

# TAX EDGE

Monthly Tax & Regulatory Updates



**Audit**



**Tax**



**Regulatory**



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# **Measures to combat COVID-19**



# Measures to combat COVID-19

## India suspends all flights to & from United Kingdom (UK) till 31st December 2020 due to spread of new strain of coronavirus

Ministry of Information and Broadcasting

#IndiaFightsCorona

**UK-INDIA FLIGHTS**

- India has **suspended** all flights from the **UK to India, till 31st December 2020 w.e.f. 22nd December 2020 (23:59 hours)**
- Passengers arriving from the UK (in flights that take off or flights reaching India before suspension becomes effective) will undergo a **mandatory RT-PCR test on arrival** at the airports

IMPORTANT ANNOUNCEMENT

NEW MEDIA Wing

Civil Aviation has informed that all flights originating from UK into India will be suspended temporarily from 22nd December to 31st December 2020. Government of India has decided to take all necessary precautions as a result of the situation arising out of the spread of a new strain of coronavirus in some countries.

Considering the emerging COVID-19 situation in UK, GoI has decided that all flights to and from UK will be suspended till 31st December 2020 (23.59 hours). However, the restriction shall not apply to international all-cargo operations and flights specifically approved by Director General of Civil Aviation (DGCA).

Airlines operating flights to India from other countries shall not board any passenger travelling from UK to India and shall ensure that no passenger coming from UK is boarded in a flight for any destination in India either directly or indirectly.

As a measure of precaution, passengers arriving from UK in all transit flights (flights that have taken off or flights which are reaching India before 22nd December 2020 at 23.59 hrs) should be subject to mandatory RT-PCR test at the arrival port in India. The passengers found COVID-19 positive on arrival shall be quarantined as per guidelines issued by MoHFW and would bear the medical costs incurred.

Please [Click Here](#) to read the Press Release dated 21<sup>st</sup> December 2020.

# Measures to combat COVID-19

## Health Ministry releases Standard Operating Procedures (SOPs) on preventive measures in markets



Ministry of Health & Family Welfare (MoHFW) has issued following SOPs to be followed at marketplaces to prevent spread of COVID-19. These guidelines shall be applicable to both retail and wholesale markets. Some of the bigger markets may also have malls/ hyper/ supermarkets in them. Market places in containment zones shall remain closed. Only those outside containment zones will be allowed to open-up.

### *Protecting vulnerable populations*

Persons above 65 years of age, persons with comorbidities, pregnant women, and children below the age of 10 years are advised to stay at home, except for essential and health purposes. Market Owners Associations shall be advised accordingly.

Employees who are at higher risk i.e. older employees, pregnant employees and employees who have underlying medical conditions must take extra precautions.

The Market Associations shall be advised that such persons should not be exposed to any front-line work requiring direct contact with the public.

# Measures to combat COVID-19

## Promoting COVID appropriate behavior

Simple public health measures are to be followed to reduce the risk of COVID-19. These measures need to be observed at all times by shop and establishment owners, visitors, and workers.

These measures include:

- Physical distancing of at least 6 feet to be followed as far as feasible
- Use of face covers / masks mandatory
- Practice frequent hand washing with soap
- Respiratory etiquettes to be strictly followed. This involves strict practice of covering one's mouth and nose while coughing/sneezing with a tissue /handkerchief / flexed elbow and disposing off used tissues properly
- Self-monitoring of health by all and reporting any illness at the earliest to state and district helpline
- Spitting shall be strictly prohibited
- Installation & use of Aarogya Setu App shall be advised to all

## Maintaining healthy environment at marketplaces

In normal times, markets are usually crowded with high footfalls, suffer from lack of adequate sanitation amenities and have poor hygiene conditions. To prevent the risk of transmission of COVID, it is crucial that healthy environment is maintained at marketplaces. This includes:

- Prior to resumption of daily activities, all work areas inside the shop shall be sanitized by shop owners
- Cleaning and regular disinfection of frequently touched surfaces
- Entrance to the shops to have mandatory hand hygiene (sanitizer dispenser) arrangement
- Where cars are repositioned by parking lot employees, proper disinfection of steering, door handles, keys, etc. of the vehicles should be undertaken by the owner before the vehicle is used again.
- Public utility areas and open spaces shall be sanitized with 1% Sodium Hypochlorite solution. This shall be done on a regular basis.
- Deep cleansing of the toilets, hand washing and drinking water stations shall be done at least 3-4 times daily.
- The market associations shall facilitate maintaining healthy environment of public utility areas and open spaces through their own means and through local urban bodies/civic agencies.

Please [Click Here](#) to read the Press Release dated 2<sup>nd</sup> December 2020.

Please [Click Here](#) to read the detailed guidelines on disinfection of common public places including offices.



# Measures to combat COVID-19

## Prime Minister (PM) interacts with 3 teams working on development & manufacture of COVID-19 vaccine



The PM on 30<sup>th</sup> November 2020 had virtual meetings with following 3 teams working on development & manufacture of vaccine for COVID-19.

- Genova Biopharmaceuticals Ltd., Pune
- Biological E Ltd., Hyderabad
- Dr. Reddys Laboratories Ltd., Hyderabad.

The PM appreciated the efforts being taken by the scientists in these companies to come out with a vaccine solution to tackle COVID-19. The potential of various platforms for vaccine development was also discussed.

The PM also asked the companies to come out with their suggestions and ideas regarding the regulatory processes and related matters. He also suggested that they should take extra efforts to inform the general public in simple language about the vaccine and related matters such as its efficacy etc. Matters relating to logistics, transport, cold chain etc. in respect of delivering the vaccines were also discussed.

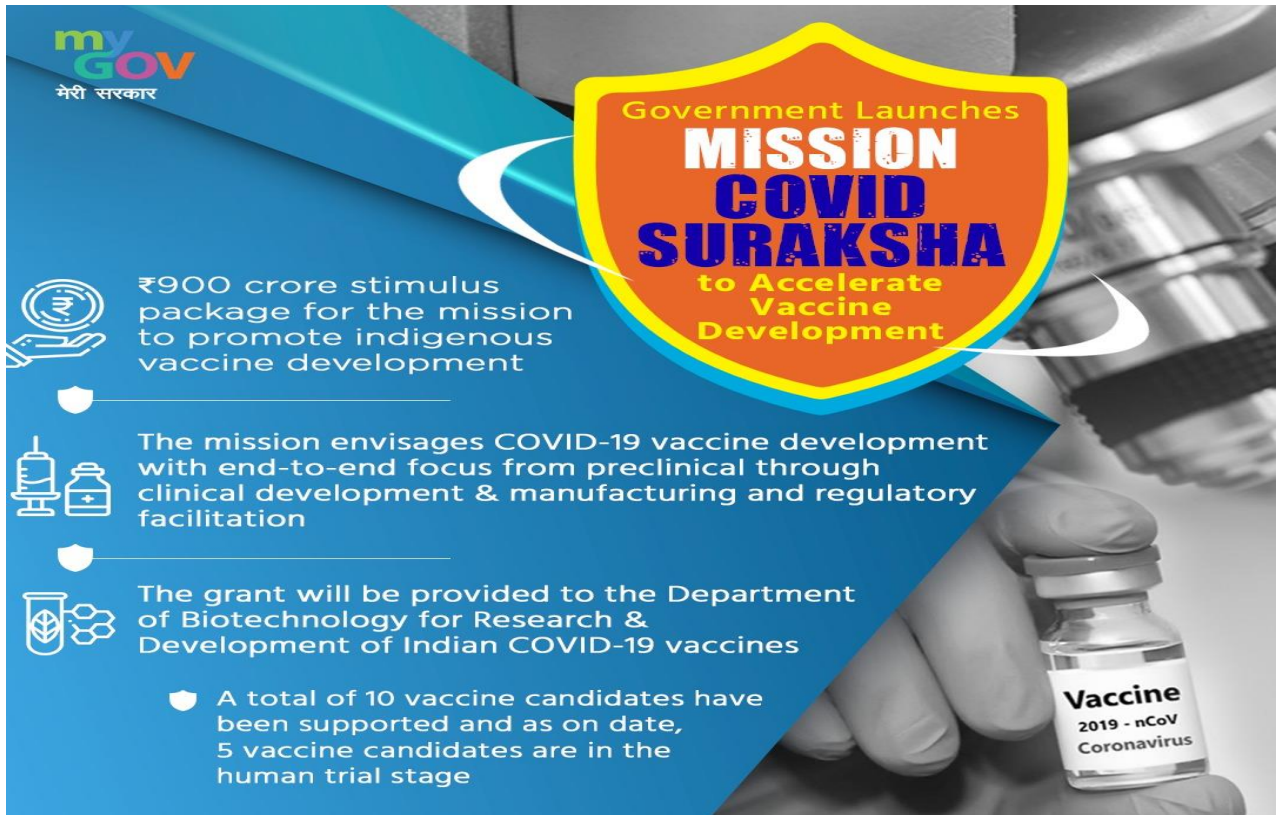
All the vaccine candidates discussed are at different stages of trials and detailed data and results are expected early next year onwards.

