

TAX EDGE

Monthly Tax & Regulatory Updates



Contents

1. Goods & Services Tax ('GST')
2. Direct Tax
3. International Taxation
4. Company Law
5. Reserve Bank of India (RBI)
6. Special Economic Zone (SEZ)
7. Compliance Calendar



Goods & Services Tax

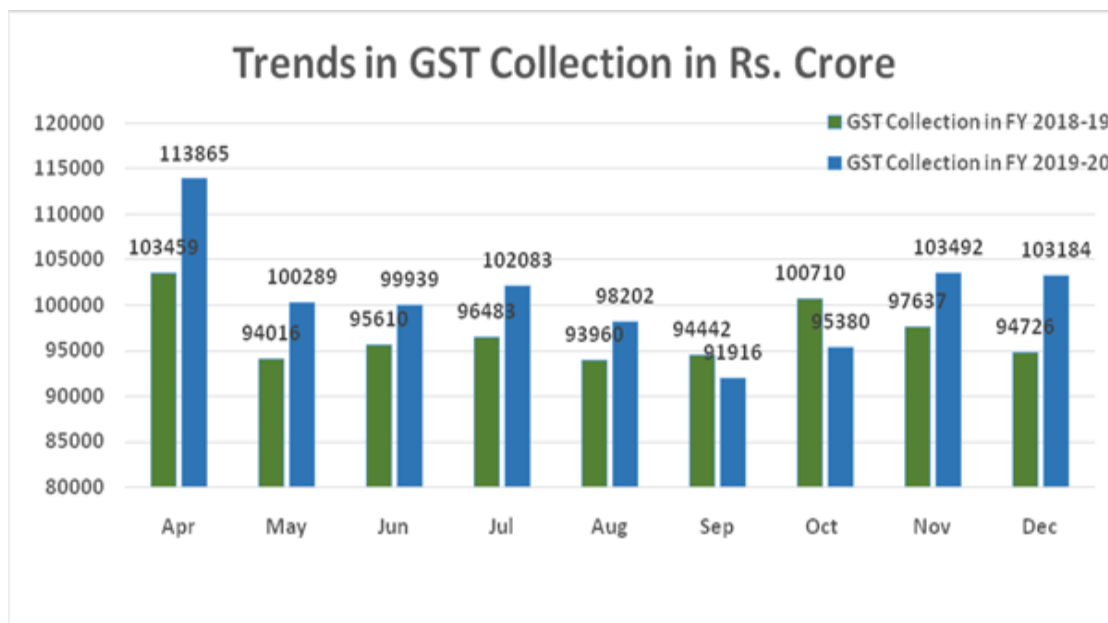


Goods & Services Tax

GST revenue collection for December 2019 - growth of 9% over revenue for December 2018

Gross GST revenue collection in the month of December, 2019 is Rs. 1,03,184 crore (details given below), a growth by 9% over revenue collection for the same month last year (i.e., December 2018). Total number of GSTR 3B Returns filed for the month of November up to 31st December, 2019 is 81.21 lakh.

| | |
|--|---------------------------|
| IGST (Integrated Goods and Services Tax) | Rs. 48,099 crore |
| CGST (Central Goods and Services Tax) | Rs. 19,962 crore |
| SGST (State Goods and Services Tax) | Rs. 26,792 crore |
| Compensation cess | Rs. 8,331 crore |
| Total | Rs. 1,03,184 crore |



Please [Click Here](#) to read press release dated 1st January, 2020, including State-wise Gross Domestic GST Collection for the month of December, 2019.

Waiver of late fee for filing Form GSTR-1 (outward supply) for the period July, 2017 to November, 2019

Central Government has extended the last date for waiving late fee of Form GSTR 1 for the period between July 2017 and November 2019, by a week to 17th January, 2020. Government had initially decided to provide the waiver, if the same was filed between 19th December, 2019 to 10th January, 2020.

Please [Click Here](#) to read the notification dated 10th January, 2020.

Goods & Services Tax

GST Amendment Act, 2019 applicable from 1st January, 2020 onwards

Central Government has notified that the provisions of CGST (Amendment) Act, 2019 (23 of 2019), except the following provisions shall be applicable from 1st January, 2020 onwards.

| Provision | Amendment relating to |
|---------------------|--|
| Section 92 | Changes in definition of adjudicating authority |
| Section 97 | Provisions related to new GST return forms |
| Section 100 | Interest is payable on tax paid by debiting the electronic cash ledger i.e. on net GST payable after utilisation of Input Tax Credit (ITC) |
| Sections 103 to 110 | Provisions for Authority, Appellate Authority and National Appellate Authority |

Please [Click Here](#) to read the notification dated 1st January, 2020.

