



Audit



Tax



Regulatory

TAX EDGE

Monthly Tax & Regulatory Updates



CONTENTS

01

Measures to combat COVID-19

02

Goods & Services Tax ('GST')

03

Direct Tax

04

International Tax

05

Company Law

06

Reserve Bank of India ('RBI')

07

Securities Exchange Board of India ('SEBI')

08

Compliance Calendar



Measures to combat COVID-19



Measures to combat COVID-19

India scales several peaks in its fight against COVID-19

In its collaborative fight against the COVID-19 pandemic, India has scaled several peaks till 17th March 2021. The cumulative number of COVID-19 vaccine doses administered in the country has crossed 3.64 Crore.

These include 75,47,958 Health Care Workers (HCWs) who have taken the 1st dose and 46,08,397 (HCWs) who have taken the 2nd dose, 76,63,647 Front Line Workers (FLWs) (1st dose), 17,86,812 FLWs (2nd dose), 1,24,74,362 beneficiaries more than 60 years old and 23,86,568 beneficiaries aged 45 and above with specific co-morbidities. The coverage of beneficiaries aged over 60 years has crossed 1 crore in just 15 days.

Please [Click Here](#) to read the Press Release dated 17th March 2021.

Digital process for tracking Coronavirus



The Government has taken a number of steps for tracking patients with corona and other infectious diseases in the country, as below.

Integrated Disease Surveillance Programme (IDSP) - Under IDSP, Surveillance units have been established in all states and district headquarters and are reporting weekly data on epidemic-prone diseases. The data is collected to monitor disease trends and to detect and respond to outbreaks in the early rising phase through trained Rapid Response Teams (RRTs).

Measures to combat COVID-19

[Aarogya Setu App](#) is an app developed by the Ministry of Electronics and IT for COVID-19 contact tracing, symptoms mapping, and self-assessment. It also helps in the identification of COVID-19 clusters.

[Cowin App](#) is a digital platform developed by the Ministry of Health and Family Welfare to help agencies keep a track of COVID-19 vaccination programme and allowing Indian citizens to apply for a COVID-19 vaccine shot.

The IDSP is implemented under the National Health Mission in all States / UTs with the objective to detect and respond to disease outbreaks due to epidemic-prone diseases. To prevent the spread of such outbreaks, under IDSP States / UTs are provided with additional manpower, training of identified RRT members for outbreak investigations, strengthening of laboratories for detection of epidemic-prone diseases, IT equipment for data entry, analysis and data transfer.

Please [Click Here](#) to read the Press Release dated 15th March 2021.

Union Minister for Health & Family Welfare inaugurates Public Medicine Centre at New Delhi



Measures to combat COVID-19



Dr. Harsh Vardhan, Union Minister for Health & Family Welfare inaugurated a Public Medicine Centre at Deep Market, Ashok Vihar, New Delhi on the occasion of Public Medicine Day.

The Union Health Minister stated that on 7th March 2019, Prime Minister Shri Narendra Modi had declared that henceforth 7th March every year would be celebrated as Public Medicine Day for promoting and increasing the outreach of generic medicines. The theme of 3rd Public Medicine Day this year is to highlight the meaningful employment to pharmacists along with assured access to quality medicines for all sections of the society.

Appreciating the impact of Public Medicine Centres on people and its role as a source of income for many people, he noted, “Approximately 1.00 to 1.25 Crore people are taking medicines from Public Medicine Centres every month. Besides providing quality, affordable generic medicines, the scheme has proved as a good source of employment for the educated unemployed youth of the country. More than 15,000 persons are directly employed at various levels in Pradhan Mantri Bhartiya Jan Aushadhi Kendra’s (PMBJKs), with logistics partners like distributors, quality testing labs etc. It is also praiseworthy to note that more than 1,000 Centres are run by women entrepreneurs/pharmacists.”

Reiterating the Government’s commitment towards strengthening PMBJP during this year, the Union Minister said 2 initiatives have been taken in the new year. 1st is the Introduction of a new incentive plan to make the scheme more attractive. Under this plan, the incentive provided to the Centre’s owners has been enhanced from existing Rs. 2.50 lakh to Rs. 5.00 lakh, maximum at Rs. 15,000 per month. Further, one-time incentive of Rs. 2 lakh for computer and furniture have been approved for stores opened by women, scheduled caste and scheduled tribes and any entrepreneur in aspirational districts or the north-eastern states. The 2nd initiative taken is the inclusion of 75 Ayush medicines in the product basket of PMBJP to expand the utility of the Centres.

Dr. Vardhan highlighted and appreciated the role of PMBJKs during COVID-19 pandemic. He said, “In the wake of COVID-19 pandemic, PMBJKs have rendered essential services to the nation. All Centres (PMBJKs) maintained their operations regularly and made medicines available to citizens. The sale of medicines in the stores increased during the nationwide lockdown.”

Please [Click Here](#) to read the Press Release dated 7th March 2021.

Measures to combat COVID-19

Private sector participation is being scaled up in COVID Vaccination

Ministry of Health and Family Welfare
Government of India

Help us to help you

#LargestVaccineDrive

Private Sector Participation is being Scaled Up in COVID Vaccination

Around 10,000 hospitals under Ayushman Bharat-PMJAY and 687 hospitals under CGHS can be used by States as **COVID Vaccination Centres (CVCs)**

States can also use **Health Facilities** of all PSUs and all Government Health Facilities as CVCs

States also given freedom to use all **Private Hospitals empanelled** under State Government Health Insurance Schemes as CVCs

Private Hospitals functioning as CVCs may recover a charge subject to a ceiling of **Rs. 250 per person per dose**

The nationwide COVID-19 Vaccination drive was launched on 16th January, 2021. From this date onwards, Health Care Worker were given the 1st dose of the COVID vaccine while Front Line Workers were included from 2nd February, 2021 onwards.

This nationwide vaccination program has now been exponentially expanded to the following age-groups from 1st March, 2021 onwards.

- All citizens > 60 years of age, and
- Those within age bracket of 45 to 59 years with specified co-morbidities

To ramp up the COVID vaccination capacity manifold, a significantly large number of private facilities is being involved. Around 10,000 private hospitals empanelled under Ayushman Bharat PMJAY, more than 600 hospitals empanelled under CGHS and other private hospitals empanelled under State Governments Health Insurance Schemes can participate as COVID Vaccination Centers (CVCs).

Health Departments of State Governments have already initiated dialogue with these private hospitals so that they can be encouraged to participate in this drive as CVCs. A list of all these private hospitals has been uploaded on the website of the Ministry of Health and Family Welfare and National Health Authority. These can be accessed at:

- <https://www.mohfw.gov.in/pdf/CGHSEmpHospitals.xlsx>
- <https://www.mohfw.gov.in/pdf/PMJAYPRIVATEHOSPITALSCONSOLIDATED.xlsx>

Measures to combat COVID-19



In addition, there would be Government health facilities which will be used as CVCs such as medical college hospitals, district hospitals, sub divisional hospitals, Health Sub Centers and Health and Wellness Centers.

The Government COVID-19 Vaccination Centers will offer free vaccination for all with the Central Government bearing the full cost of the vaccination.

All the private health facilities which will serve as Government COVID Vaccination Centers must follow strict norms of due process, quality and safety including integration with the National Co-Win technology platform. All private health facilities must also have adequate space, adequate cold chain arrangements, adequate number of vaccinators and support staff and adequate arrangements for addressing Adverse Event Following Immunization (AEFI).

States were explained the 3 methods of registration i.e. Advance Self Registration, Onsite Registration and Facilitated Cohort Registration.

States have been explained that the private hospitals functioning as CVCs can charge subject to a ceiling of Rs. 250 per person per dose along with the electronic and financial management mechanism in this regard. User Names and Passwords to be provided to the private facilities to facilitate effective use of CoWIN 2.0, were also discussed during the meeting.

In addition, mapping of private facilities with the nearest cold chain points to ensure seamless flow of vaccines to them was explained to the States. A simplified system of certifying people with 20 co-morbidities within the 45-59 years age group was also explained to the States. The certificate can either be uploaded on Co-WIN2.0 by the beneficiary while self-registering or a hard copy can be carried by the beneficiary to the CVC.

Please [Click Here](#) to read the Press Release dated 27th February 2021.