The PM advised all the departments concerned to engage with the manufacturers and seek to resolve matters so that the efforts by these companies bear fruit in order to serve the needs of the country and the entire world.

Please [Click Here](#) to read the Press Release dated 30<sup>th</sup> November 2020.

# Measures to combat COVID-19

## Government launches mission to accelerate Indian COVID-19 Vaccine Development



The infographic features a blue background with a white swoosh. In the top left, the 'myGov' logo is displayed with the text 'मेरी सरकार' below it. A central shield-shaped graphic contains the text 'Government Launches MISSION COVID SURAKSHA to Accelerate Vaccine Development'. Below this, three bullet points are listed, each with a shield icon. The first bullet point includes a rupee symbol icon. The second bullet point includes icons of a syringe and a vaccine vial. The third bullet point includes an icon of a test tube and a cell. In the bottom right corner, there is an image of a hand in a white glove holding a small glass vial labeled 'Vaccine 2019 - nCoV Coronavirus'.

**myGov**  
मेरी सरकार

Government Launches  
**MISSION COVID SURAKSHA**  
to Accelerate Vaccine Development

- ₹900 crore stimulus package for the mission to promote indigenous vaccine development
- The mission envisages COVID-19 vaccine development with end-to-end focus from preclinical through clinical development & manufacturing and regulatory facilitation
- The grant will be provided to the Department of Biotechnology for Research & Development of Indian COVID-19 vaccines

A total of 10 vaccine candidates have been supported and as on date, 5 vaccine candidates are in the human trial stage

Vaccine  
2019 - nCoV  
Coronavirus

The Government of India (GoI) has announced the 3rd stimulus package of Rs.900 crore for the Mission COVID Suraksha- The Indian COVID-19 Vaccine Development Mission. This grant will be provided to the Department of Biotechnology (DBT) for Research & Development of Indian COVID-19 vaccines.

The COVID-19 Vaccine development Mission with end-to-end focus from preclinical development through clinical development and manufacturing and regulatory facilitation for deployment, would consolidate all available and funded resources towards an accelerated product development. This will help accelerate development of approx. 5-6 vaccine candidates and ensure that these are brought closer to licensure and introduction in market for consideration of regulatory authorities for introduction in public health systems, to combat further spread of COVID-19 infection.





# Measures to combat COVID-19

The important objectives of the fund will be accelerating pre-clinical & clinical development; licensure of COVID-19 vaccine candidates that are currently in clinical stages or ready to enter clinical stage of development, establishing clinical trial sites, and strengthening the existing immunoassay laboratories, central laboratories and suitable facilities for animal studies, production facilities and other testing facilities to support COVID-19 vaccine development. The other important objective will be supporting development of common harmonized protocols, trainings, data management systems, regulatory submissions, internal and external quality management systems and accreditations. Capabilities for process development, cell line development and manufacturing of GMP batches for animal toxicology studies and clinical trials will also be supported under the Mission. A key element will be development of suitable Target Product Profile so that vaccines being introduced through the mission have preferred characteristics applicable for India.

Led by Department of Biotechnology and implemented by a dedicated Mission Implementation Unit at Biotechnology Industry Research Assistance Council (BIRAC), the existing activities under National Bio Pharma Mission (NBM) and Ind-CEPI Mission will provide complementary strengths to this Mission.

Phase-I of the COVID Suraksha Mission has been allotted Rs.900 Crore for a period of 12 months.

A total of 10 vaccine candidates have been supported by Department of Biotechnology so far at both academia and industry and as on date, 5 vaccine candidates are in human trials including the Russian Vaccine Sputnik-V with at least 3 more in advanced stages of preclinical to enter human trials shortly.

Please [Click Here](#) read the Press Release dated 29<sup>th</sup> November 2020

## **Employees' Provident Fund Organization (EPFO) extends time limit for pensioners upto 28th February 2021 for submission of life certificate**

In view of the ongoing COVID-19 pandemic and the vulnerability of elderly population to Corona Virus, EPFO has extended the time limit up to 28th February 2021 for submission of life certificate (Jeevan Pramaan Patra-JPP) in respect of the pensioners drawing pension under EPS 1995 and whose Life certificate is due in any month till February 28, 2021. Presently a pensioner can submit JPP anytime during the year upto 30th November, which is valid for 1 year from the date of issue. All such pensioners can submit life certificate till February 28, 2021.

Please [Click Here](#) to read the Press Release dated 28<sup>th</sup> November 2020.



# **Goods & Services Tax (‘GST’)**

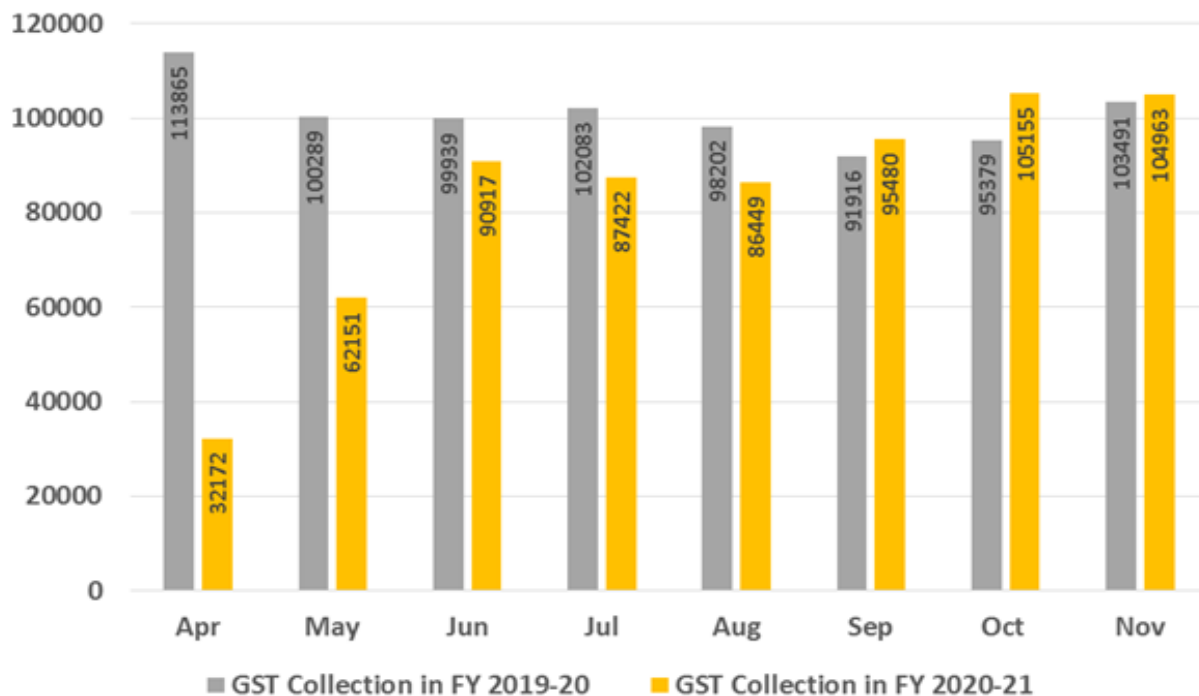
# Goods & Services Tax

## GST revenue collection for November 2020, Rs. 104,963 crore (1.4% higher than GST revenue collection in November 2019)

Gross GST revenue collection for the month of November, 2020 is Rs. 104,963 crore (details given below). The revenues for the month are 1.4% higher than the GST revenues in the same month last year. During the month, revenues from import of goods was 4.9% higher and the revenues from domestic transaction (including import of services) are 0.5% higher than the revenues from these sources during the same month last year.

IGST (Integrated Goods and Services Tax)	Rs. 51,992 crore
CGST (Central Goods and Services Tax)	Rs. 19,189 crore
SGST (State Goods and Services Tax)	Rs. 25,540 crore
Compensation cess	Rs. 8,242 crore
<b>Total</b>	<b>Rs. 104,963 crore</b>

Trends in GST Collection in Rs. crore



Please [Click Here](#) to read Press Release dated 1<sup>st</sup> December 2020.



