

NEWSLETTER

AJAY RATTAN & CO.

CHARTERED ACCOUNTANTS

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IN THIS ISSUE

TITLE	
EDITORIAL	1
COMPLIANCE	2-4
GST	5-8
INCOME TAX	9-10
INTERNATIONAL TAX.	11-12
COMAPNY LAW	13

“INCOME TAX RETURNS ARE THE MOST IMAGINATIVE FICTION BEING WRITTEN TODAY.”

- HERMAN WOUK

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Friends,

We are pleased to bring to you our latest edition of Newsletter highlighting the salient features of amendments/ notifications announced in the month of August, 2020.

Direct Tax updates:

1. As informed by Hon'ble Prime Minister, only 1.5 crore Indians pay Income Tax out of total population of 130 crores. Hence he requested more people should come forward to pay their taxes properly.

EDITOR'S COMMENTS:

It is true that more and more people should file income-tax returns as the basic exemption limit is only Rs. 2.50 lakhs p.a., above which every individual is required to file tax return. But considering that number of government employees in India is more than 3 crores (including defence personnel), the number given by PM of 1.50 crores tax filers seems erroneous. No government employee is drawing salary below the basic threshold limit and they are not exempt from filing ITR.

2. **Faceless Assessments:**

The government has introduced faceless assessments and soon appeals before Commissioner of Income tax will also be faceless (*Details inside the issue*).

EDITOR'S COMMENTS:

It is a welcome step. The faceless assessments will bring quality in assessments and reduce corruption and harassment of the assesseees and professionals. The department will also be relieved of un-necessary high pitched additions as the faceless assessments will be issue-based and made after through checking and investigation.

Indirect Tax updates:

CBIC Press Release of 26th August, 2020 stated that interest payable on late payment of GST will be on net liability (after adjusting Input Tax Credits in Tax Ledger) w.e.f, 1st July, 2017 in spite of Notification 63/2020.

EDITOR'S COMMENTS:

It is a big relief to business community. Even for delay in depositing small amounts, the interest liability was ascertained on gross tax charged without giving credit to input taxes paid which was unjust and uncalled for.

Hope you will find the reading insightful and informative.

Sincerely yours,

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COMPLIANCE | SEPTEMBER 2020

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7 th September	August 2020	<ul style="list-style-type: none"> TDS/ TCS Deposit Equalization Levy deposit 	<ul style="list-style-type: none"> Non-Government deductors All deductors
10 th September	August 2020	<ul style="list-style-type: none"> GSTR- 7 (TDS return under GST) GSTR- 8 (TCS return under GST) 	<ul style="list-style-type: none"> Person requires to deduct TDS under GST Person requires to deduct TCS under GST
11 th September	August 2020	<ul style="list-style-type: none"> GSTR- 1 (Outward Supply Return) 	<ul style="list-style-type: none"> Taxable persons having turnover > Rs. 1.5 Crore
12 th September	May 2020	<ul style="list-style-type: none"> GSTR- 3B (Summary Return) 	<ul style="list-style-type: none"> All taxable persons (except composition dealers) having annual turnover upto Rs. 5 Crore and having principal place of business in Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerela, Tamil Nadu, Telangana, Andhra Pradesh, the union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep.
13 th September	August 2020	<ul style="list-style-type: none"> GSTR- 6 (Return by Input Service Distributor) 	<ul style="list-style-type: none"> Person registered as ISD
15 th September	August 2020 May 2020 FY 2020-21	<ul style="list-style-type: none"> Deposit of PF & ESI contribution GSTR- 3B (Summary Return) 2nd Installment of Advance Tax for AY 2021-22 	<ul style="list-style-type: none"> All deductors All taxable person (except composition dealer) having annual turnover upto Rs. 5 Cr and having principal place of business in any other state. Taxpayers liable to pay advance tax
20 th September	August 2020	<ul style="list-style-type: none"> GSTR- 5 (return by non-resident) GSTR- 5A (OIDAR return) 	<ul style="list-style-type: none"> Non-resident taxable person OIDAR service provider

