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# NEWSLETTER

## AJAY RATTAN & CO.

### Chartered Accountants

Newsletter For July'22  
Volume 12, Issue 7



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## DUE DATES | JULY 2022

Due Date	Compliance Detail	Applicable To
<b>7<sup>th</sup></b>	a) TDC/TCS deposit b) Equalization Levy deposit	a) Non-Government Deductors b) All Deductors
<b>10<sup>th</sup></b>	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
<b>11<sup>th</sup></b>	GSTR – 1 (Outward supply return)	Taxable person having turnover > Rs. 5 crore
<b>13<sup>th</sup></b>	a) GSTR – 1 (Outward supply return) b) GSTR-6 [Return by input service distributor (ISD)]	a) Taxable person having turnover $\leq$ Rs. 5 crore and opted for QRMP Scheme (for the quarter April to June, 2022). b) Person registered as ISD
<b>15<sup>th</sup></b>	a) Deposit of PF & ESI contribution b) Annual Return on Foreign Liabilities & Assets (FLA). c) TCS Return	a) All Deductors b) All Indian companies/ LLPs which have received Foreign Direct Investment (FDI) or made overseas investment. c) All Collectors
<b>20<sup>th</sup></b>	a) GSTR-5 (Return by Non-resident) b) GSTR-5A (OIDAR) services return c) GSTR-3B (Summary return)	a) Non-resident taxable person b) OIDAR services' provider c) All taxable persons (except composition dealer) having annual turnover > Rs. 5 crore in FY 2021-22
<b>22<sup>nd</sup></b>	GSTR 3B (Summary return)	All taxable persons (except composition dealer) having annual turnover upto Rs. 5 crore and having principal place of business in Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep.
<b>24<sup>th</sup></b>	GSTR 3B (Summary return)	All taxable person (except composition dealer) having annual turnover upto Rs. 5 crore and having principal place of business in any other state.
<b>30<sup>th</sup></b>	Issue of TCS Certificate in form 27D	All Collectors
<b>31<sup>st</sup></b>	a) TDS Return b) Income Tax Return (ITR)	a) All Deductors b) Individuals (including expatriates) & Non- corporates, not liable for Tax Audit.



## **Withholding tax (TDS) on transfer of Virtual Digital Assets (VDA) / Cryptocurrency - Central Board of Direct Taxes (CBDT) prescribes withholding tax return (Form 26QE) & TDS certificate (Form 16E) effective from 1<sup>st</sup> July 2022 onwards**

### ***Notification no. 67 issued by CBDT***

Finance Act, 2022 has introduced taxation on transfer of VDA. Correspondingly, a new provision (section 194S) has been inserted in the Income-tax Act, 1961, to introduce withholding tax @ 1% with effect from 1<sup>st</sup> July 2022 onwards on payment for transfer of VDA to a resident in India, subject to certain threshold limit of course.

The details regarding time-limit to deposit the above withholding tax, form and manner of filing withholding tax return and issue of tax deducted at source (TDS) certificate to deductee has now been prescribed by CBDT as below:

By when is TDS u/s 194S required to be deposited with the Government of India?	Within 30 days from the end of the month in which tax is deducted
How to report the above / TDS return format	Challan-cum-statement in Form 26QE (prescribed in the Notification)
By when is TDS certificate required to be issued to deductee and in which format?	TDS certificate in Form 16E (prescribed in the Notification) to be issued to deductee within 15 days from due date of filing Form 26QE

## **CBDT issues guidelines for withholding tax on benefit or perquisite in respect of business or profession (section 194R of the Income-tax Act, 1961)**

### ***Circular no. 12 / 2022 dated 16<sup>th</sup> June 2022***

The Finance Act, 2022 inserted a new section 194R in the Income-tax Act, 1961 (the Act) with effect from 1<sup>st</sup> July 2022, as per which any person responsible for providing any benefit or perquisite to a resident, is required to deduct / withhold tax at source @ 10% of the value of such benefit or perquisite, before providing such benefit or perquisite. The benefit or perquisite may or may not be convertible into money but should arise either from carrying out of a business, or from exercise of profession, by such a resident.