Clarification on reverse charge mechanism (RCM) on renting of motor vehicles

Background:

- Suppliers of service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient have an option to pay GST either at 5% with limited ITC (of input services in the same line of business) or 12% with full ITC.
- The GST Council in its 37th meeting dated 20 September 2019 recommended that renting of motor vehicles provided by suppliers paying GST @ 5% to corporate entities may be placed under RCM. RCM was not recommended for suppliers paying GST @12% with full ITC, so that they may have the option to continue to avail ITC. RCM otherwise would have blocked the ITC chain for them.
- Accordingly, the following entry was inserted in the RCM notification with effect from 1 October 2019:

| S. No. | Category of supply of services | Supplier of Service | Recipient of Service |
|--------|---|--|---|
| 15 | Services provided by way of renting of a motor vehicle provided to a body corporate | Any person other than a body corporate, paying central tax @ 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 |

- Post issuance of the notification, references were received by Government stating that when a service is covered by RCM, GST would be paid by the service recipient and not by the supplier. Therefore, wording of the notification 'any person other than a body corporate, paying central tax at the rate of 2.5%' needed amendment/ clarification, as below.

Goods & Services Tax

Clarification / amendment issued:

The RCM entry has been amended from 31st December, 2019 as below:

| S. No. | Category of supply of services | Supplier of Service | Recipient of Service |
|--------|--|--|---|
| 15 | Services provided by way of renting of a motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate | Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6% to the service recipient | Any body corporate located in the taxable territory |

Therefore, there are only 2 rates applicable on service of renting of vehicles, 5% with limited ITC and 12% with full ITC. The interpretation of the RCM entry is given in below table:

| Supplier of Service | Recipient of Service | RCM Applicability |
|--|---|-------------------|
| Any person (other than a body corporate) issuing invoice with GST rate @ 12% to recipient | Body Corporate located in taxable territory | No |
| | Any person (other than a body corporate) | No |
| Any person (other than a body corporate) does not issue invoice with GST rate @ 12% to recipient | Body Corporate located in taxable territory | Yes |
| | Any person (other than a body corporate) | No |
| Body Corporate | Any Person | No |

The aforesaid amendment (on 31st December, 2019) is merely clarificatory in nature and therefore shall apply for the period 1st October, 2019 to 31st December, 2019 also.

Please [Click Here](#) to read circular dated 31st December, 2019 for clarification.

Please [Click Here](#) to read notification dated 31st December 2019 for amendment to RCM entry.

Goods & Services Tax

Changes in GST rates on certain goods as per recommendations of 38th GST Council Meeting

Central Government has changed GST rates as below on certain goods as recommended by 38th GST Council Meeting on 18th December, 2019:

| HS Code | Nature of goods / services | New GST rate | Old GST Rate | Applicable from |
|-------------|---|--------------|--------------|------------------------------|
| 3923 / 6305 | 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 | 18% | 12% | 1 st January 2020 |
| 6305 3200 | Flexible Intermediate Bulk Containers | | | |

Please [Click Here](#) to read notification dated 30th December, 2019 for CGST rate.

Rules for blocking of Input Tax Credit (ITC) in case of fake invoices

- The Directorate General of GST Intelligence has issued internal instructions relating to power of GST officers to block ITC in certain circumstances. All the zonal Chief Commissioners have the facility to block/unblock ITC availed in a situation covered u/s 86A(1)(a) of the CGST Rules, 2017 i.e. against fake invoices or against invoices without receipt of goods or services or both, if such availers of credit are located in their jurisdiction.
- To implement this provision, all the CGST Zones have been instructed to make by 15 January 2020 a GSTN-wise list of fake credit availers and block their ITC u/r 86A(1)(a) for the entities located in their jurisdiction. If, however, there are certain entities which are located outside their jurisdiction, they should forward a list of such availers along with GSTN No. to the local office of the Pr.ADG/ADG DGGI, with a request to block credit of such GSTN immediately. Blocking of credit has been asked to be done by 17 January 2020 positively.

Goods & Services Tax

Recommendation to importers to mention specific HS code at 8 digit level during import instead of casually mentioning 'others' category in Bill of Entry (BE)

Background:

