

TAX EDGE

Monthly Tax & Regulatory Updates



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Goods & Services Tax



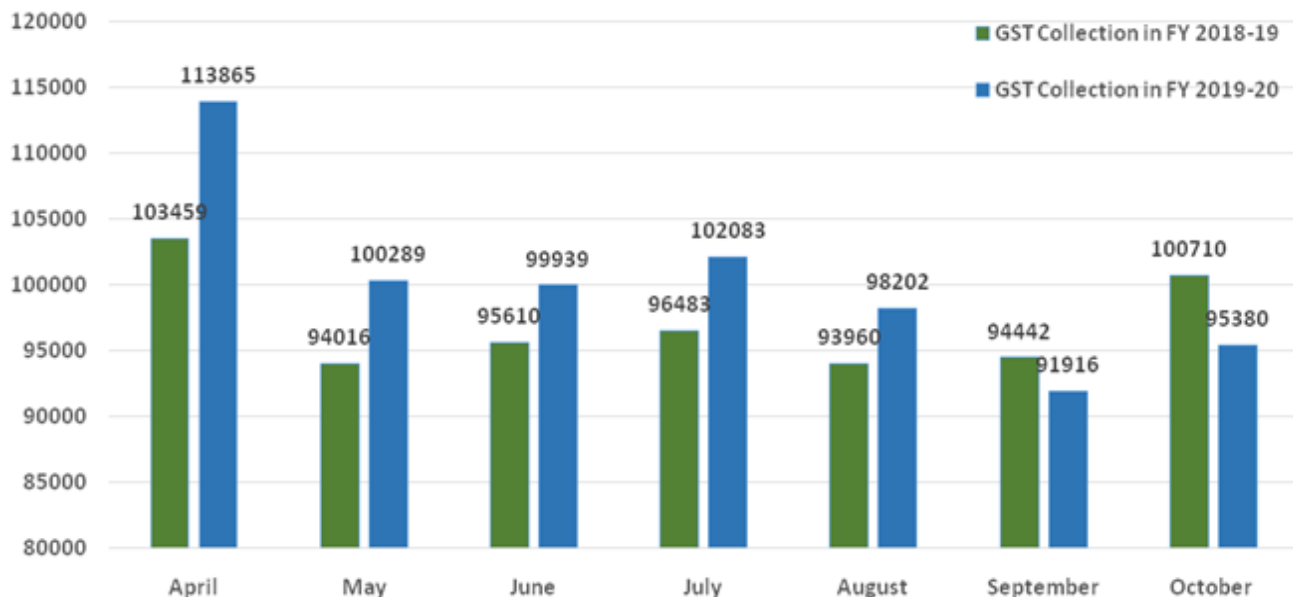
Goods & Services Tax

GST revenue collection for October 2019 - decline of 5.29% over revenue for October 2018

Gross GST revenue collection in the month of October, 2019 is Rs. 95,380 crore (details given below), a declined by 5.29% over revenue collection for the same month last year (i.e., October 2018). Total number of GSTR 3B Returns filed for the month of September up to 31st October, 2019 is 73.83 lakh.

IGST (Integrated Goods and Services Tax)	Rs. 46,517 crore
CGST (Central Goods and Services Tax)	Rs. 17,582 crore
SGST (State Goods and Services Tax)	Rs. 23,674 crore
Compensation cess	Rs. 7,607 crore
Total	Rs. 95,380 crore

Trends in GST Collection in Rs. Crore



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

Goods & Services Tax

Restriction on availability of Input Tax Credit (ITC) in terms of Rule 36(4) of CGST Rules, 2017

Background:

Government had amended CGST rules on 9th October, 2019 to restrict availability of ITC in respect of invoices or debit notes which are not uploaded by supplier. It was specified that ITC in respect of those invoices shall not exceed 20% of the eligible credit appearing in GSTR-2A. Various issues relating to implementation of the said rule have been examined and the clarification issued by Central Board of Indirect Taxes and Customs (CBIC) as below:

Clarifications issued by Government:

S. No.	Issue	Clarification
1	What are the invoices / debit notes on which the restriction of ITC shall apply?	The restriction on availability of ITC is imposed only in respect of those invoices / debit notes, details of which are required to be uploaded by the suppliers u/s 37(1) and which have not been uploaded. Therefore, taxpayers may avail full ITC, if eligible, in respect of IGST paid on import, documents issued under RCM, credit received from ISD etc. which are outside the ambit of section 37(1). The restriction will be applicable only on the invoices / debit notes on which credit is availed after 9 October 2019.
2	Whether the said restriction is to be calculated supplier wise or on consolidated basis?	The restriction imposed is on consolidated basis. Further, invoices on which ITC is not available under any of the provision [say u/s 17(5)] would not be considered for calculating 20% of the eligible credit available.
3	Form GSTR-2A being a dynamic document, what would be the amount of ITC that is admissible to the taxpayers for a particular tax period in respect of invoices / debit notes whose details have not been uploaded by the suppliers?	The amount of ITC in respect of the invoices / debit notes whose details have not been uploaded by the suppliers shall not exceed 20% of the eligible ITC available to the recipient in respect of invoices/ debit notes the details of which have been uploaded by the suppliers on the due date of FORM GSTR-1. The taxpayer may have to ascertain the same from his auto populated FORM GSTR 2A as available on the due date of filing of FORM GSTR-1.