# Goods & Services Tax

## GST portal introduces functionality to file online application for unblocking of E-Way Bill (EWB)

An e-way bill generation facility is blocked if the taxpayer fails to file Form GSTR-3B for 2 or more consecutive tax periods. In order to unblock it, till now the taxpayer was required to make an application manually to jurisdictional tax officer in Form GST EWB 05.

A facility has now been provided to the taxpayers on the GST Portal, from 28th November 2020 onwards, to file an application online for unblocking of their EWB generation facility (in Form EWB-05), in case their EWB generation facility has been blocked on the EWB portal.

To file an online application for unblocking EWB generation facility on GST Portal, a taxpayer needs to:

- Login to the portal and navigate to Services> User services> My Applications
- Select application type as 'Application for unblocking of E-way bill' and click New Application
- Submit application in Form EWB-05 along with upload of up to 4 documents

The application so filed is populated to dashboard of jurisdictional tax officer. The tax officer can issue a notice for personal hearing to the taxpayer. Then the taxpayer can file their reply to the notice online, along with supporting documents.

At conclusion of the proceedings, the tax officer can issue an order (in Form EWB-06) approving the taxpayer's application for unblocking the EWB generation facility, after which their EWB generation facility will be restored for the duration specified in the order.



# Goods & Services Tax

Dashboard > Services > User Services > Unblocking Ewaybill facility

## Application for unblocking of E-Way Bill generation facility

FORM GST EWB-05

Indicates Mandatory Fields \*

GSTIN/UID \*

27CDQPG3530GMZZ

Trade Name

Composition Ltd

Legal Name

RAHUL SINGH GUSAIN

Address

1, 4th, GSTN, 2, Thane, Thane,

Reason of blocking of E-Way bill generation facility \*

Blocked by system due to defau

Return type

GSTR3B

Default Period From

January2020

Default Period To

February2020

Facility of EWB generation blocked w.e.f

24/09/2020

Expected date for filing of returns of the default periods

DD/MM/YYYY



i

Reason of Unblocking by Taxpayer \*

Select

Please Specify

### Attachments

(Upload attachments to substantiate the application)

Enter Document Description

Choose File No file chosen

❗ Only PDF or JPEG file format is allowed.

❗ Maximum file size for upload is 1MB.

❗ Maximum 4 supporting documents can be attached.

Verification \*

I hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

PROCEED

Please [Click Here](#) to read the Manual for unblocking of EWB generation facility.

# Goods & Services Tax

## Central Board of Indirect Taxes & Customs (CBIC) amends CGST Rules, 2017

CBIC has issued Notification No. 94/2020 dated 22<sup>nd</sup> December 2020 to amend the CGST Rules and to give effect to certain amendments made to the CGST Act vide Finance Act, 2020.

### Amendment to the CGST Rules:

#### **a) Restriction on claim of Input Tax Credit (ITC) as per Rule 36(4)**

The claim of ITC in respect of invoices not furnished by the corresponding vendors has now been restricted to 5% of the credit available in GSTR 2B. This limit earlier was 10% of ITC available. This means that a taxpayer's ITC claim shall now be restricted to 105% of the credit reflected in his GSTR 2B. The amendment shall be effective from 1<sup>st</sup> January 2021 onwards.

#### **b) Restriction on filing of Form GSTR-1 (outward supplies)**

The Notification has inserted Rule 59(5) to provide that a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both in Form GSTR-1, if he has not furnished the return in GSTR-3B for preceding 2 months. Similarly, for quarterly return filers, the taxpayer failing to file Form GSTR 3B for the preceding quarter shall not be permitted to file Form GSTR 1 for the subsequent quarter.

#### **c) Time limit for GST registration enhanced from 3 days to 7 days**

The time limit for system based registration has been increased from 3 days to 7 days. Also, in case where applicant has not opted for aadhaar authentication or where department feels fit to carry out physical verification, the time limit to grant registration shall be 30 days instead of 7 days.

#### **d) Cancellation of Registration**

The Notification has inserted new clauses in Rule 21 providing power to cancel registration of a person in following cases. The amendment is effective from 22<sup>nd</sup> December 2020 onwards.

- Where the taxpayer has availed ITC in violation of the provisions contained in section 16 or the rules made thereunder
- Where the outward supplies declared in Form GSTR-1 for 1 or more tax period, exceeds outward supplies declared in GSTR-3B; and
- The taxpayer violates the restriction imposed vide the newly inserted Rule 86B (discussed below)



# Goods & Services Tax

## **e) Enhanced power to suspend registration**

Where the tax officer has a reason to believe that the registration of a person is liable to be cancelled, he can now suspend the registration without giving a reasonable opportunity to the registered person.

Also, in case where there are significant deviations/anomalies between details of outward supply reported in Form GSTR 3B and form GSTR1 or inward supplies (ITC) reported in Form GSTR 3B and Form GSTR 2B which is in contravention of the provisions contained in the GST Act or Rules, leading to cancellation of registration, he shall suspend the registration of such registered person.

The intimation of such suspension and notice for cancellation shall be intimated in Form GST REG-31. The intimation shall be communicated electronically on the common portal, or by sending a communication to the registered e-mail id of such person. The form shall highlight the differences and the anomaly and seek reasons from the taxpayer as to why the registration should not be cancelled.

## **f) Restriction on GST Refund**

Where a GSTIN is suspended, no refund u/s 54 of CGST Act 2017 can be availed by the taxpayer. This means that 1<sup>st</sup> GST suspension proceedings have to be closed before applying for the refund application.

## **g) Amendment to the e-way bill provisions**

Earlier, 1 day was permitted for distance up to 100 km under e way bill provision. Now the same has been increased to 200 km. This means that only a day's validity shall be granted to cover a distance up to 200 km which was earlier 100 km.

## **h) Restriction from utilizing ITC available in the electronic credit ledger**

New Rule 86B has been inserted and shall come into effect from 1<sup>st</sup> January 2021 onwards. The said rule has been inserted to restrict the claim of credits to 99% of the credits available in the electronic credit ledger. The restriction shall be imposed where the value of taxable supplies other than exempt supply and zero-rated supply in a month exceeds Rs. 50 lakh. Certain exceptions have been provided to this rule which are as below:

- Where the taxpayer has paid Income tax > Rs. 1 lakh in 2 preceding FYs
- Where taxpayer has received refund exceeding Rs. 1 lakh in the preceding FY on unutilised ITC either on account of zero-rated supplies made without payment of tax or under inverted tax structure
- Where taxpayer has used electronic cash ledger to pay off liability on outward supplies which cumulatively makes 1% of the total liability up to the said month
- Where a person is a Government Department, Public Sector Undertaking (PSU), local authority or a statutory body

Please [Click Here](#) to read the Notification dated 22<sup>nd</sup> December 2020.

# Goods & Services Tax

## **CBIC extends due date for compliance of Anti-Profiteering measures till 31st March 2021**

Anti-profiteering measures under GST provide that any reduction in tax rate on any supply of goods or services or the benefit of ITC shall be passed on to the recipient by way of commensurate reduction in prices.

CBIC vide Notification No. 91/2020 dated 14<sup>th</sup> December 2020 has extended the due date for completion or compliance of any action, by any authority u/s 171, i.e. Anti-profiteering measures, which falls during the period 20<sup>th</sup> March 2020 to 30<sup>th</sup> March 2021, till *31<sup>st</sup> March 2020*. The Notification has been issued to amend the earlier Notification no. 35/2020-Central Tax dated 3rd April 2020.

Please [Click Here](#) to read the Notification dated 14<sup>th</sup> December 2020.

## **CBIC mandates mentioning of 8-digit HSN code on invoices by taxpayers supplying specified chemical goods**

CBIC has issued [Notification No. 90/2020](#) dated 1<sup>st</sup> December 2020 to state that from 1<sup>st</sup> December 2020 onwards, a taxpayer supplying any of the 49 specified chemical goods shall be mandatorily required to mention the 8-digit HSN code on the tax invoices issued by him.

Please [Click Here](#) to read the notification dated 1<sup>st</sup> December 2020.

## **CBIC waives penalty for non-compliance of QR code provisions for Business to Customer (B2C) supplies**

CBIC vide Notification No. 89/2020 dated 29<sup>th</sup> November 2020 has waived the penalty payable by a registered person u/s 125 of the CGST Act, 2017 (i.e. general penalty under GST), in respect of non-compliance for the generation of e-invoice in case of B2C transactions.

The penalty has been waived for the period from 1<sup>st</sup> December 2020 to 31<sup>st</sup> March 2021 subject to the condition that the said registered person complies with the QR Code provisions with effect from 1<sup>st</sup> April 2021.

Please [Click Here](#) to read the Notification dated 29<sup>th</sup> November 2020.



