

TAX EDGE

Monthly Tax & Regulatory Updates



Audit



Tax



Regulatory

August 2022
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Measures to combat COVID-19



Measures to combat COVID-19

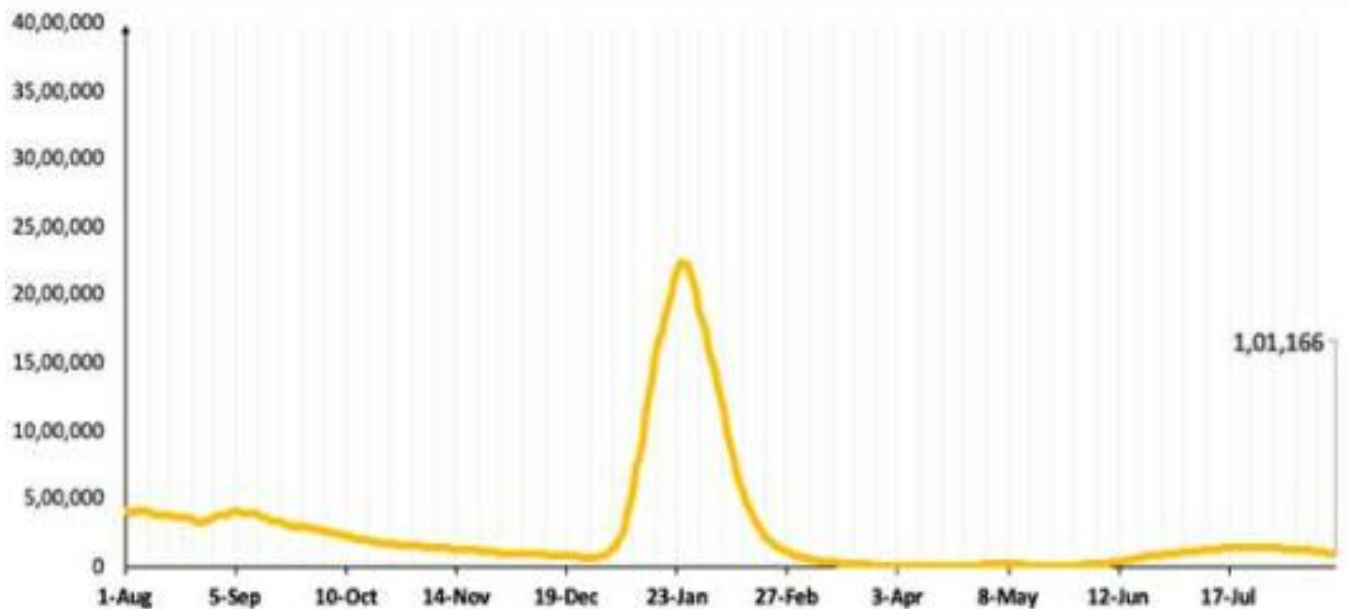
India's cumulative COVID-19 vaccination coverage exceeds 2.09 billion doses, over 39.9 million 1st dose vaccines administered for age group 12 – 14 years

India's COVID-19 vaccination coverage has exceeded 2.09 billion doses, achieved through 2,78,34,092 sessions.

COVID-19 vaccination for the age group 12-14 years was started on 16 March 2022. So far, more than 3,99,22,101 adolescents have been administered with the 1st dose of COVID-19 vaccine. Similarly, the COVID-19 precaution dose administration for age group 18-59 years also started from 10 April 2022 onwards.

India's active caseload currently stands at 101,166. Active cases now constitute 0.23% of the country's total positive cases. India's recovery rate stands at 98.58%. Weekly positivity rate stands at 3.87%, daily positivity rate stands at 4.21%.

India's Active Cases Trajectory



Please [Click Here](#) to read the Press Release dated 20 August 2022.

Measures to combat COVID-19

Union Government has provided more than 2 billion vaccine doses to States / Union Territories (UTs)

The Union Government is committed to accelerating the pace and expanding the scope of COVID-19 vaccination throughout the country. The nationwide COVID 19 vaccination started on 16 January 2021. The new phase of universalization of COVID-19 vaccination commenced from 21 June 2021. The vaccination drive has been ramped up through availability of more vaccines, advance visibility of vaccine availability to States and UTs for enabling better planning by them, and streamlining the vaccine supply chain.

As part of the nationwide vaccination drive, Government of India has been supporting the States and UTs by providing them COVID Vaccines free of cost. In the new phase of the universalization of the COVID19 vaccination drive, the Union Government will procure and supply (free of cost) 75% of the vaccines being produced by the vaccine manufacturers in the country to States and UTs.

Vaccine doses as on 20 August 2022	
Supplied	2,00,02,25,975
Balance Available	7,03,49,830

More than 2 billion vaccine doses have been provided to States/UTs so far through Union Government's free of cost channel and direct state procurement category. More than 7,03,49,830 balance and unutilized COVID-19 Vaccine doses are still available with the States/UTs to be administered.

Please [Click Here](#) to read the Press Release dated 20 August 2022.



Measures to combat COVID-19

Steps taken by Government to increase availability of doctors in the country: Doctor-population ratio in the country is 1:834, better than the WHO standard of 1:1000



As per information provided by National Medical Commission (NMC), there are 1,308,009 allopathic doctors registered with the State Medical Councils and the National Medical Commission (NMC) as on June 2022. Assuming 80% availability of registered allopathic doctors and 5.65 lakh AYUSH doctors, the doctor-population ratio in the country is 1:834 which is better than the WHO standard of 1:1000. Also, there are 34.33 lakh registered nursing personnel and 13 lakh Allied and Healthcare Professionals in the country.

The Government has taken following steps to further increase the availability of doctors in the country, particularly in underserved regions. The number of Undergraduate (UG) seats have increased from 51,348 before 2014 to 91,927 seats which is an increase of 79%. The numbers of Post Graduate (PG) seats have increased by 93% from 31,185 seats in 2014 to 60,202 seats. The steps to increase doctor-patient's ratio include:

- Centrally sponsored scheme for establishment of new medical college by upgrading district/ referral hospital under which 157 new medical colleges have been approved and 72 are already functional
- Centrally sponsored scheme for strengthening/ upgradation of existing State Government/Central Government medical colleges to increase MBBS and PG seats
- Central sector scheme for upgradation of Government medical colleges by construction of super specialty blocks. A total of 75 projects have been approved and 55 have been completed
- Under central sector scheme for setting up of new AIIMS, 22 AIIMS have been approved. UG courses have started in 19 AIIMS

Measures to combat COVID-19

- Relaxation in the norms for setting up of medical college in terms of requirement for faculty, staff, bed strength and other infrastructure
- Diplomate of National Board (DNB) qualification has been recognized for appointment as faculty to take care of shortage of faculty
- Enhancement of age limit for appointment/ extension/ re-employment against posts of teachers/dean/principal/ director in medical colleges upto 70 years
- Tenure of senior residency for appointment of assistant professor have reduced from 3 years to 1 year
- Under the District Residency Programme (DRP), all the doctors admitted to PG courses from 2022 onwards, to serve in the district hospitals for 3 months mandatorily

Further, with a view to augment the availability of qualified manpower in field of mental health, the Government, under National Mental Health Programme (NMHP), implements manpower development schemes for establishment of Centres of Excellence and strengthening/ establishment of PG departments in mental health specialties. Support has been provided for establishment of 25 Centres of Excellence and strengthening/ establishment of 47 PG Departments in mental health specialties in the country.

The Government also augments the availability of manpower to deliver mental healthcare services in the underserved areas of the country by providing online training courses to various categories of general healthcare medical and para medical professionals through the digital academies established at the 3 central mental health institutes namely,

- National Institute of Mental Health and Neuro Sciences, Bengaluru
- Lokopriya Gopinath Bordoloi Regional Institute of Mental Health, Tezpur, Assam, and
- Central Institute of Psychiatry, Ranchi

Besides the above, Government has announced a 'National Tele Mental Health Programme; in the Budget of 2022-23, to further improve access to quality mental health counselling and care services in the country.

Please [Click Here](#) to read the Press Release dated 26 July 2022.

