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September 2021

TAX EDGE

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Measures to combat COVID-19

Measures to combat COVID-19

India's cumulative COVID-19 Vaccination Coverage exceeds 83 Crore people

India's COVID-19 vaccination coverage has crossed the landmark of 83 Crore people (83,39,90,049) as per provisional reports till 23rd September 2021. This has been achieved through 81,69,260 sessions. The break-up of the cumulative figure includes:

Doses Given	Healthcare workers (HCWs)	Frontline workers (FLWs)	Age Group 18-44 years	Age Group 45-59 years	Over 60 years
1st Dose	1.03 crore	1.83 crore	33.77 crore	15.37 crore	9.83 crore
2nd Dose	87.85 lakh	1.46 crore	6.69 crore	7.15 crore	5.35 crore

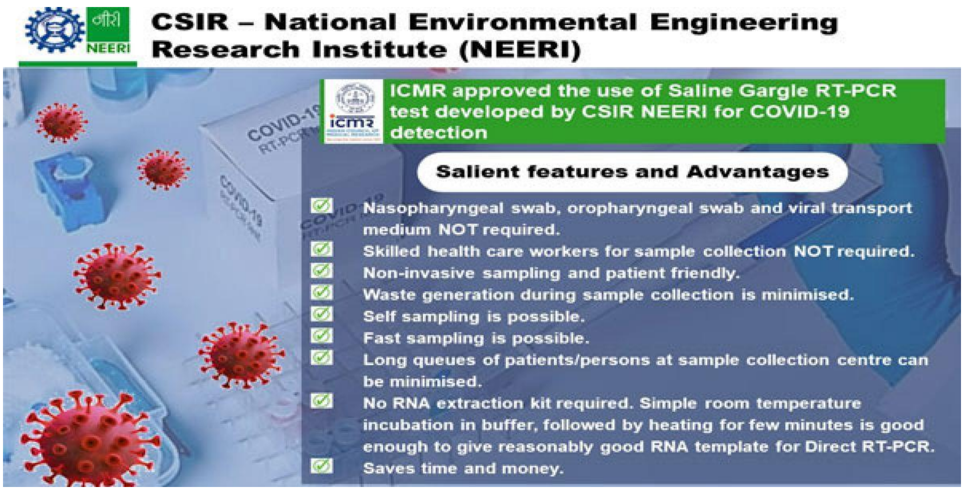
The Government is committed to accelerating the pace and expanding the scope of COVID-19 vaccination throughout the country. Consequently, India's recovery rate stands at 97.77%, the highest since March 2020.

While testing capacity has been enhanced across the country, Weekly Positivity Rate at 2.11% remains less than 3% for the last 90 days now. The Daily Positivity rate reported to be 2.09%. The daily Positivity rate has remained below 3% for last 24 days and below 5% for 107 consecutive days now.

Please Click Here to read the Press Release dated 23rd September 2021.

Measures to combat COVID-19

Knowhow of Economical & Environment-Friendly Saline Gargle RT-PCR technique transferred to Micro, Small & Medium Enterprises (MSME) Ministry



In a notable step forward in India's fight against COVID-19, Nagpur-based National Environmental Engineering Research Institute (NEERI) under the Council of Scientific and Industrial Research (CSIR) has transferred the know-how of indigenously developed Saline Gargle RT-PCR technique, used for testing COVID-19 samples. The Saline Gargle RT-PCR technology is simple, fast, cost-effective, patient-friendly and comfortable; it also provides instant test results and is well-suited for rural and tribal areas, given minimal infrastructure requirements.

CSIR-NEERI stated that the innovation developed by the Institute has been 'dedicated to the nation' to serve the society. The knowhow has been transferred to the Union Ministry of MSME, on a non-exclusive basis. This would enable the innovation to be commercialized and licensed to all capable parties, including private, government and various rural development schemes and departments.

The licensees are expected to set up manufacturing facilities for commercial production in the form of easily usable compact kits. In the light of the prevailing pandemic situation and probable 3rd wave of COVID-19, CSIR-NEERI fast-tracked the know-how transfer process to potential licensees for its wider dissemination across the nation.

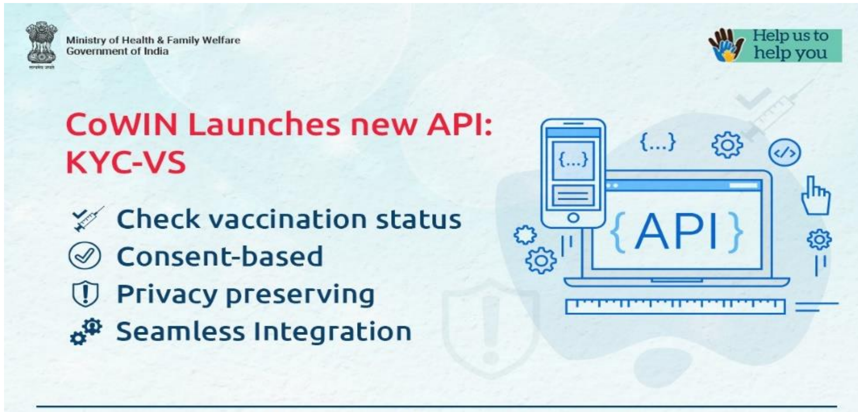
The ceremonial transfer of the Standard Operating Procedure and Know-How of the Saline Gargle RT-PCR technique was done in the presence of Union Minister Shri Nitin Gadkari on 11th September 2021.

On the occasion, the Union Minister for Road Transport & Highways said "The Saline Gargle RT-PCR method needs implementation across the nation, especially in resource-poor regions like rural and tribal areas. This would result in faster and more citizen-friendly testing and will strengthen our fight against the pandemic." The MSME unit had approached CSIR-NEERI for commercializing the Saline Gargle RT-PCR technology developed by CSIR-NEERI.

Please [Click Here] to read the Press Release dated 12th September 2021.