Goods & Services Tax (‘GST’)

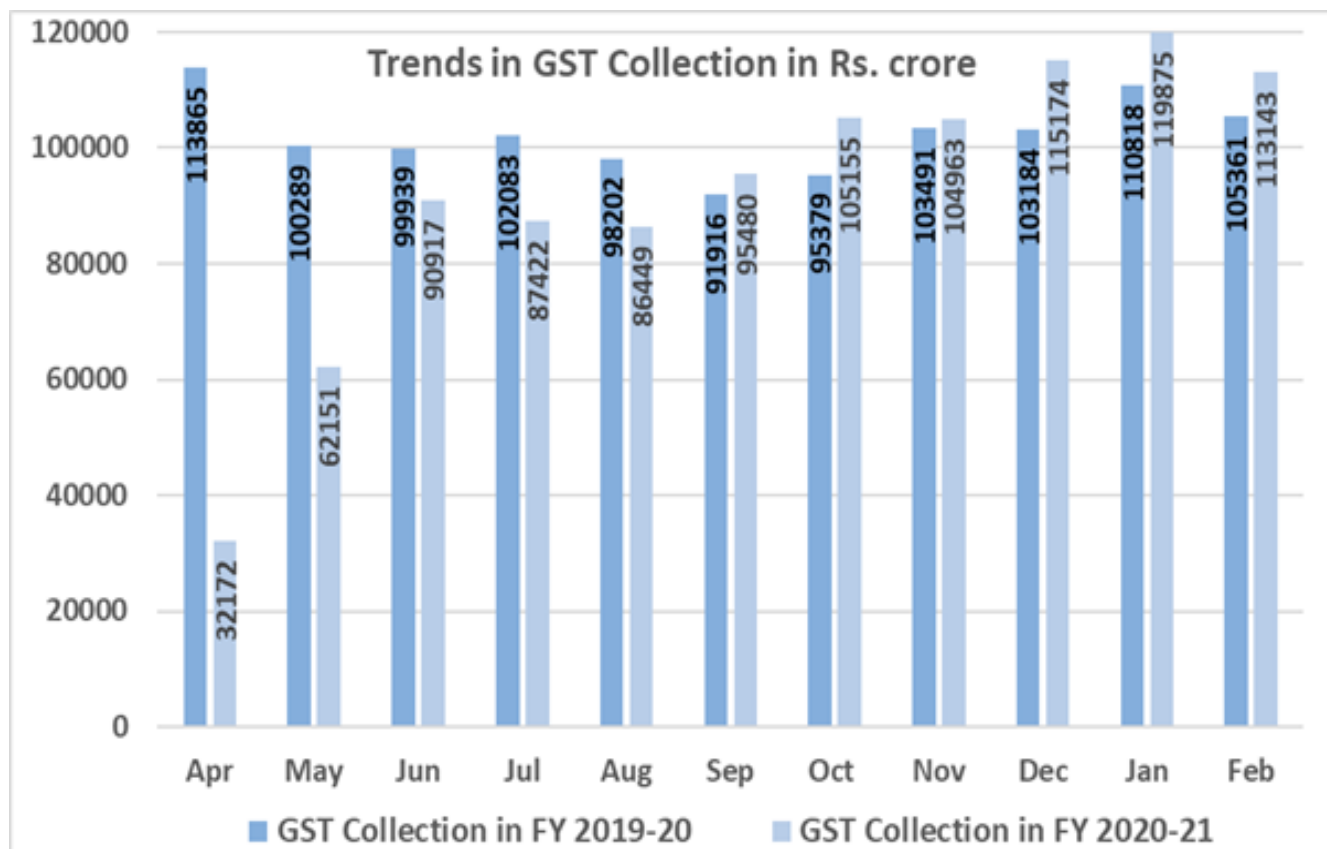




GST revenue collection for February 2021, Rs. 113,143 crore (7% higher than GST revenue collection in February 2020)

Gross GST revenue collection for the month of February, 2021 is Rs. 113,143 crore (details given below). The revenues for the month are 7% higher than the GST revenues in the same month last year. During the month, revenues from import of goods was 15% higher and the revenues from domestic transaction (including import of services) are 5% higher than the revenues from these sources during the same month last year.

IGST (Integrated Goods and Services Tax)	Rs. 55,253 crore
CGST (Central Goods and Services Tax)	Rs. 21,092 crore
SGST (State Goods and Services Tax)	Rs. 27,273 crore
Compensation cess	Rs. 9,525 crore
Total	Rs. 113,143 crore





Central Board of Indirect Taxes & Customs (CBIC) issues clarification on refund related issues

Clarification in respect of refund claim by recipient of Deemed Export Supply

- Para 41 of Circular No. 125/44/2019 - GST dated 18th November, 2019 has placed a condition that the recipient of deemed export supplies for obtaining the refund of tax paid on such supplies shall submit an undertaking that he has not availed Input Tax Credit (ITC) on invoices for which refund has been claimed. Thus, the recipient of deemed export supplies cannot avail ITC on such supplies but when they proceed to file a refund application on the portal, the system requires them to debit the amount so claimed from their electronic credit ledger.
- 3rd Proviso to Rule 89(1) of the Central Goods and Services Tax Rules, 2017 (CGST Rules) does not impose any such restriction on recipient of deemed export supplies while claiming refund of tax. The said restriction has been placed by the above Circular.
- Accordingly, para 41 of Circular No. 125 above is modified to remove the restriction of non-availment of ITC by the recipient of deemed export supplies on the invoices for which refund has been claimed.

Extension of relaxation for filing refund claim in cases where zero-rated supplies has been wrongly declared in Form GSTR-3B

- The GST portal has an inbuilt validation check to prevent the value of integrated tax (IGST) / cess in Form GST RFD-01A from being more than that declared in table 3.1(b) of Form GSTR-3B i.e., details of zero-rated supplies
- Various cases have been encountered where the taxpayers had inadvertently entered the details of zero-rated supplies in table 3.1(a) instead of 3.1(b) of Form GSTR-3B
- Accordingly, Para 26 of Circular No. 125 above clarified that for the period 1st July 2017 to 30th June 2019, such taxpayers shall be allowed to file refund application in Form GST RFD-01A subject to the condition that the amount of refund of IGST / cess claimed shall not be more than the aggregate amount of IGST / cess mentioned in the tables 3.1(a), 3.1(b) and 3.1(c) of GSTR-3B
- As the aforementioned clarification was valid up to 30th June 2019, thus the taxpayers who had committed the errors in subsequent tax periods were not able to file the refund application.
- Hence, it has been decided to extend the relaxation provided for filing refund claims where the taxpayer inadvertently entered the details of export of services or zero-rated supplies to a Special Economic Zone Unit / Developer in table 3.1(a) instead of table 3.1(b) of Form GSTR-3B till 31st March 2021. Accordingly, necessary modification in para 26 of Circular No. 125 has been carried out.



Manner of calculation of Adjusted Total Turnover under sub-rule (4) of Rule 89 of CGST Rules, 2017

- The amended definition of 'Turnover of zero-rated supply of goods' under rule 89(4) restricts it to 1.5 times the value of like goods domestically supplied by the same or similarly placed supplier, as declared by the supplier. Doubts had been raised whether the same would also apply for computation of 'Adjusted Total Turnover' for the purpose of calculating the refund
- It is clarified that for the purpose of Rule 89(4), the value of export/ zero-rated supply of goods to be included while calculating 'Adjusted Total Turnover' will be same as being determined as per the amended definition of 'Turnover of zero-rated supply of goods' in the said sub-rule. The same can explained by the following illustration where actual value per unit of goods exported is more than 1.5 times the value of same/ similar goods in domestic market, as declared by the supplier:
- Illustration: Suppose a supplier is manufacturing only one type of goods and is supplying the same goods in both domestic market and overseas. During the relevant period of refund, the details of his inward supply and outward supply details are shown in the table below:

Net admissible ITC = Rs. 270

Outward Supply	Value per unit (Rs.)	No of units supplied	Turnover (Rs.)	Turnover as per amended definition (Rs.)
Local (Quantity 5)	200	5	1000	1000
Export (Quantity 5)	350	5	1750	1500(1.5*5*200)
Total			2750	2500

The formula for calculation of refund as per Rule 89(4) is:

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Turnover of Zero-rated supply of goods (as per amended definition) = Rs. 1500

Adjusted Total Turnover = Rs. 1000 + Rs. 1500 = Rs. 2500 [and not Rs. 1000 + Rs. 1750]

Net ITC = Rs. 270

Refund Amount = Rs. 1500*270/2500 = Rs. 162

Thus, the admissible refund amount in the instant case is Rs. 162.