Goods & Services Tax

S. No.	Issue	Clarification																
4	How much ITC a registered tax payer can avail in his Form GSTR-3B in a month in case the details of some of the invoices have not been uploaded by the suppliers?	<p>ITC to be availed by a registered person in respect of invoices/ debit notes, the details of which have not been uploaded by the suppliers u/s 37(1), shall not exceed 20% of the eligible ITC available in respect of invoices/ debit notes the details of which have been uploaded. The eligible ITC that can be availed is explained by way of illustrations, in a tabulated form, below. In the illustrations, say a taxpayer "R" receives 100 invoices (for inward supply of goods or services) involving ITC of Rs. 10 lakh, from various suppliers during the month of Oct, 2019 and has to claim ITC in his Form GSTR-3B of October, to be filed by 20th November, 2019.</p> <table border="1"> <thead> <tr> <th>Case</th> <th>Details of suppliers invoices for which recipient is eligible to take ITC</th> <th>20% of eligible credit whose invoices are uploaded</th> <th>Eligible ITC to be taken in GSTR-3B to be filed by 20th Nov</th> </tr> </thead> <tbody> <tr> <td>Case-1</td> <td>Suppliers have furnished in Form GSTR-1 80 invoices involving ITC of Rs. 6 lakh on the due date of Form GSTR-1.</td> <td>Rs. 1,20,000</td> <td>Rs. 7,20,000 (as below) Rs. 6,00,000 (i.e amount of eligible ITC available in GSTR-2A) + Rs. 1,20,000 (i.e. 20% of amount of eligible ITC available as per GSTR-2A)</td> </tr> <tr> <td>Case-2</td> <td>Suppliers have furnished in Form GSTR-1 80 invoices involving ITC of Rs. 7 lakh on the due date of Form GSTR-1.</td> <td>Rs.1,40,000</td> <td>Rs.8,40,000 (Rs.7,00,000 + Rs.1,40,000)</td> </tr> <tr> <td>Case-3</td> <td>Suppliers have furnished in Form GSTR-1 75 invoices having ITC of Rs. 8.5 lakh on the due date of Form GSTR-1.</td> <td>Rs.1,70,000</td> <td>Rs. 10,00,000 (Rs. 8,50,000 + Rs. 1,50,000*) *The additional ITC availed shall be restricted to total eligible ITC.</td> </tr> </tbody> </table>	Case	Details of suppliers invoices for which recipient is eligible to take ITC	20% of eligible credit whose invoices are uploaded	Eligible ITC to be taken in GSTR-3B to be filed by 20 th Nov	Case-1	Suppliers have furnished in Form GSTR-1 80 invoices involving ITC of Rs. 6 lakh on the due date of Form GSTR-1.	Rs. 1,20,000	Rs. 7,20,000 (as below) Rs. 6,00,000 (i.e amount of eligible ITC available in GSTR-2A) + Rs. 1,20,000 (i.e. 20% of amount of eligible ITC available as per GSTR-2A)	Case-2	Suppliers have furnished in Form GSTR-1 80 invoices involving ITC of Rs. 7 lakh on the due date of Form GSTR-1.	Rs.1,40,000	Rs.8,40,000 (Rs.7,00,000 + Rs.1,40,000)	Case-3	Suppliers have furnished in Form GSTR-1 75 invoices having ITC of Rs. 8.5 lakh on the due date of Form GSTR-1.	Rs.1,70,000	Rs. 10,00,000 (Rs. 8,50,000 + Rs. 1,50,000*) *The additional ITC availed shall be restricted to total eligible ITC.
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Goods & Services Tax

S. No.	Issue	Clarification
5	When can balance ITC be claimed in case availability of ITC is restricted under rule 36(4)?	<p>The balance ITC may be claimed in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers. He can claim proportionate ITC as and when details of some invoices are uploaded by the suppliers provided that credit on invoices which are not appearing in GSTR-2A remains under 20% of the eligible ITC appearing in GSTR-2A. Full ITC of balance amount may be availed, in present illustration by "R", in case total ITC pertaining to invoices the details of which have been uploaded reaches Rs. 8.3 lakh (Rs 10 lakh /1.20). In other words, taxpayer may avail full ITC in respect of a tax period, as and when the invoices are uploaded by the suppliers to the extent Eligible ITC/ 1.2. The same is explained for Case No. 1 and 2 of the illustrations provided at Sl. No. 4 above as under:</p> <p>Case 1: "R" may avail balance ITC of Rs. 2.8 lakh in case suppliers upload details of some of the invoices for the tax period involving ITC of Rs. 2.3 lakh out of invoices involving ITC of Rs. 4 lakh details of which had not been uploaded by the suppliers. [Rs. 6 lakh + Rs. 2.3 lakh = Rs. 8.3 lakh].</p> <p>Case 2: "R" may avail balance ITC of Rs. 1.6 lakh in case suppliers upload details of some of the invoices involving ITC of Rs. 1.3 lakh out of outstanding invoices involving Rs. 3 lakh. [Rs. 7 lakh + Rs. 1.3 lakh = Rs. 8.3 lakh].</p>

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

Goods & Services Tax

Extension of due date for filing Annual Return (Form GSTR-9) and Reconciliation Statement (Form GSTR-9C)

Government has extended due dates as below for filing above forms:

Form	Period	Extended Due Date
GSTR-9 and GSTR-9C	FY 2017-18	31 st December, 2019
	FY 2018-19	31 st March, 2020

Please [Click Here](#) to read order dated 14th November, 2019.