The provision is not applicable in following cases

- If the aggregate value of benefit or perquisite to the resident during the FY  $\leq$  Rs. 20,000/-, or
- If the deductor is an individual / Hindu Undivided Family (HUF), whose receipts from business  $\leq$  Rs. 1 crore or receipts from profession  $\leq$  Rs. 50 lakh during the previous Financial Year.

#### **Guidelines / Frequently Asked Questions (FAQs) issued by CBDT on 16 June 2022**

<b>S. No.</b>	<b>Question</b>	<b>Answer</b>
1.	Is it necessary that the person providing benefit or perquisite (deductor) needs to check if the amount is taxable u/s 28(iv) of the Income-tax Act, before deducting tax u/s 194R?	No. Where the legislature required so, it was specifically mentioned in the Income-tax Act (such as section 195)
2.	Is it necessary that the benefit or perquisite must be in kind for section 194R to operate?	No. The benefit or perquisite may be in cash or kind or partly in cash and partly in kind.
3.	Is there any requirement to deduct tax u/s 194R, when the benefit or perquisite is in the form of capital asset?	Yes. As stated earlier, the deductor is not required to check if the benefit or perquisite is taxable in the hands of recipient.
4.	Whether sales discount, cash discount and rebates are benefit or perquisite for the purpose of section 194R?	<p>No. However, withholding of tax u/s 194R will be required in following situations:</p> <ul style="list-style-type: none"> <li>• Distribution of free samples</li> <li>• When a person gives incentives (other than discount, rebate) in the form of cash or kind such as car, TV, computers, gold coin, mobile phone etc.</li> <li>• When a person sponsors a trip for the recipient and his/her relatives upon achieving certain targets</li> <li>• When a person provides free ticket for an event</li> <li>• When a person gives medicine samples free to medical practitioners The benefits/perquisites may be used by owner / director / employee of the recipient entity or their relatives who in their individual capacity may not be carrying on business or exercising a profession. However, tax is required to be deducted in the name of recipient entity since the usage by owner / director employee / relative is by virtue of their relation with the recipient entity and in substance the benefit / perquisite has been provided by the person to the recipient entity. Section 194R shall not apply if the benefit or perquisite is being provided to a Government entity, like Government hospital, not carrying on business or profession</li> </ul>
5.	How is the valuation of benefit / perquisite required to be carried out?	<p>The valuation would be based on fair market value of the benefit or perquisite except in following cases:</p> <ul style="list-style-type: none"> <li>• The benefit / perquisite provider has purchased</li> </ul>

		<p>the benefit / perquisite before providing it further. In such case, the purchase price shall be the value for such benefit / perquisite</p> <ul style="list-style-type: none"> <li>• The benefit / perquisite provider manufactures such items given as benefit / perquisite, then the price that it charges to its customers for such items shall be the value for such benefit / perquisite GST will not be included for the purposes of valuation of benefit / perquisite</li> </ul>
6.	Many a times, a social media influencer is given a product of a manufacturing company so that he can use that product and make audio / video to speak about that product in social media. Is this product given to such influencer a benefit or perquisite?	In case of benefit or perquisite being a product like car, mobile, outfit, cosmetics etc. and if the product is returned to the manufacturing company after usage, then it will not be treated as a benefit / perquisite. However, if the product is retained, then it will be in the nature of benefit / perquisite and tax is required to be deducted u/s 194R
7.	Whether reimbursement of out of pocket expense (OPE) incurred by service provider in the course of rendering service is benefit / perquisite?	Let us assume that a consultant is rendering service to a person 'X' for which he is receiving consultancy fee. If the invoice for OPE is obtained in the name of 'X' and paid by the consultant and reimbursed by 'X', then the reimbursement made by 'X' being the service recipient will not be considered as benefit / perquisite for the purpose of section 194R. If the invoice is not in the name of 'X' and the payment is made by 'X' directly or reimbursed, it is the benefit / perquisite provided by 'X' to the consultant for which deduction is required to be made u/s 194R
8.	If there is a dealer conference to educate the dealers about the products of the company - Is it benefit / perquisite?	<p>No, provided the conference is held with the prime object to educate dealers / customers about any of the following / similar aspects:</p> <ul style="list-style-type: none"> <li>• New product being launched</li> <li>• Discussion as to how the product is better than others</li> <li>• Obtaining orders from dealers / customers</li> <li>• Teaching sales techniques to dealers / customers</li> <li>• Addressing queries of the dealers / customers</li> <li>• Reconciliation of accounts with dealers / customers</li> </ul> <p>The conference must not be in the nature of incentives / benefits to select dealers / customers who have achieved particular targets. In the following cases, section 194R would be applicable:</p> <ul style="list-style-type: none"> <li>• Expense attributable to leisure trip or leisure component, even if it is incidental to the dealer / business conference</li> </ul>