E-invoicing applicable for taxpayers having annual turnover > INR 50 crore

CBIC vide notification No. 05/2021 dated 8th March 2021 has notified that with effect from 1st April 2021 onwards, e-invoicing provisions shall be applicable to taxpayers having an aggregate turnover in excess of Rs. 50 crore (the said limit was previously reduced from Rs. 500 crore to Rs. 100 crore with effect from 1st January 2021).

Please [Click Here](#) to read the Notification dated 8th March 2021.

CBIC extends due date till 31st March 2021 for furnishing Form GSTR-9 (Annual Return) / GSTR-9C (Reconciliation Statement) for FY 2019-20

CBIC vide Notification No. 04/2021 has extended the due date for furnishing GST Annual Return / Reconciliation Statement (GSTR-9/GSTR 9C) for the FY 2019-20 from 28th February 2021 to 31st March 2021.

Please [Click Here](#) to read the Notification dated 28th February 2021.

Feature to select 'Core Business Activity' on GST portal

Goods and Services Tax Network (GSTN) has enabled new feature to select single 'Core Business Activity' on the GST portal. Taxpayers have been requested to accept this core business carefully based on the basic company documents, including memorandum of association/ partnership deed etc.

S.No	Please Identify your Core business as	Only one selection is allowed
1	Manufacturer	<input checked="" type="radio"/>
2	Trader	<input type="radio"/>
3	Service Provider and Others	<input type="radio"/>

NOTES:

1. You can select only one core business activity.
2. In case all activities are applicable to you, kindly select your core business activity.
3. Others will include Work Contract and Other Miscellaneous Items.
4. In order to understand the definitions of Manufacturer / Trader / Service Provider, you can click on "Information Button".
5. Further if you want to change it in future you can do it by navigating MY PROFILE>CORE BUSINESS ACTIVITY STATUS.

[SUBMIT](#)

Direct Tax



Direct Tax

Due date for reporting on General Anti Avoidance Rules (GAAR) & GST in Tax Audit Report (TAR) extended till 31st March 2022

Clause 30C of the TAR in Form 3CD requires taxpayer to report details of any impermissible avoidance agreement he has entered into, if any, during the year. Clause 44 requires taxpayer to report break-up of total expenditure of entities registered / not registered under GST.

Reporting under the above clauses was kept in abeyance till 31st March 2021. Due to COVID-19, the said due date for reporting has been extended till 31st March 2022.

Please [Click Here](#) to read Circular No. 05/2021 dated 25th March 2021.

Amendments to Finance Bill 2021

Background

The Finance Bill, 2021 (Bill) was presented in the lower house of Parliament (Lok Sabha) by the Finance Minister, Ms. Nirmala Sitharaman, on 1st February 2021. Please [Click Here](#) to read our alert on the same.

Usually, the legislative process that follows the presentation of annual Union Budget is nothing more than a formality. Mostly, the Finance Bill as introduced gets enacted, except in a few cases to rectify clerical errors.

This year, however, it has been different. A whopping 127 amendments have been made in the original Finance Bill at the enactment stage, which has been passed by the Lok Sabha on 23rd March 2021. While some amendments are significant, others are clerical intended to address ambiguities in the original Bill.

Key Amendments in Finance Bill 2021

1. Definition of 'Liable to Tax'

As per the new definition, a person shall be considered as 'liable to tax' in a country, if there is an *income-tax liability* on such person under the law of *that country* for the time being in force and shall also include a person who has subsequently been exempted from such liability under the law of that country.

Direct Tax



2. Threshold limit for taxation of interest income on employee's contribution to provident fund (PF)

Earlier, the interest accrued / received on employee's contribution to PF, on or after 1st April 2021, in excess of Rs. 2.5 lakh was taxable in the hands of the employees.

The said limit has been increased to Rs. 5 lakh, i.e., the interest accrued on employee's contribution to PF,

- Upto Rs. 5 lakh would be tax-exempt in the hands of the employee
- Above Rs. 5 lakh would be taxable in the hands of the employee

3. Depreciation on Goodwill

The original Bill provided that goodwill will no longer be eligible for tax-depreciation irrespective of the mode of its acquisition. However, there existed some ambiguity on whether depreciation on goodwill can be claimed if it already forms part of block of assets as on 1st April 2020.

The amended Bill now provides that goodwill which forms part of block of assets as on 1st April 2020 would be ineligible for depreciation from FY 2020-21 onwards.

4. Computation of capital gains arising from 'slump sale'

The existing law does not consider Fair Market Value (FMV) for capital assets which are transferred pursuant to a slump sale as the taxable value. The capital gain is computed based on consideration agreed between the parties to slump sale.

The amended Bill now provides that FMV of capital assets transferred pursuant to slump sale shall be deemed to be the full value of consideration for the purposes of computing capital gains (the anti-abuse provision). Further, for the purpose of calculation of net-worth (i.e., cost of acquisition), the value of goodwill of business or profession will be considered as Nil while the goodwill purchased from the previous owner will be available as deduction.

5. Amendment to Minimum Alternate Tax (MAT) provisions

The original Bill provided that if an Advance Pricing Agreement (APA) or a Secondary Adjustment results in increase in book profit of current FY, the tax officer would need to re-compute MAT liability for the past years, on filing of application by the taxpayer.

The amended Bill provides that the above provisions will apply

- Only if the taxpayer has not utilized the MAT credit in any subsequent years, and
- no interest shall be payable on refund arising due to such recomputation.

Direct Tax

6. *Amendment to Tax Audit provisions*

The original Bill increased the threshold for tax audit from Rs. 5 crore to Rs. 10 crore in cases where –

- taxpayer carries on business, and
- receipts and payments in cash during the relevant FY \leq 5% of the aggregate receipts and payments respectively

The amended Bill provides that payment or receipt by a cheque or a bank draft, which is not account payee, shall be considered as cash payment or receipt for computing 5% threshold limit.

7. *Reduction in fees for delayed filing of tax return*

Presently, the law provides for levy of fee of Rs. 5,000 on a taxpayer for belated filing of tax return if return is furnished by 31st December following the FY and Rs. 10,000 if return is furnished beyond 31st December. If, however, the total income of taxpayer \leq Rs. 5 lakh, the fee is reduced to INR 1,000.

The amended Bill proposes to limit the fees to Rs. 5,000 even if tax return is furnished beyond 31st December.

8. *Mandatory fee for not linking Aadhaar number with Permanent Account Number (PAN)*

Presently, all taxpayers who are holding Permanent Account No. (PAN) as on 1st July 2017 and are eligible to obtain Aadhaar number are required to link their Aadhaar number with PAN on or before 31st March 2021. In case of default, their PAN will become inoperative for all purposes under the Act.

The amended Bill proposes to levy fees as may be prescribed by the CBDT but not exceeding Rs. 1,000 at the time of linking their Aadhaar number with PAN on or after 1st April 2021.

9. *Extension of time limit for completion of assessment if application filed before Income-tax Settlement Commission (ITSC) is withdrawn*

The original Bill proposed to discontinue ITSC with effect from 1st February 2021 onwards and constitute an Interim Board for settlement of pending cases. Further, the applicants shall be given an option to withdraw the pending application within 3 months from date of commencement of Finance Act 2021 and intimate the jurisdictional tax authority about the withdrawal. In such case, the tax authority is required to complete the assessment of the taxpayer as per the provisions of the Income-tax Act.

The amended Bill provides that where application before ITSC is withdrawn by the applicant and time limit available for completion of assessment, reassessment or re-computation by tax authority is less than 1 year, it shall be extended to 1 year.

10. *Clarification on Equalisation Levy (EL) provisions*

The scope of EL was extended from 1st April 2020 onwards, to charge a 2% levy on the gross consideration received or receivable from making or providing or facilitating online sale of goods or provision of services by an NR e-commerce operator (EOP)

The Bill proposed to clarify that consideration received / receivable shall include consideration for sale of goods and provision of services, regardless of whether the EOP owns the goods or provides the service.