Amendments in Form GSTR-9 and GSTR-9C

Government has made certain amendments given below in Form GSTR-9 and GSTR-9C along with changes required to make the form applicable for FY 2018-19.

Major changes in Form GSTR-9:

Entry No. of GSTR-9	Particulars	Relaxation
4B to 4E	Outward Taxable Supply	Option to fill these supply net of credit/ debit notes and amendments
5D to 5F	Exempt, Nil rated and Non GST	Option to fill nil rated and non GST Supply in exempt supply
5A to 5F	Outward supplies on which tax is not paid	Option to fill net of credit/ debit notes and amendments
6A to 6E	Bifurcation of ITC	Option to fill all ITC in Input only
6C & 6D	Reverse charge ITC	Option to fill both details in table 6D only
7A to 7H	ITC reversal	All reversal (other than reversal pertaining to Tran-1 and Tran-2) to fill in Table 7H only
8A to 8D	GSTR-2A Reco	Option to upload details of these tables in pdf format in GSTR-9C
12 & 13	Amendments in next year	Optional
15A to 15D	Details of refund	Optional
15E to 15G	Details of demands	Optional
16A	Supplies received from Composition Taxpayer	Optional
16B	Deemed supplies from principal to job worker	Optional
16C	Deemed supplies for goods which were sent on approval basis	Optional
17	HSN wise details of outward supplies	Optional
18	HSN wise details of inward supplies	Optional

Goods & Services Tax

Major Changes in Form GSTR-9C:

Entry No. of GSTR-9C	Particulars	Relaxation
5B to 5N	Various adjustment for reconciliation between Turnover as per Audited Financial Statements & GST Turnover	Optional, to make all adjustment in Table 5O
12B	ITC booked in earlier FY but availed in current FY	Optional
12C	ITC booked in current FY but not availed	Optional
14	Expense wise ITC reconciliation	Optional
Other	Part B of certification para wording has been changed to true and fair from true and correct.	

Please [Click Here](#) to read the notification dated 14th November, 2019.

Clarification regarding optional filing of Annual Return

Background

As per the notification dated 9th October, 2019, it was provided that annual return for the FY 2017-18 and 2018-19 shall be deemed to be furnished on the due date if it has not been furnished before the due date, in respect of those registered persons whose aggregate turnover in a FY does not exceed Rs.2 crore. In order to clarify the issue and to ensure uniformity in implementation of law, CBIC has clarified the issues as below.

Clarification issued by Government

- Tax payers under composition scheme, may, at their own option file Form GSTR-9A (annual return for composition taxpayers) before the due date. After the due date of furnishing the annual return for the year 2017-18 and 2018-19, the common portal shall not permit furnishing of Form GSTR-9A for the said period
- Tax payers (other than an Input Service Distributor, a person paying tax u/s 51 or 52, a casual taxable person and a non-resident taxable person or person registered under composition scheme) having aggregate turnover upto Rs. 2 crores, may, at their own option file Form GSTR-9 for the said financial years before the due date. After the due date of furnishing the annual return for the year 2017-18 and 2018-19, the common portal shall not permit furnishing of Form GSTR-9 for the said period
- If any registered tax payer during reconciliation of his accounts, notices any short payment of tax or ineligible availment of input tax credit, he may pay the same through Form GST DRC-03

Please [Click Here](#) to read circular dated 18th November, 2019.

Goods & Services Tax

Clarification regarding GST rate on Job work from 1st October, 2019 onwards

Background

Prior to 1st October, 2019, there was a single residual entry relating to GST rate on job work as below:

'GST rate at 18% on manufacturing services on physical inputs (goods) owned by others other than those for which GST rates specifically mentioned'

From 1st October, 2019 onwards, a new residual entry has been inserted, consequent to which there are 2 residual entries as below:

1st residual entry - GST rate @ 12% on services by way of job work other than those for which GST rates are specifically mentioned

2nd residual entry - GST rate @ 18% on manufacturing services on physical inputs (goods) owned by others other than those for which GST rates are specifically mentioned and above job work services covered under 12%

Various issues have been raised as to which rate shall apply to job work as both are residual entries for job work. The same has been examined and clarification issued as under by Government.

Clarification issued by Government:

Job work has been defined in CGST Act as "Job work means any treatment or processing undertaken by a person on goods belonging to another *registered person* and the expression 'job worker' shall be construed accordingly."

In view of the above, it may be seen that there is a clear demarcation between scope of the above residual entries.

- 1st residual entry covers processing on goods belonging to a *registered person*.
- 2nd residual entry covers processing on goods belonging to an *unregistered person*.

Please [Click Here](#) to read the circular dated 22nd November, 2019.