# **Direct Tax**



# Direct Tax

## Central Board of Direct Taxes (CBDT) issues checklist to avoid mistakes in filing Income-tax Return (ITR) Form 7 for Assessment Year (AY) 2020-21

ITR-7 is applicable on reportings by following taxpayers:

- u/s 139(4A) of the Income-tax Act (Act) by charitable or religious trusts
- u/s 139(4B) of the Act by political parties
- u/s 139(4C) of the Act by scientific research associations / news agencies / hospitals etc.
- u/s 139(4D) of the Act by universities, colleges, other institutes which are not required to furnish return under any other provision of the Act
- u/s 139(4E) of the Act by every business trust which is not required to furnish return under any other provision of this act
- u/s 139(4F) of the Act by investment funds which are not required to furnish return under any other provision of the Act

In October 2020, CBDT released instructions on preparation and filing of all ITR forms i.e. ITR-1 to 7 for AY 2020-21. Now, to help taxpayers with specific filing requirement of Form ITR-7, CBDT has issued a detailed checklist to avoid mistakes in filing for AY 2020-21.

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

## Vivad (Dispute) se (to) Vishwas (Trust) Act, 2020 – CBDT issues clarifications on questions relating to scope / eligibility, computation of tax liability, consequences & procedures

### Background

- The Direct Tax Vivad se Vishwas Act, 2020 ('Vivad se Vishwas') was enacted on 17<sup>th</sup> March, 2020 with the objective to reduce pending income tax litigation, generate timely revenue for the Government and to benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process
- The benefit under Vivad se Vishwas is available for taxpayers who are in appeal at different levels of appeal matrix. The taxpayer can simply pay the disputed tax and get relief on account of interest and penalty. It is also available for taxpayers in whose case the department is in appeal against revenue's adverse orders. It caters to all taxpayers having income tax disputes in India including non-resident assesses.



# Direct Tax

- In order to facilitate the process and address taxpayers' concerns on applicability and other procedural aspects, CBDT vide its earlier Circular no.9 dated 22<sup>nd</sup> April 2020 issued answers to 55 Frequently Asked Questions (FAQs) covering the queries on following issues:
  - ✓ Scope / Eligibility (Question nos. 1-24)
  - ✓ Calculation of tax liability (Question nos. 25-40)
  - ✓ Procedure under the scheme (Question nos. 41-50)
  - ✓ Consequences of opting for the Scheme (Question nos. 51-55)

## Circular no.21 dated 4<sup>th</sup> December 2020 issued by CBDT

In furtherance to the above FAQs, CBDT vide its circular no.21 dated 4<sup>th</sup> December 2020 has issued 2<sup>nd</sup> set of 34 FAQs as below:

### **(I) Scope / Eligibility (Question nos. 56-75)**

*Following type of cases are eligible to opt for Vivad se Vishwas:*

- Where appeal or arbitration is pending or time limit to file appeal is not expired as on 31<sup>st</sup> January 2020 and appeal or arbitration are disposed of prior to the date of declaration
- Where the enforceability of an assessment order passed by the Assessing Officer (AO) has been stayed by the High Court or Supreme Court, irrespective of whether an appeal has been filed against such order or not. Further writ/appeal pending in High Court and Supreme Court shall be required to be withdrawn by the taxpayer
- Where appeal or writ against revision order u/s 263 of Act is pending or time limit to file appeal is not expired as on 31<sup>st</sup> January 2020 and appeal is against revision order which contains specific direction and income is also quantifiable
- Where conditions stated below are cumulatively satisfied, such appeal will deemed to be eligible to opt for Vivad se Vishwas:
  - ✓ Time limit to file appeal expired between 1<sup>st</sup> April 2019 to 31<sup>st</sup> January 2020
  - ✓ Application for condonation of delay is filed before 4<sup>th</sup> December 2020
  - ✓ Appeal is admitted by appellate forum before the date of declaration
- Cross objections being filed and pending as on 31<sup>st</sup> January 2020 are eligible only if principal appeal is also settled along with such cross objections

# Direct Tax

- Miscellaneous application being pending as on 31st January 2020 against an appeal which was dismissed in limine before the said date is eligible. Also, disputed tax will be computed with respect to appeal which was dismissed
- Block assessment u/s 158BA in case of search cases are eligible if disputed tax involved therein does not exceed Rs.5 crore
- Mutual Agreement Procedure (MAP) application made in relation to an appeal which is pending or time limit to file appeal is not expired as on 31<sup>st</sup> January 2020 is eligible in case if such MAP resolution is pending or taxpayer has not accepted MAP decision. However, taxpayer will be required to withdraw MAP application and appeal if opted
- Where Authority for Advance Rulings (AAR) has ruled in favour of the taxpayer and the Department has gone in writ or appeal before the High Court or Supreme Court and the total income of the taxpayer was quantifiable
- Where appeal has been set aside to Commissioner of Income tax (Appeals) [CIT(A)] / Dispute Resolution Panel (DRP) and was pending as on 31<sup>st</sup> January 2020. However, all issues which were either pending in appeal (whether set aside or not) or in respect of which time to file appeal has not expired on 31<sup>st</sup> January 2020 have to be settled
- Where the appellate authority has quashed the prosecution complaint or ruled in favour of taxpayer and no further appeal is filed by Department on or before filing of declaration are eligible only if the time limit for filing appeal by the Department has expired and the Department has not filed appeal (with or without condonation of application)
- Where assessment order is framed in case of a taxpayer based on search initiated in respect of another taxpayer, it will be eligible only if disputed tax is up to Rs.5 crore per appeal
- Appeal filed against intimation u/s 143(1) of the Act is eligible if adjustment has been made under sub clauses (iii) to (vi) of clause (a) of section 143(1) of the Act
- Appeal filed u/s 248 of the Act
- Where prosecution is for a different AY and the appeal for a different one
- Where the taxpayer/department has filed declaration/application u/s 158A/158AA of the Act



# Direct Tax

## ***Following types of cases are not eligible to opt for Vivad se Vishwas:***

- Where proceedings relate to prosecution:
  - ✓ If prosecution has been instituted for Tax Deduction at Source (TDS) default in a financial year on or before the date of filing of declaration, it cannot be settled
  - ✓ If prosecution has been instituted on or before the date of filing declaration for an AY with respect of an issue which is not in appeal and also for issues which are in appeal for the same AY and in respect of which prosecution has not been launched, it cannot be settled
- If a trust has been denied registration u/s 12AA of the Act, appeal against such order is not eligible
- Where appeal is against revision order which contains general direction and income is not quantifiable
- Where proceedings are pending before Settlement Commission or writ petition has been filed against the order of Settlement Commission

## **(II) Computation of tax liability (Question nos. 76-79)**

- Enhancement notice issued by CIT(A) after 31st January 2020 but before the date of issue of the circular shall be required to be taken into account for determining amount payable under Vivad se Vishwas. However, the enhancement notice issued on or after the date of this circular but on or before 31st December 2020 shall not be taken into account for determining amount payable under Vivad se Vishwas
- If any additional ground has been filed on or before 31st January 2020, it shall be considered for the purpose of computing disputed tax
- In case of appeals pending against both assessment and reassessment where addition is repeated on same issue, disputed tax will be payable only once and in case If there is a difference between tax liability in respect of such addition in assessment and reassessment, then higher of the two tax liabilities will be considered for computing disputed tax
- Prepaid taxes in the form of TDS / Tax Collected at Source (TCS) will have to be 1<sup>st</sup> adjusted with respect to relevant income to which it relates, whether disputed or undisputed. The other prepaid taxes including TDS and TCS which cannot be allocated to specific income would need to be apportioned between the disputed and undisputed tax liability