23 rd September	June 2020	<ul style="list-style-type: none"> GSTR- 3B (Summary return) 	<ul style="list-style-type: none"> All taxable persons (except composition dealer) having annual turnover > Rs. 5 Crore in FY 2019-20 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, Kerela, Tamil Nadu, Telangana, Andhra Pradesh, the union territories of Daman and Dui and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep.
25 th September	June 2020	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.
27 th September	July 2020	GSTR- 3B (Summary Rreturn)	All taxable persons (except composition dealer) having annual turnover upto Rs. 5 Crore and having principal place of business in Chhattisgarh, Madhya Pradesh, Gujrat, Maharashtra, Karnataka, Goa, Kerela, Tamil Nadu, Telangana, Andhra Pradesh, the union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshdweep.
29 th September	July 2020	GSTR- 3B (Summary Rreturn)	All taxable persons (except composition dealer) having annual turnover upto Rs. 5 croreand having principal place of business in any other state.
30 th September	FY 2019-20	<ul style="list-style-type: none"> Statutory audit of Companies for FY 2019-20 Director KYC submission for Director Identification No. (DIN) holders as on 31st march 2020 	<ul style="list-style-type: none"> All Companies Every person who has a DIN allotted and the status of the DIN is 'Approved'.

	FY 2018-19	<ul style="list-style-type: none"> • Filing of Form FC-3 (Annual accounts and list of places of business in India) with ROC • Filing of Annual Activity Certificate (AAC) and Audited financials with AD bank and Director General of Income Tax (International Taxation) • Revised Annual Return on Foreign Assets & Liabilities (FLA) on the basis of Audited Financial Statements of the companies. • Due date of holding Annual General Meeting (AGM) of all Indian Companies • Annual Return in Form GSTR- 9 and reconciliation statement in Form GSTR- 9C • Annual return in Form GSTR- 9A 	<ul style="list-style-type: none"> • Liaison/Branch/ Project office in India • Indian Companies having Foreign Direct Investment (FDI) • All Companies • All taxpayers having aggregate turnover exceeding Rs. 5 Crore • For Composition taxpayers (optional)
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➤ **CENTRAL BOARD OF DIRECT TAXES AND CUSTOMS (CBIC) ISSUES SCHEMA FOR E-INVOICING:**

CBIC has introduced the Schema for E-Invoicing which will be implemented from 1st October 2020 onwards, for business entities having a turnover of INR 500 Crore or more.

➤ **CBIC increases minimum threshold limit of annual turnover to INR 500 Crore (from 100 Crore) fo applicability of e-invoicing scheme along with grant of exemption to Special Economic Zone (SEZ) units:**

Earlier E-invoicing Scheme was applicable to taxpayers having annual turnover exceeding INR 100 crore. The said limit has been increased to INR 500 crore vide notification number 61/2020 dated 30th June 2020.

Also, SEZ units have been exempted from issuing e-invoices.

➤ **CBIC INTRODUCES FUNCTIONALITY TO FILE APPLICATION FOR REVOCATION OF CANCELLATION OF REGISTRATION FOR TAXPAYERS:**

In view of the Removal of Difficulty Order Number 01/2020 dated 25th June 2020, the restriction on filing application, in case it was rejected, has been removed. Aggrieved taxpayers can now file an application for revocation of cancellation of registration once again.

Further, those taxpayers who have filed appeal against rejection of the revocation application and the decision is still pending, may also file the revocation of cancellation.

➤ AADHAAR AUTHENTICATION:

As per notification no. 62/2020-CT dated 20.08.2020, every applicant for GST registration can opt for the Aadhaar authentication. The exceptions are persons exempted by the Central government under the CGST Act or those who must mandatorily undergo the Aadhaar authentication under section 25(6C) of the CGST Act. The revised rule will be effective for applications made on or after 21st August 2020.

The applicants who opt for it must submit an Aadhaar Card along with the application for registration under GST. After this, they need to e-verify the same on the GST portal. An OTP will be sent on the mobile number and email ID linked to the Aadhaar card. Only upon entering this OTP, the Aadhaar will get e-validated.

After this, whenever a taxpayer files his returns or uses any services on the GST portal, an OTP will be sent on the mobile number and email ID, which is linked to its Aadhaar number. Only after entering this OTP, a taxpayer can proceed to file the return.

