

TAX EDGE

Monthly Tax & Regulatory
Updates



Audit



Tax



Regulatory



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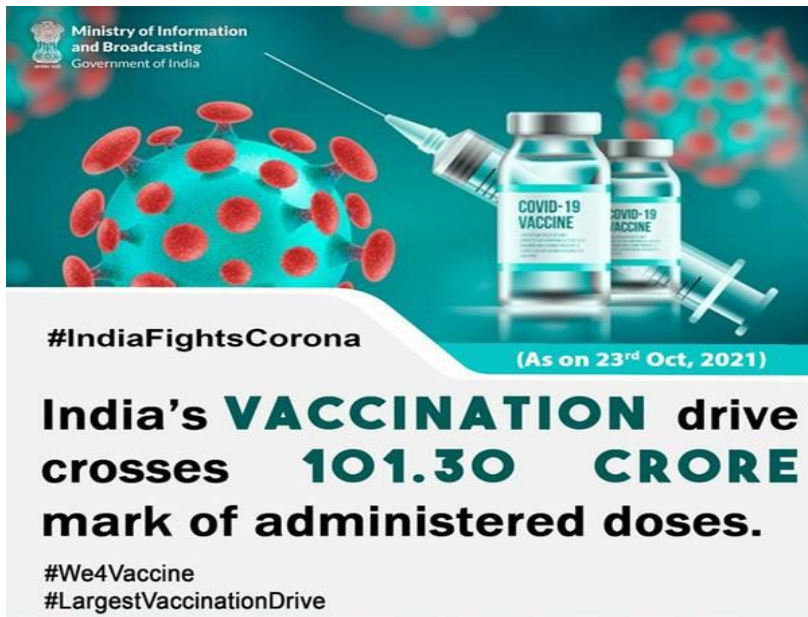
1

Measures to combat COVID-19



Measures to combat COVID-19

India's cumulative COVID-19 Vaccination Coverage exceeds 101.30 Crore people with recovery rate at 98.16%, highest since March 2020



India's COVID-19 vaccination coverage has crossed the landmark of 100 Crore people (101,30,28,411) as per provisional reports till 23rd October 2021. This has been achieved through 100,29,602 sessions. The break-up of the cumulative figure includes:

HCWs	1 st Dose	1,03,78,004
	2 nd Dose	91,32,055
FLWs	1 st Dose	1,83,69,012
	2 nd Dose	1,56,73,375
Age Group 18-44 years	1 st Dose	40,43,88,714
	2 nd Dose	12,26,54,329
Age Group 45-59 years	1 st Dose	17,12,42,361
	2 nd Dose	8,99,14,788
Over 60 years	1 st Dose	10,77,01,034
	2 nd Dose	6,32,40,508
Total		1,01,30,28,411

Consequently, India's recovery rate stands at 98.16% at its highest peak since March 2020. The testing capacity across the country continues to be expanded.

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

Measures to combat COVID-19

Prime Minister (PM) praises the efforts of the vaccine manufacturers which has resulted in India crossing the 100 crore vaccination milestone



PM Shri Narendra Modi interacted with the domestic vaccine manufacturers on 23rd October 2021.

PM praised the efforts of the vaccine manufacturers, which has resulted in the country crossing the milestone of 100 crore vaccinations, and said that they have played a big role in the success story of India. He appreciated their hard work and confidence given by them during the pandemic.

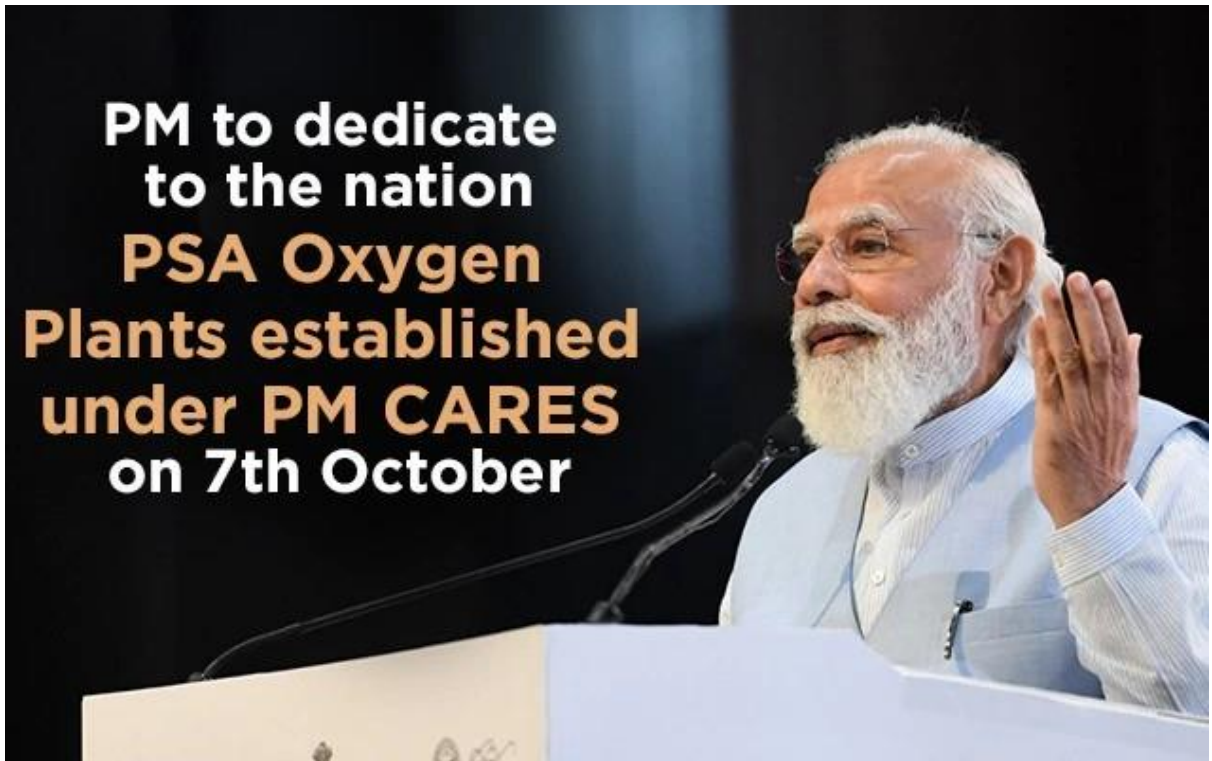
PM exhorted that the country needs to institutionalise the best practises learnt during the last one and a half years, and said that this is an opportunity to modify our practises, in tune with the global standards. He said that the entire world is looking up to India, in the backdrop of the success of the vaccination drive. He also said that the vaccine manufacturers should continuously work together to be ready to face future challenges.