Goods & Services Tax (‘GST’)



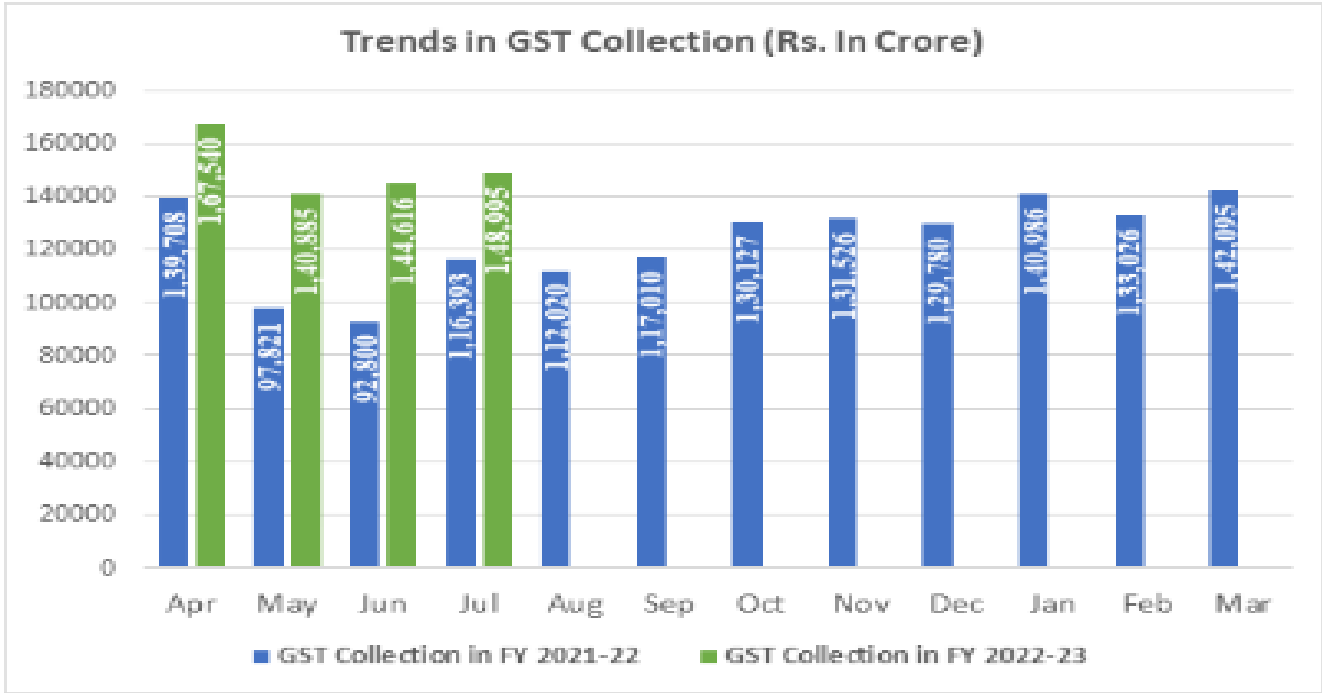
GST

GST revenue collection for July 2022 Rs. 148,995 Crore (28% higher than GST revenue collection in July 2021)

The gross GST collected in the month of July 2022 is Rs. 148,995 Crore as below.

IGST (Integrated Goods and Services Tax)	Rs. 79,518 Crore
CGST (Central Goods and Services Tax)	Rs. 25,751 Crore
SGST (State Goods and Services Tax)	Rs. 32,807 Crore
Compensation cess	Rs. 10,919 Crore
Total	Rs. 1,48,995 Crore

This is the 2nd highest revenue collection since introduction of GST. The revenues for the month of July 2022 are 28% higher than the GST revenues in July 2021. During the month, revenues from import of goods were 48% higher and the revenues from domestic transaction (including import of services) are 22% higher than the revenues from these sources during the same month last year.



Please [Click Here](#) to read Press Release dated 1 August 2022.

Central Board of Indirect Taxes & Customs (CBIC) issues guidelines on issue of summons under GST

When can summon be issued?

As per section 70(1) of CGST Act, 2017, summons can be issued by GST officer to any person whose attendance is considered necessary either for giving evidence or producing a document or any other thing in an inquiry in the same manner, as provided in the case of a civil court under the Code of Civil Procedure, 1908. As per section 70(2), securing such documentary and oral evidence shall be considered as a judicial proceeding under the Indian Penal Code.

Pre-requisite to issue a summon

The power to issue a summon must be exercised by the GST officer judiciously and sensitively. Issue of summon should be avoided where a letter of requisition for information is sufficient. Previously, in respect of legacy laws, CBIC has sensitized the officers regarding issue of summons diligently.

The issue which arose

Reportedly, instances have been brought to the notice of the GST department where summons have been issued by field officers to the top senior officials of companies in a routine manner to call for material evidence / documents. Besides, summons have also been issued to call for routine statutory records such as Form GSTR-3B (summary return), Form GSTR-1 (statement of outward supplies) which are already available online on the GST portal.

Guidelines issued by CBIC by 17 August 2022

CBIC has issued the following guidelines to be followed in matters related to investigation under GST.

- Power to issue summons are generally exercised by *Supritendents*, though higher officers may also issue summons. Summons by Suprintendents should be issued after obtaining prior written permission from an officer not below the rank of Deputy / Assistant Commissioner with the reasons for issue of summons to be recorded in writing
- Where for operational reasons it is not possible to obtain such prior written permission, oral / telephonic permission from such officer must be obtained and the same should be reduced to writing and intimated to the officer according such permission at the earliest opportunity
- In all cases where summons are issued, the officer issuing summons should record in file about apperance / non-appearance of the summoned person and place a copy of statement recorded in file

GST

- Summons should normally indicate the name of offender(s) against whom the case is being investigated (unless revelation of the name of the offender is harmful to cause of investigation), so that the recipient of summons has preliminary understanding as whether he has been summoned as an accused, co-accused or witness
- Issue of summons may be avoided to call upon statutory documents which are already available online on GST portal
- Senior management officials such as Chief Managing Director (CMD)/ Managing Director (MD)/ Chief Executive Officer (CEO) / Chief Financial Officer (CFO) / similar officers of any company should not generally be issued summons in the 1st instance. They should be summoned when there are clear indications in the investigation of their involvement in the decision making process which led to loss of revenue of the department
- It is mandatory to generate and quote Document Identification Number (DIN) on communications issued by the officers of CBIC to taxpayers and other concerned persons for the purpose of investigation
- The summoning officer must be present at the time and date for which summons is issued. In case of any emergency, the summoned person must be informed in advance in writing or orally
- All persons summoned are bound to appear before the officer concerned, the only exception being women who do not by tradition appear in public or privileged persons.
- Issue of repeated summons without ensuring service of the summons must be avoided. Sometimes it may so happen that summoned person does not join investigation even after being repeatedly summoned. In such cases, after giving reasonable opportunity (generally 3 summons at reasonable intervals) a complaint should be filed with the jurisdictional magistrate under Indian Penal Code. Before filing such complaints, it must be ensured that summons have adequately been served upon the intended person. However, this does not restrict to issue further summons of the said person under GST

Please [Click Here](#) to read Instruction no. 3/2022-23 (GST-Investigation) dated 17 August 2022.



New functionalities for taxpayers on GST Portal

Relating To	Form/Functionality	Detailed Information
Registration	Allow taxpayers to enter multiple trade names	<p>Earlier only a single trade name was being captured during new registrations and subsequent amendment in core field for normal taxpayer on the portal.</p> <p>Now taxpayers have been provided with an option to provide up to 9 additional trade names for a single GSTIN registration through core field amendment. The taxpayer can upload supporting document for trade name of size 5 MB. Both these new fields will be kept optional.</p>
	Mandating mobile number for persons applying for temporary ID for Advance Ruling	Providing of mobile number been made mandatory to the advance ruling applicants for new registration with a subsequent facility to edit profile.
Returns	Addition of new GST rate slab of 6% in Form GSTR-1 (statement of outward supplies) /Invoice Furnishing Facility (IFF)	CBIC in the month of March 2022 had notified a new GST tax rate of 6% IGST or 3% CGST + 3% SGST for certain goods. In view of the same, changes have been implemented in Form GSTR-1/IFF for the taxpayers.
	Auto population of data in Form GSTR-4 (annual return for composition taxpayers)	<p>The details of payment of liability, summary of outward supplies and inward supplies attracting reverse charge are reported by composition taxpayers in Form GST CMP-08 (summary return for composition taxpayers) on quarterly basis.</p> <p>In addition, details of purchases made from registered taxpayers are auto-populated in Form GSTR-4A (auto-drafted and view only form for composition taxpayers created based on data reported by the supplier).</p> <p>The composition taxpayers have been provided with a facility to view the above details and its consolidated summary at GSTIN level. The above details are auto-populated in Form GSTR-4 to help the taxpayers in filing their annual return and can also be downloaded in excel format. To access the same, login to GST portal and click on Services > Returns > Annual return > Select FY > Search > GSTR-4 Annual > Download summary of GSTR-4A & 4B.</p>
Refund	Option in Form RFD-01 (application for online processing of refund under GST) to get refund arising out of excess payment in GSTR 4, for composition taxpayers	<p>Earlier the taxpayers who had opted for composition levy were not able to file for refund in Form GST RFD-01 under refund category 'excess payment of tax', if any, but had to choose the refund category 'any other'.</p> <p>Now the composition taxpayers will be able to file for refund under category 'excess payment of tax'.</p>