# Direct Tax

## (III) Consequences (Question nos. 80-87)

- Appeal against penalties that are not related to quantum assessment (such as for failure to get accounts audited, for failure to furnish transfer pricing audit report, for receipts in excess of Rs.2 lakh by modes other than prescribed banking channels) are not waived upon settlement of appeal relating to quantum assessment, and such appeal is required to be settled separately
- Where addition was made u/s 68 of the Act in respect of unexplained loan credited in the books of a taxpayer and appeal against such addition is settled under Vivad se Vishwas, the taxpayer cannot capitalize such unexplained loan in its books by crediting capital account as Vivad se Vishwas is not an amnesty scheme. It only provides an option to settle appeals on contentious issues that are neither accepted by the Department nor the assessee
- In case of a company/partnership firm, being a declarant, if an issue has been settled under Vivad se Vishwas, the immunity from prosecution with respect to that issue shall also extend to the director/partner of company/ partnership firm
- If taxpayer settles its appeal involving disallowance of expenditure u/s 40(a)(i)/(ia) of the Act (for the year in which failure to deduct tax took place), no consequential relief will be available in proceedings against the taxpayer for default in TDS initiated qua such expenditure
- Consequential relief for settlement of dispute involving failure to deduct TDS
  - ✓ Background - In case of failure to deduct TDS, the Act provides for disallowance of expenditure in the hands of the deductor for the year in which failure to deduct TDS took place. However, as per the Act consequential relief is allowed to the deductor by granting deduction in the year in which TDS, in respect of which the default took place, is deposited
  - ✓ If deductor settles its TDS liability under Vivad se Vishwas then FAQ no. 31 of the April-circular allows consequential relief to the deductor by way of concession by granting deduction of expenditure in the year in which failure to withhold tax took place as against in the year in which tax is deposited.
  - ✓ It is now clarified that such benefit of FAQ 31 is not available where deductor has already claimed consequential relief in the past by claiming deduction when TDS was deposited i.e. if the deductor has already claimed deduction of the same amount u/s 40(a)(i)/(ia) of the Act in subsequent year on account of payment of such sum, he shall not be entitled to again claim the deduction on the basis of settlement under Vivad se Vishwas
  - ✓ In a case where deductor failed to deduct tax on an income which was also not offered by the deductee in its return, and deductor and deductee is in appeal or arbitration against default for TDS and against assessment of such income, respectively, consequences would be as follows:



# Direct Tax

Person settling the appeal & paying under Vivad se Vishwas	Consequences
Deductor	<ul style="list-style-type: none"><li>• Deductor would get waiver from interest and penalty</li><li>• Deductee will not be required to pay the tax with reference to said income and he will get credit for tax paid by deductor</li><li>• Deductee will be required to pay interest and penalty and if such interest or penalty qualifies for Vivad se Vishwas, he can settle the same by paying the applicable amount (25%/30%)</li></ul>
Deductee	<ul style="list-style-type: none"><li>• Deductee would get waiver from interest and penalty</li><li>• Deductor will not be required to pay tax with reference to non-deduction of tax on said income</li><li>• Deductor will be required to pay interest and penalty and if such interest or penalty qualifies for Vivad se Vishwas, he can settle the same by paying the applicable amount (25%/30%)</li></ul>

*Note: If deductor settles its liability by paying more than 100% of the disputed tax (say, because deductor discharges disputed tax after 31<sup>st</sup> March 2021 but on or before the last date to be notified), tax credit in hands of the deductee would still be restricted to 100% of the disputed tax.*

- If appeal relating to disputed penalty is settled by paying 25%/30% of disputed penalty, interest relating to such penalty (such as interest for delayed payment of such penalty) would be waived

#### **(IV) Procedure (Question nos. 88, 89)**

- Where separate orders were passed u/s 201(1) & 201(1A) of the Act for a particular AY and taxpayer has filed 2 separate appeals for principal portion u/s 201(1) of the Act and interest portion u/s 201(1A) of the Act, in that case once taxpayer settles appeal involving default in deduction of tax at source under Vivad se Vishwas, there would be complete waiver of interest levied for such default
- Declaration filed u/s 4 of Vivad se Vishwas can be revised any number of times by the taxpayer before the Designated Authority issues a certificate u/s 5(1) of Vivad se Vishwas

Please [Click Here](#) to read the Circular no. 21 dated 4<sup>th</sup> December 2020.

# Direct Tax

## CBDT issues annual circular on deduction of tax at source (TDS) from salaries for Financial Year (FY) 2020-21

Every year, CBDT issues an annual circular around December / January to guide employers and employees to understand the various rules relating to TDS on salaries. The Circular is helpful in understanding under 1 roof all the relevant provisions under the Income-tax Act, circulars, notifications, etc. which an employer and employee should be aware of and comply before the fiscal year end of 31<sup>st</sup> March.

Pursuant to the above, CBDT has issued a Circular on 3<sup>rd</sup> December 2020 containing instructions in relation to TDS u/s 192 on salary payment during the FY 2020-21 (AY 2021-22), including explanations on following issues:

- Rates of Income-tax as per Finance Act, 2020
- Broad scheme of TDS on salaries
- Persons / Employers responsible for deducting tax at source and their duties
- Computation of income under the head 'Salaries'
- Rebate u/s 87A of Rs. 12,500 for individuals having total income upto Rs.5 lakh
- TDS on payment of accumulated balance under recognized provident fund and contribution from approved superannuation fund
- Dos and Don'ts to obtain evidence / proof of claims
- Calculation of tax to be deducted
- Illustrations and Forms

In addition, the circular also explains about computation of tax under the newly inserted concessional tax regime u/s 115BAC of the Income-tax Act where total income is required to be computed without benefit of specified exemptions, deductions, set-off of losses and additional depreciation. A snapshot of tax rates for FY 2020-21 under the regular provisions of the Act viz a viz section 115BAC is given below.



# Direct Tax

## I. Tax rates under regular provisions of the Income-tax Act

Srl no.	Total Income (Rs.)	Normal Tax Rate
1	≤ 250,000	Nil
2	250,000 to 500,000	5% of the amount by which Total Income exceeds Rs.250,000
3	500,000 to 1,000,000	Rs.12,500 + 20% of the amount by which Total Income exceeds Rs.500,000
4	> 1,000,000	Rs.112,500 + 30% of the amount by which Total Income exceeds Rs.1,000,000
Srl no.	Total Income (Rs.)	Tax Rate for Individuals being (a) resident in India, & (b) age of 60 years or more but less than 80 years at any time during FY 2020-21
1	≤ 300,000	Nil
2	300,000 to 500,000	5% of the amount by which Total Income exceeds Rs.350,000
3	500,000 to 1,000,000	Rs.10,000 + 20% of the amount by which Total Income exceeds Rs.500,000
4	> 1,000,000	Rs.110,000 + 30% of the amount by which Total Income exceeds Rs.1,000,000
Srl no.	Total Income (Rs.)	Tax Rate for Individuals being (a) resident in India, & (b) age of 80 years or more at any time during FY 2020-21
1	≤ 500,000	Nil
2	500,000 to 1,000,000	20% of the amount by which Total Income exceeds Rs.500,000
3	> 1,000,000	Rs.100,000 + 30% of the amount by which Total Income exceeds Rs.1,000,000

## II. Concessional Tax Regime u/s 115BAC of the Income-tax Act

Srl no.	Total Income (Rs.)	Tax Rate
1	≤ 250,000	Nil
2	250,000 to 500,000	5%
3	500,000 to 750,000	10%
4	750,000 to 1,000,000	15%
5	1,000,000 to 1,250,000	20%
6	1,250,000 to 1,500,000	25%
7	> 1,500,000	30%

Please [Click Here](#) to read Circular no. 20 dated 3<sup>rd</sup> December 2020.



# Direct Tax

## CBDT to validate Unique Document Identification Number (UDIN) generated from Institute of Chartered Accountants of India (ICAI) portal at the time of upload of Tax Audit Reports

The ICAI in August 2019 had made generation of UDIN from ICAI website ([www.icaai.org](http://www.icaai.org)) mandatory for every kind of certificate / tax audit report and other attestations made by Chartered Accountants (CAs) as required by various regulators. This was introduced to curb fake certifications by non-CAs misrepresenting themselves as CAs.

The Income-tax e-filing portal has completed its integration with ICAI portal for validation of UDIN generated for documents certified / attested by CAs. With this system level integration, UDIN provided for the audit reports / certificates submitted by CAs in the e-filing portal shall be validated online by the Income-tax Department with ICAI. This will help in weeding out fake or incorrect Tax Audit Reports not duly authenticated with the ICAI. If for any reason, a CA was not able to generate UDIN before submission of audit report / certificate, the Income-tax e-filing portal permits such submission, subject to the CA updating the UDIN generated for the form within 15 calendar days from the date of form submission in the Income-tax e-filing portal. If the UDIN for the audit report/certificate is not updated within 15 days, such audit report/certificate uploaded shall be treated as invalid submission.

Please [Click Here](#) to read Press Release dated 26<sup>th</sup> November 2020.





# Company Law

# Company Law

## Insolvency & Bankruptcy Code, 2016 - Ministry of Corporate Affairs (MCA) extends period of suspension for defaults arising during COVID-19

The Insolvency and Bankruptcy Code (IBC) (amendment) Ordinance 2020 was promulgated in June 2020 to incorporate a new section 10A under IBC which stated that no application for initiation of insolvency proceedings of corporate debtor shall be filed for any default arising on or after 25<sup>th</sup> March 2020 for a period of 6 months or such further period, not exceeding 1 year from such date, as may be notified. Accordingly, all the Insolvency proceedings were suspended for a period of 6 months from 25<sup>th</sup> March 2020 till 25<sup>th</sup> September 2020. The time limit of 25<sup>th</sup> September 2020 was extended till 25<sup>th</sup> December 2020 (vide notification dated 24<sup>th</sup> September 2020).