Direct Tax



Direct Tax

Reduction in corporate tax rates for manufacturing companies – Changes to Ordinance released on 20 September 2019

Background:

- The Finance Act 2019 was enacted on 1st August 2019. Subsequent to the enactment of the Finance Act, in view of various developments, it was felt by the Government that there is an urgent need to take additional fiscal measures so as to boost the investment and growth in the economy for which the Government has already announced certain measures.
- It was also noticed that many countries across the world has reduced corporate income-tax to attract investment and create employment opportunities, thus necessitating the need for similar measure in India to make the Indian industry more attractive. Thus, it became necessary to amend certain provisions of the Income-tax Act and Finance Act 2019. However, since the Parliament was not in session and considering the urgency of the matter, the Taxation Laws (Amendment) Ordinance 2019 was promulgated on 20 September 2019 (please [click here](#) to read our detailed alert on the matter).
- In view of representations received from the industry to provide clarity, the Government has introduced the Taxation Laws (Amendment) Bill, 2019 on 25th November, 2019 in the Lower House of Parliament seeking to replace the aforesaid Ordinance and making further amendments to the Income-tax Act. Highlights of the bill are given below:

Proposed amendments to section 115BAA dealing with reduced corporate tax rate of 22% (plus surcharge and cess) on existing manufacturing companies

- The benefit of section 115BAA is available subject to certain conditions. Where a company fails to satisfy the conditions of this section, the option shall become invalid in respect of that year and subsequent years and other provisions of the Act shall apply as if the option was never exercised.
- A new set of condition is proposed to be added which prescribes that the loss/unabsorbed depreciation allowance in case of amalgamation/demerger is not allowed to be set-off, if it is related to any of the block deductions/incentives as prescribed in this section.
- In order to provide incentive to units in International Financial Services Centre, a new sub section is inserted which provides that the benefit of section 80LA (100% tax deduction for 1st 5 AYs and thereafter 50% for subsequent 5 years) shall be available to the assessee opting for this section.
- A proviso is proposed to be inserted under sub-section (3) to provide that when a domestic company exercises option for AY 2020-21 and where there is depreciation allowance in respect of a block of asset which has not been given full effect to in earlier years, corresponding adjustment shall be made to the WDV of such block of assets as on 1st April, 2019 in the prescribed manner.
- A new proviso has been proposed to be inserted which provides that in case of domestic companies who have exercised option u/s 115BAB (15% scheme for new manufacturing companies) and the said option becomes invalid due to violation of some conditions contained therein, an option will be given to such companies to claim concessional rate u/s 115BAA (22% scheme).

Direct Tax

Proposed amendments to section 115BAB dealing with reduced corporate tax rate of 15% (plus surcharge and cess) on new manufacturing companies which are registered after 1st October, 2019, and commence manufacturing before 31st March, 2023

- Where taxable income of the person includes any 'non-manufacturing' related income in respect of which no specific rate of tax has been provided separately under Chapter XII, such income shall be taxed @ 22%. No deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income.
- Benefit of section 115BAB is available subject to certain conditions. Where a company fails to satisfy the conditions of this section the option shall become invalid in respect of that year and subsequent years.
- Benefit of section 115BAB shall not be applicable to following businesses:
 - ✓ development of computer software in any form or in any media
 - ✓ mining;
 - ✓ conversion of marble blocks or similar items into slabs
 - ✓ bottling of gas into cylinder;
 - ✓ printing of books or production of cinematograph film; or
 - ✓ any other business as may be notified by the Central Government in this behalf
- As per section 115BAB if transactions between the person to which section 115BAB applies and other person, produces more than ordinary profit, the AO shall have the power to re-compute the profit having regard to Arm's length price and any profit in excess of the same shall be considered as deemed income. A further proviso is proposed which provides that tax at the rate of 30% is applicable on such deemed income.
- Tax @ 22% shall be applicable on short term capital gains derived from transfer of a capital asset on which no depreciation is allowable.
- New condition added saying that loss/unabsorbed depreciation allowance in case of amalgamation/demerger is not allowed to be set-off, if it is related to any of the block deductions/incentives as mentioned in the section.
- It is proposed to authorize CBDT to issue guidelines for the purpose of removing the difficulty, and to promote manufacturing or production of article or thing using new plant and machinery.

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

Direct Tax

Central Board of Direct Taxes (CBDT) notifies rules relating to withholding tax on high-value payments by individuals to resident contractors, professionals, etc. u/s 194M

Background:

Section 194M, introduced in law from 1st September 2019 onwards, requires withholding of tax (TDS) @ 5% on payments made by Individual / Hindu Undivided Family (HUF) to a resident for carrying out any work / execution of contract / commission / brokerage / professional fees. However, no TDS is required to be deducted if the aggregate payment does not exceed Rs. 50 lakh in a year. TDS needs to be deducted at the time of payment or credit in accounts, whichever is earlier.

Notification by CBDT:

CBDT has notified below rules for time-limit for (a) deposit of above TDS with Government, and (b) issue of TDS certificate.

- WHT u/s 194M should be deposited with Government electronically within 30 days from the end of the month in which the deduction is made
- Challan-cum-statement for deposit of WHT u/s 194M should be in Form 26QD
- TDS certificate in Form 16D to be issued to the payee within 15 days from due date for furnishing Form 26QD

Please [Click Here](#) to read the notification dated 18th November 2019.

