-tax Rules, 1962 prescribes certain transactions which are exempt from the clutches of section 56(2)(x). One of such transactions (sub-rule 4) is, receipt of shares by a person from Central Government or State Government pursuant to '*Strategic disinvestment*' defined u/s 72A(1)(d) Explanation (iii)
- To align the exemption with change in definition of '*Strategic disinvestment*' as per Finance Act, 2023, CBDT has issued Notification no. 35 on 31 May 2023, saying that exemption under Rule 11UAC(4) shall also be applicable to equity shares received by a person from a *Public Sector Company* (in addition to State Government and / or Central Government)

Please [Click Here](#) to read Notification no. 35 dated 31 May 2023

## CBDT notifies E-Appeals Scheme, 2023 to implement functioning of Joint Commissioner of Income-tax (Appeals), new authority introduced by Finance Act, 2023

### Background

As per the Income-tax Act, the 1<sup>st</sup> appellate authority for a taxpayer is the Commissioner (Appeals). The Commissioner (Appeals) has powers to confirm, reduce, enhance or cancel an order of scrutiny / assessment or penalty. The order passed by Commissioner (Appeals) are appealable before the Income-tax Appellate Tribunal, Ministry of Justice.

Considering that Commissioner (Appeals) are overburdened due to huge number of appeals and pendencies carried forward every year, the Finance Act 2023 introduced a new designated authority of *Joint Commissioner (Appeals)* to handle small appeals / disputes. In her Budget speech, the Finance Minister proposed an E-Appeal scheme for disposal of small appeals to reduce the pendency of appeals at the commissioner level.

### E-Appeals Scheme, 2023 notified by CBDT on 29 May 2023

To implement the functioning of Joint Commissioner (Appeals), the CBDT has rolled out e-Appeals Scheme, 2023, effective from 29 May 2023. The Scheme enlists the scope, procedure to be adopted, penalty proceedings, rectification proceedings, and other provisions to ease the implementation.

A person shall not be required to appear either personally or through authorized representative in connection with any proceedings under the scheme. The hearing shall be conducted through video conferencing, including the use of any application / software that supports video conferencing.



Joint Commissioner (Appeals) shall dispose the appeals filed or allocated to it

Procedure of appeal shall include:

- Issue of notice
- Obtaining information
- Enabling taxpayer to file additional grounds of appeal
- Issue of show cause notice
- Preparation of appeal order by Joint Commissioner (Appeals)

Penalty proceedings may be initiated for non-compliance of notice, direction or order issued by Joint Commissioner (Appeals)



Joint Commissioner (Appeals) can amend order rectifying mistake apparent from the record



Appeal can be filed against an order passed by Joint Commissioner (Appeals) before Income tax Appellate Tribunal.



All communication between Joint Commissioner (Appeals) and taxpayer shall be done electronically. No personal appearance under this scheme is required.

## Angel tax u/s 56(2)(viib) – CBDT issues draft valuation rules (i.e, amended Rule 11UA of Income-tax Rules, 1962) for public consultation, giving more flexibility to investors

- Prior to amendment by Finance Act 2023, section 56(2)(viib) of the Income-tax Act provided that where a closely held company received from a Resident, any consideration for issue of shares exceeding the face value of such shares, the consideration amount exceeding the fair market value of the shares, would be taxable as 'income from other sources' in the hands of the company
- The Finance Act 2023 has amended the above provision with effect from 1 April 2023, bringing even Non-Resident Investors within the ambit of angel tax as an anti-abuse provision. This created much hue and cry within the industry especially start-ups, since it is common for start-ups to receive premium money at a nascent stage from overseas investors
- Section 56(2)(viib) first proviso clause (ii) provides that the taxability shall not apply to certain companies as well as certain investors, as notified by Central Government in this behalf. Consequently, CBDT has issued Notification nos. 29 and 30 on 24 May 2023 notifying certain categories of investors and investees which are exempt from the clutches of angel tax with effect from 1 April 2023 onwards. Please [Click Here](#) to read our Tax Edge for the month of May 2023 mentioning the categories of such investors and investees.



# Direct Tax

## Amendment to Rule 11UA - Public consultation document issued by CBDT on 26 May 2023

CBDT has issued draft of amended Rule 11UA of the Income-tax Rules, 1962 as below, for public comments.