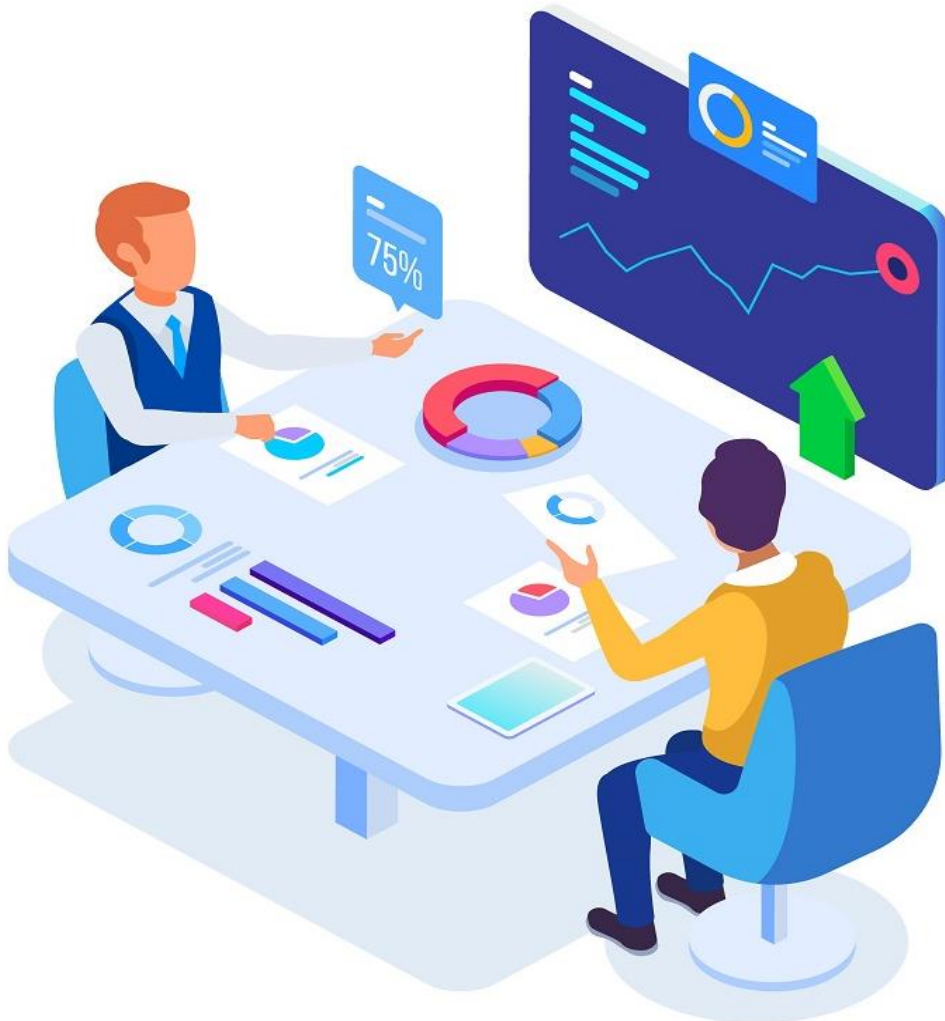
- Members of Trade and Industry vide Trade Notice No. 37/2019 dated 22th October, 2019, were advised to be careful while filing BE at the time of import and were advised to mention specific HS code at 8 digit level, where they exist instead of using 'others' category.
- Despite the above, it has been noted by Government that importers are casually using 'others' category frequently without doing due diligence in mentioning correct HS code at 8 digit level.

Trade Notice issued by Director General of Foreign Trade on 17 January 2020:

- Government has re-emphasized that importers should do proper due diligence and file BE mentioning specific HS code at 8 digit level without using 'others' category as far as possible.
- In the event of non-compliance and continued misclassification by importers, Government may place all such goods under restricted category and impose licensing requirements.
- If Industry is of the view that the existing HS codes are insufficient to cover the goods that they are importing, they should immediately suggest appropriate HS codes at 8 digit level for such goods.

Please [Click Here](#) to read trade notice dated 17th January, 2020.

Direct Tax



Direct Tax

Central Board of Direct Taxes (CBDT) notifies income-tax return forms ITR-1 and ITR-4 for Assessment Year (AY) 2020-21

CBDT has notified income-tax return (ITR) forms ITR-1 (Sahaj) and ITR-4 (Sugam) for AY 2020-21 vide notification dated 3rd January 2020. Income tax department generally notifies new ITR forms in the month of April, however this year the department has notified the changes well in advance.

Persons who can file form ITR-1 and ITR-4

| Applicability | Who can file | Who cannot file |
|----------------------|---|--|
| ITR-1 (Sahaj) | <p>Individuals being ordinary resident having annual total income < Rs.50 lakh and having income under below heads:</p> <ul style="list-style-type: none"> • salary or family pension, or • one house property (whether single or joint ownership), or • income from other sources • having obligation to furnish return u/s 139(1) 7th proviso to Income-tax Act | <p>Following individuals:</p> <ul style="list-style-type: none"> • Director in any company, or • Has annual total income > Rs. 50 lakh, or • Who has an asset / signing authority in any account outside India / earns income from any source outside India, or • Who has claimed relief under Double Taxation Avoidance Agreement (DTAA) • Has agricultural income > Rs.5,000, or • Who held any unlisted equity share at any time during the tax year, or • Has dividend income Rs.10 lakh being subject to super rich dividend tax levy u/s 115BBDA, or • Has unexplained credits or investment taxable u/s 115BBE • Has capital gains / business income, or • Income from more than 1 house property / brought forward loss or loss to be carried forward under the house property head, or • Income from lotteries / horse races / loss under the other sources head, or • Who is assessable for income on which tax has been deducted in any other taxpayer's name |
| ITR-4 (Sugam) | <p>Individuals, HUFs and Firms (other than LLP) being ordinary resident having annual total income < Rs.50 lakh and having income under below head:</p> <ul style="list-style-type: none"> • salary or family pension, or • one house property (whether single or joint ownership), or • presumptive income from business / profession u/s 44AD, 44ADA or 44AE • income from other sources | <p>Following taxpayers:</p> <ul style="list-style-type: none"> • Director in any company, or • Has annual total income > Rs. 50 lakh, or • Who has an asset / signing authority in any account outside India / earns income from any source outside India, or • Who held any unlisted equity share at any time during the tax year, or • Income from more than one house property, or • Has brought forward loss or loss to be carried forward under any head of income, or • Who is assessable for income on which tax has been deducted in any other taxpayer's name, or • Who has claimed relief under DTAA • Has agricultural income above Rs.5000, or • Has dividend income Rs.10 lakh being subject to super rich dividend tax levy u/s 115BBDA, or • Has unexplained credits or investment taxable u/s 115BBE |