CBDT allows exemption u/s 56(2)(x) to residents of unauthorized colonies

Background:

- The Finance Act, 2017 introduced clause (x) in section 56(2) of the Income-tax Act to provide that receipt of money / property by a person without consideration or upon crossing a particular threshold would be liable to tax in the hands of the receiver under the head 'Income from other sources'.
- However, proviso to the section provides 10 clauses (exceptions) in which clutches of section 56(2)(x) does not apply. Finance Act 2019 has inserted new exception (XI) to the said proviso empowering CBDT to prescribe a transaction undertaken by certain classes of persons to which section 56(2)(x) shall not apply and accordingly tax shall not be levied in such case.

Direct Tax

New Rule 11UAC inserted by CBDT:

- CBDT vide notification dated 11 November 2019 has inserted new rule 11UAC prescribing class of persons for the purpose of newly inserted exception (XI) above. The said rule provides that the taxability u/s 56(2)(x) shall not be applicable to any immovable property received by resident of an unauthorized colony in the National Capital Territory of Delhi, where the Central Government regularized the transaction of such immovable property based on latest power of attorney, agreement to sale, will, etc. The newly inserted Rule 11UAC is applicable from Assessment Year (AY) 2020-21 onwards.
- The notification has been issued to provide one-time relief from income tax liability as Government will introduce the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorized Colonies) Bill, 2019, in the upcoming winter session of Parliament, which will regularize around 1,728 unauthorized colonies in Delhi.

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

Tax department to refund late fee wrongly charged in certain cases

As per Explanation 2(a)(iii) to section 139, working partner of a firm whose accounts are required to be audited are required to file their return before 30th September of the relevant assessment year. Section 234F of the Act calls for late-filing fee of Rs.5000 / Rs.10,000 in case of delay in filing of income-tax return.

For AY 2019-20, all working partners of a firm whose accounts are required to be audited, were supposed to file their ITR by 30th September 2019. This date was later extended to 31st October 2019. However, in some cases, late-filing fee u/s 234F amounting to Rs. 5000 was charged erroneously by the tax department despite timely filing of the tax return. The tax department has admitted this error on its official twitter handle and assured to rectify it by removing the late fees charged. The reversal of the same shall be considered in the computation of amount payable or refund due, as the case may be, on account of processing of the return.

Tax department report highlights more than 80% pendency of time barring e-assessments till 31 December 2019

- As per media reports, with the e-assessments deadline of 31st December 2019 being close, tax department has recently released a report highlighting pendency of time barring e-assessments as on 6th November 2019. The overall pendency rate is about 82% of time barring e-assessments with Delhi. Mumbai marks the highest pendency rate of about 90%.
- Considering the large number of pendency, a meeting with the Assessing Officers (AOs) was jointly held with the Principal Chief Commissioner of Income Tax (PCCIT), Delhi to ascertain the reasons for large number of pendency. The reasons given by AOs include issues relating to computation of income and delay in visibility of documents uploaded by the assesses.
- However, most of them assured that the workload is manageable and they will be passing the orders soon so as to avoid any last minute overload.

Direct Tax

Audit Manual 2019 released by Tax department for guidance to tax officers

To provide guidance and assistance to audit officers and AOs in making quality and error-free assessment, the committee under the chairmanship of Pr. CCIT, Bengaluru constituted by CBDT has submitted the revised Audit Manual incorporating changes till date. Highlights of the audit manual are given below:

- Functions and responsibilities of various offices with regard to audit have been elaborated right from AO level to Pr. CCIT
- Audit of registration process of charitable trust and institutions
- Elaborate and exhaustive audit check-list on various issues. For the convenience of audit officers, the check list has been segregated according to the general aspects of assessment, various heads of income, deductions and exemptions, income not forming part of total income, charitable trust and institutions, book profit, Minimum Alternate Tax (MAT)/Alternative Minimum Tax (AMT), unexplained cash credits, clubbing of income and set off of losses, International Taxation, Transfer Pricing and TDS aspects.
- Check lists have been devised in such a way that it can be looked into from various viewpoints like heads of income, section-wise and specific issue wise.
- As the entire work of audit is required to be done on Income Tax Business Application (ITBA) Audit Module, detailed procedure for carrying out the audit work on ITBA Audit Module has been elaborated.
- The manual covers subjects that are related to principles, policies and issues that pertain to conduct of audit with reference to the Act, but it does not deal with legal interpretations and judicial rulings.

CBDT amends over 100 income-tax forms/ returns / reports to provide for Permanent Account Number (PAN) - Aadhaar substitution

- The Union Budget presented in July this year had amended section 139A to provide for interchangeability of PAN and Aadhaar number. However, an amendment to give effect to this change in various forms or returns and statements prescribed was pending.
- CBDT has now issued a notification to amend the Income-tax Rules, 1962 to enable quoting of Aadhaar number (instead of PAN) at various places in more than 100 forms and documents.

Please [Click Here](#) to read the notification dated 6th November 2019.