- Rule 11UA currently prescribes 2 valuation methods with respect to valuation of shares namely, Discounted Cash Flow (DCF) and Net Asset Value (NAV) method for resident investors. It is proposed to include 5 more valuation methods as below, available for non-resident investors (in addition to DCF and NAV):
  - ✓ Comparable company multiple method
  - ✓ Probability weighted expected return method
  - ✓ Option pricing method
  - ✓ Milestone analysis method
  - ✓ Replacement cost method
- Further, where any consideration is received by a company for issue of shares from any *non-resident entity notified by the Central Government*, such price / consideration may be adopted as the benchmark fair value of equity shares for resident and non-resident investors subject to the following:
  - ✓ To the extent such consideration from does not exceed the aggregate consideration that is received from the notified entity, and
  - ✓ The consideration has been received by the company within 90 days of issue of shares which are the subject matter of valuation

On similar lines, price matching for resident and non-resident investors would be available with reference to investment by venture capital funds or specified funds.

- The valuation report by a merchant banker would be acceptable, if it is not more than 90 days' old prior to the date of issue of shares which are subject matter of valuation (currently, the DCF valuation report by merchant banker must be issued as on the date of issue of shares)
- To account for foreign exchange fluctuations, bidding processes and variations in other economic indicators, etc. which may affect the valuation of the unlisted equity shares during multiple rounds of investment, a safe harbor of 10% variation in value has been proposed

CBDT had sought public comments on the above draft by 5 June 2023 by email to [ustpl2@nic.in](mailto:ustpl2@nic.in). The final Rule 11UA is yet to be notified.

Please [Click Here](#) to read the Press Release dated 19 May 2023.

Please [Click Here](#) to read the Public consultation document issued by CBDT on 26 May 2023.

# International Tax



## E-Advance Rulings Scheme, 2022 – CBDT incorporates ‘majority rule’ as tie breaker in case of difference in opinion among members of the Board for Advance Rulings (BFAR)

### Background

Finance Act, 2021 had introduced the Board for Advance Rulings (BFAR) to replace Authority for Advance Rulings (AAR). CBDT vide Notification no. 7 dated 18 January 2022 had introduced the E-Advance Rulings Scheme, 2022 to enable electronic conduct of the advance ruling process. The Scheme provides detailed procedure for filing an application to BFAR, procedure on receipt of the application by BFAR and passing of the order by BFAR. Before pronouncement of advance ruling, the BFAR is required to give an opportunity of being heard to the applicant, similar to any other litigation proceeding under the Income-tax Act, 1961.

### Notification issued by CBDT on 12 June 2023

CBDT has inserted an enabling provision in the Scheme to say that if the members of the BFAR differ in opinion on one of more matters, the BFAR shall refer such point(s) to the Principal Chief Commissioner of Income-tax (International taxation), who shall nominate 1 member from any *other* BFAR for deliberation on such point(s) and the matter shall be decided accordingly as per the opinion of the majority of the members.

Please [Click Here](#) to read Notification no. 38 dated 12 June 2023.



## Advance Ruling – Digital signatures no longer mandatory to sign application

As per the Income-tax Act, 1961, an applicant can obtain advance ruling from the income tax authorities. Advance ruling is a written interpretation of tax laws issued by tax authorities to corporations and individuals who request for clarification of certain tax matters.

Below are the applicants and their respective designated persons who can submit an application:

Applicant	Person eligible to digitally sign the application
Individual	<ul style="list-style-type: none"><li>• Individual himself</li><li>• Authorized person holding valid power of attorney (POA)</li></ul>
HUF	<ul style="list-style-type: none"><li>• Karta</li><li>• Any other adult member of household</li></ul>
Company	<ul style="list-style-type: none"><li>• Managing Director</li><li>• Other director</li><li>• Any authorized person holding valid POA</li></ul>
Firm	<ul style="list-style-type: none"><li>• Managing Partner</li><li>• Any other partner</li></ul>
Association of Person	<ul style="list-style-type: none"><li>• Member of association</li><li>• Principal Officer</li></ul>
Any other person	<ul style="list-style-type: none"><li>• Same person</li><li>• Other person competent on his behalf to act</li></ul>

Earlier, the above applicants were required to mandatorily sign the application using digital signatures. Now, with amended provisions in place, they are not required to digitally sign the application, instead

- Manual signatures shall be accepted on the application
- Application must be sent to tax authority through registered email address

Consequently, changes have been made in Form nos. 34C, 34D, 34DA, 34EA. Applicant can choose from these forms depending upon their residential status as per the Income-tax Act, 1961 and the person with whom they are undertaking transaction which is subject of application for advance ruling.

