

TAX EDGE

Monthly Tax & Regulatory
Updates



Audit



Tax



Regulatory

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Measures to combat COVID-19



Measures to combat COVID-19

India's cumulative COVID-19 Vaccination Coverage exceeds 58.25 Crore people



India's COVID-19 vaccination coverage has surpassed the cumulative figure of 58.25 Crore people (58,25,49,595) as per provisional reports till 23rd August 2021. This has been achieved through 64,69,222 sessions. The break-up of the cumulative figure includes:

HCWs	1 st Dose	1,03,53,405
	2 nd Dose	82,15,000
FLWs	1 st Dose	1,83,04,397
	2 nd Dose	1,25,74,264
Age Group 18-44 years	1 st Dose	21,69,00,386
	2 nd Dose	1,94,77,956
Age Group 45-59 years	1 st Dose	12,26,16,599
	2 nd Dose	4,87,88,970
Over 60 years	1 st Dose	8,33,38,747
	2 nd Dose	4,19,79,871
Total		58,25,49,595

The Union Government is committed to accelerating the pace and expanding the scope of COVID-19 vaccination throughout the country. Consequently, India's recovery rate stands at 97.63%, the highest since March 2020.

Please [Click Here](#) to read the Press Release dated 23rd August 2021.

Measures to combat COVID-19

Digital Vaccination Certificates provided to clinical trial participants of Covishield & Covaxin through Co-win

Indian Council of Medical Research (ICMR) in partnership with Serum Institute of India (SII) had conducted Phase II/III bridging studies of Covishield from August 2020. Phase III efficacy clinical trials for Covaxin were also conducted by Bharat Biotech International Limited (BBIL) from November 2020. The Union Ministry of Health & Family Welfare had received several requests from the trial participants for digital vaccination certificates through Co-win.

It was decided that vaccination certificates may be issued to such participants who were administered the vaccines during these trials/studies, after the trials/studies were unblinded. ICMR was designated by the Union Health Ministry as the nodal agency for collection of vaccination data for such participants. ICMR had provided the data for 11,349 such persons to the Ministry of Health & Family Welfare (MoHFW). Digital vaccination certificates have now been issued through Co-WIN, to such persons who participated in these studies/trials of Covishield and Covaxin.

The participants would be able to download their individual certificates through Co-win portal, Aarogya Setu, Digilocker or UMANG Application.

Please [Click Here](#) to read the Press Release dated 23rd August 2021.

Approval for world's 1st DNA based 'ZyCov-D' vaccine of Zydus Universe is a testimony to the innovative zeal of India's scientists



Prime Minister, Shri Narendra Modi has said that the approval for world's first DNA based 'ZyCov-D' vaccine of Zydus Universe is a testimony to the innovative zeal of India's scientists.

In response to a tweet by Central Drugs Standard Control Organisation (CDSCO) India Info, the Prime Minister said;

'India is fighting COVID-19 with full vigour. The approval for world's first DNA based 'ZyCov-D' vaccine of Zydus Universe is a testimony to the innovative zeal of India's scientists. A momentous feat indeed.'

After evaluation of interim Phase III clinical trial results in consultation with Subject Expert Committee, CDSCO has approved DNA COVID-19 vaccine (ZyCoV-D) of M/s Cadila Healthcare for restricted use in emergency situation in India for 12 years and above.

Please [Click Here](#) to read the Press Release dated 20th August 2021.

Measures to combat COVID-19

1st Nasal Vaccine developed by Bharat Biotech supported by Department of Biotechnology (DBT) & Biotechnology Industry Research Assistance Council (BIRAC) gets nod of regulator for Phase 2 trial

FIRST NASAL VACCINE
SUPPORTED BY DBT/BIRAC
under Mission Covid Suraksha
GETS THE NOD OF REGULATOR FOR PHASE 2 TRIAL

- Bharat Biotech's intranasal vaccine is the first of its kind COVID-19 jab to undergo human clinical trials in India.
- BBV154 is an intranasal replication-deficient chimpanzee adenovirus SARS-CoV-2 vectored vaccine. BBIL has in-licensed technology from Washington University in St Louis, USA.
- Phase 1 Clinical trial has been completed in age groups ranging ≥ 18 to ≤ 60 years.

The DBT and BIRAC have been at the forefront in the fight against the prevailing global crisis. They together have strategized to fast-track Research & Development efforts especially for vaccine development, diagnostics, drug repurposing, therapeutics and testing. The development of vaccines has been the top priority of the Department of Biotechnology.

Bharat Biotech's intranasal vaccine is the first nasal vaccine that has received the regulatory approval for Phase 2 trials. This is the first of its kind COVID-19 jab to undergo human clinical trials in India.

Phase 1 Clinical trial has been completed in age groups ranging ≥ 18 to ≤ 60 years. The Company reports that the doses of the vaccine administered to healthy volunteers in the Phase I clinical trial, has been well tolerated. No serious adverse events reported. Previously, the vaccine was found to be safe, immunogenic and well tolerated in the pre-clinical toxicity studies. The vaccine was able to elicit high level of neutralizing antibodies in animal studies.

The regulatory approval has been received for conducting 'A Phase 2 randomized, multi-centric, Clinical Trial of Heterologous Prime-Boost Combination of SARS-CoV-2 Vaccines to evaluate the immunogenicity and safety of BBV152 (COVAXIN®) with BBV154 (Adenoviral Intranasal COVID-19 vaccine) in Healthy Volunteers.'

Please [Click Here](#) to read the Press Release dated 13th August 2021.

Measures to combat COVID-19

AYUSH (Ayurveda, Yoga & Naturopathy, Unani, Siddha & Homeopathy) Minister assure all help in establishing the world's 1st Bio Bank of Ayurveda at All India Institute of Ayurveda (AIIA)

Union Ayush Minister Shri Sarbananda Sonowal and Minister of State for Ayush, Dr. Munjapara Mahendrabhai visited AIIA on 8th August 2021 and inaugurated Multi-Purpose Yoga Hall and Mini Auditorium. Both the Ministers highly appreciated the work done by AIIA and assured their full-fledged support for further development of the Institute to make it world's best Ayurveda Institute. Lauding the futuristic plan of the Institute, Shri Sarbananda Sonowal assured all help for establishing the first Bio-Bank of the world in Ayurveda at AIIA.