Measures to combat COVID-19

CoWIN launches new API: KYC-VS: Know Your Customer's / Client's vaccination status



Over 83 crore vaccine doses have been administered since the vaccination campaign against COVID-19 was flagged off on 16th January this year by Honourable Prime Minister Shri Narendra Modi. To provide a proof of vaccination for each of these individuals, Co-WIN is already issuing a digitally verifiable certificate. This certificate can be saved on a digital device (smartphone, tablet, laptop etc.) or stored in Digi Locker from where it can be digitally shared as and when required as a proof of vaccination. Similarly, at entry points where such certificate is required (e.g., in malls, office complex, public events etc.), it may be shown in both the digital and physical forms.

However, there may be instances where an entity does not need to see the certificate in full and would just need to know whether an individual has been vaccinated or not. A few of such possible use cases could be as follows:

- An enterprise/employer may like to know the vaccination status of its employees to resume functions in offices, workplaces etc.
- The Railways may want to get the status of vaccination of the passengers who are getting their seats reserved in the trains.
- Airlines may want to get the status of vaccination of the passengers who are booking their flight tickets, and/or airports may only want to allow vaccinated passengers to pass through.
- Hotels may want to know the vaccination status of the residents at the time they are checking into the hotel, or at the time of making online bookings.

As the socio-economic activities are being gradually revived while maintaining everyone's safety, there is a need for a way to digitally convey the status of individuals' vaccination to entities with whom they may be engaging with for any or all reasons, as employees, passengers, residents etc.

Therefore, there is a need to enable an Aadhaar like authentication service for the status of vaccination through Co-WIN. To take care of these cases and others that may come up, Co-WIN has developed a new API called 'Know Your Customer's / Client's Vaccination Status' or KYC-VS. To use this API, an individual needs to enter his / her mobile number and name. Thereafter, they will get a One Time Password (OTP) which they have to enter. In return, Co-WIN will send a response to the verifying entity on the individual's status of vaccination, which will be as follows –

0 - Person is not vaccinated

1 - Person is partially vaccinated

2 - Person is fully vaccinated

This response will be digitally signed and can be shared instantly with the verifying entity. A real-life example could be when at the time of booking a railway ticket, an individual will input the necessary details for buying the ticket and if required, the concerned entity will also get the vaccination status in the same transaction, with the due consent of the individual.

KYC-VS will facilitate all such use cases and more. It is both consent-based and privacy preserving. Additionally, in order to facilitate quick integration and faster adoption, the Co-WIN Team has prepared a webpage with the API, which may be embedded in any system. This will allow for a seamless integration with any system in no time.

Besides the use cases pointed out, this service may be utilized by any service provider, private or public, for whom verifying an individual's vaccination status is critical for facilitating a service requested.

Please [Click Here] to read the Press Release dated 10th September 2021.

Measures to combat COVID-19

CORBEVAX receives Drugs Controller General of India (DCGI) approval for 2 clinical trials

The Department of Biotechnology (DBT)[1], Ministry of Science & Technology, Government of India (GoI) has taken myriads of initiatives to increase investments in research & development (R&D) and manufacturing of COVID-19 Vaccines.

The Department of Biotechnology (DBT) and its Public Sector Undertaking (PSU), Biotechnology Industry Research Assistance Council (BIRAC)[2] have supported Biological E. Limited's[3] COVID-19 Vaccine candidate from Preclinical Stage to Phase III clinical studies. In addition to receiving financial assistance under Mission COVID Suraksha, this vaccine candidate has also obtained a financial support under COVID-19 Research Consortia through National Biopharma Mission, BIRAC.

Biological E. has received Drugs Controller General of India (DCGI) approval for conducting Phase III Comparator Safety and Immunogenicity trial in adults after Subject Expert Committee's (SEC) review of Phase I and II clinical trials data. Additionally, Biological E. also received approval on 1st September 2021 to initiate the Phase II/III Study to evaluate Safety, Reactogenicity, Tolerability and Immunogenicity of CORBEVAX™ vaccine in Children and Adolescents. The candidate is a RBD protein sub-unit vaccine.

Please Click Here to read the Press Release dated 3rd September 2021

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[1] The DBT, under the Ministry of Science & Technology, promotes and accelerates the development of biotechnology in India, including growth and application of biotechnology in the areas of agriculture, healthcare, animal sciences, environment and industry.

[2] BIRAC is a not-for-profit Section 8, Schedule B, Public Sector Enterprise, set up by DBT as an Interface Agency to strengthen and empower the emerging Biotech enterprise to undertake strategic research and innovation, addressing nationally relevant product development needs.

[3] Biological E. Limited (BE), a Hyderabad-based Pharmaceuticals & Biologics Company founded in 1953, is the 1st private sector biological products company in India and the first pharmaceutical company in Southern India. BE develops, manufactures and supplies vaccines and therapeutics. BE supplies its vaccines to over 100 countries and its therapeutic products are sold in India and the USA. BE currently has 8 WHO-prequalified vaccines in its portfolio. In recent years, BE has embarked on new initiatives for organisational expansion such as developing generic injectable products for the regulated markets, exploring synthetic biology and metabolic engineering as a means to manufacture APIs sustainably and developing novel vaccines for the global market.

2

Goods & Services Tax ('GST')