The amended Bill proposes to clarify that, for the purposes of EL, consideration shall not include consideration for sale of goods owned by, or provision of services rendered by a resident in India or permanent establishment (PE / taxable presence) of NR in India where such sale/service is effectively connected to PE in India.

Direct Tax

Central Board of Direct Taxes (CBDT) notifies additional classes of reportable persons to furnish Statement of Financial Transactions (SFT)

Background

Currently, the Income-tax Act, 1961 ('Act') requires some specified taxpayers including government agencies, banks and other institutions to submit SFT with tax authorities containing certain financial transactions undertaken during the year. Reporting of SFT acts as a valuable source of information for the Government so that the same can be utilized for widening of tax base and detection of revenue leakage.

Additional specified persons notified by CBDT for reporting on specified transactions in SFT

S.No.	Nature of Transaction	Reporting Person
1.	Capital gains on transfer of listed securities or units of Mutual Funds	<ul style="list-style-type: none">• Recognised stock exchange• Depository• Recognised clearing corporation• Registrar to an issue and share transfer agent
2.	Dividend Income	<ul style="list-style-type: none">• A company
3.	Interest Income	<ul style="list-style-type: none">• A banking company or a co-operative bank• Post Master General• Non-banking Finance Company (NBFC)

Please [Click Here](#) to read the Notification No. 16/2021 dated 12th March 2021.

Direct Tax

Income from Salary - CBDT prescribes method for computation of taxable perquisite for annual accretion on excess contribution made by employer to specified funds

Background

Prior to Financial Year (FY) 2020-21, employer's contribution to Provident Fund (PF) in excess of 12% of specified salary, to Superannuation Fund (SAF) in excess of Rs.1.5 lakh and to National Pension Scheme (NPS) in excess of 10% of specified salary was taxable as salary.

Amendment by Finance Act, 2020

As per amendment last year by Finance Act 2020, the aggregate of such employer's contributions to PF, SAF and NPS in excess of Rs. 7.5 lakh a year has been made taxable as perquisite. Further annual accretion (interest, dividend or other income) related to such excess contribution is also taxable as perquisite.

Method of computation of Annual Accretion

CBDT vide Notification No. 11/2021 dated 5th March 2021, has inserted a new rule prescribing the method for computation of taxable perquisite for annual accretion on excess contribution made by employer to the specified fund, as below.

Annual accretion by way of interest, dividend or any other amount during FY on the excess contribution made by employer shall be computed as per following formula, namely—

$$TP = (PC/2)*R + (PC1+ TP1)*R$$

Where,

TP = Taxable perquisite [u/s 17(2)(vii)] for current FY

TP1 = Aggregate of taxable perquisite for FY or FYs commencing on or after 1st April 2020 other than the current FY

PC = Amount of principal contribution made by the employer in excess of Rs. 7.5 lakh to specified fund or scheme during FY

PC1 = Amount of principal contribution made by the employer in excess of Rs. 7.5 lakh to the specified fund or scheme for FY or FYs commencing on or after 1st April 2020 other than the current FY

$$R = I / Favg$$

I = Amount of income accrued during current FY in specified fund or scheme account;

Favg = 1 / 2 of (balance in the specified fund or scheme on the 1st and last day of current FY)

However, where the amount of TP1 and PC1 exceeds the amount of balance in the specified fund or scheme on the 1st day of current FY, then the amount in excess of the amount of the said balance shall be ignored for the purpose of computing the amount of TP1 and PC1.

Please [Click Here](#) to read the Notification No. 11/2021 dated 5th March 2021.

Direct Tax

CBDT issues instructions regarding selection of cases for issue of notice for reassessment under the Income-tax law

Section 147 of the Income-tax Act provides that if the AO has reason to believe that any taxable income has escaped assessment for any FY, he may assess or reassess such income. For such assessment or reassessment, section 148 requires the AO to serve a notice on the tax payer to furnish his return of income.

In this regard, CBDT has issued instructions that only the following categories of cases shall be considered for reassessment in respect of FYs 2012-13 to 2016-17 for taking action by tax authorities latest by *31st March 2021*.

- Cases related to revenue audit objections or internal audit objections
- Cases where information is received from any other government agency / law enforcement agency
- Cases where there are reports of Directorate of Income-tax (Investigation) and / or Directorate of Intelligence & Criminal Investigation
- Cases from Non-filer Management System (NMS) and other cases as flagged by the Directorate of Income-tax (Systems) as per risk profiling
- Cases where information is arising out of field survey action
- Cases where information is received from Income-tax authority

No other category of cases for above years shall be considered for taking action. The objective of this exercise is to streamline the process for selection of cases for issue of notice u/s 148 by 31st March 2021.

Please [Click Here](#) to read the Instructions dated 4th March 2021.



Direct Tax

CBDT extends due dates for assessment, reassessment & imposition of penalty

Earlier, due to COVID-19 pandemic, Government had notified the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 for providing relaxation in certain provisions related to direct taxes, indirect taxes and prohibition of benami property transactions. This Act provides for extension of time limits for compliance of certain actions and reduction in interest, waiver of penalty and prosecution for delay in payment of certain taxes.

The Government also granted similar extensions to tax authorities for completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or any other action under the specified laws.

Now, CBDT vide Notification no. 10/2021 dated 27th February 2021 has further extended the due dates for assessment, reassessment and imposition of penalty as below:

Compliance related to	Original Due Date falling within	Extended Due Date
Issue of notice and passing an order under Benami Law	20 th March 2020 to 30 th June 2021	30 th September 2021
Passing of penalty order under Chapter XXI of the Act	20 th March 2020 to 29 th June 2021	30 th June 2021
Passing of assessment or reassessment order under the Act	20 th March 2020 to 30 th March 2021	30 th April 2021
	Not covered above but is due on 31 March 2021	30 th September 2021

Please [Click Here](#) to read the Notification No. 10/2021 dated 27th February 2021.

Direct Tax

Vivad (Dispute) se (to) Vishwas (Trust) Scheme (VTVS) - CBDT issues clarification on the passing of consequential orders by Assessing Officer (AO)

Background

The Vivad Se Vishwas Scheme was introduced to provide opportunity to taxpayers to settle their direct tax disputes pending as on 31st January 2020, by filing a declaration in the prescribed form with a designated authority ('DA') and by paying the prescribed amount before the due date. Objective of the Scheme was reduction of pending income-tax disputes, generating timely revenue for the Government and benefitting 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.

Ambiguity in current scenario

Currently, there is no enabling provision under the law allowing AO to give consequential effect to the settlement orders passed by the DA under Vivad Se Vishwas Scheme. Since orders passed by the DA have consequential effect under the Income-tax Act, Government was requested to issue a clarification.

Clarification issued by CBDT

CBDT has clarified that where the DA has passed order under Vivad Se Vishwas Scheme, the AO shall pass consequential order under the Income-tax Act accordingly.

Please [Click Here](#) to read the Circular No. 3/2021 dated 4th March 2021.



Direct Tax



VTVS - CBDT further extends due dates

Background

As per the Scheme, taxpayers can settle their dispute by paying 100% of disputed tax on or before 31st March 2021. Payment made after 31st March 2021 would require payment of an additional amount of 10% of the disputed tax.

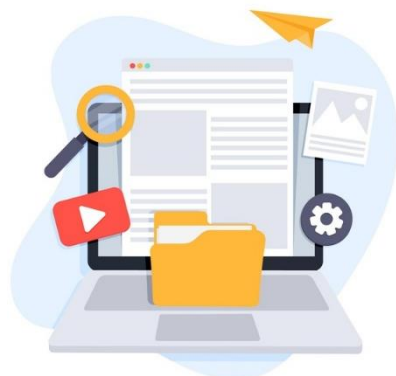
In the past, CBDT had notified due date as 31st December 2020 for filing declaration under the Scheme, which was extended to 31st January 2021. The said date has again been extended to 28th February 2021.