Focus of both the Ministers was on competency and practical knowledge. After inaugurating the Multi-Purpose Yoga Hall, Mr. Sonowal asked the students to demonstrate some complex Yogasanas and later appreciated the performance of students.

The Ministers were also shown a short film on AIIA which focused on scientific clinical studies during COVID-19 times. Ministers expressed satisfaction over the activities of the Institute and COVID Health Centre and COVID Testing Centre.

Please [Click Here](#) to read the Press Release dated 8th August 2021.



Measures to combat COVID-19

Scientists from 4 BRICS countries to carry out genomic sequencing & mathematical modelling of COVID-19 pandemic



Indian Scientists, in partnership with Scientists from China, Russia and Brazil, will carry out genomic sequencing of SARS-CoV-2 and studies on the epidemiology and mathematical modelling of the COVID-19 pandemic. This will help trace genetic mutations, recombinations as well as distribution of the virus and also make projections about the future of its spread.

A whole-genome sequencing is required for identification of genetic mutations and recombinations of the virus, while epidemiological studies can help assess its distribution and mathematical modelling is required to assess its future spread.

The genomic, metagenomic and epidemiological data from India, China, Russia and Brazil will be integrated to develop mathematical models for mutations analysis, population genetics, phylogenetic relationship, recombination analysis and risk evaluation to reveal spread network and dynamics of the virus. This can help trace spread routes and dynamics of the virus. The database developed by the different groups will also compare the distribution and survival of the virus in the different regions and establish the surveillance of the relevant early warning system.

The collaborative research plan has been developed considering the strengths of international collaborators from the Institute of Microbiology, Chinese Academy of Sciences of China, Federal Research Centre of Fundamental and Translational Medicine of Russia and Respiratory Virus and Measles Laboratory, Oswaldo Cruz Institute of Brazil. The study will provide a common platform to share and analyse the data of 4 different countries and understand the spread routes and transmission dynamics of virus.

Please [Click Here](#) to read the Press Release dated 6th August 2021.

2

Goods & Services Tax (`GST`)



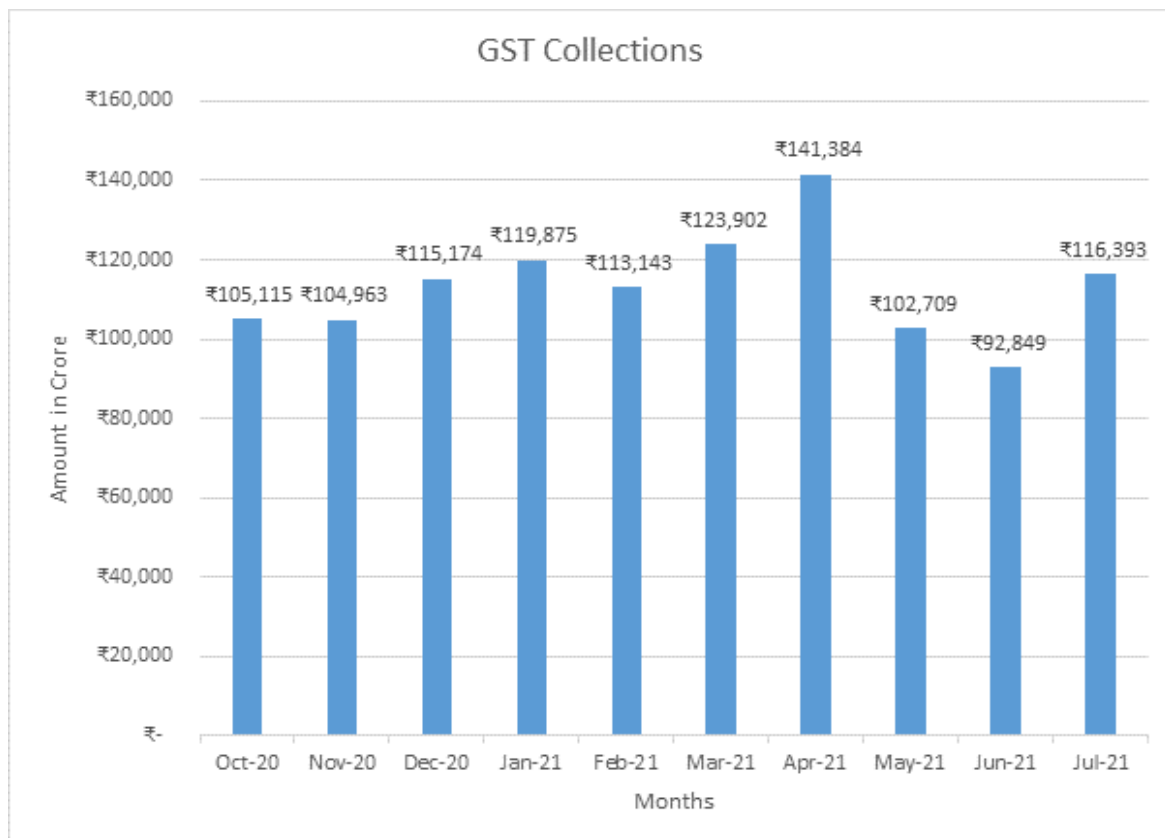
GST

GST revenue collection for July 2021, Rs. 116,393 Crore (33% higher than GST revenue collection in July 2020)

The gross GST revenue collected in the month of July 2021 is Rs.116,393 crore (details given below). With the easing out of COVID-19 restrictions, GST collection for July 2021 has again crossed Rs.1 lakh crore, which clearly indicates that the economy is recovering at a fast pace.