Relating To	Form/Functionality	Detailed Information
Advance Ruling	Functionality to search and view advance ruling orders	<p>Earlier, there was no functionality available to search for the advance ruling orders issued by the relevant authority.</p> <p>Now, a functionality has now been implemented on the portal, under the menu Advance Ruling, in both pre-login and post-login, wherein the users would be able to search for Advance Ruling orders issued by all Advance Ruling forums, using following search parameters. The same can be viewed/downloaded and would include orders passed by the Authorities of Model 1 States:</p> <ul style="list-style-type: none"> • GSTIN/ID of the applicant • Legal name of the applicant • Order date <From ><To> • Order number • State/Union Territory • Nature of activity for which advance ruling is issued • Issue related • Description of issue (keyword searching)
Payments	Validation on generating challan in Over the Counter (OTC) mode	<p>The limit of cash payment in OTC mode has now been restricted to Rs 10,000. This restriction had been relaxed earlier in view of Law Committee decision.</p> <p>While creating a challan by selecting OTC mode, the user would not be able to enter any amount > Rs 10,000 and will get an alert message, 'This payment mode is not available for challans exceeding Rs 10,000 please make payment using other payment modes'</p> <p>If the taxpayer attempts to generate more than 1 challan, where the cumulative value > Rs 10,000, the system will restrict its generation beyond Rs 10,000 for a tax period, based on the return filing frequency and portal will display a message 'The limit for payment in OTC mode is exceeded. Please make payment using other payment modes'</p>
	Updated generic messages on GST PMT-06 (challan through which taxpayers can pay tax, interest, penalties or fees etc under GST) challan page	<p>To account for any extensions in the due date for filing of Form GST PMT-06, filed by taxpayers who have opted for Quarterly Returns Monthly Payment (QRMP) scheme for discharging their tax liability for month 1 and month 2 of a quarter, certain generic messages on the GST PMT-06 challan page have been updated as below:</p> <ul style="list-style-type: none"> • Please note that when taxpayer exercises 35% challan option, no interest shall be levied for the selected month if payment is made by 25th of the next month or the extended date, if any • Interest will be levied on payment made through challan on self-assessment basis (other than 35% challan) in case of delayed payment (after due date of 25th of next month or the extended date, if any) or short payment

GSTN enables single click NIL filing of Form GSTR-1 (statement of outward supplies)

Background

It has been constant endeavor by the GST Network (GSTN) to improve user experience and performance of Form GSTR-1 / IFF filing. In order to further simplify the return filing experience, a single click NIL filing of Form GSTR-1 has been introduced on GST Portal. Taxpayers can now file NIL Form GSTR-1 return by simply ticking the check box *File NIL GSTR-1* available at Form GSTR-1 dashboard.

Eligibility to file NIL GSTR-1

Taxpayers may file NIL Form GSTR-1 if they have:

- No outward supplies (including supplies on which tax is to be charged on reverse charge basis, zero rated supplies and deemed exports) during the month or quarter for which the form is being filed for, or
- No amendments to be made to any of the supplies declared earlier, or
- No credit or debit notes to be declared/amended, or
- No detail of advances received for services is to be declared or adjusted

Steps to file NIL GSTR-1

Taxpayers shall login to GST portal and navigate to online form GSTR-1 by selecting relevant GSTR-1 period in returns dashboard (*Services > Returns > Returns Dashboard > Form GSTR-1 > Prepare Online*)

- *Step 1 - Select file NIL GSTR-1 checkbox*

In the GSTR-1 dashboard, a 'File NIL GSTR-1' checkbox shall be available at the top. If the taxpayer is eligible, he can select the 'File NIL GSTR-1' checkbox. On click of the checkbox, system will show a note related to NIL filing and all the tiles/tables shall be hidden.

The screenshot displays the GSTN GSTR-1 dashboard. At the top, there is a navigation bar with links: Dashboard, Services, GST Law, Downloads, Search Taxpayer, Help and Taxpayer Facilities, and e-Invoice. Below this, a breadcrumb trail shows: Dashboard > Returns > GSTR-1/IFF. The main heading is 'GSTR-1 - Details of outward supplies of goods or services'. To the right of this heading are buttons for 'E-INVOICE ADVISORY', 'HELP', and a language selector set to 'English'. Below the heading, there is a table with four columns: GSTIN - FY - 2021-22, Legal Name - Tax Period - August, Trade Name - GSTN Status - Not Filed, and a note indicating mandatory fields with a due date of 11/09/2021. A red box highlights the 'File Nil GSTR-1' checkbox, which is checked. Below this checkbox is a note: 'Note: NIL Form GSTR-1 can be filed by you if you have:'. This note is followed by four bullet points: a. No Outward Supplies (including supplies on which tax is to be charged on reverse charge basis, zero rated supplies and deemed exports) during the month or quarter for which the return is being filed for; b. No Amendments to be made to any of the supplies declared in an earlier return; c. No Credit or Debit Notes to be declared / amended; d. No details of advances received for services is to be declared or adjusted. Below the note, there is a light blue box with a message: 'The taxpayers for whom e-invoicing is not applicable may ignore the sections/options related to e-invoice download. The downloaded file would be blank in case taxpayer is not e-invoicing or when e-invoices reported to IRP are yet to be processed by GST system'. At the bottom, there is a section titled 'E-INVOICE DOWNLOAD HISTORY'. Below this section are four buttons: 'BACK', 'DOWNLOAD DETAILS FROM E-INVOICES (EXCEL)', 'RESET', and 'FILE STATEMENT'. A red arrow points to the 'RESET' button.

GST

Nil filing of form GSTR-1 will not be allowed in case there is already saved data records in form GSTR-1. Taxpayers are advised to delete already saved records or reset form GSTR-1 data by clicking 'Reset Button' available on GSTR-1 dashboard before filing NIL GSTR-1 (refer above image)

- *Step 2 - File Statement*

Taxpayer need to click '*File Statement*' button which shall be available at the bottom of the GSTR-1 dashboard page. On clicking of '*File Statement*' button, taxpayer will be navigated to the filing page to file form GSTR-1 / IFF using digital signature / electronic verification code.

Returns Filing for GST GSTR1

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

BACK

FILE WITH DSC

FILE WITH EVC

DSC Usage Steps:

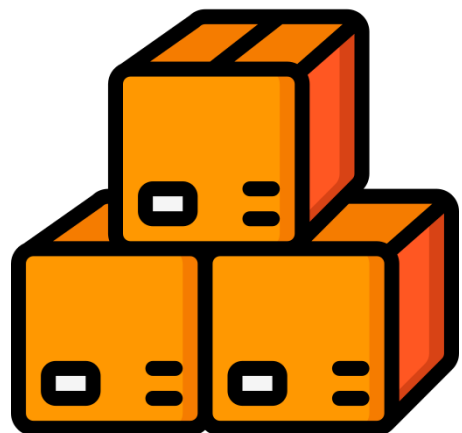
- Run the emsigner as Administrator.
- open the portal,fill the appropriate Details go to till Update Register DSC
- Open a separate tab in same browser and type <https://127.0.0.1:1585>
- Click on Advanced
- Click proceed to 127.0.0.1(unsafe)
- Come back to GST portal, refresh the page
- Click on register DSC

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Site Last Updated on 28-12-2021

Designed & Developed by GSTN

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



CBIC clarifies regarding GST rates & exemptions on certain goods & services

Based on recommendations of GST Council in its 47th meeting held on 28, 29 June at Chandigarh, CBIC has issued the following circulars.

[Circular no.177/09/2022 dated 3 August 2022](#)

CBIC has issued clarification on the following matters:

- Applicability of GST on supply of ice-cream by ice-cream parlors during the period 1 July 2017 to 5 October 2021
- Applicability of GST on application fee charged for entrance / issue of eligibility certificate for admission / migration certificate by educational institutions
- Whether exemption is allowed for supply of storage or warehousing of cotton in baled or ginned form for the period before 18 July 2022
- Whether exemption is allowed for supply of services associated with transit cargo both to and from Nepal and Bhutan
- Applicability of GST on sanitation and conservancy services supplied to Army and other Central and State Government departments
- Whether activity of selling of space for advertisement in souvenirs is eligible for concessional rate of 5%
- Applicability of GST on transport of minerals from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time
- Whether location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease of land constitute part of the lease premium or upfront amount charged for long term lease of land and are eligible for the same tax treatment
- Applicability of GST on payment of honorarium to the Guest Anchors
- Whether the additional toll fees collected in the form of higher toll charges from vehicles not having fastag is exempt from GST
- Applicability of GST on services in the form of Assisted Reproductive Technology (ART)/In vitro fertilization (IVF)
- Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST
- Situations in which corporate recipients are liable to pay GST on renting of motor vehicles designed to carry passengers
- Whether hiring of vehicles by firms for transportation of their employees to and from work is exempt
- Whether supply of service of construction, supply, installation and commissioning of dairy plant on turn-key basis constitutes a composite supply of works contract service and is eligible for concessional rate of GST prior to 18 July 2022
- Applicability of GST on tickets of private ferry used for passenger transportation

GST

[Circular no.179/11/2022 dated 3 August 2022](#)

Issue	Clarification issued by CBIC
Whether electric vehicles where the battery is not fitted to such vehicle attract GST at 5%?	Yes. Electrically operated vehicle is to be classified under HSN 8703 even if the battery is not fitted to such vehicle at the time of supply.
Whether Stones which are not mirror polished such as napa stones, are eligible for concessional rate of 5%?	Yes. Exemption covers minor polished stone. Napa stone is variety of dimensional limestone and are not subject to extensive polishing and accordingly do not qualifies as mirror polished stone.
Whether Mangoes including mango pulp, but other than fresh mangoes and sliced, dried mangoes, are taxable at GST rate of 12%?	Yes. All other forms of dried mango, including mango pulp attract GST rate of 12%.
Whether supply of Treated sewage water attracts Nil rate of GST?	Yes. Supply of treated sewage water is exempt under GST.
Whether supply of Nicotine Polacrilex Gum attracts GST rate of 18%?	Yes. Supply of Nicotine Polacrilex gum which is commonly applied orally and is intended to assist tobacco attract GST rate of 18%.
Fly ash bricks and aggregate – Whether condition of 90% fly ash content applies to fly ash bricks?	No. The condition of 90% or more fly ash content was applicable only for fly ash aggregate, not for fly ash bricks.
Applicability of GST on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi	5%. While milling of pulses/ dal, a wide range of by-products such as chilka, khanda, churi, among others, are obtained which are preferred as cattle feed by dairy industry for better palatability and higher nutritive value. It has been clarified that goods which amongst others are used as cattle feed ingredient attract GST @ 5%.