Extended due dates

Now, CBDT vide notification no. 09/2021 dated 26th February 2021 has further extended the due dates as mentioned below:

Particulars	Earlier Due Date	Extended Due Date
For filing a declaration by applicant	28 th February 2021	31 st March 2021
For payment of 100% of disputed tax	31 st March 2021	30 th April 2021
For payment of 100% of disputed tax with additional 10% of disputed tax.	1 st April 2021 onwards	1 st May 2021 onwards

Please [Click Here](#) to read the Notification No. 9/2021 dated 26th February, 2021.



Direct Tax

VTVS - CBDT clarifies the meaning of 'Search Case'

Background

VTVS empowers CBDT to issue directions or orders in public interest to remove difficulties. CBDT has issued various clarifications in the form of answers to frequently asked questions (FAQ) from time to time. One such FAQ clarified the eligibility for 'search case' under VTVS that if assessment order was issued to taxpayer u/s 143(3) / 144 of the Act based on search executed in some other taxpayer's case, whether it was to be considered as a 'search case' for the purpose of VTVS. 'Search cases' are eligible for settlement under VTVS.

The Issue that arose

Reportedly, several representations were received by CBDT seeking further clarity on classification of a case as a 'search case' for the purposes of VTVS.

Clarification issued by CBDT

CBDT has clarified vide circular no. 4/2021 dated 23rd March 2021 that a 'search case' means an assessment or reassessment made u/s 143(3) / 144 / 147 / 153A / 153C / 158BC of the Act in the case of a person referred u/s 153A / 153C / 158BC / 158BD of the Act on the basis of search initiated u/s 132 or requisition made u/s 132A of the Act.

Please [Click Here](#) to read the Circular No. 4/2021 dated 23rd March 2021.



International Tax



International Tax

CBDT notifies new rule (Form 15E) for payers to apply for lower withholding tax on payment to Non-Resident (NR)

Background

Section 195 of the Income-tax Act provides for deduction of tax at source (TDS) on any sum taxable under the provisions of the Act which is payable / paid to an NR.

Where the payer believes that the whole of such sum would not be taxable in the hands of the payee, the payer may make an application to the tax authorities for lower withholding tax order. However, the Act had not prescribed any format for making such application which leads to uncertainty and inconvenience for the tax payer.

New rule for lower withholding tax order on payment to NR

To do away with this uncertainty, CBDT has introduced Form 15E for making application for claiming lower withholding tax and also has introduced new Rule 29BA for making such application online. The procedure is as below:

Steps	Action
1.	The application for lower withholding order in the case of NR shall be made electronically either under digital signature or through electronic verification code.
2.	The AO shall determine the appropriate proportion of such sum chargeable to tax by examining whether the sum paid or credited is chargeable to tax under the provisions of the Act read with the relevant DTAA.
3.	The AO, on being satisfied that the whole of such sum would not be chargeable to tax, may issue a certificate determining appropriate proportion of such sum chargeable under the provision of this Act, for the purposes of tax deduction.
4.	While examining the application, the AO shall also take into consideration: <ul style="list-style-type: none">• Tax payable on estimated income of the FY• Tax payable on the assessed or returned or estimated income of preceding four FYs• Existing liability under the Act and Wealth-tax Act, 1957• Advance tax payment, TDS and tax collected at source for the FY under consideration till the date of making application
5.	The certificate shall be valid only for the payment to NR named therein and for such period as may be specified in the certificate, unless it is cancelled by the AO at any time before the expiry of the specified period.
6.	An application for a fresh certificate may be made after the expiry of the period of validity of the earlier certificate or within 3 months before the expiry thereof.
7.	The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), shall lay down procedures, formats and standards for ensuring secure capture and transmission of data and uploading of documents etc.

International Tax



Brief outline of Form 15E

The form asks for comprehensive information on the payment to be proposed to be made to NR. It is broadly divided into 6 parts as below:

Part 1: Details of the payer

Part 2: Details of the recipient

Part 3: Details of the transaction

Part 4: Taxability under the provisions of the Act (without considering DTAA)

Part 5: Taxability under DTAA

Part 6: List of documents to be uploaded

Please [Click Here](#) to read the Notification No. 18/2021 dated 16th March 2021.

CBDT issues clarification on residential status of certain individuals for FY 2020-21, especially expatriates / NRs who came to India during FY 2019-20 but could not leave timely due to suspension of international flights

Background

Section 6 of the Income-tax Act contains provisions relating to determination of tax residency of a person. The tax residential status of an individual, as to resident and ordinarily resident (ROR), not ordinarily resident (NOR) or non-resident (NR), is dependent on the period for which the individual physically stays in India during the relevant FY or years preceding the relevant FY.

Considering the COVID-19 pandemic the tax residential status of an individual who had come to India on a visit before 22nd March 2020 (i.e., before nation-wide lockdown was declared in India by the Prime Minister) and intended to leave India on or before 31st March 2020, may have changed, due to suspension of international flights. Earlier, CBDT vide circular no. 11/2020 dated 8th May 2020 has issued relaxation regarding number of days of stay in India for determining the residential status of an individual for FY 2019-20.

Issue arising

CBDT has received various representations requesting for relaxation in determination of residential status for FY 2020-21 from individuals who had come on a visit to India during the FY 2019-20 and intended to leave India but could not do so due to suspension of international flights.

International Tax



Determination of tax residential status for FY 2020-21

The CBDT has re-iterated the existing provisions of the Act and the Double Taxation Avoidance Agreements (DTAA).

1. An Individual who is NR in FY 2019-20 and got stranded in India due to COVID-19 pandemic during the FY 2020-21 might become resident in India for the FY 2020-21 only if he had stayed in India for 182 days or more unless he is covered under the below exceptions:
 - A citizen of India (COI) or a person of Indian origin (POI) may become resident in India if his total income from Indian sources, exceeds Rs.15 lakh in FY 2020-21 and he stays during the FY 2020-21 for 120 days or more and also stays for 365 days or more in preceding 4 FYs.
 - An Individual who is not COI or a POI may become resident in India if he stays during the FY 2020-21 for 60 days or more and also stays for 365 days or more in preceding 4 FYs.

Most of the countries have the condition of stay for 182 days or more for determining tax residency. Any general relaxation for the stay period of 182 days is not provided by CBDT, as it is of the view that there may be cases of double non-residency and individual may end up not paying tax in any country, even after staying for more than 182 days in India.

2. Double Taxation Avoidance Agreement (DTAA):

- An individual would become an ultimate resident of a single country as per the tie-breaker rule under DTAA that India has with many other countries. For example, the Indo-USA DTAA contains following order of tests in Article 4(2) to determine the residency:
 - ✓ Permanent Home
 - ✓ Where there is permanent home in both countries, his centre of vital interests
 - ✓ Habitual Abode
 - ✓ Nationality
 - ✓ Mutual Agreement between Countries

It is relevant to note that even in cases where an individual became resident in India due to exceptional circumstances, he would most likely become NOR in India and hence only his Indian sourced income would be taxable in India.

- As per Article related to employment income in DTAA, salaries, wages and other similar remuneration are taxable only in the country in which the employee is resident unless the employment is exercised in the other country. For instance, a USA resident under employment of a USA corporation has got stranded in India and performs employment from India, its salary will be taxable in India only if he is present in India for 183 days or more during the FY 2020-21 or if the salary is borne by Indian permanent establishment of such USA corporation.
- Foreign Tax Credit - A resident person in India shall be entitled to claim credit of the taxes paid in any other country.

International Tax

3. The Organisation for Economic Co-operation and Development (OECD) has clarified that DTAA's contain the necessary provisions to deal with the cases of dual residency arising due to COVID-19 situations.
4. A study of the measures taken by different countries reveals that there is mix response as some of the countries have provided relief for certain number of days subject to the satisfaction of prescribed conditions whereas some of the countries have not provided any relief.

Conclusion

Thus, it can be seen that OECD as well as most of the countries have clarified that the provisions of the domestic income tax law read with the DTAA's mitigates the possibility of double taxation of the income for FY 2020-21.

However, if a taxpayer is still facing double taxation due to forced stay in India despite considering the relief provided by the respective DTAA's, he may furnish the information electronically in Form-NR by 31st March 2021 with the Principal Chief Commissioner of Income-tax (International Taxation). After understanding the possible situations of double taxation, CBDT shall examine whether any general / specific relaxation is required to be provided.

Please [Click Here](#) to read the Circular No. 2/2021 dated 3rd March 2021.