The domestic vaccine manufacturers appreciated the vision and dynamic leadership of the PM in providing continuous guidance and support towards the development of the vaccines. They also praised the never before seen collaboration between government and industry, and applauded the regulatory reforms, simplified procedures, timely approvals, and forthcoming and supportive nature of the government throughout this endeavour. They noted that had the country been following old norms, there would have been considerable delay and we would not have been able to reach the vaccination level that we have attained till now.

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

Measures to combat COVID-19

PM to dedicate 35 Pressure Swing Adsorption (PSA) Oxygen Plants across 35 States & Union Territories (UTs)



PM Shri Narendra Modi will dedicate to the nation 35 PSA Oxygen Plants established under PM CARES, across 35 States and UTs. With this, all districts of the country will now have commissioned PSA Oxygen Plants.

Till now, a total of 1224 PSA Oxygen Plants have been funded under PM CARES all across the country, out of which more than 1100 Plants have been commissioned, providing an output of over 1750 MT oxygen per day. It is a testimony of the proactive measures taken by the Government to augment India's medical oxygen generation capacity since the advent of COVID-19 pandemic.

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



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Goods & Services Tax (`GST`)



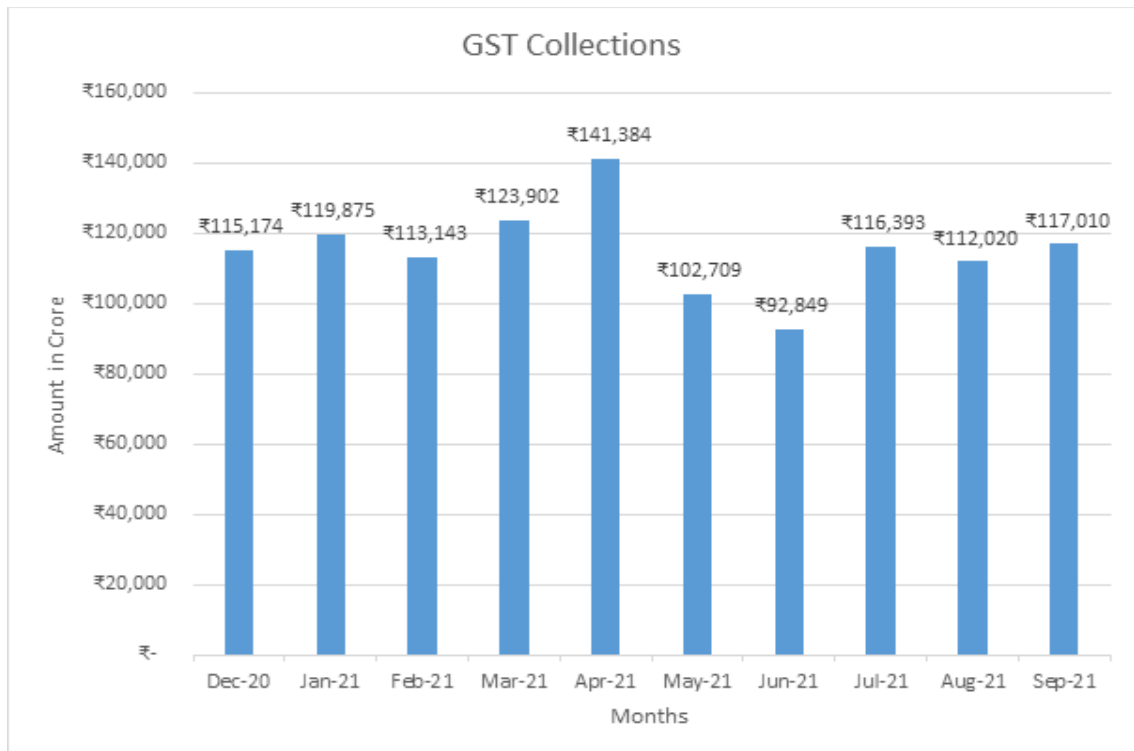
GST

GST revenue collection for September 2021, Rs. 117,010 Crore (23% higher than GST revenue collection in September 2020)

The gross GST revenue collected in the month of September 2021 is Rs.117,010 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. 60,911 crore
CGST (Central Goods and Services Tax)	Rs. 20,578 crore
SGST (State Goods and Services Tax)	Rs. 26,767 crore
Compensation cess	Rs. 8,754 crore
Total	Rs. 117,010 crore

The revenues for the month of September 2021 are 23% higher than the GST revenues in the same month last year. During the month, revenues from import of goods was 30% higher and the revenues from domestic transaction (including import of services) are 20% higher than the revenues from these sources during the same month last year. The revenue for September 2020 was, in itself at a growth of 4% over the revenue of September 2019 of Rs. 91,916 crore.