International Taxation



International Taxation

Meeting between Secretaries of Switzerland and India for further co-operation in tax matters

- Fighting the menace of Black Money stashed in offshore accounts is a key priority area for the Government. Following the agreement between the Indian Prime Minister and the Swiss President for enhanced cooperation in the fight against tax evasion, the 2 sides have worked closely for expeditious information exchange in tax matters. To further this cooperation, Revenue Secretary, Dr. Ajay Bhushan Pandey and Switzerland's State Secretary for International Finance, Ms. Daniela Stoffel met on 13th November, 2019 at New Delhi. The Secretaries expressed satisfaction over the progress made over the past few years in the area of administrative assistance in tax matters, particularly the efforts made by Switzerland in providing assistance in HSBC cases.
- Welcoming the 1st transmission of financial account information on automatic basis between the 2 countries in September 2019, the Secretaries reiterated their countries' commitment to global tax transparency for tackling offshore tax evasion. This automatic exchange of financial account information will usher in a new era of financial transparency as Indian tax administration will now know the details of all bank accounts held by Indians in Switzerland. The Secretaries encouraged the competent authorities of both the countries to further collaborate and share experiences with the aim of continuously enhancing the quality of the exchanged data.
- The Revenue Secretary and Swiss State Secretary also exchanged views on addressing the challenges arising out of digitalization of the economy and agreed that coordinated international actions, as in the case of tax base erosion and profit shifting project, are central to achieving a consensus-based long-term solution that leads to desired tax certainty and sustainable development.
- The Secretaries reaffirmed the need for continuous dialogue at the level of competent authorities of the 2 countries to further enhance the cooperation under the India-Switzerland tax treaties and agreed to carry forward the dialogue in the spirit of mutual friendship and cooperation.
- A Joint Statement was signed by the two Secretaries at the conclusion of the meeting.

Please [Click Here](#) to read the Press Release dated 13th November 2019

Company Law



Government plans to reduce penalties to encourage compliance

As per media reports, as part of its efforts to improve compliance, Government is planning to reduce penalties (half of that levied on larger companies) under the Companies Act while offering concessions to startups, smaller entities and farmer producer companies.

The move is likely to come as a big relief not just for India corporates but for other entities, which together make up for a majority of the companies registered in the country.

There will be breather for loss-making firms, including relaxation in compensation and other steps to enable such entities hire non-executive / independent directors. The move is also likely to benefit startups as several of them are loss-making and often find it tough to comply with some of the provisions of the Companies Act.

The move is part of the amendments that have been finalised by the Company Law Committee, headed by Corporate Affairs Secretary Injeti Srinivas, which is expected to submit its recommendations in a day or two. The 11-member panel has identified about 60 amendments to the Companies Act, including around 45 related to dropping criminal prosecution. A bill to amend the Companies Act is expected to be presented during the winter session of Parliament which will be running till mid of December.

Extension of last date for filing of Form NFRA-2 with National Financial Reporting Authority (NFRA)

Form NFRA-2 is required to be filed under Rule 5 of NFRA Rules, 2018 mentioning identity and other details of the Auditor. MCA has clarified that time limit for filing the said form will be 90 days from the date of deployment of the form on website of NFRA.

Please [Click Here](#) to read Circular dated 27th November 2019

Company Law

Contribution to Investor Education Protection Fund (IEPF) - Relaxation of additional fees and extension of last date for filing of e-forms IEPF-1A and IEPF-2

Ministry of Corporate Affairs (MCA) has issued circular on 25th October 2019 in relation to relaxation of additional fees and extension of last date of filing of form IEPF-1A and form IEPF-2.

Background:

A company which has transferred monies to IEPF but have not filed the statement or have filed the statement in any format other than in the specified excel template, is required to file the same in Form No- IEPF- 1A and a statement or information of unclaimed and unpaid amounts separately in Form No-IEPF-2.

Relaxation provided:

MCA has decided to relax the additional fees payable by companies on filing the following:

- Form IEPFA-1A (Statement of Amounts credited to Investor Education and Protection Fund) up to 31st December 2019
- Form IEPF-2 (Statement of unclaimed and unpaid amounts) up to 30th November 2019.

Please [Click Here](#) to read the circular dated 25th October 2019

Extension of last date for filing of e-Form CRA-4 (Cost Audit Report) for FY 2018-19

MCA has issued a Circular on 24th October 2019 relaxing additional fees and extension of last date for filing of Form CRA-4 (Cost Audit Report) for FY 2018-19 under the Companies Act, 2013.

Background:

Companies which are required to file cost audit report (CRA-4) for FY 2018-19, are required to use Costing Taxonomy 2019 which was under development as on the date of Circular.

Relaxation provided:

Considering the difficulty faced by stakeholders due to the above reason, last date for filing of form CRA-4 for FY 2018-19 without payment of additional fee has been extended to 31st December 2019.

Extension has been granted for the entire process starting from preparation of annexures to submission of cost audit report by the cost auditor and finally filing of cost audit report by the company.

Please [Click Here](#) to read the circular dated 24th October 2019.