Supreme Court (SC) rules that payment for import of computer software by Indian resident does not constitute royalty under Double Taxation Avoidance Agreement (DTAA)

Background

Shrink-Wrap Software means software that has not been customized and that is commercially available in the form used by the company in the business through consumer retail stores or from the software licensors or from the internet pursuant to "shrink wrap" or "click through" licenses.

The general practice for the recognition of payments made for import of shrink-wrapped software to overseas suppliers was to assess it as royalty. This classification as royalty required tax to be deducted at source u/s 195 of the Act. Heavy tax demands which included penalties were being raised on tax payers as TDS obligations were not being met by them.

International Tax



Ambiguity in recognition of payment

The taxation of income from the sale of such computer software in cross-border transactions has been a debatable issue. The Act defines the royalty as consideration paid for transfer of all or any rights, including by way of a license, in respect of any copyright while DTAA's limit the definition of royalties to payments for the use of, or the right to use, any copyright of a literary, artistic or scientific work.

The key question that remains is whether such income should be characterized as royalties which requires tax to be deducted at source or as business income on which no Indian tax shall levy in the absence of a permanent establishment (taxable presence) in India.

Indian tax authorities have generally taken the position that income arising from transactions involving the sale of software programs or licenses should be characterized as royalties, irrespective of the nature of rights acquired by the end-user or the reseller.

However, taxpayers have often taken the position that the characterization under the applicable DTAA should be based on the nature and extent of rights granted to the end-user. The contention of the taxpayer was that the use of software by the Indian importer was limited to making a backup copy and / or redistribution. They did not have the right to modify the shrink-wrapped software that was imported.

SC Ruling

The SC ruling covered the following categories of software payments:

- Sales of software directly to an end-user by a non-resident (NR)
- Sales of software by a NR to Indian distributors for resale to customers in India
- Sales of software by a NR to a foreign distributor for resale to customers in India
- Software bundled with hardware and sold by foreign suppliers to Indian distributors or end-users

The SC gave a common ruling for all the four categories of software payments.

The amounts paid by Indian resident end-users / distributors to non-resident computer software manufacturers / suppliers, as consideration for the resale / use of the computer software through end user licence agreements (EULA) / distribution agreements, is not the payment of royalty for the use of copyright in the computer software under various DTAA and the same does not give rise to any income taxable in India, as a result of which there was no obligation on the persons mentioned in section 195 to deduct any tax at source.

Please [Click Here](#) to read SC's Order dated 2nd March 2021.

Company Law



Company Law



Ministry of Corporate Affairs (MCA) mandates usage of accounting software by companies which has feature of recording audit trail for each & every transaction

Pursuant to Rule 3 of Companies (Accounts) Rules, 2014, companies may choose to keep and maintain their books of accounts in electronic mode which shall remain accessible in India so as to be used for subsequent reference.

MCA vide notification dated 24th March 2021 has mandated that every company which uses accounting software for maintaining its books of accounts in electronic mode, shall from FY 2021-22 onwards, only use such accounting software which has a feature of recording *audit trail* of each and every transaction, creating an edit log of each change made in the books of accounts along with the date when such changes were made and ensuring that the audit trail cannot be disabled. The said amendment has been made to encourage transparency and corporate governance.

Please [Click Here](#) to read the notification dated 24th March 2021.

MCA mandates additional disclosures in Board of Directors' report by companies

Pursuant to Rule 8 of Companies (Accounts) Rules, 2014, companies are required to make certain disclosures of information in their Board of Directors' report which is required to be prepared and filed annually with Registrar of Companies (ROC).

MCA vide notification dated 24th March 2021 (please refer the above link) has notified following additional disclosures to be made by companies in Board of Directors' report from FY 2021-22 onwards.

- Details of application made or any proceedings pending under the Insolvency and Bankruptcy Code (IBC), 2016 during the year along with their status at the end of FY;
- Details of difference between amount of the valuation of the assets of the company done at the time of one-time settlement and the valuation done while borrowing loan from the Banks or Financial Institutions along with the reasons thereof

Company Law

MCA notifies certain provisions of Companies (Amendment) Act, 2020

MCA vide notification dated 24th March 2021 has notified following provisions of Companies (Amendment) Act, 2020.

Notified sections	Particulars
Section 23	Penalty imposed on defaulting company and its officers in case of failure to transfer the unpaid dividend of the company to the 'Unpaid Dividend Account' and 'Investor Education and Protection Fund', as the case may be
Section 45	Penalty imposed on Registered Valuer due to contravention of section 247 (Valuation by Registered Valuer) of Companies Act, 2013 during course of valuation conducted by him

Please [Click Here](#) to read the notification dated 24th March 2021.

MCA notifies changes in disclosures to be made by Auditors in their report

Pursuant to Rule 11 of the Companies (Audit and Auditors) Rules, 2014, there are certain specified matters to be disclosed by Statutory Auditors in their annual audit report. MCA vide notification dated 24th March 2021 has notified following changes from FY 2021-22 onwards.

Disclosure omitted

- Holding and dealing in 'Specified Bank Notes' during Demonetization period (8th November, 2016 to 30th December, 2016)

Disclosures added

- No funds of the company other than those represented in the notes to accounts have been:
 - ✓ Advanced / loaned / invested by the company to / in any other person(s) or entity(ies), including foreign entities ('Intermediaries'), with the understanding that the Intermediary shall directly or indirectly, further lend or invest such funds in any other person(s) or entity(ies) which have been identified by or on behalf of the company
 - ✓ Received by the company from any person(s) or entity(ies) including foreign entities ('Funding Parties'), with the understanding that the company shall directly or indirectly , further lend or invest such funds in any other person(s) or entity(ies) which have been identified by or on behalf of the Funding Parties
 - ✓ Based on the audit procedures used by the auditor, a disclosure to the effect that there is no material misstatement in the aforesaid representations
- Dividend declared / paid by the company u/s 123 of the Companies Act.
- For companies using accounting software for maintaining its books of accounts which has a feature of recording audit trail (edit log facility), additional disclosure to be made that audit trail (edit log facility) is maintained properly and has not been tampered with throughout the year

Please [Click Here](#) to read the notification dated 24th March 2021.

Company Law

Remuneration payable to Non-Executive Directors & Independent Directors in case of no profits or inadequate profits in a company - MCA notifies revised remuneration limits

Who is a Non-Executive Director?

Non-Executive Director is a Director who is not in whole time employment of the company unlike Managing Director (MD) or Whole-time Director (WTD) and is appointed by the company for availing his expertise on certain matters. Such a Director may or may not receive remuneration from the company but is entitled to sitting fee payable to him for Board meetings attended by him in the capacity of Non-Executive Director.

Who is an Independent Director?

Pursuant to the provisions of section 149 of the Companies Act, 2013 (Act), an Independent Director means a Director (other than a MD or WTD or Nominee Director):

- Who, in the opinion of the Board of Directors, is a person of integrity and possesses relevant expertise, experience and prescribed qualifications;
- Who is or was not a Promoter / related to Promoters or Directors of the company or its Holding, Subsidiary or Associate company;
- Who has no pecuniary relationship, other than remuneration or having transaction not exceeding 10% of his total income or such amount as may be prescribed with the company, its Holding, Subsidiary or Associate company or their Promoters or Directors, during the 2 immediately preceding FY or during the current FY
- Who, neither himself nor through any of his relatives holds or has held the position of a key managerial personnel or is or has been employee of the company or its Holding, Subsidiary or Associate company in any of the 3 immediately preceding FYs
- Who together with his relatives fulfil such other conditions and criteria as prescribed u/s 149 of the Act

Company Law



Provisions notified by MCA related to remuneration to Non-Executive Directors and Independent Directors?

MCA vide notification dated 18th March 2021 has notified provisions of Companies (Amendment) Act, 2020 which provides that if a company in any FY has earned no profits or has inadequate profits, in such a case Non-Executive Directors and Independent Directors of such a company may receive remuneration from the company in accordance with the provisions of Schedule V of the Companies Act. Such remuneration payable shall be over and above any sitting fee payable to them for meetings attended in the capacity of Non-Executive Director and Independent Director.