Considering the current scenario of the pandemic, MCA vide notification dated 22<sup>nd</sup> December 2020 has once again extended the time limit till 25<sup>th</sup> March 2021.

Please [Click Here](#) to read MCA's Notification dated 22<sup>nd</sup> December 2020.

Please [Click Here](#) to read MCA's Notification dated 24<sup>th</sup> September 2020.

Please [Click Here](#) to read the IBC (Amendment) Ordinance 2020 dated 5<sup>th</sup> June 2020.

## MCA notifies various sections of Companies (Amendment) Act 2020

MCA vide notification dated 21<sup>st</sup> December 2020 has notified various sections of the Companies (Amendment) Act 2020 which came into effect from 28<sup>th</sup> September 2020. The various provisions of the Companies (Amendment) Act 2020 notified by MCA with effect from 21<sup>st</sup> December 2020 are as follows:

S no.	Notified Sections of Companies (Amendment) Act 2020	Provision dealing with:
1	Section 1	Notification of the Companies (Amendment) Act 2020
2	Section 3	Decriminalization and revision in penalty for non-compliant Not for Profit Companies registered u/s 8 of the Principal Companies Act 2013 (Principal Act)
3	Section 6 to 10	Revision / Omission of penalty for default by companies in complying with the following provisions under the Principal Act:  a) Public issue of securities by issue of prospectus u/s 26 of the Principal Act; b) Public issue of securities by issue of prospectus by making application to stock exchanges for obtaining listing permission u/s 40 of the Principal Act; c) Holding classes of shares with variation in shareholder's rights attached to each class of such shares u/s 48 of the Principal Act; d) Transfer / transmission of securities u/s 56 of the Principal Act; e) Rectification in register of members u/s 59 of the Principal Act.

# Company Law

S no.	Notified Sections of Companies (Amendment) Act 2020	Provision dealing with:
4	Section 12 to 17	Revision / Omission of penalty for default by companies in complying with the following provisions under the Principal Act: <ul style="list-style-type: none"> <li>a) Alteration in share capital u/s 64 of the Principal Act;</li> <li>b) Reduction of share capital u/s 66 of the Principal Act;</li> <li>c) Buy back of its own securities u/s 68 of the Principal Act;</li> <li>d) Issue of Debentures u/s 71 of the Principal Act;</li> <li>e) Maintenance of register of members u/s 88 of the Principal Act</li> </ul>
5	Clauses (a) and (b) of Section 18	Revision of penalty for non-compliance of making declaration by Significant Beneficial Owners (SBOs) and further reporting by companies with ROC u/s 89 of the Principal Act.
6	Sections 19 to 21 (both inclusive)	Revision of penalty for default by companies in complying with the following provisions under the Principal Act: <ul style="list-style-type: none"> <li>a) Maintaining register of Significant Beneficial Owners (SBOs) and related filings and documentation u/s 90 of the Principal Act;</li> <li>b) Filing of annual return u/s 92 of the Principal Act;</li> <li>c) Unauthorized issue of invitation or notice of meeting in case of proxies.</li> </ul>
7	Clause (i) of Section 22	Revision of penalty for non-compliance of filing resolution(s) with ROC u/s 117 of the Principal Act.
8	Section 24	Revision of penalty for non-compliance of maintaining books of accounts u/s 128 of the Principal Act.
9	Section 26	Revision of penalty for default in preparing, signing and circulation of annual audited financial statements and Board report by companies u/s 134 of the Principal Act.
10	Section 28 to 31 (both inclusive)	Revision of penalty for default by companies in complying with the following provisions under the Principal Act: <ul style="list-style-type: none"> <li>a) Filing of annual audited financial statements by companies with ROC u/s 137 of the Principal Act;</li> <li>b) Filing of resignation by resigning Auditor with ROC u/s 140 of the Principal Act;</li> <li>c) Default by auditors in complying with the powers and duties of auditors and Auditing standards prescribed u/s 143 and 147 of the Principal Act.</li> </ul>



# Company Law

S no.	Notified Sections of Companies (Amendment) Act 2020	Provision dealing with:
11	Section 33 to 39 (both inclusive)	Revision of penalty for default by companies in complying with the following provisions under the Principal Act:  a) Number of directorships held by a Director; b) Vacation of office by a Director; c) Nomination and remuneration committee; d) Disclosure of interest by Directors; e) Investments of Company to be held in its own name; f) Related Party transactions
12	Section 41 to 44 (both inclusive)	Revision of penalty for default by companies in complying with the following provisions under the Principal Act:  a) Secretarial audit of prescribed companies; b) Merger and amalgamation
13	Section 46 to 51 (both inclusive)	Revision of penalty for default by companies in complying with the provisions of Dissolution of Companies by Tribunal.
14	Section 54	Revision of penalty for default by foreign companies in complying with the provisions applicable to Foreign companies under the Principal Act.
15	Section 57	Revision of penalty for default by certain class of companies which are required to furnish such information or statistics with regard to their constitution or working u/s 405 of the Principal Act.
16	Section 61; and	Revision of penalty for default by companies in case of compounding of offences u/s 441 of the Principal Act.
17	Section 63	Revision of penalty u/s 450 of the Principal Act which deals with general penalty for contraventions for which no specific penalty has been provided under the respective sections of the Act.

Please [Click Here](#) to read Notification dated 21<sup>st</sup> December 2020.



# Company Law

## Appointment as Independent Director in companies - Relaxation of restrictions for online proficiency self-assessment test

MCA has relaxed certain restrictions with respect to the mandatory online proficiency self-assessment test that one has to undergo, post inclusion of his/her name in data bank, to make themselves eligible for appointment as an Independent Director. The major relaxations notified by MCA are as follows:

Existing Provision	Relaxed Provision
<ul style="list-style-type: none"> <li>Every individual whose name is so included in the data bank, shall pass an online proficiency self-assessment test within a period of <u>1 year</u> from the date of inclusion of his name in the data bank, failing which, his name shall stand removed from the databank.</li> </ul>	<ul style="list-style-type: none"> <li>Every individual whose name is so included in the data bank, shall pass an online proficiency self-assessment test within a period of <u>2 years</u> from the date of inclusion of his name in the data bank, failing which, his name shall stand removed from the databank.</li> </ul>
<ul style="list-style-type: none"> <li>An individual shall not be required to pass the online proficiency self-assessment test, when he has served as a Director or Key Managerial Personnel, for a total period of <u>minimum 10 years</u> in one or more of the following, namely:               <ol style="list-style-type: none"> <li>Listed Public Company; or</li> <li>Unlisted Public Company having a paid-up share capital of Rs.10 crore or more; or</li> <li>Body Corporate listed on a recognized stock exchange</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>An individual shall not be required to pass the online proficiency self-assessment test, when he has served for a total period of <u>minimum 3 years</u>, as:               <ol style="list-style-type: none"> <li>Director of Key Managerial Personnel in one or more of the following, namely:                   <ol style="list-style-type: none"> <li>Listed Public Company; or</li> <li>Unlisted Public Company having a paid-up share capital of Rs.10 crore or more; or</li> <li>Body Corporate listed on a recognized stock exchange or in a country which is a member state of Financial Action Task Force (FATF) on money laundering and the regulator of securities market in such member state is a member of International Organization of Securities Commission (IOSC); or</li> <li>Bodies Corporate incorporated outside India having a paid up share capital of US\$ 2 million or more; or</li> <li>Statutory Corporations set up under an Act of Parliament or any State Legislature carrying on commercial activities; or</li> </ol> </li> <li>In the pay scale of Director or above in the MCA or Ministry of Finance or Ministry of Commerce and Industry or the Ministry of Heavy Industries and Public Enterprises and having experience in matters of Company law or securities law or economic laws; or</li> <li>In the pay scale of Chief General Manager or above in SEBI or RBI or Insurance Regulatory and Development Authority of India (IRDA) or the Pension fund Regulatory and Development Authority and having experience in matters of Company law or securities law or economic laws.</li> </ol> </li> </ul>
<ul style="list-style-type: none"> <li>Aggregate passing score in the online proficiency self-assessment test is <u>60%</u></li> </ul>	<ul style="list-style-type: none"> <li>Aggregate passing score in the online proficiency self-assessment test is <u>50%</u></li> </ul>

Please [Click Here](#) to read the Notification dated 18<sup>th</sup> December 2020.