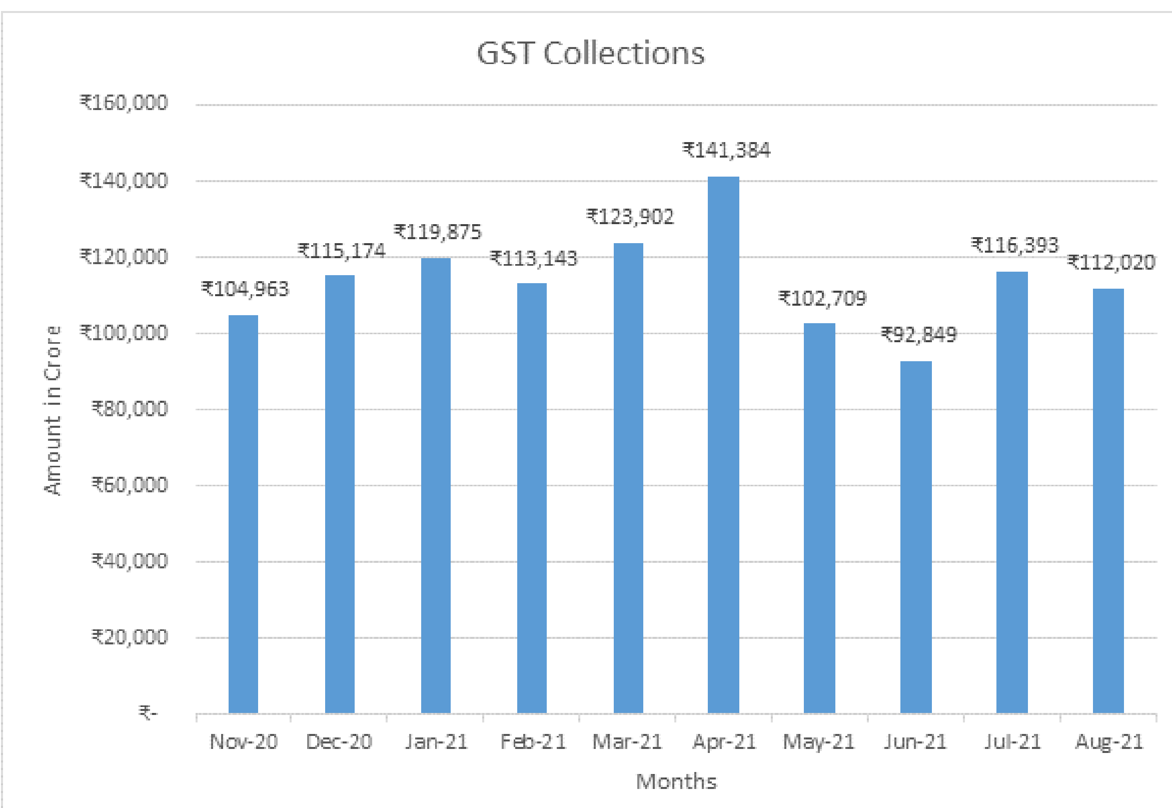
GST

GST revenue collection for August 2021, Rs. 112,020 Crore (30% higher than GST revenue collection in August 2020)

The gross GST revenue collected in the month of August 2021 is Rs.112,020 crore (details given below). With the easing out of COVID-19 restrictions, GST collection for August 2021 has again crossed Rs.1 lakh crore.

IGST (Integrated Goods and Services Tax)	Rs. 56,247 crore
CGST (Central Goods and Services Tax)	Rs. 20,522 crore
SGST (State Goods and Services Tax)	Rs. 26,605 crore
Compensation cess	Rs. 8,646 crore
Total	***Rs. 112,020 crore***

The revenues for the month of August 2021 are 30% higher than the GST revenues in the same month last year. During the month, the revenues from domestic transaction (including import of services) are 27% higher than the revenues from these sources during the same month last year. Even as compared to the August revenues in 2019-20 of Rs. 98,202 crore, this is a growth of 14%.



Please [Click Here] to read Press Release dated 1st September 2021.

Highlights of the 45th GST Council Meeting held on 17th September 2021

The 45th GST Council met in Lucknow (Uttar Pradesh) on 17th September 2021 under the chairmanship of the Union Finance and Corporate Affairs Minister Mrs. Nirmala Sitharaman.

Key recommendations

- COVID-19 relief measures
- Change in GST rates on select goods and services
- Clarificatory amendments regarding applicability / taxability of GST on select goods and services
- Measures for trade facilitation
- Measures for streamlining compliances in GST
- Other Measures

Please read our detailed Alert circulated on 20 September 2021 on the matter.

Please Click Here to read CBIC's Press Release dated 17th September 2021.

Notification no.35/2021 dated 24th September 2021 (please Click Here to read) issued by Central Board of Indirect Taxes and Customs (CBIC) covers in details the following recommendations made by the GST Council in the 45th Council meeting:

- Streamlining compliances

    - ✓ GST refund to be disbursed in the bank account linked with same PAN on which GST registration has been obtained
    - ✓ Aadhaar authentication made mandatory for filing refund claim and filing application for revocation of cancellation of registration
    - ✓ Effective 1st January 2022 onwards, Form GSTR-1 will not be permitted to be filed in case Form GSTR-3B for the preceding month is pending

- Key trade facilitation measures

    - ✓ Relaxation in the requirement of filing declaration in Form GST ITC-04 by a registered manufacturer in case of job work:

Sl	Description	Existing	Proposed
1	Taxpayers whose annual aggregate turnover in preceding financial year		
(i)	Above Rs. 5 crores	Quarterly	Half-yearly
(ii)	Upto Rs. 5 crores		Annually

- ✓ CGST Rules to be amended to provide for procedure & time limit for claiming refund of incorrectly paid tax as per CGST Act IGST Act

GST

Export of Services - Clarification regarding condition of 'establishment of distinct persons' under section 2(6)(v) of IGST Act

Background

Section 2(6) of the Integrated Goods and Services Tax Act, 2017 ('IGST Act'), prescribes certain conditions for treating services as 'exports' which are supplied by suppliers located in India to recipients located outside India. One of the conditions is that the supplier and recipient should not be 'merely establishments of a distinct person' under section 2(6)(v).

Issue

Reportedly, doubts have been raised whether the supply of service by a subsidiary/ sister concern/ group concern, etc. of a foreign company in India, which is incorporated under the laws in India, to the foreign company incorporated under laws of a country outside India, will qualify as 'export' of service or not.

Clarification issued by CBIC

CBIC vide circular no.161/17/2021-GST dated 20th September 2021 has clarified that:

- Supply of services by a subsidiary or sister concern or group concern, etc. of a foreign company, which is incorporated in India under the Companies Act, 2013, to the establishments of the said foreign company located outside India (incorporated outside India) would be considered as 'export of service' under GST, subject to fulfilment of other conditions, and the entities would not be considered as 'merely establishments of a distinct person' within the meaning of section 2(6)(v) of the IGST Act

- Supply from a company incorporated in India to its related establishments outside India, which are incorporated under the laws outside India, would also qualify as 'export of services', subject to the fulfilment of other conditions

Please [Click Here] to read the Circular no.161/17/2021-GST dated 20th September 2021.