Direct Tax

Key changes notified in the ITR forms

| Particulars | Changes relating to | |
|---|---|------------|
| | Form ITR-1 | Form ITR-4 |
| Passport details | New form seeks details as to whether individual holds Indian Passport. If yes, it seeks Passport number. | |
| Details of Employer | <ul style="list-style-type: none"> New form seeks comprehensive details of Employer i.e. Tax Deduction and Collection Account Number (TAN), Nature of employer and address New form also allows adding multiple rows for Gross Salary in case of more than one employer | ----- |
| Returns filed in response to notice in 'search' related cases | Amended form doesn't allow filing in ITR-1 when return is filed in response to notice u/s. 153A or 153C (i.e. search related cases) | ----- |
| PAN or Aadhaar details of the tenant | In case of let out property, new form seeks tenant's details like (Name, PAN or Aadhaar) | ----- |
| Complete address of house property | New form seeks complete address of the house property irrespective of whether it is self-occupied, deemed to be let-out or let-out (Earlier, these details were asked only in ITR-2 and ITR-3) | ----- |
| Details of unrealized rent | New form seeks details of rent which was due but not received in Financial Year 2019-20 | ----- |

Direct Tax

| Particulars | Changes relating to | |
|---|---------------------|--|
| | Form ITR-1 | Form ITR-4 |
| Details of partnership in which assessee is a partner | ---- | New form seeks details of the partnership firm i.e. Name & PAN, if the assessee is a partner of a firm |
| Details of partners in case assessee is a firm | | <p>In case assessee is a partnership firm, following details are required with respect to partners:</p> <ul style="list-style-type: none"> • Name, address • Aadhaar Number • PAN • Percentage of share • Rate of interest on capital • Remuneration paid/payable |
| Deductions | | <ul style="list-style-type: none"> • New form seeks details of deductions claimed u/s 57(iv) (i.e, 50% of income) in relation to interest received on compensation / enhanced compensation [56(2)(viii)] • New column for deduction u/s 80EEA (in respect of interest on loan taken for certain house property) and u/s 80EEB (in respect of purchase of electric vehicle) inserted • Column for deduction u/s 80CCG (in respect of investment made under an equity savings scheme, eligible to be claimed till AY 2019-20 only) is deleted |
| Presumptive taxation u/s 44AE | | <p>Schedule of presumptive income from goods carriage is modified to the effect that taxpayer is required to separately provide disclosure of presumptive income and income claimed to have been actually earned, irrespective of their quantum.</p> <p>Higher of the 2 income so disclosed shall be captured for tax computation purpose.</p> |
| Others | | <p>Financial particulars of the business such as Capital, Secured and Unsecured loans, Advances, Sundry Creditors, Other Liabilities, Fixed Assets, Inventories, Sundry Debtors and other assets are not required to be given.</p> <p>Only details with respect to particulars of cash and bank transactions relating to presumptive business are required to be furnished.</p> |

Please [Click Here](#) to read the notification dated 3rd January 2020.

Please [Click Here](#) to read the press release dated 9th January 2020.

Direct Tax

CBDT issues notification, clarification prescribing e-mode of payment and extension of start date for levy of penalty in cases of non-compliance

Background:

- The Finance (No 2) Act, 2019 inserted section 269SU providing that every person whose total sales / turnover/ gross receipt in business exceeds Rs.50 crore during immediately preceding previous year, is required to provide facility for accepting payment through 'prescribed electronic modes' in addition to the facility for other electronic modes of payment being provided by such person.
- Moreover, penal provisions are also inserted by way of new section 271DB, which provides that failure to provide such facility (i.e. payment through prescribed electronic modes) would attract penalty of Rs 5000 per day during which such failure continues.
- The above provisions were supposedly applicable from 1st November 2019 onwards.