Please [Click Here](#) to read Circular no. 177/09/2022 – GST dated 3 August 2022.

Please [Click Here](#) to read Circular no. 179/11/2022 – GST dated 3 August 2022.

CBIC clarifies issues regarding compensation & penalty arising out of breach of contract or law

Reportedly, a number of questions have been raised by the taxpayers regarding taxability of an activity or transaction as the supply of service of *agreeing to the obligation to refrain from an act or to tolerate an act/situation or to do an act*. As per para 5 (e) of schedule III of CGST Act, 2017, the said nature of transactions has been specifically declared to be supply of service if the same constitutes a ‘supply’. The said transactions are explained with the help of some illustrations given below:

Nature of transaction	Illustration
Agreeing to the obligation to refrain from an act	Non-compete agreements where one taxpayer agrees not to compete with the other taxpayer in a product, service or geographical area against a consideration paid by the other taxpayer
Agreeing to the obligation to tolerate an act or situation	Shopkeeper allowing a hawker to operate from the common road in front of his shop against a monthly payment by the hawker
Agreeing to the obligation to do an act	Industrial unit agrees to install equipment of zero emission/discharge at the order of the resident welfare association (RWA) of a neighbouring residential complex against a consideration paid by such RWA, even though the emission/discharge from the industrial unit was within permissible limits and there was no legal obligation upon the unit to do so

The said nature of transactions was intended to cover services as described above. However, over the years’ questions have been raised by the taxpayers relating to applicability of GST on payments in the nature of liquidated damage, compensation, penalty, cancellation charges, cheque dishonor penalty, late payment surcharge etc. arising out of breach of contract or any other provisions of law. Accordingly, CBIC on the recommendation of the GST council to clear such ambiguity has clarified as below

GST

Clarification regarding	Background	Issues	Clarification issued
Applicability of GST on cheque dishonor fine or penalty	<p>In an ideal situation, where any buyer issues cheque to the supplier for his payment, the buyer's bank transfers the funds from the buyer's account to the supplier's account</p> <p>However, there are instances when the buyer's bank or supplier's bank refuses to honor the payment due to various reasons and bank imposes some penalty accordingly</p> <p>No supplier wants a cheque given to him to be dishonoured. It entail administrative cost to him and disruption of his routine activities and cash flows.</p> <p>Accordingly, supplier imposes some fine/penalty on buyer for dishonour of cheque</p>	Whether GST shall be applicable on the fine/penalty imposed by supplier on buyer for dishonor of cheque?	<p>There is never an offer or willingness on part of supplier that he would tolerate deposit of an invalid or unworthy cheque of payment against consideration in the form of cheque dishonor fine/penalty.</p> <p>A cheque is never given with the purpose that it will be dishonored and the fine/penalty imposed for dishonor of cheque is a penalty imposed for discouraging such an act or situation. Therefore, cheque dishonor fine/penalty is not a consideration for any service and hence not taxable under GST</p>
Applicability of GST on fine/penalty imposed for violation of statutory laws	Sometimes several fines/penalties have been imposed by government or local authority for violation of statutory laws such as traffic violations, or for violation of pollution norms or any other fine/penalty imposed for violation of other statutory laws	Whether GST shall be applicable on the fine/penalty imposed for violation of statutory laws?	<p>There is no agreement between the government and the violator specifying that violation would be allowed or permitted against payment of fine/penalty</p> <p>A law is never intended to be violated and hence there exists no agreement with the government for tolerating violation and accordingly any amount paid does not represent consideration for tolerating</p> <p>Therefore, fine/penalty imposed for violation of laws are not consideration for any supply received and are not taxable under GST</p>

Clarification regarding	Background	Issues	Clarification issued
Applicability of GST on forfeiture of salary or payment of bond amount in the event of the employee leaving the employment before serving the minimum agreed period	<p>Generally, an employer carries out an elaborate selection process & incurs expenditure in recruiting an employee, invests in his training and makes him a part of the organization, privy to its processes and business secrets in the expectation that the recruited employee would work for the organization for a certain minimum period as per the employment contract</p> <p>Where an employee left the organization before serving the minimum period and employers however forfeits the salary or recovers some bond amount from the said employee for premature resignation as defined in the employment contract</p>	Whether GST shall be applicable on the amount forfeited or bond amount recovered by the employer for premature resignation from the employee?	<p>The provisions for forfeiture of salary or recovery of bond amount are incorporated in the employment contract to discourage non-serious candidates from taking up employment</p> <p>The said amounts are recovered by the employer not as a consideration for tolerating the act of such premature quitting of employment but as penalties for discouraging the non-serious employees from taking up employment and deter such situations</p> <p>Further, the employee does not get anything in return from the employer against payment of such amounts. Therefore, such amount recovered by the employer are not taxable under GST</p>
Applicability of GST on late payment surcharge or fine/penalty	<p>This is not uncommon or unnatural for customers to sometimes miss the last date of payment of utility bills such as electricity, water, telecommunication services etc.</p> <p>Almost all service providers provide the facility of accepting late payments with interest and late payment surcharge or fine/penalty</p>	Whether GST shall be applicable on the amount collected on account of interest and late payment surcharge or fine/penalty?	<p>The facility of accepting late payments with interest or late payment fee, fine/penalty is a facility granted by supplier naturally bundled with the main supply</p> <p>Even if this service is described as a service of tolerating the act of late payment, it is an ancillary supply naturally bundled and supplied in conjunction with the principal supply, and therefore should be assessed as the principal supply</p> <p>Therefore, such amounts should be considered as consideration for tolerating the act of late payment and hence taxable under GST</p>

Clarification regarding	Background	Issues	Clarification issued
Applicability of GST on cancellation charges	<p>It is a common business practice for suppliers of services such as hotel accommodation, tour and travel, transportation etc. to provide the facility of cancellation within a certain time period on payment of cancellation fee</p> <p>Cancellation fee can be considered as the charges for the costs involved in making arrangements for the intended supply and the costs involved in cancellation of the supply, such as in cancellation of reserved tickets by the Indian Railways</p>	Whether GST shall be applicable on the amount collected on account of cancellation fees?	<p>Services such as travel and tour constitute a bundle of services which starts with booking of the ticket for travel and lasts at least till exit of the passenger from the destination terminal. The facilitation service of allowing cancellation against payment of cancellation charges is also a natural part of this bundle.</p> <p>Therefore, such amounts should be considered as consideration for tolerating the act of late payment and hence taxable under GST.</p>

Please [Click Here](#) to read Circular No. 178/10/2022-GST dated 3 August 2022.

E-invoicing - CBIC lowers threshold criteria of annual turnover from Rs. 20 Crore to Rs.10 Crore from 1 October 2022 onwards

What is e-invoicing and its applicability?

E-Invoicing is a system in which invoices are authenticated electronically by GSTN for further use on the common GST portal. Under the electronic invoicing system, an identification number is issued against every invoice by the Invoice Registration Portal (IRP) to be managed by the GSTN.

Currently, e-invoicing is applicable to the taxpayers having *Annual Aggregate Turnover* (AATO) > Rs. 20 Crore in Financial Year (FY) 2017-18 onwards.

What is AATO for this purpose?

AATO means the aggregate value of all taxable supplies (excluding value of inward supplies on which tax is payable by a person under reverse charge), exempt supplies, export of goods or services or both and inter state supplies of persons having the same Permanent Account Number (PAN), to be computed on all India basis.

Reduction in threshold limit of annual turnover to Rs. 10 Crore

The ambit of e-invoicing is mainly aimed at resolving mismatch errors and to check tax evasion. To increase its coverage, CBIC has lowered the threshold criteria of AATO for applicability of e-invoicing from Rs.20 Crore to Rs.10 Crore effective from 1 October 2022 onwards.

Please [Click Here](#) to read Notification no. 17/2022 – Central Tax dated 1 August 2022.