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

Changes in GST rate in relation to Services (applicable from 1st October 2021 onwards)

SI	Services	Existing Rate	New Rate
1.	Validity of GST exemption on transport of goods by vessel and air from India to outside India is extended up to 30 September 2022	NIL	NIL
2.	Services by way of grant of National Permit to goods carriages on payment of fee	18	
3.	Skill Training for which Government bears 75% or more of the expenditure. Presently exemption applies only if Government bears 100% of the expenditure		
4.	Services by way of right to admission to the events organised under Asian Football Confederation (AFC) Women's Asia Cup 2022		
5.	Services provided by and to AFC and its subsidiaries directly or indirectly related to any of the events under AFC Women's Asia Cup 2022 to be hosted in India [Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under AFC Women's Asia Cup 2022]		
6.	Services by way of admission to (a) casinos or race clubs or any place having casinos or race clubs (b) sporting events like Indian Premier League		
7.	Services by way of job work in relation to manufacture of alcoholic liquor for human consumption	5	18
8.	Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property right ("IP right") in respect of goods other than Information Technology software	12	
9.	Printing and reproduction services of recorded media where content is supplied by the publisher (to bring it on parity with colour printing of images from film or digital media)		
10.	Exemptions or applicable tax rates for trusts covered under section 12AA of Income-tax Act, 1961 has been extended to those covered under section 12AB also		
11.	Exemption on services provided by and to Federation Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India shall be available whenever the event is rescheduled		
12.	Exemption on leasing of rolling stock by Indian Railways Finance Corporation (IRFC) to Indian Railways has been withdrawn		

Please [Click Here](#) to read the Notification no 06/2021–Central Tax (Rate) dated 30 September 2021.

Please [Click Here](#) to read the Notification no 07/2021–Central Tax (Rate) dated 30 September 2021.

GST

Changes in GST rate in relation to Goods (applicable from 1st October 2021 onwards)

Sl.	Goods	Existing Rate	New Rate
1.	Retro fitment kits for vehicles used by the disabled	Applicable Rate	5
2.	Tamarind seeds meant for any use other than sowing They fall under heading 1209, and hitherto attracted nil rate irrespective of use. However, henceforth they would attract 5% GST rate for use other than sowing. Seeds for sowing will continue at nil rate.		
3.	Medicine Keytruda for treatment of cancer	12	18
4.	Biodiesel supplied to OMCs for blending with Diesel		
5.	Iron ores and concentrates, including roasted iron pyrites	5	12
6.	Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20% or more, calculated on the dry weight		18
7.	Copper ores and concentrates		18
8.	Nickel ores and concentrates		
9.	Cobalt ores and concentrates		
10.	Aluminium ores and concentrates		
11.	Lead ores and concentrates		
12.	Zinc ores and concentrates		
13.	Tin ores and concentrates		
14.	Chromium ores and concentrates		
15.	<p>Following renewable energy devices and parts for their manufacture:</p> <ul style="list-style-type: none"> • Bio-gas plant; • Solar power-based devices; • Solar power generator; • Windmills, Wind Operated Electricity Generator (WOEG); • Waste to energy plants / devices; • Solar lantern / solar lamp; • Ocean waves/tidal waves energy devices/plants; • Photo voltaic cells, whether or not assembled in modules or made up into panels. <p>If the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the notification no:11/2017-Central Tax (Rate), dated 28 June 2017 [G.S.R. 690(E)], the value of supply of goods for the purposes of this entry shall be deemed as 70% of the gross consideration charged for all such supplies. The remaining 30% of the gross consideration charged shall be deemed as value of the said taxable service</p>		12

GST

Sl.	Goods	Existing Rate	New Rate
16.	Cartons, boxes, cases, bags, and other packing containers, of paper, paperboard, cellulose wadding, or webs of cellulose fibres; box files, letter trays, and similar articles, of paper or paperboard of a kind used in offices, shops, or the like	12/18	
17.	Waste, Parings and Scrap, of Plastics	5	
18.	Plans and drawings for architectural, engineering, industrial, commercial, topographical, or similar purposes, being originals drawn by hand; hand-written texts; photographic reproductions on sensitised paper and carbon copies of the foregoing		
19.	Unused postage, revenue, or similar stamps of current or new issue in the country in which they have, or will have, a recognised face value; stamp-impressed paper; banknotes; cheque forms; stock, share or bond certificates and similar documents of title (other than Duty Credit Scrips)		
20.	Transfers (decalcomanias)		
21.	Printed or illustrated postcards; printed cards bearing personal greetings, messages, or announcements, whether or not illustrated, with or without envelopes or trimmings	12	18
22.	Calendars of any kind, printed, including calendar blocks		
23.	Other printed matter, including printed pictures and photographs; such as Trade advertising material, Commercial catalogues and the like, printed Posters, Commercial catalogues, Printed inlay cards, Pictures, designs and photographs, Plan, and drawings for architectural engineering, industrial, commercial, topographical, or similar purposes reproduced with the aid of computer or any other devices		
24.	Ball point pens; felt tipped and other porous tipped pens and markers; fountain pens; stylograph pens and other pens; duplicating stylos; pen holders, pencil holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 9609	12/18	
25.	Railway parts, locomotives & other goods in Chapter 86	12	
26.	Carbonated Beverages of Fruit Drink or Carbonated Beverages with Fruit Juice.	18	28

Please [Click Here](#) to read the Notification no 08/2021–Central Tax (Rate) dated 30 September 2021.

Please [Click Here](#) to read the Notification no 09/2021–Central Tax (Rate) dated 30 September 2021.

Applicability of Reverse Charge Mechanism (RCM) on supply of Mentha / Essential oil

The Central Board of Indirect Taxes & Customs (CBIC) vide notification no. 10/2021-Central Tax (Rate) dated 30th September 2021 notified that the RCM is applicable on supply of Mentha / Essential oil by an unregistered person to a registered person. The notification is effective from 1st October 2021 onwards.

Please [Click Here](#) to read the Notification no. 10/2021–Central Tax (Rate) dated 30 September 2021.

Reduced GST rates on supplies intended for free distribution to Economically Weaker Sections (EWS) of society

CBIC vide notification no 11/2021-Central Tax (Rate) dated 30th September 2021 notified that GST @ 5% would be payable on food preparations put up in unit containers, intended for free distribution to Economically Weaker Sections (EWS) of the society.

Further, fortified rice kernel (Premix) supply for ICDs or similar scheme duly approved by the Central Government, or any State Government shall be taxable @ 5%, if condition of production of certificate to the effect that such goods have been distributed free to the EWS of the society, is satisfied.

The notification is effective from 01st October 2021 onwards.

Please [Click Here](#) to read the Notification no 11/2021–Central Tax (Rate) dated 30 September 2021.