Recent notification dated 30th December 2019

CBDT vide its notification inserted Rule 119AA prescribing modes of payment mentioned in section 269SU as below:

- Debit Card powered by RuPay
- Unified Payments Interface (UPI) (BHIM-UPI); and
- Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code)

The above rules are called the Income-tax (16th Amendment) Rules, 2019 to be applicable from 1st January 2020 onwards.

Recent Circular dated 30th December 2019

The CBDT vide its circular dated 30th December 2019 clarified the following issues:

- No Bank or system provider shall impose any charge on a payer making payment, or a beneficiary receiving payment, through electronic modes prescribed u/s 269SU. Consequently, any charge including the MDR (Merchant Discount Rate) shall not be applicable on or after 1st January, 2020 on payment made through prescribed electronic modes.
- In order to allow sufficient time to install and operationalize the facility for accepting payment through the prescribed electronic modes, penalty u/s 271 DB shall not be levied if the specified person installs and operationalizes the facilities on or before 31 January, 2020. Hence, the above penalty shall be applicable only from 1st February 2020 onwards.

Please [Click Here](#) to read the notification dated 30th December 2019

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

Direct Tax

CBDT issues annual circular on deduction of tax at source (TDS) from salaries for Financial Year 2019-20

CBDT has issued circular containing instructions in relation to TDS u/s 192 on salary payment during the Financial Year 2019-20 (Assessment Year 2020-21), including explanations on following issues:

- Rates of income-tax as per prescribed slabs
- Broad scheme of TDS on salaries
- Persons / Employers responsible for TDS and their duties
- Computation of income under the head 'Salaries'
- Rebate for individuals having taxable income below prescribed limit
- Duties to obtain evidence / proof of claims

Such circular is issued by CBDT on annual basis to guide employers and employees understand the various rules relating to TDS on salaries.

Please [Click Here](#) to read the circular dated 16th January 2020.

CBDT condones delay upto 365 days in filing of Trust's audit report in Form 10B for AY 2018-19 onwards

Background – Time limit for acceptance of condonation of delay in filing Form 10B for years prior to AY 2018-19

- As per section 12A of Income-tax Act where the total income of a trust / institution as computed without giving effect to sections 11 and 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, and 12 of the Act.
- CBDT vide its circular dated 22nd May 2019, has provided the facility of filing of belated Form No 10B prior to AY 2018-19 and accordingly authorized the Commissioners of Income-tax (CIT) to admit applications for condonation of delay in filing Form No. 10B for years prior to AY 2018-19 by 30th September 2019.
- CBDT vide its circular dated 27th September 2019 has extended the above due date to 31st March 2020 instead of 30th September 2019.

Recent Circular no.2 dated 3rd January 2020 – Time limit for acceptance of condonation of delay in filing Form 10B for AY 2018-19 and subsequent years

- The CBDT vide its circular dated 3rd January 2020, provided that where there is a delay of upto 365 days in filing Form No. 10B for AY 2018-19 or subsequent assessment years, the CIT's are authorized to admit belated application of condonation of delay *provided* they are satisfied that the assessee was prevented by reasonable cause from filing such application within the stipulated time.

Direct Tax

CBDT condones delay upto 365 days in filing of income accumulation statements by Trusts in Forms 9A and 10 for Assessment Year (AY) 2018-19 onwards

Background:

- The provisions of Income-tax Act governing taxation of charitable and religious trust/ institutions, provides that while 15% of the income can be accumulated indefinitely by the trust or institution, 85% of the income can only be accumulated up to 5 years subject to the conditions, that such trust/ institutions submits the prescribed Form No. 10 electronically to the Assessing Officer within the due-date of furnishing of return of income.
- Where the income from the property falls short of 85%, then on exercise of the option by submitting Form No. 9A electronically by Trust / institution on or before the due date of furnishing return of income, such income shall be considered to have been applied for charitable / religious purposes.
- CBDT vide its circulars dated 20th December 2018 and 17th December 2019 permitted belated submission of Forms 9A and 10 for the AY 2016-17 and 2017-18 respectively.

Recent Circular no.3 dated 3rd January 2020 – Time limit for acceptance of condonation of delay in filing Forms 9A and 10 for AY 2018-19 and subsequent years

The CBDT vide its circular dated 3rd January 2020, provided that where there is a delay of upto 365 days in filing Form No. 9A and 10 for AY 2018-19 or subsequent assessment years, the CIT's are authorized to admit belated application of condonation of delay *provided* they are satisfied that the assessee was prevented by reasonable cause from filing such application within the stipulated time. Moreover, in respect of Form No 10, the CIT shall also satisfy themselves that the amount accumulated or set apart has been invested or deposited in any one or more of the forms or modes specified in the Act.