Direct Tax



Direct Tax

Charitable institutions – Specific categories of tax-exempt institutions u/s 10(23C) allowed to accumulate unspent income upto 5 years on submission of Form 10 with tax authorities before due date of filing annual Income-tax return (ITR)

Background

Tax exemption is available under 2 specific provisions of the Income-tax Act, 1961 ('Act') - Section 11 and Section 10(23C). Most charitable trusts and institutions enjoy tax exemption u/s 11 after registering u/s 12AA (now 12AB). While the tax exemption available u/s 11 is *general* and available to all charitable trusts and institutions, Section 10(23C)'s exemption is available only to certain *specific* categories of Government and non-Government universities, educational institutions, hospitals and medical institutions.

Requirement to spend atleast 85% of the income annually on specified objects

Both the types of institutions [i.e., whether registered u/s 12AB or 10(23C)] must apply / spend its income wholly and exclusively for the objects for which it is established and *must apply at least 85% of the income every year for said objects* (balance 15% is allowed to be retained within unconditionally).

What happens if 85% of the income is not spent in a year?

If an institution is not able to apply 85% of its income during the relevant year, it can accumulate such income for upto 5 years. For Section 11 institutions, the accumulation of income is allowed subject to the fulfillment of certain conditions. However, there were no such conditions provided explicitly for Section 10(23C) institutions prior to Finance Act 2022.

Amendment by Finance Act 2022

The Finance Act, 2022 amended Section 10(23C) to provide for accumulation-related conditions similar to Section 11.

Rule 17 of the Income-tax Rules, 1962 and Forms 9A, 10

Rule 17 of the Income-tax Rules provides for furnishing of *Form 10* and Form 9A. If an institution is unable to apply 85% of its income in a particular year, it can accumulate the shortfall to be used for the specified objects within the next 5 years. This accumulation is allowed if the tax officer is informed in Form 10 about the purpose of the accumulation and the period for which the income is being accumulated.

Amendment of Rule 17 and Form 10

The Central Board of Direct Taxes (CBDT) has amended Rule 17 to incorporate norms for filing of Form 10 by Section 10(23C) institutions. The form is required to be furnished with the tax authorities before the due date of filing the tax return u/s 139(1). CBDT has also amended the format of Form 10 to incorporate the necessary changes.

Please [Click here](#) to read Notification 96/2022 dated 17 August 2022 including format of new Form 10.

Direct Tax

Charitable institutions - Books of accounts required to be maintained for entitlement to tax-exemption

Background

- Income of any fund / institution / trust / university / educational institution / hospital or other medical institution referred to in section 10(23AC) (iv), (v), (vi), (via) or any trust / institution registered u/s 12AA or 12AB of the Act is tax-exempt subject to fulfilment of conditions
- To ensure effective monitoring and implementation of the above exemption provisions, the Finance Act 2022 amended section 12A(1)(b) and 10th proviso to section 10(23C) to provide that the trusts / institutions must maintain books of accounts and other documents as a condition for entitlement to the tax exemption. The amendment is applicable from Assessment Year (AY) 2023-24 onwards
- Prior to the amendment, there was no specific provision under the Act for maintenance of books of account by charitable institutions

Notification no. 94 dated 10th August 2022 issued by CBDT

Pursuant to the above amendment, CBDT has inserted a new Rule 17AA in the Income-tax Rules, 1962, prescribing the books of account required to be maintained by charitable institutions including

- Cash books,
- Ledger,
- Journal,
- Original / copies of bills issued to / issued by the charitable institutions
- Any other document which explains the transactions and gives a true and fair view of the state of affairs

The new rule requires charitable institutions to maintain following information / accounts for specific aspects like application of income, loans, borrowings, etc. The prescribed mode for maintaining books of account for charitable institutions is in line with the other provisions of the Act prescribing similar accounts for business or profession.

Direct Tax

SPECIFIED PERSONS

- Details such as name, address, PAN and Aadhar
- Details of transactions undertaken by charitable institutions with such specified persons such as date, amount and nature of transaction

LOANS AND BORROWINGS

- Detail of lender - Name, Address, PAN and Aadhar including date and amount of loan or borrowing
- Detail of application of such loan received during the FY or preceding FY including Name, address and amount to whom such payment is made including object for such payment
- repayment of such loan or borrowing (which was applied during any preceding FY and not claimed as application) during the previous year

INCOME

- Details of Donor like Name, Address, PAN and Aadhar Number in respect of voluntary contribution, corpus donations and contribution received for renovation or repair of places of worship
- Income from property held under trust along with list of such properties.
- Any other income other than above

RECORD OF ALL THE PROJECTS AND INSTITUTIONS RUN BY THE INSTITUTION INCLUDING - NAME, ADDRESS AND OBJECTIVE

PROPERTIES

- in case of immovable properties,
 - details of its nature, address, cost of acquisition and registration documents
 - transfer of such properties, the net consideration utilized in acquiring new capital asset
- in case of movable properties, details of the nature and cost of acquisition of the asset

APPLICATION OF INCOME

- Details of the amount of application, name and address of person to whom any amount is paid or credited (in India or outside) and object of such application
- Where amount is paid or credited to other charitable institutions, - name, address, PAN of such entity and object for such application.
- where application is out of income of any preceding year :
- Details whether application is out of accumulated income or from different sources
- in case of out of accumulated income, year of such accumulation.
- Money invested / deposited as per specified modes u/s 11(5), or other modes.

Where are the books of accounts required to be maintained?

At the registered office address or any other place in India as decided by the management by way of a resolution (to be intimated to the tax authorities).

For how long should the books of accounts be maintained?

10 years from the end of relevant AY. In case reassessment proceedings are initiated for any year, books of account are to be maintained till the reopened assessment is finalized.

Form of maintaining books of accounts

The books of accounts may be kept in written form or electronic / digital form There is no prescribed format, it can be maintained in any form, so long it reflects the information mandated by the notification.

Please [Click here](#) to read Notification 94/2022 dated 10th August 2022

Direct Tax

Additional conditions notified to claim tax exemption of medical reimbursement & ex-gratia compensation received on death / illness due to COVID-19 from employers & other persons

Background

To provide relief to persons seeking financial assistance from relatives / friends / employers / colleagues etc. on account of COVID-19, the Finance Act, 2022 amended various provisions in the Act to provide tax exemption as below:

- Salary income - Definition of taxable 'perquisite' in hands of an employee was amended to exclude any sum paid by the employer in respect of any expenditure actually incurred by the employee on his/her medical treatment or treatment of any family member in respect of any illness relating to COVID-19
- Income from other sources - The gift tax provisions were amended as below

Amendment of gift tax provision in hands of recipient to exclude sum of money or property received by an individual

Money or property received by family member of a deceased person (must be received within 12 months from the date of death)

In respect any expenditure actually incurred by the individual on his/her medical treatment or treatment of any family member for an illness related to COVID-19

From Employer - No tax payable irrespective of amount (i.e., no limit)

From any other person - No tax payable for sum received upto Rs. 10 lakh

Direct Tax

Notifications no. 90, 91, 92 issued by CBDT on 5 August 2022

CBDT has issued the captioned notifications applicable from AY 2020-21 onwards, prescribing additional conditions as below for claiming COVID-19 tax relief.

Notification no.	90	91	92
Exemption from	Salary (perquisite) for COVID-19 medical expense reimbursement	Gift taxation for COVID-19 medical expense reimbursement	Gift taxation for COVID-19 death ex gratia from employer or other person
Additional conditions to be fulfilled to claim tax exemption	<p>Documents to be submitted by employee to employer:</p> <ul style="list-style-type: none">COVID-19 positive / medical report of the employee or family member, andDocuments of medical diagnosis for illness suffered within 6 months from the date of being determined as COVID-19 positive, andCertification of expenditure incurred on treatment of COVID-19	<p>Individual shall keep a record of the following documents:</p> <ul style="list-style-type: none">COVID-19 positive / medical report of the individual or family member, andDocuments of medical diagnosis for illness suffered within 6 months from the date of being determined as COVID-19 positive <p>The individual is required to verify and furnish in Form No. 1, statement of any amount received for any expenditure actually incurred for illness related to COVID-19</p> <p>Details of the amount received in any year shall be furnished in Form 1 to the tax authority within 9 months from the end of such year or 31 December 2022, whichever is later. Format of Form 1 has been prescribed in the notification</p>	<p>Death of the individual should be within 6 months from the date of testing positive or from the date of being clinically determined as a COVID-19 case, for which any sum of money has been received by the family member;</p> <p>The family member of the individual shall keep a record of the following documents</p> <ul style="list-style-type: none">COVID-19 positive / medical report of the individualMedical report or death certificate issued by a medical practitioner or a Government civil registration office <p>Family member of a deceased person is required to verify and furnish in Form A, a statement of any amount received from the employer of the deceased person or from any other person or persons, on account of death due to COVID-19.</p> <p>Details of the amount received in any year shall be furnished in Form A to the tax authority within 9 months from the end of such year or 31 December 2022, whichever is later. Format of Form A has been prescribed in the notification</p>

Please [Click here](#) to read Notification 90/2022 dated 5th August 2022.

Please [Click here](#) to read Notification 91/2022 dated 5th August 2022.