Extension of concessional rate benefits to specified drugs used in COVID-19 treatment

CBIC vide notification no. 12/2021-Central Tax (Rate) dated 30th September 2021 has further extended the duration of concessional rate benefit on specified drugs used in COVID treatment as well as further reduced GST rate on other specified drugs used in COVID treatment as below:

Extension of existing concessional GST rates on following COVID-19 treatment drugs, up to 31 December 2021 from 30 September 2021:

- Amphotericin B – Nil
- Remdesivir – 5%
- Tocilizumab – Nil
- Heparin (anti-coagulant) – 5%

Reduction of GST rate to 5% on other COVID-19 treatment drugs, valid up to 31 December 2021:

- Itolizumab
- Posaconazole
- Infliximab
- Favipiravir
- Casirivimab & Imdevimab
- 2-Deoxy-D-Glucose
- Bamlanivimab & Etesevimab

The notification is effective from 1st October 2021 onwards;

Please [Click Here](#) to read the Notification no 12/2021–Central Tax (Rate) dated 30 September 2021.

3

Direct Tax



Direct Tax

Central Board of Direct Taxes (CBDT) extends time limit for processing of Income-tax returns (ITRs) upto Assessment Year (AY) 2017-18 with refund claims in non-scrutiny cases

Background

- As per 2nd proviso to section 143(1) of the Income-tax Act, the time limit for issue of Intimation u/s 143(1) is 9 months from the end of the financial year (FY) in which ITR is filed. Earlier, the said time limit was 1 year (instead of 9 months)
- Due to various reasons not attributable to taxpayers' fault, several ITRs filed for various Assessment Years up to AY 2017-18 could not be processed u/s 143(1). Consequently, intimation regarding processing of such returns could not be sent within 1 year from the end of the FY in which such returns were filed. This led to a situation where the taxpayer was unable to get his legitimate refund even though the delay was not attributable to him

CBDT's order dated 5th July 2021

CBDT vide its order dated 5th July 2021 directed that all validly filed ITRs up to AY 2017-18 with refund claims, which could not be processed u/s 143(1) and which had become time-barred, should be processed by 30th September 2021 (subject to certain conditions / exceptions).

Extension of due date by 2 months

In view of pending grievances of taxpayers relating to issue of refund, CBDT vide order dated 30th September 2021 has extended the above time limit from 30th September 2021 till 30th November 2021.

Please [Click Here](#) to read CBDT's order dated 30th September 2021.



Direct Tax

Faceless Assessments – CBDT adds further exclusion to categories of assessment orders which cannot be passed by the National Faceless Assessment Centre (NFAC)

Background

The provisions relating to faceless assessment / scrutiny of Income-tax cases is mentioned u/s 144B of the Income-tax Act, 1961. The CBDT vide **order dated 13th August, 2020** directed that all the assessment orders shall be passed by the NFAC u/s 144B of the Act except as under:

- i. *Assessment orders in cases assigned to Central Charges*
- ii. *Assessment orders in cases assigned to International Tax Charges*

Vide order dated 6th September 2021, in addition to the above exceptions, the following exception was added:

- iii. *Assessment orders in cases where pendency could not be created on Income Tax Business Application (ITBA) portal because of technical reasons or cases not having a PAN, as the case may be.*

Another exception added by CBDT

CBDT vide its order dated 22nd September 2021 has added the following to above list of exceptions:

- iv. *Assessment orders in cases:*
 - (a) *set aside to be done de novo (anew / afresh)***Or**
 - (b) *to be done u/s 147 of the Act (income escaping assessment)*

*for which the time limit for completion expires on 30th September 2021 pending with the jurisdictional Assessing Officer as on 11th September 2021 or thereafter, which cannot be completed as per the procedure laid down u/s **144B** due to technical / procedural constraints in the given period of limitation.*

Accordingly, CBDT has clarified that assessment in cases at (iii) and (iv) above shall be completed by the jurisdictional Assessing Officer. Further, the exception at (iv) above is applicable only to the cases for which the time limit for completion expires on 30th September 2021.

4

International Tax



International Tax

Guidelines u/s 10(23FE) of the Income-tax Act, 1961 – Tax exemption to sovereign wealth funds & pension funds on income by way of dividend, interest & long-term capital gains

Background

- The Finance Act, 2020, amongst others, inserted clause (23FE) in section 10 of the Income-tax Act, 1961 to provide for tax-exemption to sovereign wealth funds and pension funds on their income in the nature of dividend, interest and long-term capital gains arising from investment in infrastructure in India made between 1st April 2020 to 31st March 2024 subject to fulfilment of conditions
- Subsequently, the Finance Act, 2021, inserted 7th proviso to the above clause to provide that in case the specified fund has loans or borrowings, directly or *indirectly*, for the purposes of making investment in India, such fund shall be considered ineligible for the exemption
- Reportedly, concerns were raised to the Government regarding meaning of the term '*indirectly*' used above, as in the meaning / coverage was not clear. Further, concerns were raised that if such fund or its holding entity or any other entity in the chain of holding or any associate thereof ('group concern') has any loans or borrowings, the specified fund may become ineligible to get the tax-exemption

Clarity issued by CBDT on 26th October 2021

Given the above, CBDT has clarified as below.

- If the loans and borrowings have been taken by the fund or any of its group concern, *specifically for the purposes of making investment by the specified fund in India*, such fund shall not be eligible for exemption u/s 10(23FE)
- If the loans and borrowings have been taken by the fund or any of its group concern, *not specifically for the purposes of making investment in India*, it shall not be presumed that the investment in India has been made out of such loans and borrowings and such specified fund shall be eligible for the tax exemption, provided the other conditions are fulfilled and the source of the investment in India is not from such loans and borrowings

Please [Click here](#) to read CBDT's Circular no.19 dated 26th October 2021.