Thus, making it clear that in the event of no profits / inadequate profits in any FY, a company may pay remuneration to not only its Managerial Persons such as MD, Manager, WTD but also to other Non-Executive Directors and Independent Directors in accordance with the provisions of Schedule V of the Act.

Please [Click Here](#) to read the notification dated 18th March 2021.

Revised remuneration limits notified by MCA under Schedule V of the Act

As mentioned above, Schedule V of the Act deals with the provisions pertaining to the managerial remuneration payable by Public Limited companies and Listed companies to its MD, WTD, Managers and other Directors (including Non-Executive Directors and Independent Directors) from time to time.

MCA vide notification dated 18th March 2021 has revised remuneration limits mentioned under Schedule V of the Act in case of remuneration payable by companies having earned no profits or inadequate profits in a FY to its Directors.



Company Law



Where Effective Capital of company is:	Existing limit of annual remuneration payable to MD, WTD & Manager shall not exceed	Revised limit of annual remuneration	
		Payable to MD, WTD & Manager shall not exceed	Payable to any other Non-executive Directors & Independent Directors shall not exceed
Negative or <Rs 5 Crore	Rs 60 Lakh	Rs 60 Lakh	Rs 12 Lakh
Rs 5 Crore – Rs 100 Crore	Rs 84 Lakh	Rs 84 Lakh	Rs 17 Lakh
Rs 100 Crore – Rs 250 Crore	Rs 120 Lakh	Rs 120 Lakh	Rs 24 Lakh
Rs 250 Crore and above	Rs 120 Lakh + 0.01% of the effective capital in excess of Rs 250 Crore	Rs 120 Lakh + 0.01% of the effective capital in excess of Rs 250 Crore	Rs 24 Lakh + 0.01% of the effective capital in excess of Rs 250 Crore

Please [Click Here](#) to read the notification dated 18th March 2021.

MCA establishes Central Security Centre (CSC) for carrying out scrutiny of Straight Through Processes (STP) e-forms filed by companies

MCA vide notification dated 18th March 2021 has established a CSC for carrying out scrutiny of STP e-forms filed by companies under the Act. The said notification shall come into force from 23rd March 2021.

What is STP mode of processing e-forms?

It is a system adopted by MCA wherein the e-forms filed by companies are taken on record by the MCA portal and *auto approved* without any scrutiny of the information / documents filed by the applicant. This mode of processing and approval of e-forms is adopted by MCA in case of forms which are filed for notifying intimation such as appointment of Directors in e-form DIR-12, filing of audited Financial Statements of companies in e-form AOC-4, filing of annual return by companies in e-form MGT-7, appointment of auditors of the company in e-form ADT-1 and many others.

Company Law



Salient features of CSC

- CSC shall function under the administrative control of the e-governance Cell of the MCA
- CSC shall carry out scrutiny of the STP e-forms filed by companies and forward findings thereon, wherever required, to the concerned jurisdictional Registrar of Companies (ROC) for further necessary action under the provisions of the Act and the rules made thereunder
- CSC shall be located at the Indian Institute of Corporate Affairs (IICA), Plot No. 6, 7, 8, Sector 5, IMT Manesar, District Gurgaon (Haryana)

Please [Click Here](#) to read the notification dated 18th March 2021.

MCA notifies changes in Annual Return Form MGT-7 filed by companies

Pursuant to section 92 of the Act every company is required to file its Annual Return for each FY in e-form MGT-7 with ROC within 60 days from the date of its Annual General Meeting (AGM) of shareholders.

MCA vide notification dated 5th March 2021 has notified certain changes in the Annual Return to be filed by companies from FY 2021-22 onwards by introducing Companies (Management and Administration) Amendment Rules, 2021 and notifying provision of the Companies (Amendment) Act, 2017.

Key changes

- Every 'One Person Company' (OPC) and 'Small company' shall file its abridged Annual Return with ROC in the new prescribed e-form MGT-7A within 60 days from the date of its AGM. The said e-form MGT-7A shall be deployed on the MCA portal shortly for all future filings
'OPC' means a private limited company which is incorporated by a single individual shareholder who should be a citizen of India and resident in India for at least 120 days during the preceding FY. 'Small company' means a private limited company whose paid up share capital is < Rs. 2 crore and annual turnover is < Rs. 20 crore
- Every company other than OPC and Small company shall continue to file its the Annual Return in e-form MGT-7 within 60 days from the date of its AGM. MCA has substituted the said e-form MGT-7, the revised form shall be deployed on MCA portal shortly
- Details of Indebtedness of the company previously required to be disclosed in its Annual Return is now omitted and no longer required
- Details pertaining to names, addresses, countries of incorporation, registration and shareholding held by its Foreign Institutional Investors (FIIs) previously required to be disclosed by a company in its Annual Return is now omitted

Please [Click Here](#) to read the notified Companies (Management and Administration) Amendment Rules, 2021 dated 05th March 2021.

Please [Click Here](#) to read notification dated 05th March 2021 notifying provisions of Companies (Amendment) Act, 2017.

Company Law

MCA notifies Aadhar authentication for GST Identification Number (GSTIN) registration in form INC-35 Agile-Pro filed with SPICe+

Every company proposed to be incorporated in India is required to file its incorporation application in the form SPICe+ with ROC. Under the umbrella of form SPICe+, proposed companies can also avail the option of applying for GSTIN, Employees State Insurance Corporation (ESIC) registration, Employees Provident Fund Organization (EPFO) registration, Profession Tax registration and opening of company's Bank account by filing a linked form INC-35 Agile Pro along with form SPICe+ with ROC.

MCA vide notification dated 5th March 2021 has introduced Companies (Incorporation) 3rd Amendment Rules, 2021 under which the new option of performing Aadhar authentication for GSTIN registration of proposed company to be incorporated with ROC is also made available in the prescribed form INC-35 Agile Pro.

Please [Click Here](#) to read the notification dated 5th March 2021.



Company Law

Insolvency & Bankruptcy Board of India (IBBI) issues IBBI (Liquidation Process) (Amendment) Regulations, 2021

IBBI vide notification dated 4th March 2021 has notified the IBBI (Liquidation Process) (Amendment) Regulations, 2021 wherein Regulations 31(2) and 31(5) dealing with preparation and filing of List of Stakeholders by the Liquidator under Liquidation process have been suitably amended as below:

Regulation	Existing Provision	Amendment
Rule 31(2) Filing of List of Stakeholders	<ul style="list-style-type: none">The Liquidator shall file the List of Stakeholders with the National Company Law Tribunal (NCLT) within 45 days from the last date for receipt of claims from the creditors; andFiling of the said List of Stakeholders shall also be announced to the public by way of newspaper notice in 1 English newspaper and 1 regional language newspaper widely circulating at the place where Registered office of the corporate debtor is situated	<p>The Liquidator is only required to file the List of Stakeholders with the NCLT within 45 days from the last date for receipt of the claims from the creditors.</p> <p>Requirement of public announcement of such List of Stakeholders by way of newspaper publication has been done away with.</p>
Rule 31(5) Availability / Display of List of Stakeholders	<p>List of Stakeholders, as modified from time to time, shall be:</p> <ul style="list-style-type: none">available for inspection by the persons who submitted proofs of claim;available for inspection by members, partners, directors and guarantors of the corporate debtor;displayed on the website, if any, of the corporate debtor.	<ul style="list-style-type: none">Apart from the previously notified parties, List of Stakeholders shall also be filed on the electronic platform of IBBI for dissemination on its websiteThe aforesaid amendment shall apply to every Liquidation process ongoing and commencing on or after 4th March 2021 [i.e., date of commencement of the IBBI (Liquidation Process) (Amendment) Regulations, 2021]

Please [Click Here](#) to read the notification dated 4th March 2021.

Company Law

MCA enters into Memorandum of Understanding (MOU) with CBIC, Ministry of Finance, for data exchange



In the picture (from Left to Right): Shri Manoj Pandey-Joint Secretary MCA, Shri Rajesh Verma-Secretary MCA and Shri B. B. Gupta-ADG CBIC.

A formal MOU has been signed between MCA and CBIC, Ministry of Finance on 25th February, 2021. It has come into force with immediate effect and marks the beginning of a new era of cooperation and synergy between the 2 organizations. Purpose of the MOU is to facilitate data exchange and information between the two Ministries on an automatic and regular basis.