If a person fails to do an Aadhaar authentication when opted or has not opted for it, the registration will be granted after a physical verification is done of the principal place of business. The officers can instead verify the documents on obtaining a permission from the officer not below the rank of Joint Commissioner and in writing.

In such cases, a notice in form GST REG-3 within 20 working days from the date of submitting the application. The date of submission of application is earlier of the below two:

- Date of Aadhaar authentication
- Date after counting 15 days from the submission of Part B of form GST REG-01, being the registration application.

The assessee must reply within 7 working days from the date of receipt of notice in form GST REG-4.

Earlier, the registration would be granted only on physical verification of principal place of business within 60 days from the date of application.

If Aadhaar number is not allotted to a particular individual applying for registration under GST, then an alternate means of identification is made available to him like physical verification of place of business as per the CGST Rules.

Mandatory Cases of Aadhaar Authentication

As per Section 25(6C) of the CGST Act, the Aadhaar authentication is mandatory for the following class of individuals as per Rule 8 of the CGST Act in order to become eligible for the GST registration:

1. Authorised signatory of all types
2. Managing/authorised partners of a partnership firm
3. Karta of a Hindu Undivided Family

Exceptions

The only exception is if an individual is not a citizen of India or he is a person other than the one mentioned below:

1. Individual
2. Authorised signatory of all types
3. Managing/authorised partners of a partnership firm
4. Karta of a Hindu Undivided Family

Cases of Deemed approval of GST registration application

The application is deemed to be approved by the officer, if he fails to take action within the timelines given against the following cases:

Case	Timeline
<ul style="list-style-type: none">• The person who has successfully completed Aadhaar authentication• The person is exempted from the Aadhaar authentication requirement	3 working days from date of submitting an application
<ul style="list-style-type: none">• The person who has opted but failed to complete Aadhaar authentication and notice is issued in form GST REG-3	Does not reply to the notice within 7 working days in form GST REG-4 from the date of receipt of notice
<ul style="list-style-type: none">• The person has not opted for Aadhaar authentication	20 working days from date of submitting an application
<ul style="list-style-type: none">• The person who has opted but failed to complete Aadhaar authentication, notice is issued in form GST REG-3 and the person has replied	7 working days from the date of receipt of the response, information or the required documents

➤ INTEREST ON DELAYED PAYMENT OF GST:

As per notification No. 63/2020 dated 25.08.2020, Government has clarified that interest will be charged on the Net payment of Cash Liability (the cash liability discharged in cash) and not Gross Liability. The said provision shall be applicable w.e.f. 1st September 2020.

➤ GSTR – 2B:

The GST Council, in its 39th meeting held on 14th 2020, had recommended to adopt and implement the incremental approach of linking the present system of filing of GSTR – 3B and GSTR – 1 and other significant changes like enhancements in GSTR – 2A and its linking

to GSTR – 3B. One such enhancement that the council recommended was introduction of an **auto-drafted input tax credit (ITC)** statement which could aid in assisting/ determining the input tax credit that is available for every tax-payer. GSTR – 2B is going to be such an auto drafted ITC statement which will be generated for every registered person on the basis of the information furnished by his suppliers in their respective GSTR – 1, 5 (non-resident taxable person) and 6 (input service distributor). It is a **static statement** and will be **made available for each month, on the 12th day of succeeding month**. It is expected that GSTR – 2B will help in reduction in time taken for preparing return, minimizing errors, assist reconciliation and simplify compliance relating to filing of returns. Key features in GSTR – 2B which would assist tax-payers in return filing are as under:

- i. It contains information on import of goods from the **ICEGATE system** including inward supplies of goods received from Special Economic Zones Units/ Developers. This is not available with the release of GSTR – 2B for the month of July and **will be made available shortly**.
- ii. A summary statement which shows all the ITC available and non-available under each section. The advisory given under each section clarifies the action to be taken by the tax-payers in their respective section of GSTR – 3B;
- iii. Document level details of all invoices, credit notes, debit notes etc. is also **provided both for viewing and download**; GSTR – 2B for the month of July 2020 has been made available on the common portal **on trial basis**. Since, this is the first time that the statement is being introduced, **tax-payers are advised to refer to GSTR – 2B for the month of July, 2020 only for feedback purposes**.