International Tax

CBDT exempts requirement to file ITR from Assessment Year (AY) 2021-22 onwards for certain Non-Residents (NRs) investing in International Financial Services Centre (IFSC) in India

Background

- The CBDT had in July 2019 provided exemption to foreign investors earning income from Category I and II Alternative Investment Funds (AIFs) set-up in IFSC from the requirement of ITR. However, no specific exemption was granted to foreign investors in Category III AIF
- To address the above concern, CBDT has issued Notification on 11th October 2021 providing exemption from filing ITR (from AY 2021-22 onwards) to following persons:
 - ✓ Eligible foreign investors investing in specified securities in the IFSC;
 - ✓ Non-resident investors in a Specified fund in the IFSC (subject to satisfaction of conditions). Specified fund for this purpose has been defined to mean Category I and II AIFs
- The Notification is effective from 11th October 2021 onwards. The decision of CBDT to specifically exempt foreign investors in Category III AIFs set up in IFSC from the requirement of furnishing ITR is a welcome step in making setting up of AIFs in IFSC attractive

Highlights – Classes of persons exempted from filing ITR from AY 2021-22 onwards

- An NR, on satisfying the following conditions:
 - ✓ The NR does not earn any income in India during the year, except income from investment in the Specified fund; and
 - ✓ The NR is not required to obtain a PAN in India, on fulfilment of conditions mentioned in Rule 114AAB(1) of the Income-tax Rules, 1962. The additional conditions mentioned in the said Rule are:
 - a) the tax due on income of NR has been deducted at source and remitted to the Government by the specified fund at the rates specified in section 194LBB; and
 - b) the NR furnishes the following details and documents to the specified fund, namely; name, e-mail id, contact number, address in home country, declaration of residency and Tax Identification Number in home country
- An NR, being an eligible foreign investor, subject to fulfilment of following conditions:
 - ✓ Such NR, during the year has made transaction only in capital asset referred to in section 47(viiab) of the Income-tax Act, which are listed on a recognised stock exchange located in any IFSC and the consideration on transfer of such capital asset is paid or payable in foreign currency;
 - ✓ Such NR does not earn any income in India, during the year, other than the income from transfer of capital asset referred to in section 47(viiab) of the Income-tax Act; and
 - ✓ Section 139A of the Income-tax Act (relating to PAN) is not applicable to such NR, subject to fulfilment of the conditions mentioned in Rule 114AAB(2A) of the Rules. The conditions mentioned in Rule 114AAB(2A) are similar to those mentioned in Rule 114AAB(1)

Please [Click here](#) to read Notification no.119 dated 11th October 2021.

International Tax

Taxability of income arising on indirect transfer of Indian assets if the transaction was undertaken before 28th May, 2012 - CBDT notifies rules for implementing withdrawal of retrospective tax provisions

Background

- The Taxation Laws (Amendment) Act, 2021, amongst others, amended the Income-tax Act, 1961 to provide that no tax demand shall be raised in future on the basis of amendment to section 9 made vide Finance Act, 2012 for any offshore indirect transfer of Indian assets if the transaction was undertaken before 28th May, 2012 (i.e., the date on which the Finance Bill, 2012 received the assent of the President)
- The Amendment Act also provides that the demand raised for offshore indirect transfer of Indian assets made before 28th May 2012 shall be nullified on fulfilment of specified 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. shall be filed, and
 - ✓ Other prescribed conditions

The amount paid / collected in these cases shall be refunded, without interest, on fulfilment of the said conditions

- The draft rules to amend the Income-tax Rules, 1962, prescribing the specific conditions as mentioned above and providing the form and manner for furnishing of undertaking for withdrawal of pending litigation, claiming no cost, damages, interest, etc. were circulated in public domain on 28th August 2021, inviting suggestions / comments from stakeholders by 4th September, 2021
- After incorporating the comments from public, the rules for implementing the Taxation Laws (Amendment) Act, 2021 have been published vide Notification No. 118 dated 1st October, 2021 as below:
 - ✓ Rule 11UE providing the specified conditions in order to be eligible to claim relief under the Taxation Laws (Amendment) Act, 2021; and
 - ✓ Rule 11UF providing the form and the manner of furnishing the undertaking for withdrawal of pending litigation, claiming no cost, damages, etc.
- The rules are effective from 1st October 2021 onwards

Rule 11UE - Conditions in order to be eligible to claim the relief

The undertaking shall be submitted by the declarant in Form No. 1. The conditions are:

- The declarant and all the interested parties shall irrevocably withdraw, terminate or discontinue all the appeals or applications or petitions or proceedings, against the relevant order(s). The undertaking in Form No. 1 shall state that it shall not, under any circumstances, reopen or file any such appeal, application, petition or proceeding in future against the relevant order(s)
- The Declarant and all the interested parties shall irrevocably withdraw, terminate or discontinue all the proceedings for arbitration, conciliation or mediation, or notices thereof against the relevant order(s). The undertaking in Form No. 1 shall state that it shall not, under any circumstances, reopen or file any such proceeding or initiate any such arbitration, conciliation or mediation in future against the relevant order(s)