IGST (Integrated Goods and Services Tax)	Rs. 57,864 crore
CGST (Central Goods and Services Tax)	Rs. 22,197 crore
SGST (State Goods and Services Tax)	Rs. 28,541 crore
Compensation cess	Rs. 7,790 crore
Total	Rs. 116,393 crore

The revenues for the month of July 2021 are 33% higher than the GST revenues in the same month last year. During the month, revenues from import of goods was 36% higher and the revenues from domestic transaction (including import of services) are 32% higher than the revenues from these sources during the same month last year.



Please [Click Here](#) to read Press Release dated 1st August 2021.

GST

Remission of Duties & Taxes on Export Products (RODTEP) scheme - Government of India notifies rates & issues guidelines

Background

The scheme has been recently introduced by the Central Government and is being made applicable to all exports made with effect from 1 January 2021 onwards.

Objective

- To refund exporters all the embedded Central, State and local duties / taxes that are so far not being refunded at the time of export. This is based on the fundamental idea that goods should be exported outside India & not taxes.
- The scheme replaces earlier 'Merchandise Exports from India Scheme' (MEIS) notified under Chapter 3 of the Foreign Trade Policy (FTP)

Benefits

- Benefit under the scheme will be made available as certain percentage of the Free on Board (FOB) value of the exports (approx. 0.5% to 4%) which would be credited in the exporter's ledger account in the customs electronic portal (ICEGATE), & can be used by the exporter to pay Basic Customs Duty (BCD) payable on import of goods into India
- The credits will be freely transferable to other importers

Procedure

- An exporter desirous of availing benefit of the scheme is required to declare his intention to the benefit for each export item in the shipping bill or bill of export, at the time of export
- Benefit under the scheme can be availed simultaneously with all other export benefits, except when exports are made under the advance authorization scheme



Notification no.19/ 2015-20 dated 17 August 2021 – Key takeaways

Government has recently notified the detailed guidelines and rates under the scheme to cover 8555 tariff lines. The key takeaways are:

- The scheme will be effective for exports made from 1st January 2021 onwards
- Rebate would be in form of a transferable duty credit/ electronic scrip (e-scrip), which will be maintained in an electronic ledger and can be used for payment of BCD
- Rebate will not be available in respect of duties and taxes already exempted or remitted or credited
- Eligible export items rates are prescribed in Appendix 4R of the notification. Ineligible categories of exports/ exporters have also been notified, some of them are:
 - ✓ Export of imported goods covered under para 2.46 of the FTP 2015-20
 - ✓ Export through transshipment (exports originating in 3rd country)
 - ✓ Export products which are subject to minimum export price or export duty
 - ✓ Products which are restricted and prohibited for export under Schedule 2 of Export Policy in Indian Trade Classification (Harmonised System) [ITC (HS)]
 - ✓ Deemed Exports
 - ✓ Supplies from Domestic Tariff Area (DTA) to Special Economic Zone (SEZ) / Free Trade Warehousing Zone (FTWZ)
 - ✓ Products manufactured in Electronic Hardware Technology Park (EHTP) and Bio-Technology Park (BTP)
 - ✓ Products manufactured partly / wholly in warehouse as provided in Section 65 of the Customs Act
 - ✓ Products manufactured or exported in discharge of export obligation against Advance Authorisation (AA) or Duty Free Import Authorisation or Special AA issued
 - ✓ Products manufactured or exported by a unit licensed as 100% Export Oriented Unit (EOU)
 - ✓ Products manufactured or exported by any of the units situated in Free Trade Zone or Export Processing Zones or Special Economic Zones
 - ✓ Exports under notification no. 32/1997- Customs dated 1st April 1997 (i.e. goods imported for execution of an export order placed on the importer by the supplier of goods for jobbing)
 - ✓ Exports from non-EDI port;
 - ✓ Goods taken into use after manufacture
- Rebate would be granted to eligible exporters at the notified rate as a percentage of FOB value with a value cap per unit of exported product, wherever needed.

Please [Click Here](#) to read the Notification No. 19/2015-20 dated 17th August 2021.

GST

Blocking of E-Way Bill (EWB) will resume after 15th August, 2021

Background

The E-Way Bill generation facility of a person is liable to be restricted, in case where the person fails to file their return in Form GSTR-3B (Monthly / Quarterly) / statement in CMP-08, for 2 or more consecutive tax periods, in terms of Rule 138 E (a) and (b) of the CGST Rules, 2017. Due to COVID-19 pandemic facility of blocking E-way bill generation was temporarily suspended by the Government.

Update by Government on 4 August 2021

Government has now decided to resume the blocking of EWB generation facility on the EWB portal, for all the taxpayers from 15th August, 2021 onwards. Thus, after 15th August 2021, the system will check the status of returns filed in Form GSTR-3B or the statements filed in Form GST CMP-08 and block the generation of EWB in cases of:

- ✓ Non-filing of 2 or more returns in Form GSTR-3B (Monthly/Quarterly frequency as may be applicable) for the tax periods up to June 2021 and
- ✓ Non-filing of 2 or more statements in Form GST CMP-08 for the quarters up to April to June, 2021

Please [Click Here](#) to read the GSTN Update dated 4th August 2021.

Please [Click Here](#) to read more details on blocking and unblocking of EWB generation facility.



Changes in Form GSTR-9 (Annual Return) & GSTR-9C (Reconciliation Statement)

Central Board of Indirect Taxes and Customs (CBIC) has issued notification nos. 29/2021, 30/2021 and 31/2021 dated 30th July 2021, which shall come into force from 1st August 2021 onwards. The following effect shall be made in the Financial Year (FY) 2020-21 via aforementioned notifications:

- Section 110 of Finance Act, 2021 (Finance Act) omitted the CGST section that dealt with audit of accounts under GST and Section 111 of the Finance Act amended section 44 of CGST Act to provide for self-certification of annual reconciliation statement. Consequently, taxpayers shall submit a self-certified reconciliation statement in Form GSTR-9C along with annual return in Form GSTR-9
- Appropriate alterations have been carried out in Form GSTR-9 and GSTR-9C
- All reporting relaxations which were available in FY 2017-18, 2018-19 and 2019-20 for filing Form GSTR-9 & Form GSTR-9C shall be available for the FY 2020-21 also
- Auditors' recommendation on additional liability due to non-reconciliation has been omitted with respect to GSTR 9C
- At the time of the verification of GSTR 9C, the following line has been inserted in the declaration. 'I hereby solemnly affirm and declare that the information given herein above is true and correct and nothing has been concealed there from'
- Chartered accountant certification has been omitted under Part B of GSTR 9C
- CBIC exempted the taxpayers whose aggregate turnover in the FY 2020-21 is up to Rs. 2 crore, from filing the annual return for the said FY under section 44 of CGST Act, 2017

Please [Click Here](#) to read the Notification No. 29/2021 dated 30th July 2021.