Please [Click here](#) to read Notification 92/2022 dated 5th August 2022.

Direct Tax

Impetus to International Financial Services Centre (IFSC) – Capital gains tax exemption u/s 47(viiab) - CBDT adds 'Bullion Depository Receipt with underlying bullion' to list of instruments entitled for tax exemption on transfer made by non-resident on recognized stock exchange located in an IFSC

Background

To encourage setting up of businesses in IFSC, Government has been offering various tax benefits. The 1st IFSC in India has been set up at the Gujarat International Finance Tec-City (GIFT City) in Gandhinagar, Gujarat.

One of the benefits offered by the Government is tax-exemption u/s 47(viiab) of the Act, which provides that capital gains tax shall not be charged on transfer of following instruments made by a non-resident on a recognised stock exchange located in an IFSC in India *and* where the compensation is paid / payable in foreign currency.

- Bonds or Global depository receipts
- Rupee denominated bond of an Indian company
- Derivative
- *Such other securities as may be notified by the Government*

Notification no. 16 issued by CBDT in March 2020

In March 2020, CBDT issued a notification exempting the following securities for the purpose of above capital gains tax

- Foreign currency denominated bond
- Unit of a Mutual Fund
- Unit of a business trust
- Foreign currency denominated equity share of a company;
- Unit of Alternative Investment Fund.

Notification no. 89 issued by CBDT on 3 August 2022

CBDT has issued another notification on 3 August 2022 notifying 'Bullion depository receipt with underlying bullion' as another instrument entitled for the tax exemption.

'Bullion depository receipt with underlying bullion' means such bullion depository receipt listed on the International Bullion Exchange operating inside the IFSC and is licensed by the IFSC Authority under the IFSC Authority Act, 2019.

Please [Click here](#) to read Notification 89/2022 dated 3rd August 2022

Please [Click here](#) to read the list of bullion trading / clearing members on IFSC.

Direct Tax

Impetus to IFSC – Tax exemption u/s 10(4E) - CBDT prescribes conditions to be fulfilled for tax exemption on transfer of offshore derivative instruments or over-the-counter derivatives by non-residents

Background

Section 10(4E) of the Income-tax Act exempts income arising to a non-resident by way of transfer of

- Non-deliverable forward contracts, or
- *Offshore derivative instruments*, or
- *Over-the-counter derivatives*,

entered into with an offshore banking unit of an IFSC which fulfils prescribed conditions under rule 21AK of the Income-tax Rules, 1962.

The prescribed rules for this purpose are:

- The off shore banking unit must be holding a valid registration certificate granted under IFSC regulations, and
- The contract must not be entered into by the non-resident through a 'Permanent Establishment' (i.e., taxable presence) in India.

Notification no. 87 dated 1 August 2022 issued by CBDT

The original rule 21AK prior to amendment by CBDT prescribed the conditions applicable for tax-exemption only for *non-deliverable forward contracts* u/s 10(4E). Going forward, however, *off-shore derivative instruments* and *over-the counter derivatives* have also been included in the rule to align the same with section 10(4E).

Meaning of 'offshore derivative instrument' and 'over-the-counter derivatives'

'Offshore derivative instrument' means an instrument issued overseas by a foreign portfolio investor against securities held by it in India as its underlying asset.

'Over-the-counter derivatives' means a derivative contract that is not traded on an exchange but instead is privately negotiated between buyer and seller.

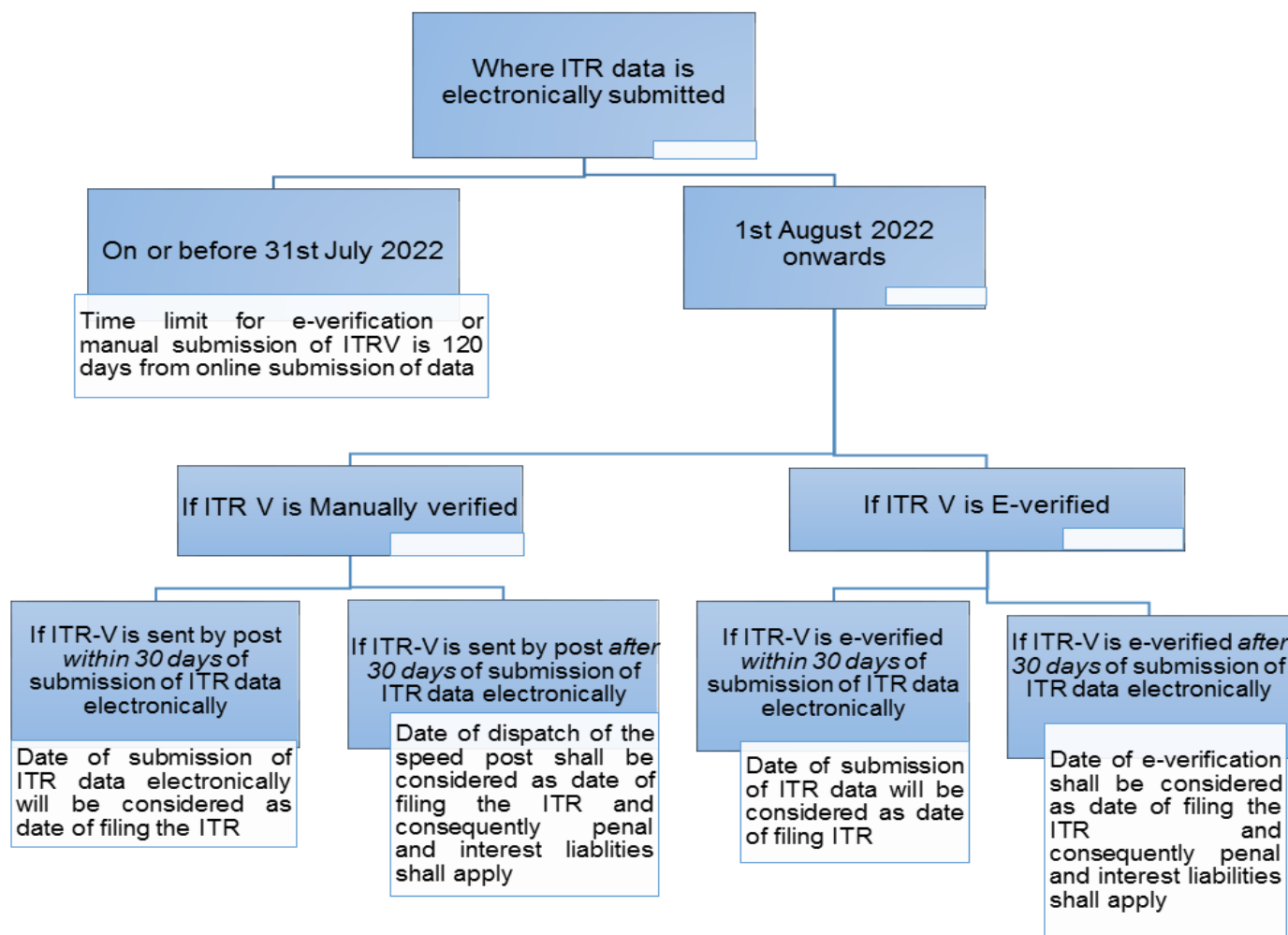
Please [Click here](#) to read Notification 87/2022 dated 1st August 2022.

Direct Tax

Reduction of time limit for verification of ITR from 120 days to 30 days of transmitting the data electronically

As per CBDT's press release dated 27 January 2010, time limit for verification of ITR submitted by a taxpayer is 120 days.

On 29 July 2022, CBDT issued Notification no. 5, wherein time limit for verification (both online and offline) of ITR-V (acknowledgment) has, in a way, been reduced from 120 days to 30 days of transmitting the data electronically as below.



Please [Click Here](#) to read the Notification no. 5/2022 dated 29 July 2022.

International Tax



International Tax

New Form 29D prescribed to claim refund of tax deducted on payment to non-resident under 'net of taxes' contract

Contracts with non-residents are usually 'net-of-taxes', i.e., tax liability on income payable to non-residents is usually borne by the payer of income. In this context, section 239A was newly inserted in the Income-tax Act last year to state that where the payer of such income, after deduction and deposit of tax with the Indian tax authorities, claims that no tax was required to be deducted, he may (within 30 days from date of payment of such tax) file an application before the tax officer for refund of such tax. The tax officer may accept or reject the application, but he has to do so within 6 months from the end of the month in which the application is received.

The form in which the application is to be submitted with the tax authorities was yet to be prescribed. On 17 August 2022, CBDT has prescribed new Form 29D for this purpose. The Form is required to be accompanied with copy of the contract with non-resident along with following details.

- Details of the payer (applicant) and payee (deductee)
- Details of the contract
- Details of transaction on which tax was not deductible and has been deducted
- Details of tax deducted
- Reason as to why tax was not required to be deducted on the income; and
- Whether tax deducted on similar transaction was refunded in 3 years prior to the relevant year

Please [Click here](#) to read Notification 98/2022 dated 17 August 2022 along with Form 29D.