COMPARISON GSTR – 2A/V/S GSTR – 2B

Basis of comparison	GSTR-2A	GSTR-2B
Dynamic vs Static statement	Dynamic statement, since the same is updated on timely basis, whenever the supplier uploads the documents	Static statement, since the same is generated on 12th of next month and not impacted due to later changes by supplier
Periodicity	Monthly	Monthly
Source of information	GSTR-1, 5, 6,7, 8	GSTR-1, 5,6, ICEGATE system
ITC on import of goods	RCM on import of goods is not reflected in GSTR-2A	RCM on import of goods is reflected in GSTR-2B basis the data fetched from ICEGATE system



NOTIFICATION AND UPDATES:

➤ **Government introduces faceless assessment scheme:**

The Income-tax department has embarked on the journey of Faceless Tax Administration. The Faceless Assessment Scheme, 2019 has been announced by ministry of Finance. It is a right step towards Minimum Government, Maximum Governance and the foundation stone for a transparent tax system.

A National e-Assessment Centre (NeAC) and a network of Regional e-Assessment Centres will be set up to implement the Faceless Assessment Scheme of the Income Tax Department, launched nation-wide by our Hon'ble Prime Minister Shri Narendra Modi on 13th August, 2020. The regional assessment network would comprise assessment units, verification units, technical units and review units. The system allows for dynamic jurisdiction, team based working and functional specialization and does away with human interface altogether.

The NeAC/ReACs hierarchy will be tasked with management of faceless Assessment proceedings and will be broadly responsible for functions listed below. All these functions will be through electronic means for which the NeAC will be the gateway and will function as such for all the flow of information. The officers and the staff in the ReACs will perform the functions relating to the assessment and verification function under the Income-tax Act, but all communications from the department to the taxpayer/assessee/third-party for the purposes of the Act will be in the name of the NeAC. No communication of any nature such as above will be made by any of the ReACs. The functions of the NeAC, ReACs [Assessment Unit (AU), Verification Unit (VU), Review Unit (RU) and Technical Unit (TU)] will be delineated in detail separately by the NeAC in consultation with the Board. Broadly the functions are as under:

- Assessment proceedings u/s 143, 144, 148 read with 143(2)/142(1) by the AUs.
- Verification related to assesment by the VUs.
- Verification related to Centralized dissemination of information by the Directorate of Systems, by the VUs.
- Review of draft orders by the RUs.

- Technical support by the TUs.
 - Passing and dispatch of the final orders by the NeAC.
- **Power to specify format, mode, procedure and processes:**
- The Principal Chief Commissioner or the Principal Director General, in charge of the NEC shall with the approval of CBDT lay down the standards, procedures and processes for effective functioning of the various centers/units in an automated and mechanized environment.
- **No personal appearance in the centers or units:**
- The Scheme provides that a person shall not be required to appear either personally or through authorized representative in connection with any proceedings under this scheme before the income tax authority.
 - However, in a case where a modification is proposed in the draft assessment order and an opportunity is provided to the assessee, the assessee shall be entitled to seek personal hearing so as to make his oral submissions or present his case before the income tax authority in any unit under the scheme.
 - Such hearing shall be conducted exclusively through video conferencing, including use of any telecommunication application software which supports video telephony, in accordance with the procedure laid down by the board.
 - The income tax authority has the power to examine or record the statement of any assessee under the scheme. The income tax authority would do the same through video conferencing or video telephony. For the purpose of facilitating the scheme, the CBDT shall establish the suitable facilities for video conferencing or video telephony at such locations as may be necessary.