Please [Click Here](#) to read the Notification No. 30/2021 dated 30th July 2021.

Please [Click Here](#) to read the Notification No. 31/2021 dated 30th July 2021

Functionality to check & update bank account details on GST Portal

GST Portal issued an alert dated 29th July 2021 regarding functionality to check and update bank account details.

A functionality to check status of bank account details update for the taxpayers who have taken new registration at GST Portal but have not yet furnished the same, has been introduced, in view of Rule 10A of the CGST Rules 2017. Such taxpayers are required to update their Bank Account Details within 45 days of the 1st login henceforth.

The taxpayers may login and update Bank Account details through Non-core amendment in the following manner

- Login to the taxpayer portal
- Go to 'Services'
- Click on 'Registration'
- Click on the tab 'Amendment of Registration Non-Core Fields'
- Select tab 'Bank Accounts'
- Add details of Bank Account (Account No., IFSC, Address, Bank Account type)
- Click on the verification tab, select authorized signatory, enter a place
- Sign application using DSC, E-sign or EVC

After completion of Bank Account update, a success message will appear on the screen and the acknowledgment will be sent at the registered email and mobile phone.

Please [Click Here](#) to read the GSTN Update dated 29th July 2021



3

Direct Tax



Direct Tax

Minimum Alternate Tax (MAT) - Central Board of Direct Taxes (CBDT) prescribes rules for computation of relief on account of Advance Pricing Agreement (APA) or Secondary Adjustment

Background – MAT & MAT Credit

- A company is required to pay MAT @ 15% (plus surcharge and cess) on its book profit, in case tax on total income of the company computed under the normal provisions of the Income-tax Act, 1961 (Act) < tax on book-profits (also called MAT liability)
- Book profit for this purpose is computed by making certain adjustments to the profit disclosed in the profit and loss account. The difference in the tax on total income of company computed under normal provisions of Act and the MAT paid on book profits, is provided as a MAT credit to the taxpayer, which is eligible to be carried forward for 15 years

Amendment by Finance Act, 2021

- Finance Act, 2021 amended the Income-tax Act to enable CBDT to prescribe rules and procedure to provide relief in the case of a company, where there is an increase in book profit of current FY due to income of past year(s) on account of an APA or secondary adjustment under the Act
- The Assessing Officer shall, on an application made to him by the company, re-compute the book profit of the past year(s) and MAT payable, if any, by the company during the current FY, in the prescribed manner. It is at the discretion of the taxpayer to opt for the new provisions and it shall apply only if the taxpayer has not availed MAT credit in any subsequent Fys

Notification no. 92 dated 10 August 2021

Pursuant to the above amendment, CBDT has notified a new rule 10RB in the Income-tax Rules, 1962, for computation of relief in MAT payable by a taxpayer for the FY in question and also prescribed the procedure for claiming such relief



Direct Tax

How to compute relief under MAT in case of APA or Secondary Adjustment

- Tax payable by the company under MAT for the FY shall be reduced by the amount arrived at by using the following formula:

$$(A-B) - (D-C)$$

where,

A = Tax payable under MAT on book profit of the FY *including past income*

('A' = 0, if there is no tax payable under MAT on the book profit of that FY including the past income)

B = Tax payable under MAT on book profit of FY *after reducing past income*

('B' = 0, if there is no tax payable under MAT on the book profit of that FY after reducing past income)

C = Aggregate of tax paid under MAT of those past year(s) to which the past income belongs

["C" = 0, if in past year(s) there is no tax payable under MAT on book profit of those year(s)]

D = Aggregate of tax payable under MAT of past year(s), referred to in item C, after increasing such book profit with the relevant past income of such year(s)

[If in any past year(s) there is no tax payable under MAT for those year(s) after increasing the book profit with the relevant past income of such year(s), the tax payable for that year(s) = 0]

- If the value of (A-B) – (D-C) in the formula is negative, relief = 0
- For the purpose of the above formula, past income shall mean the amount of income of past year (s) included in the book profit of the FY on account of secondary adjustment or APA.
- On application of above relief, MAT credit allowed to the taxpayer shall also be reduced by the amount of relief allowed under the said rule

Procedure to claim the relief

By filing Form 3CEEA electronically. As part of the Form, the company is required to furnish details of the past income and value of A, B, C and D as per above formula.

Please [Click Here](#) to read the Notification No. 92/2021 dated 10th August 2021 along with Form 3CEEA.