International Tax

Foreign Tax Credit (FTC) – CBDT extends time limit for submission of annual Form 67 by resident taxpayers

What is Form 67?

A resident taxpayer, in order to claim credit of taxes paid by him in a foreign country ('foreign tax') against his tax liability in India, is required to submit Form 67 with the Indian tax authorities annually along with the following documents:

- Overseas tax return which substantiates double taxation of income, and
- Proof of taxes deposited overseas

Extension of time limit for submission of Form 67 along with supporting documents

Earlier, the time limit for submission of Form 67 (along with supporting documents) was the *due date of filing original ITR*. However, due to representations received from the industry, CBDT has extended the time limit till *end of Assessment Year relevant for the Financial Year* in which the concerned income has been offered to tax. However, the relaxation in time limit is subject to the condition that ITR for such FY is furnished within the due date as explained with the help an illustration below.

Illustration (AY 2023-24)

ITR	Due Date of filing ITR	Time limit for submission of Form 67 & supporting documents	
		Earlier	Extended
Original u/s 139(1)	<ul style="list-style-type: none">• 31 July 2023 (mostly for individuals / salaried taxpayers)• 31 October 2023 (for corporates / taxpayers with tax audit; transfer pricing not applicable)• 30 November 2023 (taxpayers subject to transfer pricing)	Due date for filing original ITR, i.e., <ul style="list-style-type: none">• 31 July 2023• 31 October 2023• 30 November 2023	31 March 2024, provided original ITR is filed within the due date
Belated u/s 139(4)	31 December 2023 or completion of assessment, whichever is earlier		31 March 2024, provided belated ITR is filed within its due date
Updated u/s 139(8A) (newly inserted provision last year)	31 March 2026		On or before filing of updated ITR

Please [Click here](#) to read Notification 100/2022 dated 18th August 2022

Company Law



Company Law

Registrar of Companies (RoC) to conduct physical verification of Registered office address

Pursuant to the provisions of Companies Act, 2013, RoC may conduct physical verification of the Registered office of any company, if he has reasonable cause to believe that the concerned company is not carrying out business in a proper manner. Accordingly, Ministry of Corporate Affairs (MCA) vide notification dated 18 August 2022 has amended the Companies (Incorporation) Rules by inserting new Rule 25B, thereby notifying the procedure for conducting the physical verification of the Registered office of companies.

Manner of conducting physical verification

- RoC on the basis of information submitted by the company on MCA portal, shall visit the Registered office of the company for physical verification
 - Physical verification to be conducted in presence of 2 independent witnesses of the locality
 - Assistance of local police may be sought, if required;
 - RoC shall carry documents submitted the company on MCA portal in support of its Registered office address;
 - RoC shall verify the documents with the duly authenticated supporting documents collected during the physical verification (such as copy of ownership agreement / rent agreement / lease deed / no objection certificate received from the owner / tenant / lessor);
 - RoC shall take photograph of the Registered office during physical verification;
 - The report on physical verification shall be prepared by the RoC office, to contain the following information
- ✓ Name and Corporate Identification No (CIN) of the company
 - ✓ Latest Registered office address of the company as per MCA records
 - ✓ Date of authorization letter issued by the RoC
 - ✓ Name of the RoC
 - ✓ Date and time of visit for physical verification of the Registered office;
 - ✓ Location details along with landmark;
 - ✓ Details of the person available, if any at the time of visit;
 - ✓ Remarks, if any;

The said report shall enclose the following documents:

- ✓ Copy of the ownership agreement / rent agreement / no objection certificate received from owner / tenant / lessor;
- ✓ Photograph of the Registered office;
- ✓ Self-attested ID-card of the person available, if any;
- ✓ Any other documents

Please [Click Here](#) to read the Notification dated 18 August 2022.

Company Law

Ministry of Corporate Affairs (MCA) notifies certain changes in rules requiring maintenance of books of accounts by companies in electronic mode

Rule 3 of the Companies (Accounts) Rules, 2014 deals with the manner of maintaining books of accounts by companies in electronic mode. MCA vide notification dated 5 August 2022 has notified certain changes such as below.

Companies (Accounts) Rules, 2014	Existing provision	Amendment
3(1)	The books of account and other relevant books and papers maintained by the companies in electronic mode shall remain accessible in India so as to be usable for subsequent reference	For the words 'accessible in India', the words 'accessible in India, at all times' shall be substituted
3(5)	The back-up of the books of account and other books and papers of the company maintained in electronic mode, including at a place outside India, if any, shall be kept in servers physically located in India on a periodic basis	For the words 'periodic basis', the words 'daily basis' shall be substituted
3(6)	Company shall intimate following information to the ROC on an annual basis at the time of filing of financial statements: (a) Name of the service provider; (b) Internet protocol address of service provider; (c) Location of service provider (where applicable); (d) Where the books of account and other books and papers are maintained on cloud, such address as provided by the service provider	After clause (d), another clause (e) shall be added under Rule 3(6): (e) Where the service provider is located outside India, the name and address of the person in control of the books of account and other books and papers maintained by the company in electronic mode in India, shall also be intimated to the ROC on an annual basis

Please [Click Here](#) to read the Notification dated 5 August 2022.

Company Law

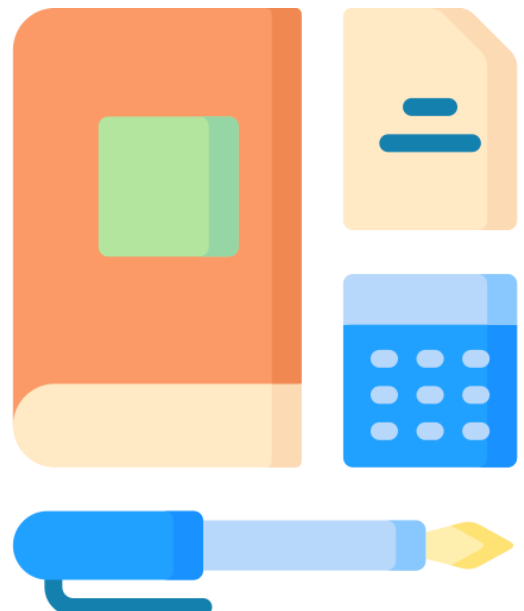
MCA releases answers to Frequently Asked Questions (FAQs) regarding filing of the 1st set of company e-forms on its version-3 (V3) online portal from 31 August 2022 onwards

MCA vide notice dated 15 July 2022 had notified launching of its 1st set of company e-forms on its V3 online portal from 31 August 2022 onwards. Following e-forms shall be rolled out in the 1st phase:

- DIR3-KYC Web & DIR3-KYC (Director KYC related forms);
- DPT-3 & DPT-4 (return of deposits); and
- CHG-1, CHG-4, CHG-6, CHG-8 & CHG-9 (charge creation, modification & satisfaction related forms)

To facilitate implementation of this e-form filing on the V3 MCA portal and for technical guidance to all its stakeholders, MCA has released a set of FAQs dealing with all the specific technicalities and queries with respect to the filing of said e-forms on the V3 MCA online filing portal.

Please [Click Here](#) to read the FAQs on V3 company e-form filing.



Reserve Bank of India (‘RBI’)



Indian entities allowed to make Overseas Direct Investments (ODI) in foreign entities through modes other than equity share capital (such as debt instruments, guarantee, pledge or charge)

RBI vide notification dated 22 August 2022 has allowed Indian entities to make ODI in foreign entities through modes other than equity share capital (such as debt instruments, guarantee, pledge or charge), subject to the following conditions:

- Total financial commitment limit of ODI by an Indian entity in all foreign entities shall not exceed 400% of the Indian entity's net worth as per its last audited balance sheet;
- Indian entity is eligible to make ODI in the foreign entity;
- Indian entity has made ODI by way of investment in equity share capital in the foreign entity;
- Indian entity has acquired control in such foreign entity at the time of making such ODI

ODI by Indian Entity

Debt Instruments

An Indian entity may lend / invest in debt instruments issued by a foreign entity *provided*

- (a) Loans are backed by a loan agreement,
- (b) Rate of interest is charged on arm's length basis.

Debt instruments shall include the following:

- (i) Government bonds
- (ii) Corporate bonds
- (iii) All tranches of securitization structure which are not equity tranches
- (iv) Borrowings by firms through loans, &
- (iv) Depository receipts whose underlying securities are debt securities

Guarantee

Following Guarantees may be issued by Indian entities to or on behalf of foreign entity or any of its step down subsidiary in which the Indian entity has acquired control through the foreign entity:

- (i) Corporate or performance guarantee
- (ii) Corporate or performance guarantee by a group company of such Indian entity in India
- (iii) Personal guarantee by the resident individual promoter of such Indian entity
- (iv) Bank guarantee, which is backed by a counter-guarantee or collateral by the Indian entity or its group company and issued by a Bank in India

Pledge / Charge

An Indian entity which has made ODI by way of equity shares in a foreign entity, may:

- (a) Pledge the equity shares of the foreign entity in favour of an Authorized Dealer (AD) Bank / Public Financial Institution in India or an overseas lender, for availing fund based or non-fund based facilities
- (b) Create charge by way of mortgage, pledge, hypothecation or any other identical mode on—
 - (i) its assets in India (including assets of group company),
 - (ii) Foreign entity's assets outside India in which the Indian entity has made ODI

Mode of payment for ODI

An Indian entity / resident making ODI may use following modes of payment:

- Remittance through banking channels
- Funds held in an account maintained in accordance with the provisions of the Foreign Exchange Management Act (FEMA)
- Swap of securities
- Using the proceeds of American Depositary Receipts (ADRs) or Global Depositary Receipts (GDRs) or External Commercial Borrowings (ECBs) raised in accordance with the provisions of FEMA and rules made thereunder

Please [Click Here](#) to read Notification dated 22 August 2022.