Please [Click Here](#) to read Notification no. 37/2023 dated 12 June 2023.

# Company Law



## Form DPT 3 (return of deposits) – Ministry of Corporate Affairs (MCA) relaxes time limit for submission of form for FY 2022-23 till 31 July 2023

Form DPT 3 is required to be submitted by companies with Registrar of Companies, in order to furnish information about deposits / outstanding loans or monies other than deposits. It is required to be submitted every year. The due date for submitting this form for FY 2022-23 is 30 June 2023.

Due to the portal of MCA undergoing revamp, the said due date has been extended by 1 month to *31 July 2023*.

Please [Click Here](#) to read Circular no.6 dated 21 June 2023

## Limited Liability Partnerships (LLPs) – Revision in Form 3 (information with regard to LLP agreement & changes therein) to be submitted with Ministry of Corporate Affairs (MCA)

### What is Form 3?

A form to be submitted with MCA providing data relating to LLP agreement in case of:

- A newly incorporated LLP – Within 30 days of incorporation
- An existing LLP - Within 30 days of issue of resolution for modification in LLP agreement

The MCA has revamped format of Form 3 with the objective to enhance user experience. A new excel upload and download functionality has been included that will pre-fill the information of the selected partner and existing partner.

Further, earlier, in case of changes to LLP agreement, it was necessary to file both Form 3 as well as Form 4 (each time a partner is appointed, excluded or his name / address or classification changes) as linked forms. Going forward, the linkage will be required only in certain cases. For all other cases, the requirement to file linked forms has been done away with.

Please [Click Here](#) to read Notification dated 2 June 2023.

Please [Click Here](#) to read answers to Frequently Asked Questions (FAQs) issued by MCA on steps for filing Form 3.

## Corporate Social Responsibility (CSR) – MCA announces due date as 31 March 2024 for submission of report in Form CSR 2 for Financial Year 2022-23

### What is Form CSR 2?

A profitable company is mandated to allocate at least 2% of its profit towards CSR activities. Companies meeting specific criteria in terms of net worth, turnover, net profit, etc. as defined in the Companies Act, 2023, are eligible to undertake CSR expenditure. To streamline the reporting process and ensure transparency, the MCA has introduced Form CSR-2, which serves as a report on Corporate Social Responsibility.

Previously, companies were required to annex the details of CSR activities in their Board Report and disclose them on their website. However, no specific form was prescribed for reporting on CSR. In February 2022, MCA introduced Form CSR 2 being a specific form for companies to provide details of their CSR activities to the Government of India. Some of these details include the following information:

- Details of CSR expenditure for the past 3 FYs along with ongoing projects
- Net profit and other relevant information for the preceding financial years
- Disclosure of CSR activities on the company's website
- Details of CSR committee
- If any property was acquired through CSR expenditure, details of such property such as address, amount of expenditure, registered owner, etc.

### Due date for filing Form CSR 2 prescribed by MCA

MCA has prescribed the following due dates for filing Form CSR 2:

- For FY 2022-23, Form CSR 2 should be filed separately on or before 31 March 2024
- For subsequent years, Form CSR 2 should be filed as an addendum to Form AOC-4 (i.e., form used for filing annual financial statements with Registrar of Companies)

Please [Click Here](#) to read the Notification dated 31 May 2023.

# Reserve Bank of India (RBI)



## Inauguration of new Parliament Building – Prime Minister introduces new Rs.75 coin

On 28 May 2023, the Prime Minister Mr. Narendra Modi released a new commemorative coin of Rs. 75 denomination on the occasion of the inauguration of the New Parliament Building. India has been issuing commemorative coins since the 1960s for several reasons such as paying homage to notable personalities, spreading awareness about government schemes, or remembering key historic events.