Clarification on issues regarding (a) Time limit to avail Input Tax Credit (ITC) in respect of debit notes, (b) Carrying of physical copy of invoice in case of e-invoicing, (c) Whether refund is prohibited in case of export of goods having nil rate of duty

Time limit to avail ITC in respect of debit notes

- Section 16(4) of CGST Act, amended with effect from 1st January 2021, provides that a registered person shall not be entitled to take ITC in respect of any Invoice or Debit Note after the due date of furnishing of the return under section 39 for the month of September following the end of the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier. Prior to this amendment, ITC cannot be availed on Debit Note, if it is issued after the time limit for availing ITC on the original invoice related to such debit note.

- In view of the above amendment, CBIC has been clarified that

  - ✓ The 'date of issuance of debit note' (and not the date of underlying invoice) shall be considered to determine the relevant Financial Year (FY) for the purpose of limitation for taking ITC
  - ✓ The availment of ITC on debit notes in respect of amended provision shall be applicable from 1st January 2021 onwards. Accordingly, for availment of ITC on or after 1st January 2021, in respect of debit notes issued either prior to or after 1st January 2021, the eligibility for availment of ITC will be governed by the amended provision of section 16(4), whereas any ITC availed prior to 1st January 2021 in respect of debit notes, shall be governed by the erstwhile provisions of section 16(4) of the CGST Act.

- Illustrations

  - ✓ A debit note dated 7th July 2021 is issued in respect of the original invoice dated 16th March 2021. As the invoice pertains to FY 2020-21, the relevant FY for availment of ITC in respect of the said invoice in terms of section 16(4) of the CGST shall be 2020-21. However, as the debit note has been issued in FY 2021-22, the relevant FY for availment of ITC in respect of the said debit note shall be 2021-22 in terms of the amended section 16(4)
  - ✓ A debit note has been issued on 10th November 2020 in respect an invoice dated 15th July 2019. As per the amended section 16(4), the relevant FY for availment of ITC on the said debit note, on or after 1st January 2021, will be FY 2020-21 and accordingly, the registered person can avail ITC on the same till due date of furnishing of Form GSTR-3B for the month of September 2021 or furnishing of the annual return for FY 2020-21, whichever is earlier.

Carrying of physical copy of invoice in case of e-invoicing

CBIC has clarified that in cases where e-invoice has been issued for supply of goods as per Rule 48(4) of the CGST Rules, 2017 ('CGST Rules'), the person in charge of the conveyance carrying such goods can provide an electronic copy of the Quick Reference (QR) Code which contains the embedded Invoice Reference Number (IRN) therein to the proper officer for verification and carrying the physical copy of the invoice is not required.

Whether refund is prohibited in case of export of goods having nil rate of duty

CBIC has clarified that only those goods which are actually subjected to export duty will be covered by the restriction imposed under section 54(3) from claim of refund of accumulated ITC. Thus, goods which are not subject to any export duty or Nil rated or exempted fully would not be covered by the restriction imposed under the 1st proviso to section 54(3) of the CGST Act for the purpose of availment of refund of accumulated ITC.

Please Click Here to read the Circular no.160/16/2021-GST dated 20th September 2021.

Clarification on scope of 'Intermediary' services

CBIC has issued Circular 159/15/2021-GST dated 20th September 2021 to clarify the interpretational issues surrounding the definition of 'Intermediary' under GST law.

Pre-requisites for a transaction to qualify as an 'Intermediary service'

- *Minimum 3 Parties must be involved* - The circular clarifies that, by definition, an 'Intermediary' is someone who arranges or facilitates the supplies of goods and / or services or securities between 2 or more persons. Therefore, this means that there need to be atleast 3 parties, i.e. the transacting parties *and* the person arranging / facilitating the main supply, for a service to qualify as 'Intermediary' service.

- *2 Distinct supplies* - Intermediary services must comprise of 2 distinct supplies i.e.,

  - ✓ *Main supply*, between the 2 principals, which can be a supply of goods or services or securities; and
  - ✓ *Ancillary supply*, which is the service of arranging or facilitating the main supply between the 2 principals. The ancillary supply must be clearly distinguishable from the main supply.

- Intermediary service provider must have the character of an agent, broker, or any other similar person. The definition of 'intermediary' uses the word 'means' (and not 'includes') which implies that it is not inclusive. The role of the intermediary is only supportive; he / it does not provide the main supply.

- *Does not include a person who provides goods and / or services or securities on his 'own account'.* The circular clarifies that services provided on a principal to principal basis cannot be covered within the scope of 'Intermediary'. In cases wherein the person supplies the main supply, either fully or partly, on principal to principal basis, the said supply cannot fall within the scope of 'Intermediary'

- *Sub-contracting is not an Intermediary service* – The logic is that the sub-contractor provides the main supply (either fully or partly) and doesn't merely arrange or facilitate the main supply between the principal supplier and customers. Hence, sub-contracting is not an Intermediary service

- The specific provision of place of supply of 'Intermediary services' under section 13 of the IGST Act shall be invoked *only when* the supplier of intermediary services or the recipient of intermediary services is outside India

Illustrations

Illustration 1 - 'A' is a manufacturer and supplier of a machine. 'C' helps 'A' in selling the machine by identifying client 'B' who wants to purchase this machine and helps in finalizing the contract of supply of machine by 'A' to 'B'. 'C' charges 'A' for his services of locating 'B' and helping in finalizing the sale of machine between 'A' and 'B', for which 'C' invoices 'A' and is paid by 'A' for the same. While 'A' and 'B' are involved in the main supply of the machinery, 'C', is facilitating the supply of machine between 'A' and 'B'.
In this arrangement, 'C' is providing the ancillary supply of arranging or facilitating the 'main supply' of machinery between 'A' and 'B' and therefore, 'C' is an Intermediary and is providing Intermediary service to 'A'.