International Tax

- The declarant and all the interested parties shall irrevocably withdraw, terminate or discontinue all the proceedings to enforce or pursue attachments in respect of any award, order or judgement or any other relief against India or Indian affiliates with respect to the relevant order or orders. Further, the undertaking in Form No. 1 shall state that it shall not, under any circumstances, reopen or file any such proceeding in future against India or Indian affiliates with respect to the relevant order(s)
- The declarant and all the interested parties shall irrevocably terminate, release, discharge, and forever irrevocably waive all rights, whether direct or indirect, and any claims, demands, liens, actions, suits, causes of action, obligations, controversies, debts, costs, attorneys' fees, court's fees expenses, damages, judgments, orders, declaratory relief, and liabilities of whatever kind or nature at law, in equity, or otherwise, whether now known or unknown previously (or in future discovered), suspected or unsuspected, and whether or not concealed or hidden, which have existed or may have existed, or do exist or which hereafter can, shall or may exist in relation to any award, order, judgment, or any other relief against the Republic of India or Indian affiliates in connection with the relevant order or orders. Further, the undertaking in Form No. 1 shall state that it shall not, under any circumstances, reopen or file any such proceeding or initiate any such arbitration, conciliation or mediation in future against the relevant order or orders
- The declarant and all the interested parties shall irrevocably waive any right to seek or pursue any claim for costs in respect of any proceeding referred above, including but not limited to any proceeding initiated by the Republic of India to set aside the award, order or judgement, or any other relief, referred above, issued in favour of the declarant or any of the interested parties
- The declarant and all the interested parties shall terminate, release, discharge, and forever irrevocably waive any right, whether direct or indirect, any remedies, claims, demands, liens, actions, suits, causes of action, obligations, controversies, debts, costs, attorneys' fees, court's fees, expenses, damages, judgments, orders, compensation, and liabilities of whatever kind or nature at law, in equity, or otherwise, whether now known or unknown, suspected or unsuspected, and whether or not concealed or hidden, which have existed or may have existed, or do exist or which hereafter can, shall or may exist, based on pursuit of any remedy or any and all claims, demands, damages, judgments, awards, costs, expenses, compensation or liabilities of any kind (whether asserted or unasserted), in relation to any facts, events, or omissions occurring at any time in relation to taxation of income referred to in the 5th and 6th proviso to Explanation 5 to clause (i) of Section 9(1) or relevant order or orders, or any related award, judgment or court order, which may otherwise be available to the declarant or any of its interested parties.
- The Declarant and all the Interested parties shall indemnify, defend and hold harmless the Republic of India and Indian affiliates from and against any and all costs, expenses (including attorneys' fees and court's fees), interest, damages, and liabilities of any nature arising out of or in any way relating to the assertion or, bringing, filing or maintaining of any claim, at any time after the date of furnishing the undertaking in Form No. 1 by the declarant, by any person and the declarant and all the interested parties shall furnish an indemnity bond to this effect, such that the declarant and the interested parties fully assume the risk of any omission or mistake with respect to identification and procurement of authorisations and undertakings from any related parties or interested parties as provided in the undertaking, and secures the Republic of India and Indian affiliates from any claim related to any relevant order or orders, or in relation to any award, order, judgment, or any other relief against the Republic of India and Indian affiliates in connection with any relevant order(s)
- The Declarant and all the Interested parties shall refrain from facilitating, procuring, encouraging or otherwise assisting any person (including but not limited to any related party or interested party) from bringing any proceeding or claims of any kind related to any relevant order(s), or in relation to any award, order, judgment, or any other relief against the Republic of India or Indian affiliates in connection with any relevant order(s)

International Tax

- The Declarant and all the Interested parties shall notify by a public notice or press release that, by signing the undertaking in Form No. 1 or Part M of the Annexure to the undertaking in Form No. 1, as the case may be, any claims arising out of or relating to the relevant orders or any related award, judgment or court order, no longer subsist, and that such person or entity issuing the public notice has signed the undertaking, and that such undertaking includes an indemnity against any claims brought against the Republic of India or any India affiliate contrary to the undertaking, and that the declarant and all the interested parties shall furnish a copy of such public notice to the Republic of India.
- The execution, delivery and performance of the undertaking in Form No. 1 submitted by the declarant, undertakings from all the interested parties in Part M of the Annexure to the undertaking in Form No. 1 and indemnity bond by the declarant and interested parties in Part N of the Annexure to the undertaking in Form No. 1 shall be duly authorised by all necessary corporate action, including but not limited to any board resolution or similar authorisation under applicable law and a copy of such board resolution and legal authorisation shall be furnished by the declarant

Rule 11UF - Manner of furnishing undertaking under Rule 11UE

- The undertaking in Form No 1 shall be submitted by the declarant to Jurisdictional commissioner or commissioner within 45 days from the date of commencement of these Rules i.e. 1 October 2021
- After the undertaking in Form 1 is filed by the declarant, the Jurisdictional Commissioner or Commissioner shall grant a certificate in Form 2 accepting such undertaking or after giving opportunity of being heard to the declarant, pass an order not accepting such undertaking within a period of 15 days from receipt of the said undertaking
- After the grant of certificate in Form No. 2, the above specified conditions under Rule 11UE shall be fulfilled by the Declarant and Interested Parties, an intimation shall be filed by the Declarant in Form No. 3 within 60 days of the date of receipt of certificate in Form No. 2 with the jurisdictional Principal Commissioner or Commissioner
- The jurisdictional Principal Commissioner or Commissioner may, on an application made by the Declarant, extend the period of 60 days by further period upto 60 days
- Where the intimation in Form No. 3 is filed after the period of 60 days or further period extended then, notwithstanding anything contained in any other provision of Rule 11UE and Rule 11UF, such intimation in Form No. 3 shall be treated as invalid and the provisions of Rule 11UF shall apply as if such person had never furnished the intimation in Form No. 3.
- No intimation in Form No.3 shall be required to be furnished by the declarant if the following conditions are satisfied:
 - ✓ The declarant or any of the interested parties has not filed, with respect to all the relevant order or orders, any
 - (a) Appeal or application or petition or proceeding
 - (b) Arbitration, conciliation or mediation and no notices have been given thereof; or
 - (c) Proceeding to enforce or pursue attachments in respect of any award, order or judgement or any other relief against the Republic of India or Indian affiliates; and