CBDT extends one-time relaxation for filing compounding application till 31st January 2020

Background:

- CBDT has been issuing guidelines time to time for compounding of offences under direct tax law, prescribing the eligibility conditions. One of the conditions is that the application for compounding should be filed within 12 months of filing of complaint in the court.
- However, vide circular dated 9th September 2019, to mitigate hardship for deserving taxpayers and to reduce pendency of existing prosecution cases before courts, CBDT has relaxed the condition of filing application for compounding within 12 months subject to following conditions:
 - ✓ The application shall be filed with the Competent Authority on or before 31st December 2019
 - ✓ Relaxation shall not be available in respect of an offence which is generally not compoundable

Recent Circular dated 3 January 2020:

CBDT vide its circular dated 3rd January 2020, has extended the date of application of compounding from 31st December 2019 to 31st January 2020 as taxpayers reportedly could not avail the benefit of one-time relaxation window due to genuine hardships.

Please [Click Here](#) to read the circular dated 3rd January 2020.

International Taxation



International Taxation

CBDT proposes new Form 15E for application u/s 195(2) to determine sum chargeable to withholding tax on payments to non-residents

Background:

- As per section 195 of the Act, tax is required to be deducted on 'any sum chargeable to tax' and which is paid to a non-resident. However, where the payer considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Assessing Officer to determine, the appropriate of such sum so chargeable and upon such determination, tax shall be deducted only on that proportion of the sum which is so chargeable.
- No format was prescribed for application of lower withholding tax certificate and consequently deductor has to write an application on plain paper (letterhead) and physically submit it to the Assessing Officer, which results in uncertainty and causes inconvenience.
- In order to streamline the process for making application by deductor and to reduce human interface, section 195 was amended through Finance (No.2), Act 2019. The new amended section 195 empowers CBDT to prescribe the form and manner of filing of application. Consequently, a new Form 15E has been proposed to be introduced in the Rules for lower withholding tax certificate.

CBDT office memorandum dated 31 December 2019:

CBDT vide its office memorandum has proposed new Form 15E for application of lower withholding tax certificate. Significant details required to be filled in the said proposed form are:

- Parts 1 and 2: Details of payer and Non Resident (NR) payee
 - ✓ General information of the payer, NR payee details like name, PAN, Aadhar card number, status, contact details etc.
 - ✓ It is mandatory to furnish details of NR payee in relation to address in country of residence outside India, tax identification number in the country of residence, email ID, mobile number.
 - ✓ Other details of NR payee includes passport number (in case of an individual), details of jurisdictional tax authority (if any)
- Part 3: Details of the transaction
 - ✓ Information regarding the payment made like amount, country to which payment is to be made, nature of payment, proposed date of payment.
 - ✓ Information in relation to the lower withholding order applied for (like relevant tax year for which order is requested, details of orders obtained previously for the same transaction)
 - ✓ In case the payment under transaction is net of taxes, whether tax payable has been appropriately grossed up

International Taxation

- Part 4: Taxability of payment
 - ✓ In case payment is chargeable to tax, information like the relevant section of the Income tax Act under which the payment is covered, amount of income chargeable to tax, tax liability, rate of withholding, details of advance tax, withholding taxes for the tax year.
 - ✓ In case payment is not chargeable to tax, reasons for non-chargeability.
 - ✓ Relevant documents like contract for sale of goods and/or provisions of services, share purchase agreement, bank payment, contract note etc.

- Part 5: In case income is chargeable under the Act and any relief is claimed under the relevant Double Taxation Avoidance Agreement (DTAA)
 - ✓ Comprehensive information on the nature of transaction and taxability under different heads like business income, capital gains, royalty, fees for technical services (FTS), interest income or any other nature of payment
 - ✓ Further, information is required to be furnished specifically in relation to each nature of payment like:
 - In case of capital gains, amount of long-term and short-term capital gains, details of share purchase agreement, contract note, share certificate etc.
 - In case of business income, information like nature of permanent establishment, assessed/returned/ estimated income of payee for previous four years, if available etc.
 - In case of FTS, information like presence of 'make available' clause in the DTAA, whether make available clause included through most favored nation (MFN) clause, in case make available clause is included through MFN clause whether notification regarding make available clause is issued by Government of India etc.
 - In case of interest income, details on whether conditions of certain sections providing for lower rate of tax are satisfied, loan registration number as given by Reserve Bank of India etc.
 - Reasons and justification for non-taxability if so claimed by the parties
 - ✓ Information regarding any existing liabilities of NR payee under the Income-tax Act or Wealth Tax Act
 - ✓ Copy of Tax Residency Certificate (TRC) of the NR payee to be uploaded
 - ✓ Any additional documents to support the claim under the application can also be uploaded

Please [Click Here](#) to read the office memorandum dated 31st December 2019.

Company Law



Company Law

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

Ministry of Corporate Affairs (MCA) has issued a Circular on 30th December 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.

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 29th February 2020.