Illustration 2 - 'A' is a software company which develops software for the clients as per their requirement. 'A' has a contract with 'B' for providing some customized software for its business operations. 'A' outsources the task of design and development of a particular module of the software to 'C', for which "C' may have to interact with 'B', to know their specific requirements.
In this case, 'C' is providing main supply of service of design and development of software to 'A', and thus, 'C' is not an Intermediary in this case

Illustration 3 - An insurance company 'P', located outside India, requires to process insurance claims of its clients in respect of the insurance service being provided by 'P' to the clients. For processing insurance claims, 'P' decides to outsource this work to some other firm. For this purpose, he approaches 'Q', located in India, for arranging insurance claims processing service from other service providers in India. 'Q' contacts 'R', who is in business of providing such insurance claims processing service, and arranges supply of insurance claims processing service by 'R' to 'P'. 'Q' charges P a commission or service charge of 1% of the contract value of insurance claims processing service provided by 'R' to 'P'. In such a case, main supply of insurance claims processing service is between 'P' and 'R', while 'Q' is merely arranging or facilitating the supply of services between 'P' and 'R', and not himself providing the main supply of services. Accordingly, in this case, 'Q' acts as an Intermediary as per definition of sub-section (13) of section 2 of the IGST Act.

Illustration 4 - 'A' is a manufacturer and supplier of computers based in USA and supplies its goods all over the world. As a part of this supply, 'A' is also required to provide customer care service to its customers to address their queries and complains related to the said supply of computers. 'A' decides to outsource the task of providing customer care services to a BPO firm, 'B'. 'B' provides customer care service to 'A' by interacting with the customers of 'A' and addressing / processing their queries / complains. 'B' charges 'A' for this service. 'B' is involved in supply of main service 'customer care service' to 'A', and therefore, 'B' is not an Intermediary.

The illustrations provided in the circular are only indicative and not exhaustive. It has been clarified that treatment of a service as 'Intermediary' services would be dependent on the facts of the case and the terms of contract.

Please Click Here to read the Circular no.159/15/2021-GST dated 20th September 2021.

Functionality to fetch Bill of Entry (BoE) details activated on GST Portal

To help importers of goods, and recipients of supplies from Special Economic Zone (SEZ) to search BoE details, which did not auto-populate in GSTR-2A, a self-service functionality has been made available on the GST Portal that can be used to search such records in GST System, and fetch the missing records from ICEGATE Portal

Taxpayers can follow the below steps to fetch the requisite details:

- Login to GST Portal
- Navigate to Services > User Services > Search BoE
- Enter the Port Code, BoE Number, BoE Date and Reference Date and click the 'Search' button. (Note: The reference date would be either Out of charge date, Duty payment date, or amendment date - whichever is later)
- If the BoE details do not appear in the 'Search' results, click on the 'Query ICEGATE' button, at the bottom of the screen, to trigger a query to ICEGATE
- History of fetched BoE details from ICEGATE along with status of query are displayed after 30 minutes from the time of triggering the query

Please Click Here to read the GSTN Update dated 17th September 2021.

Advisory for taxpayers regarding generation of E-way Bill (EWB) where the principal supply is supply of services

Reportedly, representations have been received by Government from trade bodies stating that they are not able to generate EWB for movement of those goods where their principle supply is classifiable as a service, since there is no provision for generating E-way Bill by entering SAC (Service Accounting Code-Chapter 99) alone on the E- way bill portal.

To overcome the above issue, taxpayers have been advised as below:

- Rule 138 of CGST Rules, 2017 states that 'Information to be furnished prior to commencement of movement of goods and generation of e-way bill. - (1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees'. Thus, EWB is required to be generated for the movement of *Goods*
- Therefore, in cases where the principal supply is purely that of service and involves no movement of goods, the EWB is not required to be generated
- However, in cases where along with the principal supply of service, movement of some goods is also involved, EWB may be generated. Such situations may arise in cases of supply of services like printing services, works contract services, catering services, pandal or shamiana services, etc. In such cases, EWB may be generated by entering the details of HSN code of the goods, along with SAC of services involved.

Please Click Here to read the GSTN Update dated 16th September 2021.

GST

Extension of time limit to apply for revocation of cancellation of registration

The Notification issued by CBIC provides that for the cases where the due date of filing of application for revocation of cancellation of registration falls between 1st March 2020 to 31st August 2021, the time limit for filing of application for revocation of cancellation of registration is extended to 30th September, 2021.

Please Click Here to read the Notification No 34/2021 dated 29th August 2021

Extension of Amnesty Scheme

CBIC vide Notification no 33/2021 dated 29th August 2021 has extended the time limit of Amnesty Scheme.

CBIC had provided relief to taxpayers by reducing late fees for delay in furnishing Form GSTR-3B for the tax periods from July 2017 to April 2021, if the returns for these tax periods are furnished between 1st June 2021 to 31st August 2021. The last date to avail benefit of the late fee amnesty scheme has now been extended from existing 31st August 2021 to 30th November 2021.

Tax liability	Maximum late fee	Condition
Nil	Rs 500 per Return	GSTR-3B Returns to be furnished between 1st June 2021 to *30th November 2021*
Exists	Rs 1000 per Return	

Please Click Here to read the Notification No 33/2021 dated 29th August 2021.

3

Direct Tax

Direct Tax

Filing applications for settlement before the Interim Board for Settlement

Background

The Finance Act, 2021 has amended the Income-tax Act, 1961 (Act) to provide that the Income-tax Settlement Commission (ITSC) shall cease to operate with effect from 1st February 2021 onwards. Further, it has also been provided that no application for settlement can be filed on or after 1st February 2021, which was the date on which the Finance Bill, 2021 was laid before the Lower House of Parliament (Lok Sabha). In order to dispose off the pending settlement applications as on 31st January 2021, the Central Government has constituted the Interim Board for Settlement (Interim Board), vide Notification No. 91 dated 10th August 2021.