# Company Law

## **Companies (Auditor's Report) Order, 2020 (CARO 2020) shall be applicable from FY 2021-22 (instead of FY 2020-21) onwards**

MCA vide order dated 25<sup>th</sup> February, 2020 had notified CARO 2020 which was to be applicable from FY 2019-20 onwards. Due to COVID-19, MCA vide notification dated 25<sup>th</sup> March 2020 had relaxed the applicability of CARO 2020 from FY 2019-20 to FY 2020-21.

Due to the ongoing situation, MCA has again extended the applicability of CARO 2020 from FY 2020-21 to FY 2021-22 onwards.

Please [Click Here](#) to read the Order dated 17<sup>th</sup> December 2020.

## **Changes in Companies (Compromises, Arrangements & Amalgamations) Rules, 2016 (CAA Rules)**

The CAA rules framed under Companies Act 2013 deal with provisions relating to merger, demerger, compromise, arrangements and acquisition of companies in India. MCA from time to time introduces amendments in the said rules for ease of the stakeholders.

MCA has notified amendment in the above rules by introducing definition of term 'corporate action' and has laid down the complete procedure in respect of purchase of minority shareholding held in Demat form, by inserting new rule 26A.

Some of the key changes are mentioned below:

- 'Corporate Action' has been defined under the amended CAA Rules as 'any action taken by the company relating to transfer of shares and all benefits accruing on such shares namely, bonus shares, split, consolidation, fraction shares and right issue to the acquirer'.
- Rule 26A has been newly inserted so as lay down the procedure for purchase of minority shareholding held in Demat form with major steps involving:
  - ✓ Company shall complete verification of details of minority shareholders within 2 weeks from receipt of amount equal to price of shares that the acquirer intends to acquire from minority shareholders u/s 236 of Companies Act 2013 (Act);
  - ✓ After verification is completed, company shall send notice to minority shareholders intimating them about cut-off dates;
  - ✓ Upon receiving necessary information from the company, the Depository shall transfer shares of minority shareholders, who have not transferred on their own, into the designated account of company, on cut-off date. Company Secretary shall be authorized for the purposes of effecting the transfer of shares;
  - ✓ Upon transfer of shares, the company shall immediately disburse the price of the shares so transferred.

Please [Click Here](#) to read the Notification dated 17<sup>th</sup> December 2020.

# Company Law

## **Extension of time limit for filing Cost Audit Report in Form CRA-4 with Registrar of Companies (ROC)**

Pursuant to Rule 6(5) of Companies (Cost Records and Audit) Rules, 2014, every Cost Auditor is required to submit his signed Cost Audit Report to the company within 180 days from the close of the FY i.e., on or before 30<sup>th</sup> September of each year. However, due to COVID-19, MCA vide Circular dated 10<sup>th</sup> September 2020 had previously extended the said time limit till 30<sup>th</sup> November 2020 for the FY 2019-20.

Considering the current situation, MCA has further extended the above time limit for FY 2019-20 till *31<sup>st</sup> December 2020*. Consequently, the time limit for filing Cost Audit Report in Form CRA-4 for FY 2019-20, which is required to be filed within 30 days from the date of receipt of audit report by company, has also been extended till *30<sup>th</sup> January 2021*.

Please [Click Here](#) to read the Circular dated 1<sup>st</sup> December 2020.

## **New guidelines for issue of Digital Signature Certificates (DSC) by Certifying Authorities**

The Controller of Certifying Authorities, Ministry of Electronics and Information Technology, has issued new guidelines for issue of DSC by Certifying Authorities in India which shall come into effect from 31<sup>st</sup> December 2020 onwards.

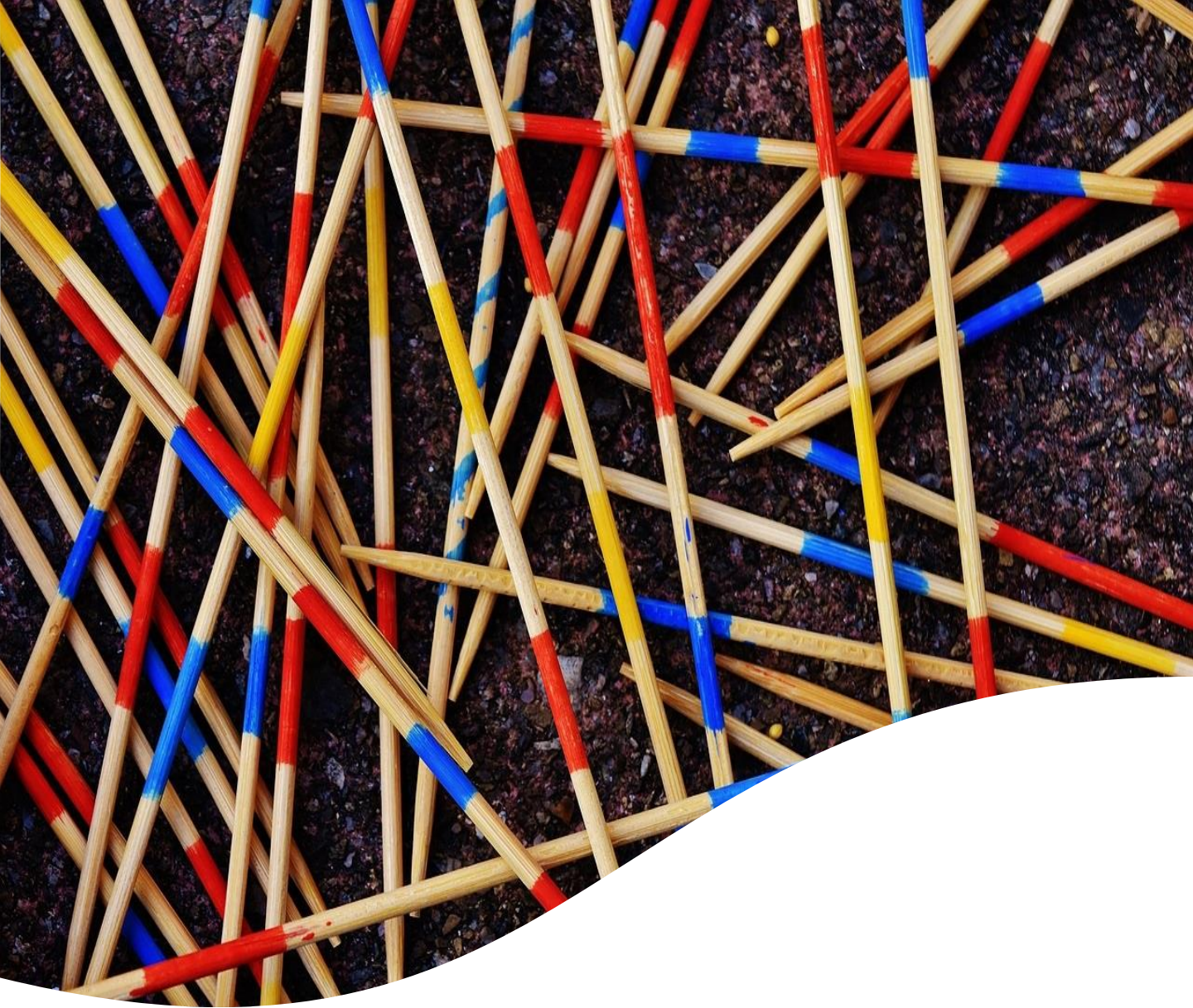
Under the Information Technology Act, DSCs are being issued by Certifying Authorities on successful verification of the identity and addresses credentials of the applicant. Therefore, the revised guidelines issued by the Controller of Certifying Authorities are to be strictly followed by Certifying Authorities.

### **Highlights of the new guidelines:**

- Certifying Authorities shall issue only class 3 level DSC (both individual and organizational) and shall not issue class 2 level individual signing certificates as done previously;
- The eKYC account of DSC applicant is mandatory for applying for a DSC or availing eSign service. The verified information held by Certifying Authorities shall be used for issue of DSC or eSign. For eSign service based on online Aadhaar authentication, eKYC account is not required;
- Using online verification, Certifying Authorities shall verify the authenticity of the document submitted and the digitally signed proof of the online verification shall be maintained.

Please [Click Here](#) to read the new guidelines dated 26<sup>th</sup> November 2020.