MCA has granted extension 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. Earlier in October 2019, the date had been extended till 31st December 2019.

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

Relaxation of additional fee and extension of last date for filing of Form BEN-2 and BEN-1 with Registrar of Companies (ROC)

MCA has issued a circular dated 1st January 2020 for providing relaxation of additional fees and extension of last date for filing of Form BEN-2 and BEN-1.

Background:

Form BEN-2 is the declaration that a company is required to file with the Registrar of Companies (ROC) with respect to *Significant Beneficial Owners* of the company disclosing their interest in the company by way of shareholding or voting rights. Beneficial Owners are the shareholders holding Significant Beneficial Ownership (SBO) of atleast 10% of the shareholding or voting rights of the company either directly or indirectly.

Relaxation provided:

Time limit for filing e-form BEN-2 has been extended to 31 March 2020 without payment of additional fee.

Please [Click Here](#) to read the circular dated 01st January 2020.

Company Law

Change in threshold limits for appointment of Company Secretary (CS) and Secretarial Auditor

MCA has notified the Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2020 ('Amendment Rules') on 3rd January 2020. These rules shall be effective from 1st April 2020 onwards.

Appointment of whole time CS

Earlier, limit of paid-up share capital for appointment of whole time CS for private companies was Rs. 5 Crore. The said limit has been increased to Rs. 10 Crore.

Secretarial Audit

Earlier, Secretarial Audit was applicable on following companies:

- Listed companies;
- Public company having a paid-up share capital > Rs 50 crore; or
- Public company having turnover > Rs. 250 crore

Henceforth, Secretarial audit shall be mandatory for every company having outstanding loans or borrowings from banks or public financial institutions of Rs. 100 crore or more.

It has been further clarified by MCA that the paid-up share capital, turnover or outstanding loans or borrowings (as the case may be) existing on the last date of latest audited financial statement shall be taken into account.

Both the above amendments have been notified under the same rules.

Please [Click here](#) to read the rules dated 3rd January 2020.

Government's intention to introduce new and simpler web form 'Spice Plus' for company formation

As per online update published by MCA, as part of Government's Ease of Doing Business (EODB) initiatives, the Ministry would be shortly notifying and deploying a new Web Form 'SPICE+' (*pronounced 'SPICE Plus'*) replacing the existing SPICE form.

- SPICE+ would be an integrated Web form offering multiple services viz. name reservation, incorporation, DIN allotment, mandatory issue of PAN, TAN, EPFO, ESIC, Profession Tax (Maharashtra) and Opening of Bank Account. It will also facilitate allotment of GSTIN wherever so applied for by the stakeholders. After deployment of SPICE+ web form, RUN (Reserve Unique Name) facility shall be applicable only for change of name of existing companies.
- Upon notification and deployment, all new name reservations for new companies as well as new incorporations shall be applied through SPICE+ only.
- However, incorporation of companies for names reserved through the existing RUN service shall continue to be filed in the existing SPICE eform along with related linked forms as applicable and if marked under resubmission shall be resubmitted in SPICE eform.
- Resubmission of SPICE forms submitted prior to date of deployment of SPICE+ web form shall also be filed in the existing SPICE eform and related linked forms as applicable.

Please [click here](#) to read the announcement.

Reserve Bank of India (RBI)



Reserve Bank of India

Amendment to Master Direction on Know-Your-Customer (KYC) norms

Government of India in August and November 2019 has notified amendments to the Prevention of Money-laundering (Maintenance of Records) Rules, 2005.

With a view to leveraging the digital channels for Customer Identification Process (CIP) by Regulated Entities (REs), the Reserve Bank has further decided to permit Video based Customer Identification Process (V-CIP) as a consent based alternate method of establishing the customer's identity, for customer onboarding.

Highlights:

- RBI has allowed banks and other lending institutions regulated by it to use Video-based Customer Identification Process (V-CIP) for the KYC process.
- Responsibility of customer identification will rest with the regulated entities (RE), who will have to ensure that the video recording is stored in a safe and secure manner and bears the date and time stamp.
- RBI has also permitted the use of a live photo of the customer and his / her officially valid document as a proof of identification.
- Live location of the customer (Geotagging) shall be captured to ensure that customer is physically present in India.
- Official of the RE shall ensure that photograph of the customer and identification details in the Aadhaar / PAN details matches with the customer undertaking.
- All accounts opened through V-CIP shall be made operational only after being subject to concurrent audit, to ensure the integrity of process.

Please [Click Here](#) to read the notification dated 9th January 2020.

Special Economic Zone (SEZ)



Special Economic Zone

Relaxation of Net Foreign Exchange (NFE) conditions for units located in an International Financial Services Centre (IFSC)

Background:

- As per Rule 53 of SEZ Rules 2006, unit in an SEZ is required to achieve positive NFE to be calculated cumulatively for 5 years from commencement of production accordingly to the prescribed formula.
- Ministry of Commerce and Industry has notified Special Economic Zone (4th Amendment) Rules, 2019 on 31st December 2019 providing exemption to units located in an IFSC from complying with the above condition as explained below.