International Tax

- ✓ Where with respect to the relevant order(s), any of the above document has been filed or notice thereof has been given by the Declarant or any Interested parties, the declarant and all such interested parties have irrevocably withdrawn all such appeals, applications, petitions, proceeding, arbitration, conciliation and mediation and no further appeal or application or petition or proceeding or arbitration or conciliation or mediation has been filed by the Declarant or any such interested party against the Republic of India or any of the Indian Affiliates before the withdrawal of such arbitration, conciliation or mediation and evidence thereof has been furnished at the time of furnishing the undertaking in Form No. 1.
- ✓ Where with respect to the relevant order(s), any of the above document had been filed by the declarant or any of the interested parties and have been disposed of, no further appeal or application or petition or proceeding or arbitration or conciliation or mediation has been filed by the declarant or any such interested party against the Republic of India or any of the Indian Affiliates on or before the disposal of such arbitration, conciliation or mediation and evidence thereof has been furnished at the time of furnishing the undertaking in Form No. 1 referred to in Rule 11UE(1) of the Rules.
- After receipt of intimation in Form No. 3 or grant of certificate in Form 2 in specified cases, the Jurisdictional Principal Commissioner or Commissioner shall pass an order granting relief in Form No. 4 or decline to grant relief in accordance with the prescribed procedure
- The jurisdictional Principal Commissioner or Commissioner may, after giving an opportunity of being heard to the declarant, decline to grant the relief where:
 - ✓ The declarant has not fulfilled any of the conditions stipulated under Rule 11UE. The intimation in Form No. 3 or any part thereof is incorrect or incomplete
 - ✓ The intimation in Form No. 3 has not been filed in a case other than that covered under Rule 11UF(6)
 - ✓ Any of the attachments provided in Form No. 3 is incorrect or incomplete or has not been furnished
 - ✓ Any of the evidence required to be furnished along with Form No. 3 is incorrect or incomplete or has not been furnished
 - ✓ The intimation in Form No. 3 submitted by the declarant is not duly authorised by all necessary corporate action, including but not limited to any board resolution or similar authorisation under applicable law or a copy of such board resolution or legal authorisation is incorrect or incomplete or not furnished by the declarant
- The order granting the relief or declining to grant relief shall be passed
- ✓ Within 30 days from the date of receipt of Form No. 3 by the Principal Commissioner or Commissioner, in cases where intimation in Form No. 3 has been furnished to the Principal Commissioner or Commissioner
- ✓ Within 30 days of the issue of Form No. 2, in cases covered under Rule 11UF(6)
- No order rejecting the undertaking in Form No. 1 or declining relief, shall be passed by the Principal Commissioner or Commissioner without the approval of the Chief Commissioner
- For the purpose of rejecting the undertaking or declining to grant relief, the Principal Commissioner or Commissioner shall intimate the reasons thereof to the declarant and give him an opportunity of submitting a renewed undertaking in Form No. 1 or renewed intimation in Form No. 3 within a further period not exceeding 30 days

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- Where the renewed undertaking or renewed intimation is not filed within such further period under Rule 11UF(11), then, notwithstanding anything contained in any other provision of the Rule 11UE and Rule 11UF, such undertaking or intimation shall be treated as invalid and the provisions of this rule shall apply as if such person had never furnished the undertaking in Form No. 1 or intimation in Form No. 3
- The extended period allowed under Rule 11UF(11) for submitting a renewed undertaking in Form 11 or a renewed intimation in Form No. 3 shall be excluded from
 - ✓ The period of 15 days under Rule 11UF(2) for granting a certificate in Form No. 2 or passing an order rejecting such undertaking by the jurisdictional Principal Commissioner or Commissioner
 - ✓ 30 days for passing an order granting relief under sub-rule (7) or declining relief under sub-rule (8), as the case may be, by the jurisdictional Principal Commissioner or Commissioner
- For the purposes of computing the period of limitation, where immediately after the exclusion of the period or extended period allowed to the declarant, the period of limitation available to the Principal Commissioner or Commissioner, for granting certificate or passing or issuing an order, is less than 15 days, such remaining period shall be extended to 15 days and the period of limitation under said sub-rules shall be deemed to be extended accordingly
- The undertaking in Form No. 1 shall be deemed to have never been filed if the Principal Commissioner or Commissioner has passed an order rejecting the undertaking in Form No. 1 or declined to grant relief to the declarant
- The directions of the jurisdictional Principal Commissioner or Commissioner, in Form No. 4, shall be binding on the Assessing Officer (AO) who shall:
 - ✓ Give effect to such directions and pass an order and issue the refund, if any, and revoke attachments, if any, within a period of 15 days from the date of the receipt of such directions; and
 - ✓ File an application to withdraw any appeal or application or petition or proceeding filed by any Income-tax Authority or intimate the concerned person, where appeals or applications or petitions or proceeding has been filed by any other person representing the Republic of India, with respect to the specified orders covered under Form No. 4, within 60 days from the date of receipt of such directions
- Any dispute with respect to the undertaking or part of the undertaking or indemnity bond specified Forms prescribed under these rules or in respect of any direction or order issued thereunder shall be governed by the relevant Indian laws and be decided in accordance with the procedures specified under the Act, under the exclusive jurisdiction of the relevant Income-tax authorities, tribunals or courts in India, as the case may be, which are empowered to decide disputes under the Act

Please [Click here](#) to read Notification no.118 dated 1st October 2021.

5

Company Law



Company Law

Limited Liability Partnerships (LLPs) - Waiver of late fee in case of delay in filing Form 8 (Statement of Accounts & Solvency) for Financial Year (FY) 2020-21 up to 30th December 2021

Pursuant to LLP Act, 2008, every LLP is required to file its annual statement of accounts & solvency in Form 8 on or before 30th October for each FY. Due to pandemic, the Ministry of Corporate Affairs (MCA) has allowed filing of the form till 30th December 2021 without any late fee.

Please [Click Here](#) to read the circular dated 26th October 2020.

Insolvency & Bankruptcy Code, 2016 (IBC) – Amendments notified in Liquidation process including (a) Constitution of Consultation Committee (b) Mode of sale of assets

Insolvency & Bankruptcy Board of India (IBBI) vide notification dated 30th September 2021 has notified Liquidation process (2nd amendment) Regulations, 2021 to introduce certain changes in the Liquidation process under IBC as below:

Regulation	Provisions dealing with	Amendment
31A(1)	Constitution of Consultation Committee by the Liquidator within 60 days from the liquidation commencement date	<ul style="list-style-type: none">Consultation Committee shall advise the Liquidator on following additional matters:<ul style="list-style-type: none">Appointment of Professionals to assist the Liquidator in discharge of his duties & fixing their remuneration;Sale of assets including manner of sale, pre-bid qualifications, reserve price, amount of earnest money deposit & marketing strategy
Schedule I	Mode of sale of assets of the entity under liquidation by Liquidator	<ul style="list-style-type: none">Liquidator shall not require payment of any non-refundable deposit or fee for participation in an auction under the Liquidation process from any prospective bidders / buyersFurther to enhance transparency and accountability, if the Liquidator rejects the highest bid in an auction process, he shall intimate the reasons for such rejection to the highest bidder and mention the same in the next progress report submitted with IBBI & Tribunal

Please [Click Here](#) to read notification dated 30th September 2021.