Reserve Bank of India (RBI)



Reserve Bank of India

Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019, notified

RBI has notified the above regulations on 17th October 2019. Key highlights regarding mode of payments and remittance of sale proceeds are given below:

Mode of Payment and Remittance of sale proceeds:

Relevant Schedule of the Rules	Mode of Payment	Remittance of sale proceeds
I. Purchase or sale of equity instruments of an Indian company by a person resident outside India (PROI)	<p>Inward remittance from abroad through banking channels or out of funds held in NRE/ FCNR(B)/ Escrow account</p> <p>In case equity instruments are not issued within 60 days from receipt of consideration, the same must be refunded by outward remittance through banking channels or by credit to NRE/ FCNR (B) accounts, within 15 days from the date of completion of 60 days.</p>	<p>Sale proceeds (net of taxes) of the equity instruments may be remitted outside India or may be credited to the NRE/ FCNR (B) of the person concerned.</p>
II. Investments by Foreign Portfolio Investors (FPI)	<p>Inward remittance from abroad through banking channels or out of funds held in a foreign currency account and/ or a Special Non-Resident Rupee (SNRR) account</p>	<p>Sale proceeds (net of taxes) of equity instruments and units of domestic mutual fund may be remitted outside India or credited to the foreign currency account or SNRR account of the FPI.</p> <p>Sale proceeds (net of taxes) of units of investment vehicles other than domestic mutual fund may be remitted outside India.</p>
III. Investments by Non-Resident Indian (NRI) or Overseas Citizen of India (OCI) on repatriation basis	<p>Inward remittance from abroad through banking channels or out of funds held in a Non-Resident External (NRE) account</p>	<p>Sale proceeds (net of taxes) of equity instruments may be remitted outside India or may be credited to NRE (PIS) account</p>

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Relevant Schedule of the Rules	Mode of Payment	Remittance of sale proceeds
<p>IV. Investment by NRI or OCI on non-repatriation basis:</p> <p>a) Purchase / Sale of equity instruments of Indian company or units or contribution to the capital of a Limited Liability Partnership (LLP)</p> <p>b) Investment in a firm / proprietary concern</p>	<p>a) Inward remittance from abroad through banking channels or out of funds held in NRE/ FCNR(B)/ NRO account</p> <p>b) Inward remittance from abroad through banking channels or out of funds held in NRE/ FCNR(B)/ NRO account</p>	<p>a) Sale/ maturity proceeds (net of taxes) of equity instruments or units or disinvestment proceeds of a LLP shall be credited only to the NRO account, irrespective of the type of account from which the consideration was paid; Amount invested in equity instruments of an Indian company or the consideration for contribution to the capital of a LLP and the capital appreciation thereon shall not be allowed to be repatriated abroad.</p> <p>b) Disinvestment proceeds shall be credited only to the NRO account, irrespective of the type of account from which the consideration was paid; Amount invested for contribution to the capital of a firm or a proprietary concern and the capital appreciation thereon shall not be allowed to be repatriated abroad.</p>

Reserve Bank of India

Relevant Schedule of the Rules	Mode of Payment	Remittance of sale proceeds
V. Investment by other non-resident investors	Inward remittances from abroad through banking channel.	Sale/ maturity proceeds (net of taxes) may be remitted abroad.
VI. Investment in LLP	Inward remittance through banking channels or out of funds held in NRE or FCNR(B) account	Disinvestment proceeds may be remitted outside India or credited to NRE or FCNR(B) account
VII. Investment by a Foreign Venture Capital Investor (FVCI)	Inward remittance from abroad through banking channels or out of funds held in a foreign currency account and/ or SNRR account.	Sale/ maturity proceeds (net of taxes) may be remitted outside India or may be credited to the foreign currency account or a SNRR Account
VIII. Investment by a PROI in an Investment Vehicle	Inward remittance from abroad through banking channels or by way of swap of shares of a Special Purpose Vehicle or out of funds held in NRE or FCNR(B) account.	Sale/ maturity proceeds (net of taxes) of the units may be remitted outside India or may be credited to the NRE or FCNR(B) account
IX. Issue of Indian Depository Receipts (IDRs)	Out of funds held in their NRE/ FCNR(B) account.	Redemption/ conversion of IDRs into underlying equity shares shall be a compliance with Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004.
Issue of Convertible Notes by an Indian start-up company to PROI	Inward remittance through banking channels or by debit to the NRE/ FCNR (B)/ Escrow account	Repayment or sale proceeds may be remitted outside India or credited to NRE/ FCNR (B) account

Reserve Bank of India

Reporting Requirements:

S no.	Form	Purpose
1.	Foreign Currency-Gross Provisional Return (FC-GPR)	An Indian company issuing equity instruments to a PROI (qualifying as Foreign Direct Investment), shall report such issue in Form FC-GPR, within 30 days from date of issue of equity instruments.
2.	Annual Return on Foreign Liabilities and Assets (FLA)	An Indian Company / LLP which has received foreign investment, shall submit form FLA to the Reserve Bank on or before 15th July of each year ('year' for this purpose to be reckoned as April to March).
3.	Foreign Currency-Transfer of Shares (FC-TRS)	<p>Form FCTRS shall be filed for transfer of equity instruments between:</p> <ul style="list-style-type: none">• 2 persons resident outside India (PROIs) holding equity instruments; and• a PROI holding equity instruments and a person resident in India (PRI) <p>Onus of reporting is on the resident transferor / transferee or PROI, as the case may be.</p> <p>Form FCTRS shall be filed within 60 days of transfer of equity instruments or receipt / remittance of funds whichever is earlier.</p>
4.	Employees' Stock Option (ESOP)	An Indian company issuing ESO to PROI who are its employees / directors or employees / directors of its holding company / joint venture / wholly owned overseas subsidiary / subsidiaries shall file Form-ESOP, within 30 days from the date of issue of employees' stock option.
5.	Depository Receipt Return (DRR)	Domestic Custodian shall report in Form DRR, the issue / transfer of depository receipts issued in accordance with the Depository Receipt Scheme, 2014 within 30 days of close of the issue.
6.	LLP(I)	LLP receiving consideration for capital contribution and acquisition of profit shares shall file Form LLP (I), within 30 days date of receipt of consideration.