Relief allowed by CBDT to file applications till 30th September 2021

To avoid hardship to taxpayers who were in the advanced stages of filing their application for settlement before the ITSC as on 1st February 2021 and also due to pandemic, the Central Board of Direct Taxes (CBDT) had provided relief vide Press Release dated 7th September 2021 allowing taxpayers eligible to file application for settlement on 31st January 2021 to file such applications till the extended period of 30th September 2021

CBDT's order dated 28th September 2021

In view of the above, CBDT has authorized the Commissioner of Income-tax, posted as Secretary to the ITSC prior to 1st February 2021, to admit an application for settlement on behalf of the Interim Board filed after 31st January 2021 and before 30th September 2021 and treat such applications as valid and process them as 'pending applications'.

The above relaxation is available to the applications filed

- By taxpayers who were eligible to file application for settlement on 31st January 2021; and
- Where the relevant assessment proceedings of the taxpayer are pending as on the date of filing the application for settlement

Please Click Here to read CBDT's order dated 28th September 2021.

Direct Tax

Regularisation of Income-tax Returns (ITRs) verified through Electronic Verification Code (EVC) which are otherwise required to be verified through Digital Signature (DSC)

Reportedly, it has been brought to the notice of Central Board of Direct Taxes (CBDT) that due to technical issues in the e-filing portal, certain ITRs furnished electronically under the following provisions of the Act during the period 7th June 2021 to 30th September 2021, were / are being allowed to be verified through EVC, though these are otherwise required to be verified through DSC as per Rule 12 of the Income-tax Rules, 1962 (‘Rules’).

- Section 142(1) – ITR filed in response to notice from the tax department in case taxpayer has not filed original ITR within the due date or before the end of the relevant Assessment Year (AY)

- Section 148 – ITR filed in response to notice from the tax department where income of a taxpayer has escaped assessment

- Section 153A – ITR filed in response to notice from the tax department in case of search or requisition

- Section 153C – ITR filed in case of assessment of income of any other person

As the said ITRs are not furnished and verified as per Rule 12, the same may be treated as ‘invalid’ by the tax department which may cause hardship to the taxpayers.

Given the above difficulty, CBDT has directed that such ITRs furnished electronically under section 142(1), 148, 153A and 153C of the Act during the period mentioned above and verified through EVC instead of DSC, shall be considered valid.

Please Click Here to read CBDT’s order dated 24th September 2021.

Central Board of Direct Taxes (CBDT) further extends due dates for filing ITRs & Audit Reports for Financial Year (FY) 2020-21

In view of COVID-19 pandemic as well as glitches on the income-tax portal, taxpayers and tax authorities are facing difficulties in meeting the due dates prescribed. To ease the burden, CBDT has provided further relaxation in timelines for filing ITRs and audit reports for FY 2020-21 and other compliances as below.

1) Circular No. 17 / 2021 dated 9th September 2021 – Please Click Here to read

Compliance	Original due date as per Income-tax Act	Last extended due date[4]	Latest due date
Filing of ITR by taxpayers liable for Transfer Pricing	30th November 2021	31st December 2021	28th February 2022
Filing of ITR by taxpayers liable for Audit (non-Transfer Pricing cases)	31st October 2021	30th November 2021	15th February 2022
Filing of ITR by other taxpayers not covered above (such as individuals, firms not liable for audit, etc.)	31st July 2021	30th September 2021	31st December 2021
Filing of Belated / Revised ITRs	31st December 2021	31st January 2022	31st March 2022
Filing of Tax Audit Report	30th September 2021	31st October 2021	15th January 2022
Furnishing Chartered Accountant's report in Form 3CEB in Transfer Pricing cases	31st October 2021	30th November 2021	31st January 2022

2) Notification No. 113 / 2021 dated 17th September 2021 – Please Click Here to read

<table>
<tr><th rowspan="2">Compliance</th><th colspan="2">Erstwhile</th><th colspan="2">Extended</th></tr>
<tr><th>Disruption period</th><th>Due date</th><th>Disruption period</th><th>Due date</th></tr>
<tr><td>Passing of penalty order under Chapter XXI of the Act</td><td>20th March 2020 to 29th September 2021</td><td rowspan="3">30th September 2021</td><td>20th March 2020 to 30th March 2022</td><td rowspan="3">31st March 2022</td></tr>
<tr><td>Issue of notice and passing of order under Benami Law</td><td>20th March 2020 to 30th June 2021</td><td>Same as erstwhile</td></tr>
<tr><td>Linking of Aadhaar with PAN</td><td>-</td><td>-</td></tr>
</table>

[4] *As per CBDT's Circular no.9 dated 20 May 2021*

3) *Notification No. 94 / 2021 dated 31st August 2021 – Please Click Here to read*

Compliance under Vivad se Vishwas Scheme	Erstwhile due date	Extended due date
Payment of disputed tax without additional amount	31st August 2021	30th September 2021
Payment of disputed tax with additional amount	1st September 2021	1st October 2021

Computation of taxable interest on employee's contribution to Provident Fund (PF) exceeding the specified limit

Background

Section 10(11) of the Income-tax Act, 1961 provides for tax exemption in respect of payment from a recognised PF. Similarly, section 10(12) provides for tax-exemption with respect to the accumulated balance due and becoming payable to an employee participating in a recognised PF.

Amendment by Finance Act, 2021

Reportedly, instances had come to the notice of Income-tax department where some employees were contributing huge amounts to these funds and entire interest accrued / received on such contributions was getting exempt from tax.

To curb this practice, the above provisions were amended to say that the interest income relating to employee's contribution to the PF in excess of following limits in a FY shall be taxable from Assessment Year (AY) 2022-23 onwards.