## Withdrawal of currency notes of Rs.2000 from circulation – RBI instructs banks towards making it easy for public to deposit / exchange currency

Pursuant to its 'Clean Note Policy, the RBI had last month announced withdrawal of Rs.2000 currency notes from circulation; they would continue to be legal tender though. People have been asked to deposit Rs.2000 currency notes into their bank accounts and / or exchange them into currency notes of other denominations at any branch. The said facility would be available till 30 September 2023. The Rs.2000 currency note was introduced in November 2016 to meet the immediate currency requirement of the economy after withdrawal of the legal tender status of all Rs.500 and Rs.1000 currency notes in circulation at that time.

In continuation of the above, RBI has issued the below instruction to banks on 22 May 2023.

- The facility of exchange of Rs.2000 currency notes across the counter shall be provided to the public in usual manner, as was being provided earlier
- Banks have been advised to provide appropriate infrastructure at the branches, such as shaded waiting space, drinking water facilities, etc. considering the summer season.
- Banks have been asked to maintain daily data on deposit and exchange of Rs.2000 currency notes in the below format and submit the same as and when called for

<b>Bank Name</b>	<b>Date</b>	<b>Amount of ₹2000 banknotes Exchanged</b>	<b>Amount of ₹2000 banknotes Deposited</b>	<b>Total Amount</b>

Please [Click Here](#) to read Notification dated 22 May 2023.

# Compliance Calendar

## Compliance calendar for the month of July 2023

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7 <sup>th</sup> July	June 2023	TDS/TCS deposit	Non-Government Deductors
		Equalization Levy deposit	All Deductors
10 <sup>th</sup> July		a) GSTR-7 (TDS return under GST)	a) Person required to deduct TDS under GST
		b) GSTR-8 (TCS return under GST)	b) Person required to collect TCS under GST
11 <sup>th</sup> July		GSTR-1 (Outward supply return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2022-23 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2022-23 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme
13 <sup>th</sup> July		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
	Apr-Jun 2023	GSTR-1 (Outward supply return)	Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2022-23 and opted for QRMP scheme
15 <sup>th</sup> July		TCS Return	All Collectors
	June 2023	Deposit of PF & ESI contribution	All Deductors
	FY 2022-23	Annual Return on Foreign Liabilities & Assets (FLA)	Indian companies / LLPs which have received Foreign Direct Investment (FDI) or made overseas investment
20 <sup>th</sup> July	June 2023	a) GSTR-5 (Return by Non-resident).	a) Non-resident taxable person (NRTP)
		b)GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	b) OIDAR services provider.
		GSTR-3B (Summary return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2022-23 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2022-23 and not opted for QRMP scheme
22 <sup>nd</sup> July	Apr-Jun 2023	GSTR-3B (Summary return)	Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2022-23 and opted for QRMP scheme and having principal place of business in Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands. Lakshadweep
24 <sup>th</sup> July			Taxpayers having annual turnover ≤ Rs. 5 crore in FY 2022-23 and opted for QRMP scheme and having principal place of business in any other state
30 <sup>th</sup> July		Issue of TCS Certificate in form 27D	All Collectors
31 <sup>st</sup> July	FY 2022-23	TDS Return	All Deductors
		Income Tax Return (ITR)	Individuals (including expatriates) & Non-corporates, not liable for Tax Audit.
		Filing of return of deposits / exempted deposits in form DPT-3	All Companies

# About KrayMan

KrayMan Consultants LLP is an Accounting and multi-disciplinary Advisory Firm founded in 2012 by professionals with Big-4 Consulting and Industry experience. Our forte lies in handholding foreign companies establishing presence in India by demystifying the complex Indian regulatory environment making it easy for them to do business in India. Since inception, we have been delivering value to a mix of multinational Clients from across the globe

The Leadership team comes with rich experience and is supported by a capable & efficient team of professionals including Chartered Accountants, Company Secretaries, Cost Accountants, Advocates and MBAs who are committed in providing timely, professional and quality services to our Clients

We believe that in today's dynamic and ever changing business environment, it is important for accounting, tax & legal professionals to operate with a global approach and mind set. In pursuit of extending global footprints, we have a Japan Desk and an EU Desk to support investments from these countries into India.

In addition, we are members of various associations and forums both at national as well as international levels viz. JCCII, IICCI, IFCCI, CBA, PAN and CII

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