6

Reserve Bank of India (‘RBI’)



Foreign Direct Investment (FDI) up to 100% under automatic route allowed in Telecom sector

As another move towards liberalization of foreign investment rules in India, the Government has allowed 100% FDI under automatic route in the Telecom sector. Earlier, FDI upto 49% only was allowed under the automatic route. Any investment beyond the said limit required prior permission of the RBI.

In other words, a foreign investor can now invest upto 100% freely in the telecom sector in India, without any permission from the Government. The Department for Promotion of Industry & Internal Trade (DPIIT) vide Press Note 4 dated 6th October 2021 has made the said amendment.

The liberalisation, however, is subject to Press Note 3 of 2020 series which mandates that all foreign investments from countries with which India shares land border or where the beneficial owner of an investment into India is situated in, can invest only under the Government (prior permission) route. Government introduced this regulation last year to avoid opportunistic acquisitions of Indian businesses by Chinese.

Services falling within Telecom sector covers:

- Telecom Infrastructure Providers Category-I which are Basic, Cellular, Unified Access Services, Unified License (Access Services), National / International long distance, Commercial V-Sat, Public Mobile Radio Trunked Services (PMRTS) & Global Mobile Personal Communications Services (GMPCS);
- All types of Internet Service Providers (ISP) licenses;
- Voice Mail / Audiotex / Unified Messaging Services (UMS);
- Resale of International Private Leased Circuit (IPLC) & mobile number portability services;
- Infrastructure Provider Category-I providing services such as dark fibre, right of way, duct space & tower;
- Such other telecom services as may be permitted by Department of Telecommunications (DoT)

Please [Click Here](#) to read Press Note 4 dated 6th October 2021.

FDI up to 100% under automatic route allowed in prescribed Oil & Gas Public Sector Undertakings (PSUs)

A PSU is a Government-owned enterprise, statutory corporation and a nationalised company in India which is wholly or partly owned either by the Central Government or in joint collaboration with 1 or more State Governments. Few examples of PSUs in India are Oil India Limited (OIL) & Bharat Electronics Limited (BEL).

Ministry of Finance vide notification dated 5th October 2021 has notified Non-debt Instruments (3rd amendment) Rules, pursuant to which FDI up to 100% under automatic route is allowed in such Oil & Gas PSUs that have received 'in principal approval' from the Government for their strategic disinvestment.

Please [Click Here](#) to read Notification dated 5th October 2021.

7

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



SEBI clarifies transmission of securities in the event of demise of 1 or more joint security holder(s)

It has been observed that in the event of demise of any 1 or more joint security holder(s), there are cases of counterclaim / dispute from the deceased security holder(s)' legal representative(s). As a result, Registrar & Share Transfer Agents (RTAs) do not process and effect transmission of securities to the surviving joint security holder(s).

To address this concern and protect the interest of security holders, SEBI vide circular dated 18th October 2021 has clarified that in cases of demise of any 1 or more joint security holder(s), RTAs after complying with the provisions of Companies Act, 2013 (Act) and Articles of Association (AOA) of the company, shall transmit the securities of the deceased security holder(s) to the surviving joint security holder(s) only.

Please [Click Here](#) to read Circular dated 18th October 2021.



SEBI extends the relaxation of accepting non-cash mode of payments from shareholders under rights issue of shares

Background

Pursuant to the provisions of Regulation 76 of SEBI (Issue of capital & disclosure requirements) (ICDR) Regulations, every shareholder shall apply for shares under rights issue only through 'Application supported by blocked amount' (ASBA). ASBA is a mode of application by an investor providing authorization to self-certified syndicate bank (SCSB) to block his share application money in the bank account against the issuance of shares wherein his share application money will be debited from the bank account only if his application is selected for issuance of shares.

In view of the difficulties due to the pandemic and in order to ensure that all eligible shareholders are able to apply to rights issues during such times even without ASBA, SEBI vide circular dated 6th May 2020 had provided a relaxation that the issuer company along with lead manager(s) and registrars to the issue and other recognized intermediaries shall provide an optional mechanism of non-cash mode payment only to accept the share application money of the shareholders provided that no 3rd-party payments shall be allowed in respect of any share application.

Further SEBI vide circular dated 1st October 2021 has further extended the aforesaid relaxation for all rights issues up to 31st March 2022 subject to the fulfilment of certain conditions:

- The optional mechanism of non-cash mode payment shall only be an additional option and not a replacement of the existing process. As far as possible, attempts will be made to adhere to the existing prescribed framework;
- The optional mechanism of non-cash mode payment shall be transparent, robust and have adequate checks and balances. It should aim at facilitating subscription of shares in an efficient manner without imposing any additional costs on shareholders. The issuer company along with lead manager(s) and registrars to the issue shall satisfy themselves about the transparency, fairness and integrity of such mechanism;
- Frequently Asked Questions (FAQs), online dedicated investor helpdesk & helpline shall be created by the issuer company along with lead manager(s) to guide the shareholders in gaining familiarity with the application process and resolve difficulties faced by the shareholders on priority basis;
- The issuer company along with lead manager(s) and registrars to the issue and other recognized intermediaries shall be responsible for all investor complaints;
- The issuer company shall conduct a Vulnerability Test for optional mechanism of non-cash mode payment only to accept the share application money of the shareholders under rights issue from an independent Information Technology (IT) Auditor and submit the report to Stock Exchange(s)

Please [Click Here](#) to read the circular dated 1st October 2021

Compliance Calendar

Compliance calendar for the month of November 2021

Compliance Due Date:	Concerned (Reporting) Period:	Compliance Detail:	Applicable To:	
7 th November	October 2021	TDC/TCS deposit	Non-government Deductors	
		Equalization Levy deposit	All Deductors	
10 th November		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	
11 th November		GSTR-1 (Outward supply return)	Taxable persons having turnover > Rs. 5 crore	
13 th November		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 November		Deposit of PF & ESI contribution	All Deductors	
		July-September 2021		TDS certificate in Form 16A (non-salary)
20 th November		October 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
25 th November		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 November	FY 2020-21	Statutory audit under Companies Act	All Companies	
		Due date of holding Annual General Meeting (AGM)		

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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