International Financial Services Centre:

IFSC is set-up to undertake financial services transactions that are currently carried on outside India by overseas financial institutions and overseas branches / subsidiaries of Indian financial institutions. An IFSC caters to customers outside the jurisdiction of the domestic economy. Such centers deal with the flow of finance, financial products and services across borders.

Relaxation in NFE conditions:

1) For Alternative Investment Fund (AIF) located in IFSC

NFE requirement will not apply to an AIF or Mutual Fund, which is a unit set up in an IFSC, to the extent of any –

- Inflow of investible funds from investors;
- Investments made from such investible funds;
- Returns earned on such investments inclusive of principal return; and
- Return paid to investors from such investments including the original investment.

However, for unit approval purposes, the NFE of an AIF to be set up in an IFSC will be tested in combination with the NFE of its investment manager, which will be located in the IFSC.

2) For insurance offices located in IFSC

NFE requirement will not apply to an Insurance Office, which is a unit set up in an IFSC, to the extent of –

- The portion of premium income in excess of the amount retained for management expenses within the maximum rate stipulated for expenses of management by the Insurance Regulatory and Development Authority under the Insurance Regulatory and Development Authority of India (Registration and Operations of International Financial Service Centre Insurance Offices) Guidelines, 2017;
- Investment made from the said portion of premium income and returns on them, inclusive of principal return; and
- Any amount paid towards insurance or reinsurance claims.

Please [Click here](#) to read the rule dated 31st December 2019.

Compliance Calendar

Compliance calendar for the month of February 2020

| Compliance Due Date: | Concerned (Reporting) Period: | Compliance Detail: | Applicable To: | |
|---------------------------------|-------------------------------|---|--|--------------------------|
| 7th February | January 2020 | TDC/TCS deposit | Non-government deductors | |
| | | Equalization Levy deposit | All Deductors | |
| 10th February | | a) GSTR-7 (TDS return under GST) | a) Person required to deduct TDS under GST | |
| 11th February | | b) GSTR-8 (TCS return under GST) | b) Person required to deduct TCS under GST | |
| | | GSTR-1 (Outward supply return) | Taxable persons having turnover > Rs. 1.5 crore | |
| 13th February | | October-December 2019 | GSTR-6 [Return by input service distributor (ISD)] | Person registered as ISD |
| 15th February | | | Deposit of PF & ESI contribution | All Deductors |
| | | | Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2019 | |
| 20th February | January 2020 | a) GSTR-3B (Summary return) | a) All taxable person making outward supply except composition dealer | |
| | | b) GSTR-5 (Return by Non-resident) | b) Non-resident taxable person | |
| | | c) GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return] | c) OIDAR services provider | |
| 29th February | 2018-19 | e-Form CRA-4 (Cost Audit Report). | All specified 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

Contact Us

India Head Office

1170 A&C, 11th Floor, Tower B1
Spaze i-Tech Park
Sector 49, Sohna Road
Gurugram – 122018 (India)
T +91 (124) 4309418; 4003418

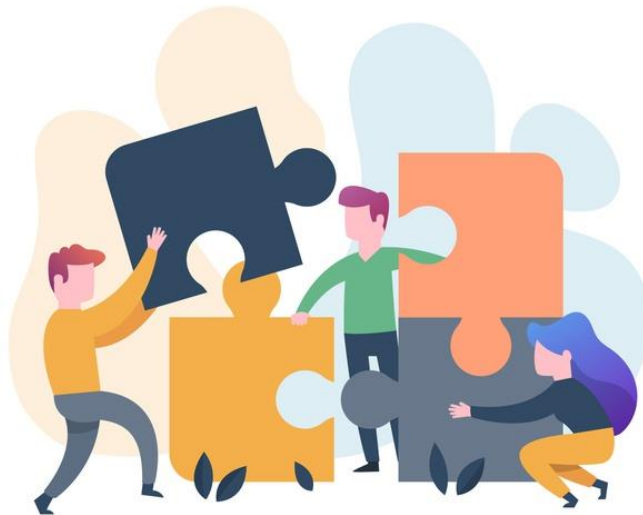
Japan Office

2-11-2 O-toekkusukudou
Bld. 4F/5F Nihombashi
Kakigaracho, Chuo-ku, Tokyo,
103-0014, Japan

Italy Office

Corso Palestro,
50-25122 Brescia,
Italy

Mumbai • Pune • Chennai • Bengaluru • Hyderabad • Kolkata



For any assistance, please write to us at:
communications@krayman.com

This publication contains information of general nature . The information is only for general guidance and is not meant to be a substitute for professional advice in any manner. In case the reader requires any specific inputs / suggestions / advice from our end, please contact us separately.