Salient features of the MOU

- The MoU is in line with the vision of MCA and CBIC to harness data capabilities to ensure effective enforcement. Both the organizations are expected to benefit from access to each other's databases which include details of import-export transactions and consolidated financial statements of companies registered in the country
- The data sharing arrangement gains significance in light of the development of MCA 21 Version 3 which will utilize state of the art technology for enhancing ease of doing business in India and improve the regulatory enforcement and similar steps by CBIC like the launch of ADVAIT (Advanced Analytics in Indirect Taxation) a 360-degree taxpayer profiling tool
- Artificial Intelligence (AI) / Machine Learning (ML), data analytics will play a critical role in achieving this synergy. The MoU will enable sharing of specific information such as details of the Bill of Entry (Imports), Shipping Bill (Exports) Summary from CBIC and financial statements, returns of allotment of shares filed with the MCA by companies
- The MoU will ensure that both MCA and CBIC have seamless linkage for regulatory purposes. In addition to regular exchange of data, MCA and CBIC will also exchange with each other, on request, any information available in their respective databases, for the purpose of carrying out scrutiny, inspection, investigation and prosecution
- A Data Exchange Steering Group also has been constituted for the initiative, which will meet periodically to review the data exchange status and take steps to further improve the effectiveness of the data sharing mechanism

Please [Click Here](#) to read the MOU published on MCA portal on 26th February 2021.

Reserve Bank of India (‘RBI’)





Extension of Cheque Truncation System (CTS) across all bank branches of the country to facilitate smoother system for clearances of cheques

What is CTS?

CTS is a cheque clearing system undertaken by RBI for quicker cheque clearance. As the term proposes, truncation is the course of discontinuing the flow of the physical cheque in its way of clearing. Instead of this an electronic image of the cheque is transferred with vital essential data.

CTS brings elegance to the whole activity of cheque processing & clearing and offers numerous benefits to Banks like time and cost savings, cost effectiveness, including human resource rationalization, business process re-engineering and enhanced customer service.

Background & Need for pan-India coverage of CTS

The CTS is in use since year 2010 and presently covers around 150,000 branches all over India. All the erstwhile 1219 non-CTS clearing houses have been migrated to CTS effective September 2020. It is, however, seen that there are branches of banks that are outside any formal clearing arrangement and their customers face hardships due to longer time taken and cost involved in collection of cheques presented by them.

To leverage the availability of CTS and provide uniform customer experience irrespective of location of her/his bank branch, it has been decided to extend CTS across all bank branches in the country.

Measures to be taken by banks to implement CTS across India

- All banks will have to ensure that all their branches participate in image-based CTS under respective grids by 30th September, 2021
- Banks are free to adopt a model of their choice, like deploying suitable infrastructure in every branch or following a hub and spoke model. Concerned banks should coordinate with the respective regional offices of RBI to operationalise this system
- Banks are required to prepare the roadmap to achieve pan-India coverage of CTS and submit their respective report to RBI before 30th April 2021

Please [Click Here](#) to read notification dated 15th March 2021.

Securities Exchange Board of India ('SEBI')





Ministry of Finance notifies new format of Annual Report to be submitted by SEBI to Central Government

Ministry of Finance vide notification dated 12th March 2021 has notified SEBI (Annual Report) Rules, 2021. Under the said Rules, SEBI shall submit an Annual Report in the prescribed format to the Central Government giving a true and full account of its activities, policies and programmes during the previous FY. The said Annual Report is required to be submitted within 90 days after the end of each FY.

Key reporting in the Annual Report

- Market activity and trends observed, including details of applications for public issuance received and approved during the FY, fund-raising under different categories and the median time taken for regulatory approval on an aggregate basis
- Complete details of Merchant Bankers, Bankers to an Issue, Underwriters, Debenture Trustees, Registrar to an Issue and Share Transfer Agents, etc, including details such as new registrations, the median time taken for approval of registrations on an aggregate basis, number of applications rejected, suspension / cancellation of registration and regulation of activities of the intermediaries associated with the securities market
- Risk Management measures including the categorized list of investors, concentration of investments, instances of diversion of funds, quantum of unclaimed units etc
- Investor grievances received and redressed including their type, increase in number, geographic location and segment-wise categorization, major nature or types of complaints
- Detailed report on the inflow of money into Investor Protection Fund (IPF) / beneficial owner protection funds of SEBI shall also be attached with the Annual Report

Please [Click Here](#) to read the notification dated 12th March 2021.





Amendment in provisions relating to requirement of Unique Client Code (UCC) & Permanent Account Number (PAN) for trading on commodity derivative exchanges

Background

SEBI had issued circular dated 16th September 2016 providing guidelines on use of UCC and mandatory requirement of PAN for trading on commodity derivative exchanges (now referred as exchanges having commodity derivatives segment). In the Union Budget 2020, launch of instant PAN facility was announced and subsequently, Income-tax Department launched the facility of e-PAN which is generated instantly through Aadhaar based e-KYC.

In order to rationalize the compliance requirement of collecting and maintaining copies of PAN of clients by their respective members and enhance the use of e-PAN, SEBI has decided to modify certain provisions of SEBI circular dated 16th September 2016.

The Modifications

SEBI vide circular dated 8th March 2021 has modified few clauses of its previous circular dated 16th September 2016. The said modification shall come into effect from 01st April 2021.

Modified Clause no	Existing Clause	Amendment
3	<ul style="list-style-type: none">It shall be mandatory for the members of the commodity derivatives exchanges to use UCC for all clients transacting on the commodity derivatives exchangesThe commodity derivatives exchanges shall not allow execution of trades without uploading of the UCC details by the members of the exchangeFor this purpose, members shall collect after verifying the authenticity and maintain in their back office the copies of PAN issued by the Income-tax department to all their clients	In addition to the existing provisions, in case of e-PAN, members shall verify the authenticity of e-PAN with the details on the website of Income-tax Department and maintain the soft copy of PAN in their records
5	<p>The commodity derivatives exchanges shall ensure that the members shall:</p> <ul style="list-style-type: none">Collect copies of PAN cards issued to their existing as well as new clients after verifying with the originalCheck the above details with details available on website of Income-tax departmentUpload details of PAN so collected to the exchanges as part of UCCVerify the documents with respect to the UCC and retain a copy of the document	In addition to the existing provisions, in case of e-PAN, members shall verify the authenticity of e-PAN with the details on the website of Income-tax department and maintain the soft copy of PAN in their records and also upload details of PAN or e-PAN so collected to the exchanges as part of UCC

Please [Click Here](#) to read the circular dated 8th March 2021.

Compliance Calendar

Compliance calendar for the month of April 2021

Compliance Due Date:	Concerned (Reporting) Period:	Compliance Detail:	Applicable To:
7 th April	March 2021	Equalization Levy deposit	All Deductors
10 th April		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 th April		GSTR-1 (Outward supply return)	Taxable persons having turnover > Rs. 5 crore
13 th April		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
	January-March 2021	GSTR-1 (Outward supply return)	Taxable persons having turnover < Rs. 5 crore
15 th April	March 2021	Deposit of PF & ESI contribution	All Deductors
	April-June 2020	TDS/TCS certificate (non-salary)	
	July-September 2020		
18 th April	January-March 2021	CMP – 08 (Statement – cum - challan for composition dealer)	Composition dealer
20 th April	March 2021	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 nd April	January-March 2021		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 th April			All taxable person (except composition dealer) having annual turnover upto Rs. 5 crore and having principal place of business in any other state.
30 th April	FY 2020-21	GSTR 4 (Annual Return for composition dealer)	Composition dealer
	March 2021	TDC/TCS deposit	Non-government Deductors
	October 2020 -March 2021	Details of MSME Trade Payables outstanding for more than 45 days from the date of acceptance of the goods or services.	All Companies having MSME trade payable outstanding for more than 45 days
	-	Last date for payment under Vivad Se Vishwas scheme (VSVS) without additional levy	Taxpayers who have filed VSVS declaration upto 31 st March 2021

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

Contact Us

India Head Office

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

Japan Office

501 Auto X Kudo Building,
2-11-2 Nihonbashi-Kaigaracho,
Chuo-ku, Tokyo,
103-0014, Japan

Italy Office

Corso Palestro,
50-25122 Brescia,
Italy

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.