INTERNATIONAL TAXATION

CBDT prescribes additional conditions to be fulfilled by Pension Funds for the purpose of exemption of income arising from investment in specified infrastructure business in India u/s 10(23FE):

CBDT vide notification dated 17th August 2020 has introduced a new rule 2DB in Income-tax Rules, 1962, specifying certain other conditions which PF shall be required to satisfy for the purpose of exemption of income arising from investment in specified infrastructure business in India u/s 10(23FE) as below:

- It is regulated under the law of a foreign country including the laws made by any of its political constituents being a province, state or local body, by whatever name called, under which it is created or established, as the case may be
- It is responsible for administering or investing the assets for meeting the statutory obligations and defined contributions of one or more funds or plans established for providing retirement, social security, employment, disability, death benefits or any similar compensation to the participants or beneficiaries of such funds or plans, as the case may be
- The earnings and assets of the PF are used only for meeting statutory obligations and defined contributions for participants or beneficiaries of funds or plans referred to in 2nd point above and no portion of the earnings or assets of the pension fund inures any benefit to any other private person
- It does not undertake any commercial activity whether within or outside India
- It shall intimate the details in respect of each investment made by it in India during the quarter within 1 month from the end of the quarter in Form No.10BBB
- It shall file annual return of income on or before the due date specified u/s 139(1) and furnish along with such return a certificate in Form 10BBC by a Chartered Accountant
CBDT has also introduced Rule 2DC requiring application in Form 10BBA by the PF with the relevant authorities.

CBDT issues guidance on Mutual Agreement Procedure (MAP):

What is MAP?

It is an option available to taxpayers to resolve disputes arising due to double taxation. Double Taxation Avoidance Agreement (DTAA) between different countries empower ‘Competent Authorities’ (‘CAs’) in the respective jurisdictions to entertain application under MAP from taxpayers aggrieved by double taxation in different countries. MAP is a dispute resolution mechanism in addition to other alternatives such as Settlement Commission, Authority for Advance Rulings, Dispute Resolution Panel, Advance Pricing Arrangement.

CBDT published detailed guidance on 7th August 2020, vide F.No. 500/09/2016-APA-I, to provide the key information on several aspects relating to India’s MAP programme. The guidance comprises of 4 sections as below and has been issued to benefit tax-payers, tax authorities and Competent Authorities of India and the respective foreign jurisdictions.

- Introduction and Basic Information, including application, process, timeline for resolving and implementing MAP cases,
- Access and Denial of Access to MAP
- Technical Issues, including downward adjustment, resolution of recurring issues, interest and penalties, secondary adjustments, bilateral and multilateral advance pricing arrangements, suspension of collection of taxes during MAP pendency, adjustment of taxes paid in pursuance of demand raised by an order u/s 201 of the Income-tax Act
- Implementation of MAP outcomes, including timelines, information to Competent Authorities.





COMPANY LAW

➤ CLARIFICATION ON EXTENSION OF ANNUAL GENERAL MEETING (AGM) FOR THE FINANCIAL YEAR 2019-20:

MCA had clarified vide circular number 28/2020, dated 17th August 2020 that the companies which are unable to hold their AGM for the FY 2019-20, despite availing the relaxations of conducting the AGM through audio visual means, have to file their applications in prescribed form number GNL-1 for seeking extension of time with the concerned Registrar of Companies (ROC) on or before 29th September 2020.

➤ CLARIFICATION ON DISPATCH OF NOTICE BY LISTED COMPANIES FOR RIGHT ISSUE OPENING UPTO 31ST DECEMBER 2020:

Section 62(1)(a)(i) of the Companies Act, 2013 mandates a company proposing to increase its subscribed capital to offer such shares to existing shareholders by sending a letter of offer through a notice. Such notice is required to be dispatched through registered post or speed post or through electronic mode or courier or any other mode having proof of delivery.

In view of COVID-19, companies are facing difficulty in dispatch of notice through postal or courier services. Considering the situation, Ministry of Corporate Affairs (MCA) had clarified vide circular dated 31st July 2020 in case of listed companies, inability to dispatch the notice to shareholders through registered post or speed post or courier would not be viewed as violation of the Act. To provide further relaxation to listed companies, MCA vide circular dated 3rd August 2020 has further extended the time limit to right issues opening upto 31st December 2020.

In other words, in case of listed companies, inability to dispatch relevant notice to shareholders through registered post or speed post or courier would not be viewed as violation of section 62(2) for rights issues opening upto 31st December 2020.



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