Regulatory framework on Digital Lending by RBI Regulated Entities (REs)

Background

Recently, innovative methods of extending credit facilities through digital lending route has acquired prominence. However, certain concerns have also emerged with the digital lending such as:

- Unbridled engagement of third parties;
- Mis-selling;
- Breach of data privacy;
- Unfair business conduct;
- Charging of exorbitant interest rates; and
- Unethical loan recovery practices

These concerns if not mitigated, may erode the confidence of the public in the digital lending ecosystem.

Considering the inputs received from diverse set of stakeholders, RBI vide press release dated 10 August 2022 has notified a regulatory framework to support digital lending while mitigating the regulatory concerns surrounding it.

Highlights of RBI's regulatory framework on Digital Lending

Particulars	Regulatory Framework
Eligible Digital Lenders	<p>Eligible Digital Lenders under the RBI Regulatory Framework shall be:</p> <ul style="list-style-type: none"> • RBI REs permitted to carry out lending business; • Lending Service Providers (LSPs) engaged by REs to extend various permissible credit facilitation services; • Digital Lending Applications (DLAs) of REs; and • DLAs of LSPs engaged by REs
Customer protection and Code of Conduct by the Digital Lenders	<p>All the RBI regulated Digital Lenders shall follow the below code of conduct in their digital lending activities:</p> <ul style="list-style-type: none"> • All loan disbursements and repayments are required to be executed only between the bank accounts of the borrower and REs without any pass-through / pool account of the LSP or any third party; • Any fees, charges, etc., payable to LSPs in the credit intermediation process shall be paid directly by the RE and not by the borrower; • A standardized Key Fact Statement (KFS) must be provided to the borrower before executing the loan contract; • All-inclusive cost of digital loans in the form of Annual Percentage Rate (APR) is required to be disclosed to the borrowers. APR shall also form part of KFS; • Automatic increase in credit limit without explicit consent of borrower is prohibited; • A cooling-off / look-up period during which the borrowers can exit digital loans by paying the principal and the proportionate APR without any penalty shall be provided as part of the loan contract; • REs shall ensure that they and the LSPs engaged by them shall have a suitable nodal Grievance Redressal Officer to deal with FinTech / digital lending related complaints. Such Grievance Redressal Officers shall also deal with complaints against their respective DLAs. The details of the Grievance Redressal Officer shall be prominently indicated on the website of the RE, its LSPs and on DLAs, as applicable; • Further, if any complaint lodged by the borrower is not resolved by the RE within the stipulated period of 30 days, he / she can lodge a complaint under the RBI – Integrated Ombudsman Scheme (RB-IOS)
Technology and Data requirements	<p>Data collected by DLAs shall be need based, have clear audit trails and should be done only with prior explicit consent of the borrower</p>
Reporting	<ul style="list-style-type: none"> • Any lending sourced through DLAs (either of the RE or of the LSP engaged by RE) is required to be reported to Credit Information Companies (CICs) by REs irrespective of its nature or tenure of lending; • All new digital lending products extended by REs over merchant platforms involving short term credit or deferred payments are required to be reported to CICs by the REs

RBI enhances borrowing limit for all External Commercial Borrowings (ECBs) raised under automatic route till 31 December 2022 from existing USD 750 million to USD 1.5 billion

RBI vide notification dated 1 August 2022 has enhanced the borrowing limit for all the ECBs raised under the automatic route till 31 December 2022 from USD 750 million or equivalent to USD 1.5 billion or equivalent;

Further, RBI has also increased the all-in cost ceiling for the aforesaid ECBs raised under automatic route till 31 December 2022 by 100 benchmark points (bps). However, this enhanced all-in-cost ceiling shall only be available to the eligible ECB borrowers holding investment grade rating from Indian credit rating agencies.

Please [Click Here](#) to read Notification dated 1 August 2022.



Securities Exchange Board of India ('SEBI')



SEBI notifies framework for automated deactivation of trading & demat accounts of clients in case of inadequate Know Your Client (KYC) procedures

Background

SEBI vide various circulars issued from time to time, has mandated that addresses of the clients recorded with Market Infrastructure Institutions (MII) such as Stock Exchanges and Depositories has to be accurate for the purpose of compliance with KYC procedures. However, in some cases it has been observed that accurate / updated addresses of clients are not maintained. As a result, when SEBI issues any notice(s) during the course of any enforcement proceedings on the clients' address, the same remain unserved.

To ensure that the client furnishes accurate / updated address details, SEBI vide circular dated 29 July 2022 has notified a framework involving MIIs such as Stock Exchanges (except Commodity Derivatives Exchanges) and Depositories.

Highlights of the SEBI Framework on KYC procedures of clients

- Under the said framework, wherein SEBI instructs MIIs such as Stock Exchanges and Depositories to serve any Show Cause Notice (SCN) or any other order issued by SEBI to the clients' address, then these MIIs shall also arrange to physically deliver the SCN / order copy to the client's address;
- Accordingly, MIIs shall forward the signed acknowledgement receipt of the SCN / order by the concerned client or his authorized representative to SEBI within 30 working days from the date of receipt of the aforesaid instructions from SEBI;
- If MIIs are unable to deliver the SCN / order to any of the client addresses mentioned in the KYC records linked to the trading / demat account of the client and obtain a signed acknowledgement receipt of the SCN / order from the client or his authorized representative, then MIIs shall deactivate all the trading and demat accounts of the said client.
- MIIs shall implement a restraint / freeze on debit and credit (except for corporate actions) of all trading and demat accounts of the client based on the client's PAN, within 5 working days from the last unsuccessful delivery of the SCN / order to the client's registered address. MIIs shall also send an email / sms to the client before deactivation of his trading and demat accounts;
- MIIs shall ensure that the deactivated trading and demat accounts of the client are not used for dealing in securities market in any manner whatsoever;
- Aggrieved by the said action, the defaulting client may place a request to the registered intermediaries with which he holds a trading / demat account, seeking re-activation of trading / demat accounts along with the correct address proof and signed acknowledgement receipt of the SCN or order issued by SEBI;
- The process of reactivating the trading / demat accounts by the MIIs shall not exceed 5 working days after the receipt of request from the defaulting client;
- Under this framework, MIIs through their registered intermediaries shall ensure that the KYC records linked to all the accounts held by their clients are updated, accurate and accordingly confirm the new KYC details of the client to the concerned KYC Registration Agency (KRA);
- MIIs shall have a mechanism for exchange of information and coordination amongst themselves for the purpose of implementing the said framework.

Please [Click Here](#) to read Circular dated 29 July 2022.

Compliance Calendar

Compliance calendar for the month of September 2022

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7 th September	August 2022	TDC/TCS deposit	Non-Government Deductors.
10 th September		Equalization Levy deposit	All Deductors
11 th September		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 collect TCS under GST
		GSTR-1 (Outward supply return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2021-22 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme
13 th September		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
		Invoice Furnishing Facility – IFF (Details of outward supplies of goods or services)	Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and opted for QRMP scheme
15 th September		Deposit of PF & ESI contribution	All Deductors
	July-Sep 2022	Deposit of 45% (2 nd Installment) of Advance Tax for FY 2022-23.	Taxpayers liable to pay advance tax
20 th September	August 2022	GSTR-3B (Summary return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2021-22 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and not opted for QRMP scheme
		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
25 th September		Form GST PMT-06 (payment of tax for QRMP filers)	Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and opted for QRMP scheme
30 th September	FY 2021-22	a) Filing of KYC details of directors in Form Web KYC b) Filing of KYC details in form DIR-3 KYC c) Statutory audit under Companies Act d) Due date of holding Annual General Meeting (AGM) for all the Companies e) Filing of Form FC-3 (Annual accounts and list of places of business in India) with ROC f) Filing of Annual Activity Certificate (AAC) and audited financials g) Revised annual return on Foreign Assets & Liabilities (FLA) on the basis of Audited Financial Statements h) Filing of Tax Audit Report u/s 44AB	a) All directors / designated partners who hold Director Identification No (DIN) b) All directors / designated partners who have been allotted DIN during FY 2021-22 c) All Companies d) All Companies e) Liaison/Branch/Project office in India f) Liaison/Branch/Project office in India g) All companies & LLPs having Foreign Direct Investment (FDI) h) Taxpayers whose books of accounts are required to be tax-audited (i.e, annual sales / turnover > INR 10 million in case of business or INR 5 million in case of profession).

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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