Direct Tax

CBDT notifies rules for computation of exempt income & income taxable at concessional tax rates of a Specified Fund

Background

- The Income-tax Act [section 10(4D)] provides tax exemption in relation to any income accrued / arisen / received by a 'specified fund' from 'specified sources' to the extent such income is attributable to the units held by the non-residents.
- 'Specified Fund' means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate, located in International Financial Services Centre (IFSC), which has been granted registration as Category III Alternate Investment Fund (AIF) of which all the units other than unit held by a sponsor or manager are held by non-residents
- 'Specified sources' of income include the following:
 - ✓ Transfer of capital asset on a recognised stock exchange located in any IFSC where the consideration for such transaction is paid/ payable in convertible foreign exchange
 - ✓ Transfer of securities (other than shares in a company resident in India)
 - ✓ Income from securities issued by a non-resident where such income does not accrue/ arise in India
 - ✓ Income from a securitisation trust which is chargeable under the head business income
- Further, section 115AD(1A) of the Act also provides concessional tax rate in relation to the following incomes earned by a specified fund which is attributable to the units held by the non-residents.
 - ✓ Income received in respect of securities (other than units referred to in section 115AB) taxable @ 10%
 - ✓ Income by way of short-term or long-term capital gains arising from the transfer of securities taxable at applicable concessional rates

Notification no. 90 dated 9 August 2021

CBDT has now prescribed rules for:

- Computation of exempt income of the specified fund u/s 10(4D)
- Determination of income of the specified fund attributable to units held by non-residents for concessional tax rates u/s 115AD

Direct Tax

Computation of exempt income of specified fund u/s 10(4D)

Income attributable to units held by non-residents in specified fund would be computed as per following formula:

$$(A \times C1) + (B \times C2) + (D \times F1) + (E \times F2)$$

where,

A = Income of a specified fund from transfer of capital asset on a recognised stock exchange located in any IFSC, where the consideration is paid / payable in convertible foreign exchange

B = Income from transfer of securities (other than shares in a company resident in India)

C1 = Ratio of aggregate of daily 'assets under management' (AUM) held by non-resident unit holders to aggregate of daily total AUM (AUM to be considered from acquisition date to transfer date of the capital asset)

C2 = Ratio of aggregate of daily AUM held by non-resident unit holders to aggregate of daily total AUM (AUM to be considered from acquisition date to transfer date of the specified security)

D = Income from transfer of securities issued by a non-resident where such income does not accrue or arise in India

E = Income from a 'securitisation trust' which is chargeable under the head "profits and gains of business or profession"

F1 = Ratio of AUM held by non-resident unit holders to AUM of the specified fund (AUM on the date of receipt of income from securities)

F2 = Ratio of AUM held by non-resident unit holders to AUM of the specified fund (AUM on the date of receipt of income from securitisation trust)

The fund needs to furnish an annual statement of exempt income u/s 10(4D) in Form No. 10IG electronically on or before the due date of filing return of income. The format of Form 10IG has been prescribed in the Notification.



Direct Tax

Determination of income of a specified fund attributable to units held by non-residents under section 115AD

1. Short-term / long-term capital gains of a specified fund attributable to the units held by non-resident should be calculated as:

$$A = B \times C$$

where:

A = Income attributable to the units held by non-resident

B = Income arising from transfer of the security

C = Ratio of aggregate of daily AUM held by the non-resident unit holders to aggregate of daily AUM of a specified fund (AUM to be considered from the acquisition date to the transfer date)

2. Income of a specified fund by way of income received in respect of securities attributable to the units held by non-resident should be calculated as

$$X = Y \times Z$$

where:

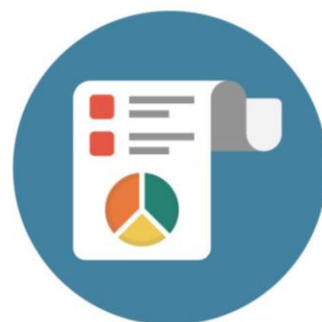
X = Income attributable to the units held by non-resident

Y = Income received in respect of securities

Z = AUM held by the non-resident unit holders AUM of the specified fund (AUM to be considered as on the date of receipt of such income)

The specified fund needs to furnish an annual statement of income for concessional taxation in Form No 10IH electronically on or before the due date of filing return of income. The format of Form 10IH has been prescribed in the Notification.

Please [Click Here](#) to read the Notification No. 90/2021 dated 9th August, 2021.



Direct Tax

CBDT extends timeline for electronic filings of forms

Due to difficulties reported by taxpayers in e-filing of forms as well as non-availability of utility for certain forms, CBDT has extended the following due dates as below:

Particulars	Earlier Due Date	Extended Due Date
Application for registration or intimation or approval under section 10(23C), 12A, 35(1)(ii)/(ia)/(iii) or 80G of the Act in Form No. 10A	31st August 2021	31st March 2022
Application for registration or approval under section 10(23C), 12A or 80G of the Act in Form No.10AB	28 th February 2022	
Filing of Equalization Levy Statement in Form No.1 for FY 2020-21	31st August 2021	31st December 2021
Quarterly statement in Form 15CC to be furnished by authorized dealer in respect of remittances made (under Rule 37BB): – For the quarter ending 30 th June 2021 – For the quarter ending 30 th September 2021	31st August 2021 15th October 2021	30th November 2021 31st December 2021
Uploading of the declarations received from recipients in Form No. 15G/15H during the quarter ending – 30th June 2021 – 30th September 2021	31st August 2021 15th October 2021	30th November 2021 31st December 2021
Intimation by Sovereign Wealth Fund of investments in India in Form II SWF for the quarter ending – 30th June 2021 – 30th September 2021	30th September 2021 31st October 2021	30th November 2021 31st December 2021
Intimation by a Pension Fund of investment in India in Form No. 10BBB for the quarter ending – 30th June 2021 – 30th September 2021	30th September 2021 31st October 2021	30th November 2021 31st December 2021
Intimation by a constituent entity, resident in India, of an international group, the parent entity of which is not resident in India, in Form No.3CEAC	30th November 2021	31st December 2021
Report by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, in Form No. 3CEAD		
Intimation on behalf of an international group in Form No. 3CEAE		
Furnishing of Statement of Income paid or credited by an investment fund to its unit holder for FY 2020-21: In Form No. 64D (to the income-tax authority) In Form No. 64C (to the unit holder)	15th July 2021 31st July 2021	15th September 2021 30th September 2021

Please [Click Here](#) to read the Circular No. 16/2021 dated 29th August 2021.

Please [Click Here](#) to read the Circular No. 15/2021 dated 3rd August 2021.