# **Reserve Bank of India (‘RBI’)**



## RBI permits banks to open specific accounts without restriction

RBI vide notification dated 14<sup>th</sup> December 2020 has allowed banks to open specific accounts which are stipulated under various statutes and instructions of other regulators / regulatory departments, without restriction. An indicative list of such accounts are:

- Accounts for real estate projects mandated u/s 4 (2) I (D) of the Real Estate (Regulation and Development) Act, 2016 for the purpose of maintaining 70% of advance payments collected from the home buyers
- Nodal or escrow accounts of payment aggregators/prepaid payment instrument issuers for specific activities as permitted by Department of Payments and Settlement Systems (DPSS),
- Reserve Bank of India under Payment and Settlement Systems Act, 2007
- Accounts for settlement of dues related to debit card/ATM card/credit card issuers/acquirers
- Accounts permitted under Foreign Exchange Management Act (FEMA), 1999
- Accounts for the purpose of Initial Public Offering (IPO) / New Fund Offer (NFO) / Follow-on Public Offer (FPO)/ share buyback /dividend payment / issuance of commercial papers/allotment of debentures/gratuity, etc. which are mandated by respective statutes or regulators and are meant for specific/limited transactions only
- Accounts for payment of taxes, duties, statutory dues, etc. opened with banks authorized to collect the same, for borrowers of such banks which are not authorized to collect such taxes, duties, statutory dues, etc;
- Accounts of White Label ATM Operators and their agents for sourcing of currency

The above permission is subject to the condition that the banks shall ensure that these accounts are used for permitted/specified transactions only. Further, banks shall flag these accounts in the Core Banking Solution (CBS) for easy monitoring. Lenders to such borrowers may also enter into agreements / arrangements with the borrowers for monitoring of cash flows/periodic transfer of funds (if permissible) in these current accounts.

Please [Click Here](#) to read the Notification dated 14<sup>th</sup> December 2020.

## **Real Time Gross Settlement (RTGS) scheme for payments to operate 24 x 7, round the clock throughout the year**

RBI vide Press Release dated 9<sup>th</sup> December 2020 has notified that RTGS scheme for payment will be available 24 x 7, round the clock on all days of the year with effect from 00:30 hours on 14<sup>th</sup> December 2020. With this India will become one of the few countries in the world to operate its RTGS system round the clock throughout the year.

RTGS, which began its operations in March 2004 with a soft launch involving 4 banks, presently handles 6.35 lakh transactions daily for a value of Rs.4.17 lakh crore across 237 participant banks. The average ticket size for RTGS in November 2020 was Rs.57.96 lakh making it a truly large value payment system. RTGS uses ISO 20022 format which is the best-in-class messaging standard for financial transactions. The feature of positive confirmation for credit to beneficiary accounts is also available in RTGS.

Round the clock availability of RTGS will provide extended flexibility to businesses for effecting payments and will enable introduction of additional settlement cycles in ancillary payment systems. This can also be leveraged to enhance operations of Indian financial markets and cross-border payments.

Please [Click Here](#) to read the Press Release dated 9<sup>th</sup> December 2020.

## **Banks not to pay dividend on equity shares from profits arising in FY 2019-20**

RBI vide notification dated 4<sup>th</sup> December 2020 has communicated that banks shall not make any dividend payment on equity shares from the profits arising in FY 2019-20. This decision has been exercised keeping in view the ongoing stress and heightened uncertainty on account of COVID-19 since it is imperative for banks to conserve capital so as to support the economy and absorb losses.

Please [Click Here](#) to read the notification dated 4<sup>th</sup> December 2020.

## **Notification of Foreign Exchange Management (Export & Import of Currency) (2nd Amendment) Regulations 2020**

As per the Notification dated 3<sup>rd</sup> December 2020, RBI may in public interest and in consultation with the Central Government, restrict the amount of Indian currency notes of Government of India and/or of Reserve Bank, and/or foreign currency, on case-to-case basis, that a person may bring into or take outside India and prescribe such conditions as it may deem necessary.

Please [Click Here](#) to read the notification dated 3<sup>rd</sup> December 2020.



# **Securities Exchange Board of India ('SEBI')**

## **E-voting process made simpler for convenience of shareholders**

As per SEBI Regulations, all listed entities are required to provide remote e-voting facility to their shareholders in respect of shareholders' meetings. However, it has been observed that the participation by public non-institutional / retail shareholders is at negligible level. Currently, there are multiple e-voting service providers (ESPs) providing e-voting facility for listed entities in India.

This necessitates registration on various ESPs and maintenance of multiple user IDs and passwords by the shareholders.

Thus, with an intent to increase the efficiency of voting process, SEBI has decided to enable e-voting for all demat account holders by way of a single login credential through their demat accounts and websites of Depositories. Demat account holders would be able to cast their votes without having to register again with the ESPs, thereby not only facilitating seamless authentication but also enhancing ease and convenience of participating in the e-voting process. The said e-voting mechanism shall be implemented in a phased manner under 2 phases:

- Phase 1, to be implemented by 8<sup>th</sup> June 2021, and
- Phase 2, to be implemented within 12 months from completion of Phase 1

Please [Click Here](#) to read the Circular dated 9<sup>th</sup> December 2020.

## **Operational guidelines issued for transfer & dematerialization of re-lodged physical shares**

Under SEBI Listing Obligations & Disclosure Requirement (LODR) Regulations, transfer of securities held in physical mode has been discontinued with effect from 1<sup>st</sup> April 2019 onwards. Subsequently vide Press Release dated 27<sup>th</sup> March 2019 SEBI had clarified that transfer deeds lodged before the deadline of 01<sup>st</sup> April 2019, and rejected / returned due to deficiency in documents may be re-lodged along with required documents.

Accordingly, SEBI vide Circular dated 7<sup>th</sup> September 2020 has decided to fix 31<sup>st</sup> March 2021, as the cut-off date for re-lodgement of transfer deeds and has stipulated that such transferred shares shall be issued only in demat mode.

In this regard, SEBI has issued operational guidelines for crediting the transferred shares into the respective demat account of the investor. Highlights of the guidelines are mentioned below:

- Subsequent to processing of re-lodged transfer request, the Registrar to an issue and share transfer agent (RTA) would retain physical shares and intimate the investor (transferee) about the execution of transfer through a letter of confirmation
- The said letter of confirmation will be sent through speed post or e-mail, with the digitally signed letter containing details of endorsement, shares, folio of investor as available on physical shares
- The Investor would have to submit the demat request, within 90 days of issue of letter of confirmation, to Depository Participant (DP) along with the letter of confirmation
- DP will process the demat request on the basis of letter of confirmation issued by RTA to the Investor
- In case of shares that are required to be locked-in, the RTA, while confirming the demat request, will also intimate the DP about the lock-in and its period. Accordingly, such shares shall be in lock-in demat mode for 6 months from the date of registration of transfer
- In case of non-receipt of demat request from the Investor within 90 days of the date of letter of confirmation, the shares will be credited to Suspense Escrow demat account of the company

Please [Click Here](#) to read the Circular dated 2<sup>nd</sup> December 2020.

# Compliance Calendar

## Compliance calendar for the month of January 2021

Compliance Due Date:	Concerned (Reporting) Period:	Compliance Detail:	Applicable To:
7 <sup>th</sup> January	December 2020	TDC/TCS deposit	Non-government Deductors
		Equalization Levy deposit	All Deductors
10 <sup>th</sup> January		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 deduct TCS under GST
11 <sup>th</sup> January		GSTR-1 (Outward supply return)	Taxable persons having turnover > Rs. 1.5 crore
13 <sup>th</sup> January		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
15 <sup>th</sup> January		Deposit of PF & ESI contribution	All Deductors
20 <sup>th</sup> January		a) GSTR-5 (Return by Non-resident)	a) Non-resident taxable person
		b) GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	b) OIDAR services provider
		GSTR-3B (Summary return)	All taxable persons (except composition dealer) having annual turnover > Rs. 5 crore in FY 2019-20
22 <sup>nd</sup> January		All taxable persons (except composition dealer) having annual turnover upto Rs. 5 crore 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> January		All taxable person (except composition dealer) having annual turnover upto Rs. 5 crore and having principal place of business in any other state.	
30 <sup>th</sup> January	FY 2019-20	Form AOC-4 (Annual accounts)	All Companies are required to file Annual accounts with ROC within 30 days from conclusion of AGM
31 <sup>st</sup> January		Income-tax Return for AY 2020-21	<ul style="list-style-type: none"> <li>Corporate-assessee</li> <li>Non-corporate assessee (whose books of account are required to be audited)</li> <li>Partner of a firm whose accounts are required to be audited</li> <li>An assessee who is required to furnish Transfer Pricing report u/s 92E</li> </ul>
		Intimation in Form 3CEAC	Resident constituent entity of an international group whose parent is non-resident (assuming accounting year of parent entity is April 2019-March 2020)
	October-December 2020.	Quarterly statement of TDS/TCS deposited	All Deductors / Collectors.



# 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, CII and TiE Delhi

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