		<ul style="list-style-type: none"> <li>• Expenditure incurred for family members accompanying the person attending dealer / business conference</li> <li>• Expenditure on participants of dealer / business conference for days which are prior stay or overstay beyond the dates of such conference</li> </ul>
9.	Section 194R provides that if the benefit/perquisite is in kind or partly in kind (and cash is not sufficient to meet withholding tax requirement) then the person responsible for providing such benefit or perquisite is required to ensure that tax required to be deducted has been paid in respect of the benefit or perquisite, before releasing the benefit or perquisite. How can such person be satisfied that tax has been deposited?	The deductor may rely on a declaration along with a copy of the advance tax payment challan provided by the recipient confirming that the tax required to be deducted on the benefit/perquisite has been deposited. This would be then required to be reported in TDS return along with challan number. Alternatively, the benefit provider may deduct tax u/s 194R and pay to the Government. The tax should be deducted after taking into account the fact the tax paid by him as TDS is also a benefit u/s 194R
10.	Section 194R comes into effect from 1 <sup>st</sup> July 2022 onwards. It is not clear how the threshold limit of Rs.20,000 is to be computed for the FY 2022-23?	The period for calculating threshold limit shall start from 1 <sup>st</sup> April 2022. Hence, if the aggregate value of benefit or perquisite provided or likely to be provided to a resident exceeds Rs. 20,000 during FY 2022-23 (including the period up to 30 <sup>th</sup> June 2022), section 194R shall apply on any benefit or perquisite provided on or after 1 <sup>st</sup> July 2022. Benefit or perquisite provided on or before 30 <sup>th</sup> June 2022, would not be subjected to tax deduction u/s 194R

## **Exemption from requirement to withhold tax u/s 194I on payment of lease rent to a Unit located in International Financial Services Center ('IFSC') for lease of aircraft**

### ***Notification no. 65 dated 16<sup>th</sup> June 2022***

Section 194-I of the Income-tax Act provides for deduction of tax at source on payment of rent to a resident for use of plant, machinery, equipment (2%) or real estate, furniture, fittings (10%).

CBDT vide Notification no.65 dated 16<sup>th</sup> June 2022 has exempted / waived the above requirement to withhold tax on payment of lease rent to a to a Unit located in IFSC for lease of aircraft. The 1st IFSC in India is the Gujarat International Finance Tec-City (GIFT City).

The exemption / waiver is applicable provided the lessor furnishes a statement-cumdeclaration in Form no. 1 to the lessee giving details of those 10 assessment years for which the lessor has opted for claiming deduction u/s 80LA(2) read with section 80LA(1A) of the Income-tax Act. On receiving the same, the lessee shall not deduct tax at source for those 10 years and make the disclosure accordingly in the withholding tax returns to be filed by the lessee (for other years, lessee shall continue to withhold tax at source). The format of Form 1 has been prescribed in the Notification.

## **Tax exemption in respect of specified funds u/s 10(4D) of Income-tax Act – CBDT prescribes additional conditions to be fulfilled by such funds**

### ***Notification no. 64 dated 16 June 2022***

- The Finance Act 2022 with effect from Assessment Year 2023-24 has inserted a proviso to the above definition, saying that if a non-resident unit holder(s) becomes resident in any year subsequent to the year in which units were issued to him, the tax exemption shall continue to be available to specified fund provided such unitholders do not hold more than 5% of the total units issued by the specified fund.
- The proviso also says that such shall be required to fulfil 'other conditions' to be prescribed by CBDT. Now, the CBDT vide Notification no. 64 dated 16<sup>th</sup> June 2022 has notified a new Rule 21AIA in the Income-tax Rules, 1962, prescribing such 'other conditions'

## **Long term Capital Gains - CBDT notifies '331' as Cost Inflation Index (CII) for FY 2022-23**

### ***Notification no. 62 / 2022 dated 14<sup>th</sup> June 2022.***

CBDT vide Notification no. 62 dated 14<sup>th</sup> June 2022 has notified 331 as CII for FY 2022-23. If a long-term capital asset is transferred, the capital gains is computed after deducting the indexed cost of acquisition (instead of just cost of acquisition) to give the benefit of inflation to a taxpayer. Such indexation of cost of acquisition is done on the basis of CII. The base year for which CII is 100 is FY 2001-02.