4

International Tax



International Tax

Taxation Laws (Amendment) Bill, 2021 passed to nullify retrospective applicability of indirect transfer provisions under section 9 of the Income-tax Act, 1961

Background – Section 9 of the Income-tax Act

Section 9 of the Income-tax Act enumerates various categories of income under clauses (i) to (viii). Income falling under each of the clauses is deemed to accrue or arise in India. As per Section 9(1)(i), whether directly or indirectly, the following incomes are deemed to accrue or arise in India:

- a. Through or from any business connection in India;
- b. Through or from any property in India;
- c. Through or from any asset or source of Income in India;
- d. Through the transfer of capital assets situated in India.

Income arising from Indirect Transfer of assets in India – The Hutch Vodafone case

- The issue of taxability of income arising on indirect transfer of assets located in India due to transfer of shares of a foreign company, was a subject matter of long dispute. The issue arose when in 2006, Vodafone International Holding (Vodafone) and Hutchison Telecommunication International Limited (HTIL) entered into a transaction by which HTIL transferred the share capital of its Cayman Islands based subsidiary company to Vodafone. By this transaction, Vodafone indirectly acquired a controlling interest of 67% in Hutchison Essar Limited (HEL), an Indian Joint venture company
- The Income-tax department in 2007 served a notice to Vodafone alleging failure to deduct withholding tax from the consideration paid to HTIL. The controversy finally settled in favour of Vodafone by the Supreme Court who ruled that it was not liable to deduct tax as gains arising to HTIL from indirect transfer of Indian assets was not chargeable to tax in India



International Tax

Amendment by the Finance Act, 2012

- The Government amended section 9 by Finance Act, 2012 with retrospective effect. The Finance Act, 2012 inserted Explanations 4 and 5 to Section 9(1)(i) with retrospective effect from 1st April 1962. The amendment clarified that gains arising from the sale of shares of a foreign company are taxable in India if such shares, directly or indirectly, derive their value substantially from the assets located in India
- The Government had termed the amendments as clarificatory in nature, which was highly criticized by the industry. It was argued that such retrospective amendments militate against the principle of tax certainty and damage India's reputation as an attractive investment destination for foreign companies.

Supreme Court's ruling in case of Vodafone	Amendment by Finance Act, 2012 to nullify Supreme Court's ruling
The word 'through' in section 9 does not mean 'in consequence of'	Explanation 4 was inserted to neutralize the observation by clarifying that the expression 'through' in section 9(1)(i) shall mean and include and shall be deemed to have always meant and included 'by means of', 'in consequence of' or 'by reason of'
Section 9(1)(i) does not cover indirect transfers of capital assets/property situated in India	Explanation 5 was inserted to clarify that an asset or a capital asset (being any share or interest in a company or entity registered or incorporated outside India) shall be deemed to be and shall always be deemed to have been situated in India if they derive, directly or indirectly, their value substantially from the assets located in India

Scope of Explanation 5 to Section 9(1)(i)

Explanation 5 to Section 9(1)(i) clarifies that an asset or a capital asset, being any share or interest in a company or entity registered or incorporated outside India, shall be deemed to be situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India. In other words, an asset or capital asset shall be deemed to have been situated in India, and income arising from transfer of such asset shall be deemed to accrue or arise in India if the following conditions are satisfied:

- The asset or capital asset is a share (or interest) in a company (or entity) registered or incorporated outside India;
- The share or interest derives its value substantially from the assets located in India; and
- Such value may be derived directly or indirectly from the assets located in India.

However, the share or interest shall not be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if, on the specified date, the value of such assets:

- Does not exceed Rs. 10 crores; and
- Does not represent at least 50% of the value of all the assets owned by the company or entity, as the case may be.

International Tax

Amendment by Taxation Laws (Amendment) Bill, 2021

- The Taxation Laws (Amendment) Bill, 2021 proposed to insert 3 Provisos (4th, 5th and 6th) in Explanation 5 to Section 9(1)(i) to give relief to certain eligible entities impacted by the above retrospective amendment
- These amendments propose that the provisions of indirect transfer of assets in India shall not apply to the assets transferred before 28 May 2012 (i.e., the date on which the Finance Bill, 2012 received the assent of the President)
- Accordingly, all pending assessments shall be deemed to have been concluded without additions for such income. It was further proposed that the demand raised in concluded assessments or rectification orders for indirect transfer of Indian assets made before 28 May 2012 shall be nullified on the fulfilment of certain conditions

Consequential amendment to Section 119 of the Finance Act, 2012

- Section 119 of the Finance Act, 2012 had inserted a validation clause to validate all demands raised/notices sent in connection with the indirect transfer of assets. It also provides that any decision of any Court, Tribunal, etc., including the decision of the Supreme Court in Vodafone's case which has held such indirect transfer as not falling within the scope of section 9(1)(i) will be disregarded
- The Taxation Laws (Amendment) Bill, 2021 proposed amendment to the above saying that the above section shall cease to apply to the person who fulfills certain conditions, such as withdrawal or furnishing of undertaking for withdrawal of pending litigation and furnishing of an undertaking to the effect that no claim for cost, damages, interest, etc.

Framing of rules for amendments by the Taxation Laws (Amendment) Act, 2021

- The upper house of Parliament, Rajya Sabha, passed the Bill on 9 August 2021. It received the President's assent on 13th August 2021. The aim of the amendment is to bring tax certainty and ensure that once specified conditions are fulfilled, the pending Income-tax proceedings shall be withdrawn, demand, if any, raised shall be nullified, and amount, if any, collected shall be refunded to the taxpayer without any interest
- To implement the amendment, draft rules have been prepared to amend the Income-tax Rules, 1962 which specify the conditions to be fulfilled and the process to be followed. The draft notification containing the proposed rules is placed in public domain and can be accessed at www.incometaxindia.gov.in. Suggestions/comments on the draft notification have been invited by the Government from all stakeholders by 4th September, 2021.

Please [Click Here](#) to read the Press Release dated 28th August 2021.

Please [Click Here](#) to read the draft amendments to Income-tax Rules, 1962 on which comments have been sought by the Government till 4th September, 2021.