- Rs.5 lakh in case there is no contribution by the employer
- Rs.2.5 lakh in case there is contribution by the employer

Notification No. 95 / 2021 dated 31st August 2021 issued by CBDT

CBDT vide the above notification has inserted new Rule 9D in the Income-tax Rules, 1962, specifying the mechanism for calculation of taxable interest on the contributions exceeding the specified limit. For the purpose of calculation of taxable interest, separate accounts (for taxable contribution and non-taxable contribution) shall be maintained within the PF account. Accordingly, the interest on employee's contribution to PF would be separately calculated on both these PF accounts as below:

- Non-taxable contribution - Non-taxable contribution includes:
  - ✓ Total balance of the PF as on 31st March 2021,
  - ✓ Non-taxable contributions made during FY 2021-22 and subsequent years (i.e. contributions < threshold limit of INR 250,000 or INR 500,000 as applicable)
  - ✓ Interest component accrued on the above contribution (within the specified limit)
- Taxable contribution – Theoretically, Taxable contribution includes
  - ✓ Contribution made by the employee during FY 2021-22 and subsequent years in excess of the specified limit (i.e., INR 250,000 or INR 500,000 as applicable)
  - ✓ Interest on the above contribution exceeding the limit
- The calculation under both the PF accounts would be undertaken after factoring in the withdrawals, if any

Please Click Here to read the Notification No. 95 / 2021 dated 31st August 2021.

4

Company Law

Company Law

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

Pursuant to Rule 6(5) of Companies (Cost Records and Audit) Rules, 2014, every Cost Auditor is required to submit his duly signed cost audit report to the company within 180 days from the close of each FY i.e., on or before 30th September of each year. However due to hardship caused by the pandemic, Ministry of Corporate Affairs (MCA) has extended the said time limit for submission of cost audit report by auditor to the company till *31st October 2021* for the FY 2020-21.

Consequently, the time limit for filing cost audit report in prescribed form CRA-4 for the FY ending 31st March 2021, which under the provisions of the Companies Act, 2013 (Act) is required to be filed within 30 days from the date of receipt of audit report by the company has also been extended from 30th October 2021 till *30th November 2021* respectively.

However, in case a company has availed extension of time limit for holding Annual General Meeting (AGM) then form CRA-4 may be filed within the resultant extended period of filing financial statements i.e., 30 days from the date of extended AGM.

Please Click Here to read the Circular dated 27th September 2021.

Extension of due date for holding Annual General Meeting (AGM) for the FY 2020-21

As per section 96(1) of Companies Act, 2013 every company is required to hold its AGM within 6 months from the close of each FY (or 9 months from close of FY in case of 1st AGM of a newly incorporated company). Accordingly, AGM for FY 2020-21 is required to be held on or before 30th September 2021.

However, in view of pandemic, reportedly various representations were received by Registrar of Companies (ROC) all over the country regarding difficulty in being able to hold AGMs within the due date of 30th September 2021.

Accordingly, ROCs of all the States and Union Territories in India have granted extension to hold the AGM for the FY 2020-21 as below.

Type of Company	Due date for holding AGM for FY 2020-21	
	Earlier	Extended
Pre-existing company as on 1st April 2020	30th September 2021	30th November 2021*
Company (newly) incorporated during FY 2020-21 (1st AGM for FY 2020-21)	31st December 2021 (no change)	

* The extension of 2 months is granted to all companies who wish to avail the same irrespective of the fact whether any AGM extension applications in Form GNL-1 were filed by them with respective ROCs or not.

Please Click Here to read notification(s) issued by state ROCs.

5

Directorate General of Foreign Trade (DGFT)

DGFT notifies due date for submitting applications under scrip based Foreign Trade Policy (FTP) scheme(s) & clarifies validity period of duty credit scrips

Background

In order to provide various incentives / benefits / rebates to exporters of both goods and services, DGFT has notified and implemented following scrip based FTP scheme(s):

- Merchandise Exports from India Scheme (MEIS);
- Service Exports from India Scheme (SEIS);
- Rebate of State and Central Taxes and Levies (ROSCTL) Scheme;
- Rebate of State Levies on Export of Garments (ROSL) Scheme

MEIS

With the aim of making India's products more competitive in the global markets, MEIS provides incentive in the form of duty credit scrips to the exporter of goods to compensate for his loss on payment of duties. The incentive is paid as certain percentage of the realized Free on Board (FOB) value of exports in free foreign exchange for notified goods.

The duty credit scrips and goods imported / domestically procured against these scrips shall be freely transferable. Further duty credit scrips can be used for:

- Payment of basic customs duty and additional customs duty specified under section 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 for import of inputs or goods, including capital goods;
- Payment of Central excise duties on domestic procurement of inputs or goods,

SEIS

Under the framework of the SEIS, service exporters for eligible service categories are granted benefits in the nature of transferable duty credit scrips as a certain percentage of net foreign exchange earned on export of the eligible services during a FY. The duty credit scrips can be used for the payment of basic customs duty and certain other duties as mentioned in FTP 2015 - 20 and can also be encashed by selling these scrips to any importer.

ROSCTL & ROSL schemes

Schemes to rebate all embedded State and Central taxes / levies imposed on export of garments & textile goods.

Due date for submitting applications under MEIS, SEIS, ROSCTL & ROSL schemes

DGFT vide notification dated 16th September 2021 has clarified that all the applications under MEIS, SEIS, ROSCTL & ROSL schemes should be submitted on or before *31st December 2021*. Post 31st December 2021, no further applications shall be allowed to be submitted and any late filed application would become time- barred. Further late cut provisions shall also not be available for submitting claims at a later date.

DGFT

Eligible export period for which applications can be filed till 31st December 2021

Scheme	Export Period
MEIS	Exports made during: • 01st July 2018 – 31st March 2019, • FY 2019 – 20; • 01st April 2020 – 31st December 2020
SEIS	Exports made during: • FY 2018 - 19, • FY 2019 – 20;
ROSCTL	Exports made during 7th March 2019 – 31st December 2020
ROSL	Exports made upto 6th March 2019 for which claims have not yet been disbursed under scrip mechanism

New late cut (deduction of certain incentive due to late filing) provisions notified for FTP schemes

Ssncheme	Export Period	Late cut (as a %age of entitlement under the scheme)
MEIS	1st July 2018 – 31st March 2019	10%
MEIS	• FY 2019 – 20; • 1st April 2020 – 31st December 2020	Nil
SEIS	FY 2018 - 19	5%
SEIS	FY 2019 – 20	Nil
ROSCTL	7th March 2019 – 31st December 2020	
ROSL	Exports made upto 6th March 2019 for which claims have not yet been disbursed under scrip mechanism	

Validity period of scrips issued under FTP schemes

The validity period of a duty credit scrip issued on or after 16th September 2021 shall be 12 months from the date of issue of scrips.