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S no.	Form	Purpose
7.	LLP(II)	Disinvestment / transfer of capital contribution or profit share between a resident and a non-resident (or vice versa) shall be filed in Form LLP(II) within 60 days from date of receipt of funds. Onus of reporting shall be on the resident transferor/transferee.
8.	LEC(FII)	Authorised Dealer Category I banks shall report to the Reserve Bank in Form LEC (FII) the purchase / transfer of equity instruments by FPIs on the stock exchanges in India.
9.	LEC(NRI)	Authorised Dealer Category I banks shall report to the Reserve Bank in Form LEC (NRI) the purchase / transfer of equity instruments by Non-Resident Indians or Overseas Citizens of India on stock exchanges in India
10.	InVI	An Investment vehicle which has issued units to a PROI shall file Form InVI within 30 days from date of issue of units.
11.	Downstream investment	<p>An Indian entity or an investment vehicle making downstream investment in another Indian entity (which is considered as indirect foreign investment), shall notify the Secretariat for Industrial Assistance, DPIIT within 30 days of such investment, even if equity instruments have not been allotted, along with the modality of investment in new / existing ventures (with / without expansion programme).</p> <p>Form DI: An Indian entity or an investment Vehicle making downstream investment in another Indian entity which is considered as indirect foreign investment for the investee Indian entity in terms of Rule 22 of the Rules shall file Form DI with the Reserve Bank within 30 days from the date of allotment of equity instruments.</p>
12.	Convertible Notes (CN)	<p>Indian start-up company issuing CN to a PROI shall file Form CN within 30 days of such issue.</p> <p>A person resident in India, who may be a transferor or transferee of Convertible Notes issued by an Indian start-up company shall report such transfers to or from a PROI, as the case may be, in Form CN within 30 days of such transfer.</p>

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

Reserve Bank of India

Relaxation of restrictions relating to Special Non-Resident Rupee Account (SNRR account)

Background:

A PROI, having a business interest in India, may open an SNRR account with an authorised dealer bank for the purpose of putting through bona fide transactions in rupees. It may be preferable in cases where foreign company does not want to form a legal entity in India.

Relaxation on end-use restrictions:

With a view to promote the usage of INR products by PROI, it has been decided by Government to expand the scope of SNRR account by permitting PROI to open such account for following purposes:

- External Commercial Borrowings in INR;
- Trade Credits in INR;
- Trade (Export/ Import) Invoicing in INR; and
- Business related transactions outside International Financial Service Centre (IFSC) by IFSC units at GIFT city like administrative expenses in INR outside IFSC, INR amount from sale of scrap, government incentives in INR, etc. The account will be maintained with bank in India (outside IFSC).

Certain other provisions for operation of SNRR Account have been rationalised as below:

- Removal of restriction on tenure of SNRR account opened for the purposes given above as the proposed transactions are more enduring in nature.
- Apart from Non-Resident Ordinary (NRO) Account, permit credit of amount due/ payable to non-resident nominee from account of a deceased account holder to Non-Resident External (NRE) Account or direct remittance outside India through normal banking channels.

Please [Click Here](#) to read the circular dated 22nd November 2019.

Compliance Calendar

Compliance calendar for the month of December 2019

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7 th December	November 2019	TDC/TCS deposit	Non-government deductors
		Equalization Levy deposit	All Deductors
10 th December		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 December		GSTR-1 (Outward supply return)	Taxable persons having turnover > Rs. 1.5 crore
13 th December		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
15 th December	October-December 2019	Deposit of PF & ESI contribution	All Deductors
20 th December		3rd installment of advance tax for AY 2020-21	All taxpayers
20 th December	November, 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
31 st December	FY 2017-18	GSTR-9 (Annual Return)	All taxpayers having aggregate turnover > Rs. 2 crores in FY 2017-18, optional for other taxpayers
		GSTR-9C (Reconciliation Statement)	
	Form GSTR-9A (Annual return for composition taxpayers)	Optional	
	FY 2018-19	Filing of Cost Audit Report in Form CRA-4	(a) For 'regulated' sectors as per Cost Records & Audit Amendment Rules, companies having annual turnover > Rs.50 crore and aggregate turnover for individual product / service for which cost records are required > Rs.25 crore in FY 2017-18 (b) For 'non-regulated' sectors as per Cost Records & Audit Amendment Rules, companies having annual turnover > Rs.100 crore and aggregate turnover for individual product / service for which cost records are required > Rs.35 crore in FY 2017-18.
Filing of Annual Return in Form MGT-7		All companies	
Filing for Significant Beneficial Owners (Form BEN-1/ BEN-2)		Companies having 'SBO' from individual(s) as per SBO Rules, 2018	

Editorial Team



Editor



Direct Tax



Indirect Tax



Regulatory



Communications

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