## **Registration of Trusts & Institutions – CBDT issues clarifications on Form 10AC (order for registration / provisional registration / approval / provisional approval)**

### ***Circular no. 11 / 2022 dated 3<sup>rd</sup> June 2022***

CBDT has stipulated the revised conditions to be followed by a trust or institution seeking:

- Re-registration and provisional registration u/s 12AB
- Re-approval and provisional approval u/s 10(23C), and
- Re-approval and provisional approval under section 80G

The conditions contained in Form 10AC issued between 1<sup>st</sup> April 2021 till 3<sup>rd</sup> June 2022 shall be read as if the said conditions had been substituted with the conditions as provided by CBDT with effect from 1<sup>st</sup> April 2022.

- Provisional registration / approval to be deemed as registration / approval

CBDT has clarified that if due to technical glitches, Form 10AC has been issued during FY 2021-22 with the heading 'Order for provisional registration' or 'Order for provisional approval' instead of 'Order for registration' or 'Order for approval', then all such Form 10ACs shall be considered as an 'Order for registration or approval'.

## **Transfer Pricing – Applicability of Safe Harbor Rules extended till Assessment Year (AY) 2022-23**

### ***Notification no. 66 / 2022 dated 17<sup>th</sup> June 2022.***

Rule 10TD of the Income-tax Rules, 1962 prescribes a list of eligible international transactions where transfer price declared by the taxpayer shall be required to be accepted by the tax authorities (safe harbor). The Rule was valid until AY 2021-22. CBDT has now extended the validity of the Rule till AY 2022-23.



**Ministry of Corporate Affairs (MCA) allows restoration of name of candidates willing to be appointed as Independent Directors, in case their name is removed from the database maintained by Indian Institute of Corporate Affairs (IICA)**

Pursuant to the Companies (Appointment & Qualification of Directors) rules, every individual willing to be appointed as an Independent Director in any company shall:

- Have his name included in the databank of Independent Directors maintained by IICA; and
- Qualify an online proficiency self-assessment test conducted by IICA within 2 years from the date of inclusion of his name in the databank, failing which his name shall stand removed from the databank

To provide some relaxation, Ministry of Corporate Affairs (MCA) vide notification dated 10<sup>th</sup> June 2022 has amended the aforesaid rules. Going forward, every individual whose name is removed from the database maintained by IICA, may apply for restoration of his name on payment of statutory fee of Rs. 1,000, subject to fulfilment of following conditions:

- His name shall be shown in a separate restored category for 1 year from the date of name restoration within which, he shall be required to pass the online proficiency self-assessment test conducted by IICA and thereafter on qualifying the said test, his name shall be included in the databank, and
- In case he fails to qualify the online proficiency self-assessment test within 1 year from the date of name restoration, his name shall be removed from the databank, and he shall be required to apply afresh for inclusion of his name in the databank

**Investment from countries sharing land border with India – Prior approval from Government of India mandatory for (a) allotment of Director Identification Number (DIN) & appointment of Director for nationals belonging to such countries, & (b) undertaking merger / demerger between an Indian company & an entity belonging to such country**

**Background**

To prevent opportunistic takeover of Indian companies at the time of COVID outbreak, Reserve Bank of India (RBI) vide Press Note no 3 (2020) dated 17<sup>th</sup> April 2020 had notified that prior approval from Government of India shall be mandatory for all foreign investments made in India:

- by entity of any country sharing land border with India; or
- where the beneficial owner of such a foreign investment is situated in or is a citizen of any country sharing land border with India; or
- transfer of ownership of any existing or future foreign investment in an entity in India, directly or indirectly, resulting in the beneficial ownership falling within the purview of the land border-sharing countries

**Corresponding amendment by MCA**

In line with the above RBI requirement, MCA vide notification dated 1<sup>st</sup> June 2022 has amended Rule 8 and 10 of the Companies (Appointment & Qualification of Directors) rules, as below:

- In case of allotment of Director Identification No. (DIN) to any individual who is national of a country sharing land border with India, he shall be required to obtain prior approval from the Government of India before filing the application for DIN allotment in Form DIR-3. Accordingly, copy of the Government's approval obtained by him shall be enclosed along with his application for DIN in Form DIR-3.
- In case any individual who is national of a country sharing land border with India, is to be appointed as a Director in any Indian company, he shall be required to obtain prior approval from the Government of India before his appointment as Director. Copy of the Government's approval shall be enclosed along with his consent to act as Director in Form DIR-2



### **Notification No.01/2022- Compensation Cess dated June 24, 2022**

Government extends GST Compensation levy upto March 2026. The period for levy and collection of cess under sub-section (1) of section 8 of the Goods and Services Tax (Compensation to States) Act, 2017 shall be upto the 31<sup>st</sup> March, 2026.

### **Deadline Extensions to composition scheme**

- GSTR-4 for FY 2021-22 to get a waiver of late fee for filing up to 28<sup>th</sup> July 2022 as against earlier extension of up to 30<sup>th</sup> June 2022.
- CMP-08 deadline for Apr-Jun 2022 (Qtr. of FY 2022-23) to get an extension up to 30<sup>th</sup> July 2022 from 18<sup>th</sup> July 2022.

### **Addition of 6% tax rate in GSTR-1 online dated 01.06.2022**

- It may be noted that 6% tax rate has been added in the item details section of all the tables of form GSTR-1, except HSN table 12. In case your outward supplies attract 6% tax rate, you are required to upload the details against 6% tax rate in the item details section.
- In respect to HSN table 12 of form GSTR-1, 6% tax rate shall be added shortly. Meanwhile, you may report the HSN details of supplies attracting 6% tax rate under tax rate 5% by updating the values/tax amounts as per the actual supplies made by you.

### **47<sup>th</sup> GST Council Meeting Highlights: -**

#### **1. Composition taxpayers would be allowed to make intra-State supply through e-commerce operators subject to certain conditions**

The details of the scheme will be worked out by the Law Committee of the Council. The scheme would be tentatively implemented with effect from 01.01.2023, subject to preparedness on the portal as well as by ECOs.

**2. Amendment in formula prescribed in sub-rule (5) of rule 89 of CGST Rules, 2017 for calculation of refund of unutilized Input Tax Credit on account of inverted rated structure**

Change in formula for calculation of refund under rule 89(5) to take into account utilization of ITC on account of inputs and input services for payment of output tax on inverted rated supplies in the same ratio in which ITC has been availed on inputs and input services during the said tax period. This would help those taxpayers who are availing ITC on input services also.

**3. Clarification on mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B**

**4. Amendment in sub-section (10) of section 49 of CGST Act to provide for transfer of balance in electronic cash ledger of a registered person to electronic cash ledger of CGST and IGST of a distinct person.**

**5. Exemption from filing annual return in FORM GSTR-9/9A for FY 2021-22 to be provided to taxpayers having AATO upto Rs. 2 crores.**

**6. To be amended to provide that there is no requirement of reversal of input tax credit for exempted supply of Duty Credit Scrips by the exporters.**

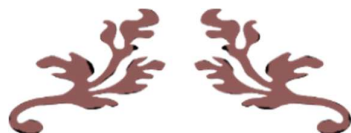
**7. Time period from 01.03.2020 to 28.02.2022 to be excluded from calculation of the limitation period for filing refund claim by an applicant under section 54 and 55 of CGST Act, as well as for issuance of demand/ order (by proper officer) in respect of erroneous refunds under section 73 of CGST Act. Further, limitation under section 73 for FY 2017-18 for issuance of order in respect of other demands linked with due date of annual return, to be extended till 30th September, 2023.**

**8. Changes in GST rates on supply of goods and services [effective from 18th July, 2022]**

Works contract supplied to central and state governments, local authorities for historical monuments, canals, dams, pipelines, plants for water supply, educational institutions, hospitals etc. & sub-contractor thereof has changed from 12% to 18%.

Room rent (excluding ICU) exceeding Rs 5000 per day per patient charged by a hospital shall be taxed to the extent of amount charged for the room at 5% without ITC.

Hotel accommodation priced upto Rs. 1000/day shall be taxed at 12%



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