5

Company Law



Company Law

Relaxation from qualifying self-assessment test for appointment as Independent Director in a company

Pursuant to the provisions of Companies (Appointment & Qualification of Directors) Rules, every individual proposed to be appointed as an Independent Director in a company shall be mandatorily required to qualify the online proficiency self-assessment test conducted by the Indian Institute of Corporate Affairs (IICA).

However, Ministry of Corporate Affairs (MCA) vide notification dated 19th August 2021 has amended the aforesaid Rules and accordingly now the following person(s) shall not be required to qualify the said test for being appointed as Independent Director in a company:

- Individual appointed in the pay scale of Director or equivalent or above in any Ministry or Department of the Central Government or any State Government and having experience in handling:
 - ✓ Matters relating to commerce, corporate affairs, finance, industry or public enterprises; or
 - ✓ Affairs related to Government companies or Statutory corporations set up under an Act of Parliament or any State Act and carrying on commercial activities
- Professionals such as Advocates, Practicing Chartered Accountants, Practicing Cost Accountants and Practicing Company Secretaries having experience of at least 10 years

Please [Click Here](#) to read the Notification dated 19th August 2021.



Company Law

Highlights of the Limited Liability Partnership (LLP) Amendment Act, 2021

Background

LLP Amendment Bill, 2021 which was introduced in both houses of Parliament, received Union Cabinet's approval on 28th July 2021 followed by President's consent on 13th August 2021 and subsequently came into effect as LLP Amendment Act, 2021. This Amendment Act seeks to facilitate ease of doing business to law-abiding LLPs and decriminalize certain provisions of the LLP Act, 2008.

Highlights

Section	Provisions dealing with	Amendment
3	Introduction of the concept of Small LLPs	<ul style="list-style-type: none">• Similar to the concept of 'Small companies' under Companies Act, 2013, similarly the concept of 'Small LLPs' is also introduced in the LLP Amendment Act, 2021• Small LLP means an LLP whose:<ul style="list-style-type: none">✓ Contribution <Rs 25 Lakh subject to the maximum cap of Rs 5 Crore; and✓ Turnover as per the statement of accounts & solvency of the immediately preceding FY < Rs 40 Lakh subject to maximum cap of Rs 50 Crore; or✓ which fulfils such other terms and conditions as may be prescribed by MCA in the near future
4	Relaxation in the residential period for Designated Partners (DPs)	<ul style="list-style-type: none">• Pursuant to LLP Act, 2008, every LLP is mandatorily required to appoint atleast 1 DP who should be a resident in India for at least 182 days during the immediately preceding FY• Under the LLP Amendment Act, 2021, the aforesaid requirement has been reduced from 182 days to 20 days during the FY• This is a very welcome move by MCA especially for foreign corporates / investors venturing to set up LLPs in India
5, 6, 10, 11, 13, 15, 16, 17, 18 & 24	Decriminalization of offences and monetary penalties	<ul style="list-style-type: none">• MCA shall decriminalize a total of 12 offences under the LLP Act, 2008;• The total number of penal provisions under the LLP Act, 2008 shall be reduced to 22;• Overall compoundable offences (that is, those offences which can be condoned by payment of prescribed monetary penalty) and non-compoundable offences (that is, those offences which cannot be condoned by payment of monetary penalty) shall be reduced to 7 and 3 respectively under the LLP Amendment Act, 2021
34A	Introduction of Accounting Standards for LLPs	A new section 34A has been inserted in the LLP Amendment Act, 2021 pursuant to which Central Government may in consultation with National Financial Reporting Authority (NFRA) lay down both Accounting Standards & Auditing Standards for prescribed class of LLPs as per the recommendations of the Institute of Chartered Accountants of India (ICAI)
67A	Establishment of Special Courts for speedy trial of offences under LLP Act, 2008	A new section 67A has been inserted in the LLP Amendment Act, 2021 pursuant to which Central Government may establish or designate as many Special Courts as may be necessary for speedy trial of offences under the LLP Act, 2008

Please [Click Here](#) to read the LLP Amendment Act, 2021 dated 13th August 2021.

Company Law

Insolvency & Bankruptcy Code (IBC) Amendment Act, 2021 dealing with Pre-package Insolvency Resolution Process (PIRP) for defaulting Micro, Small & Medium Enterprises (MSMEs) notified

Ministry of Law & Justice vide notification dated 11th August 2021 has notified IBC Amendment Act, 2021 which shall come into force with effect from 4th April 2021 onwards. One of the major highlights of the IBC Amendment Act, 2021 is the introduction of PIRP for defaulting MSME corporate debtors. Accordingly, a whole new Chapter III A dealing with the provisions of PIRP has been inserted in the IBC Amendment Act, 2021.

What is MSME sector in India?

Class of MSME	Maximum cap in Investment in Plant & Machinery or Equipment (in Rs.)	Maximum cap in Turnover (in Rs.)
Micro Enterprises	< 1 Crore	< 5 Crore
Small Enterprises	< 10 Crore	< 50 Crore
Medium Enterprises	< 50 Crore	< 250 Crore

Objective of introducing PIRP for the MSME sector

To ensure quicker, cost-effective and value maximising outcomes for all the stakeholders, in a manner which is least disruptive to the continuity of the business of various MSMEs operating in our country.

Minimum default limit committed by MSME against which PIRP can be initiated

PIRP can only be initiated against MSME which has committed a minimum default of Rs. 10 Lakh subject to the maximum limit of Rs. 1 Crore.

Who can initiate the PIRP proceedings against the defaulting MSMEs?

PIRP proceedings can only be initiated by the defaulting MSME itself and not by any of its creditors.

Company Law

Conditions prescribed for initiation of PIRP against defaulting MSMEs

- Defaulting MSME has not undergone PIRP or Corporate Insolvency Resolution Process (CIRP) insolvency proceedings in the last 3 years
- Declaration by majority of Directors of the defaulting MSME that PIRP is not initiated to defraud any person
- Approval by shareholders of the defaulting MSME by way of passing special resolution in their General Meeting
- Approval by unrelated financial creditors of the defaulting MSME representing at least 66% of the financial creditors
- Approval by Hon'ble National Company Law Tribunal (NCLT) by way of filing insolvency application under PIRP

Please [Click Here](#) to read the IBC Amendment Act 2021 dated 11th August 2021.