Please Click Here to read Notification no.26/2015-20 dated 16th September 2021.

6

Reserve Bank of India (‘RBI’)

RBI notifies revised interest rates for advance payments made against export of goods & services

RBI vide notification dated 8th September 2021 has revised interest rates applicable for advance payments made against export of goods and services and has accordingly introduced Foreign Exchange Management (Export of Goods and Services) amendment Regulations, 2021.

Pursuant to the above regulations, following change has been notified:

Export Regulation	Existing provision	Amendment
15(1) clause (ii)	Where an exporter receives advance payment (with or without interest) from a buyer / 3rd party mentioned in the export declaration made by the exporter, outside India, the exporter shall be under an obligation to ensure that the rate of interest, if any, payable on the advance payment does not exceed 100 basis points above the London Inter-Bank Offered Rate (LIBOR).	Where an exporter receives advance payment (with or without interest), from a buyer / 3rd party named in the export declaration made by the exporter, outside India, the exporter shall be under an obligation to ensure that the rate of interest, if any, payable on the advance payment does not exceed 100 basis points above the LIBOR or any other applicable benchmark as may be directed by RBI, as the case may be.

Please Click Here to read Notification dated 8th September 2021.

RBI notifies Financial Statements – Presentation & Disclosures (FSPD) Directions, 2021 for financial statements prepared by Banks

Background

RBI from time to time has issued guidelines for Banks regarding the presentation of financial statements, regulatory clarification on compliance with accounting standards and disclosures in notes to accounts.

The FSPD Directions, 2021 incorporating, updating and harmonizing across the banking sector the extant guidelines / instructions / directives, has been notified to enable Banks to have all the current instructions on presentation and disclosure in financial statements at one place for reference. However, it may be noted that in addition to these Directions, Banks shall continue to comply with the disclosures specified under the applicable regulatory capital framework.

Applicability

FSPD Directions, 2021 shall be applicable to:

- All Banking companies including new Banks, Regional Rural Banks (RRBs) and State Bank of India (SBI) as defined under section 5 of the Banking Regulation Act, 1949 (collectively referred to as 'Commercial Banks'); and
- All Primary Co-operative Banks as defined under section 56 of the Banking Regulation Act, 1949 (collectively referred to as 'Urban Co-operative Banks' (UCBs).

Key changes introduced by FSPD Directions, 2021:

- Banks shall take prior approval from RBI before any appropriation is made from their Statutory Reserve or any other reserve;
- Banks are further advised that all expenses including provisions and write-offs recognized in a period, whether mandatory or prudential, shall be reflected in their profit and loss account for the period as an 'above the line' item (that is, before arriving at the net profit / loss for the year);
- Draw down from reserves, with the prior approval of RBI, shall be effected only 'below the line' (that is, after arriving at the net profit / loss for the year);
- Suitable disclosures shall be made of such draw down in the 'Notes to Accounts' of the Balance Sheet.

Please Click Here to read notification dated 30th August 2021.

7

Securities Exchange Board of India (‘SEBI’)

SEBI

SEBI notifies disclosures to be made by Asset Management Companies (AMCs)

SEBI vide circular dated 31st August 2021 has notified various disclosures to be made by AMCs during their day to day dealings. The circular is applicable from 1st October 2021 onwards, however AMCs may choose to adopt the provisions of this circular before 1st October 2021 as per their discretion.

Some of the disclosures to be made by AMCs are as below:

- Risk-o-meter of the scheme wherever the performance of the scheme is disclosed;
- Risk-o-meter of the scheme and benchmark wherever the performance of the scheme in relation to that of the benchmark is disclosed;
- AMCs shall provide a feature wherein a link is provided to investors to their registered email so that the investor can directly view / download only the portfolio of schemes subscribed by him / her;
- AMCs shall enter into arrangements with their selected Index providers to provide the risk-o meter for their benchmarks latest by the 5th day subsequent to the end of the month;

Please Click Here to read Circular dated 31st August 2021.

Compliance Calendar

Compliance calendar for the month of October 2021

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7th October	September 2021	TDC/TCS deposit	Non-government Deductors
		Equalization Levy deposit	All Deductors
10th October		a) GSTR-7 (TDS return under GST) b) GSTR-8 (TCS return under GST)	a) Person required to deduct TDS under GST b) Person required to deduct TCS under GST
11th October		GSTR-1 (Outward supply return)	Taxable persons having turnover > Rs. 5 crore
13th October		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
	July-September 2021	GSTR-1 (Outward supply return)	Taxable persons having turnover < Rs. 5 crore
14th October	FY 2020-21	Form ADT-1 (ROC)	For appointment / reappointment of Statutory Auditors
15th October	September 2021	Deposit of PF & ESI contribution	All Deductors
	July-September 2021	Quarterly statement of TCS deposited	All Collectors
20th October	September 2021	a) GSTR-5 (Return by Non-resident) b)GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	a) Non-resident taxable person b) OIDAR services provider
		GSTR-3B (Summary return)	All taxable persons (except composition dealer) having annual turnover > Rs. 5 crore in FY 2020-21
22nd October	July-September 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
24th October			All taxable person (except composition dealer) having annual turnover upto Rs. 5 crore and having principal place of business in any other state.
29th October	FY 2020-21	Filing of Annual Audited Financial Statements in Form AOC-4 (ROC)	All Companies
30th October	September 2021	TCS certificate in Form 27D	All Collectors
	April 2021 – September 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
	FY 2020-21	Filing of Annual Accounts in Form 8 (ROC)	Limited Liability Partnerships (LLPs)
31st October	July-September 2021	Quarterly statement of TDS deposited	All Deductors
	FY 2020-21	Form no. 3CEAB	Intimation by a designated constituent entity, resident in India, of an international group

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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