MCA clarifies the meaning of 'electronic mode' for Foreign companies in India

Foreign company as defined u/s 2(42) of the Companies Act, 2013 means any company or body corporate incorporated outside India which:

- has a place of business in India whether by itself or through an agent, physically or through electronic mode; and
- conducts any business activity in India in any other manner

MCA vide notification dated 5th August 2021 has clarified that any Foreign company having business presence in India through 'electronic mode' shall not include any electronic based offering of securities, subscription thereof or listing of securities in the IFSC set up u/s 18 of the Special Economic Zones Act, 2005.

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



6

Reserve Bank of India (‘RBI’)



RBI notifies enhancement in Foreign Direct Investment (FDI) limit for Insurance sector

Background

- In line with the provisions of Indian Insurance Companies (Foreign Investment) Amendment Rules, 2021 by virtue of which the Finance Ministry had enhanced the FDI limit in the Insurance sector from 49% to 74%. Accordingly, in order to give effect to the same under Foreign Exchange Management Act (FEMA), RBI vide notification dated 19th August 2021 has notified FEMA (Non-debt Instruments) 2nd Amendment Rules, 2021 which shall come in to force with effect from 19th August 2021 onwards
- Considering the havoc wrecked by COVID-19 particularly on the healthcare sector, this is a significant amendment likely to help local private insurers grow fast and expand their presence across India, which has one of the lowest insurance penetration levels globally.

Key changes introduced by FEMA (Non-debt Instruments) 2nd Amendment Rules, 2021:

- FDI sectoral limit in Insurance sector enhanced from 49% to 74%;
- Applications for FDI in private banks having joint venture or subsidiary in Insurance sector may be addressed to the RBI for consideration in consultation with the Insurance Regulatory and Development Authority of India (IRDAI), in order to ensure that the FDI limit in Insurance sector is within the sectoral cap of 74% as approved by the Government;
- An Indian Insurance company having FDI shall ensure that majority of its Directors, Key Management Persons (KMPs) and at least 1 person amongst the Chairperson of its Board, Managing Director (MD) and Chief Executive Officer, shall be Resident Indian Citizen(s);
- An Indian Insurance company having FDI shall comply with the provisions under the Indian Insurance Companies (Foreign Investment) Rules, 2015, as amended from time to time and applicable Rules and Regulations notified by the Department of Financial Services or IRDAI from time to time

Please [Click Here](#) to read Notification dated 19th August 2021.

7

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



SEBI notifies changes in Substantial Acquisition of Shares & Takeovers (SAST) Regulations

SEBI vide notification dated 13th August 2021 has amended certain provisions of the SAST Regulations which shall come into effect from 1st April 2022 onwards.

SAST Regulation	Existing provision	Amendment
Regulation 30 Continual Disclosures	<ul style="list-style-type: none"> Every person, who together with persons acting in concert (PAC) with him, holds >25% of shares or voting rights in a target company* shall disclose his aggregate shareholding and voting rights in the target company as on 31st day of March each year in such form as may be specified The promoter of every target company shall together with PAC with him, disclose his aggregate shareholding and voting rights in the target company as on 31st day of March each year in such form as may be specified The aforesaid disclosure(s) are required to be made within 7 working days from the end of each FY to, <ul style="list-style-type: none"> ✓ every stock exchange where the shares of the target company are listed; and ✓ at the target company's Registered office <p><i>*Target company means a company or a body corporate or corporation established under a Central legislation, State legislation or Provincial legislation for the time being in force, whose shares are listed on a stock exchange</i></p>	The requirement of Annual Continual Disclosures is omitted by SEBI and no longer required to be made.
Regulation 31 Disclosure of encumbered shares	The promoter of every target company shall disclose details of shares in such target company encumbered by him or by PAC with him in such form as may be specified	The said disclosure requirement shall not be applicable where such encumbrance of shares is undertaken in a Depository.

Compliance Calendar

Compliance calendar for the month of September 2021

Compliance Due Date:	Concerned (Reporting) Period:	Compliance Detail:	Applicable To:
7 th September	August 2021	TDC/TCS deposit	Non-government Deductors
		Equalization Levy deposit	All Deductors
10 th September		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 September		GSTR-1 (Outward supply return)	Taxable persons having turnover > Rs. 5 crore
13 th September		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
		Invoice Furnishing Facility - IFF (Details of outward supplies of goods or services)	Taxable persons having turnover < Rs. 5 crore
15 th September	August 2021	Deposit of PF & ESI contribution	All Deductors
	FY 2021-22	2 nd Installment of advance tax for the Assessment Year 2022-23	Taxpayers liable to pay advance tax
20 th September	August 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 2020-21
25 th September		Form GST PMT-06 (Payment of tax for Quarterly filers)	All taxable persons (except composition dealer) having annual turnover < Rs. 5 crore in FY 2020-21
30 th September	FY 2020-21	Statutory audit under Companies Act	All Companies
		Director KYC submission for DIN holders as on 31 March 2021	Every person who has a DIN allotted and the status of the DIN is 'Approved'.
		Filing of Form FC-3 (Annual accounts and list of places of business in India) with ROC	Liaison/ Branch/Project office in India
		Filing of Annual Activity Certificate (AAC) & Audited financials with AD Bank and Director General of Income Tax (International Taxation).	
		Revised Annual Return on Foreign Assets & Liabilities (FLA) on the basis Audited Financial Statements of the Companies.	Indian companies having Foreign Direct Investment (FDI)
		Due date of holding Annual General Meeting (AGM) of all the Indian Companies.	All Companies
		Income-tax return	All assessees other than: <ul style="list-style-type: none"> • Corporate-assessee • Non-corporate assessee (whose books of account are required to be audited) • Partner of a firm whose accounts are required to be audited • An assessee who is required to furnish Transfer Pricing report u/s 92E
		-	Linking Aadhaar with PAN

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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