

NEWSLETTER

AJAY RATTAN & CO.
CHARTERED ACCOUNTANTS

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IN THIS ISSUE:

TITLE

| | |
|------------|------|
| COMPLIANCE | 1-2 |
| GST | 3-4 |
| Custom | 5-6 |
| Income Tax | 7-17 |

"Play by the rules, but be ferious"

-Phil Knight

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COMPLIANCE | FEBRUARY 2021

| Compliance Due Date | Compliance Detail | Applicable To |
|---------------------------|---|---|
| 7 th February | Payment of TDS deducted in December 2020. | Non- Government deductor. |
| 10 th February | a) Equalization Levy Deposit b) GSTR – 7 (TDS return under GST) c) GSTR – 8 (TCS return under GST) | a) All Deductors. b) Person required to deduct TDS under GST c) Person required to collect TCS under GST |
| 11 th February | GSTR – 1 (Outward supply return) | Taxable person having turnover > Rs. 1.5 crore |
| 13 th February | GSTR – 6 | Input Service Distributor |
| 15 th February | a) Due date for filing ITR for FY 19-20 b) Deposit of PF & ESI contribution c) Issue of TDS/ TCS certificate (Non-Salary) for the month October to December 2020. | a) Corporate – assesses b) Non- corporate assesses who require for get their account audited c) Assessee who are require to furnish Transfer Pricing report in Form 3CEB d) All deductors e) All deductors |
| 20 th February | a) GSTR – 5 (Return by Non-residents) b) GSTR – 5A (online information database access and retrieval services return) c) GSTR 3B (Summary return) | a) Non-resident taxable person b) OIDAR service provider c) All taxable persons (except composition dealer) having annual turnover > Rs. 5 crore in FY 2019-20. |
| 22 nd February | GSTR 3B (Summary return) | All taxable persons (except composition dealer) having annual turnover upto Rs. 5 crore and 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 |
| 24 nd February | | All taxable person (except composition dealer) having annual turnover upto Rs. 5 crore and principal place of business in any other state |

| | | |
|---------------------------|--|--|
| 28 th February | a) Form MGT-7 (Annual Return) | a) All Companies are required to file Annual return with ROC within 60 days from conclusion of AGM. |
| | a) Annual Return in Form GSTR-9 b) Reconciliation Statement in Form GSTR – 9C | a) All taxpayers having aggregate turnover > Rs. 2 crore in FY 2019-20. b) All taxpayers having aggregate turnover > Rs. 5 crore in FY 2019-20. |
| | c) Annual Return in Form GSTR-9A d) Vivad se vishwas Scheme | c) For composition taxpayers (optional) d) Last date to opt- in under this scheme. |



Goods & Services Tax

Clarification for AOP/BOI

- Supply of goods or services by AOP/BOI to its members for a consideration has been specifically included in the definition of supply by inserting a new clause (aa) under sub section (1) of section 7 of CGST Act' 2017.

ITC to be allowed on the basis of GSTR-2A

- As per the proposed amendment in section 16 of the CGST Act' 2017, A taxpayer can claim Input Tax Credit (ITC) only on those invoices for which the supplier of the service has furnished the details in his GSTR-1.

GST Audit abolished

- GST audit has been abolished and a taxpayer is now required to furnish an annual return with an optional self-certified reconciliation statement reconciling with the figures with the audited financial statements. Furthermore, when required, the commissioner will be given the right to exempt taxpayers from the requirement of filing the annual return. The same will be effective from a date to be notified.

Payment of interest on net liability

- Section 50 of the CGST Act is being amended retrospectively w.e.f July 01 , 2017 to charge interest on net cash liability.

Goods & Services Tax

Other Amendments

- An explanation to sub-section (12) of section 75 of the CGST Act is being inserted to clarify that “self assessed tax” shall include the tax payable in respect of outward supplies, the details of which have been furnished u/s 37, but not included in the return furnished u/s 39.
- A proviso to sub-section (6) of section 107 of the CGST Act is being inserted to provide that no appeal shall be filed against an order made under sub-section (3) of section 129, unless a sum equal to 25% of penalty has been paid by the appellant.



Customs Duty

Introduction of Agriculture Infrastructure & Development Cess

(Applicable from 02.02.2021)

- A new cess has been introduced on the import of goods specified in First Schedule (such as apples, various types of coals, silver/ gold dore, cotton etc.). Simultaneously, Basic Customs Duty (BCD) has been reduced on some of these, so as to avoid any additional burden on the consumer. The rate of cess varies from 1.5 % to 100%.

Advance filing of Bill of Entry (BOE)

- Section 46(3) of Customer Act, 1962 is being amended – As per the amended provisions, the BOE has to be filed before the day of arrival of goods at Customs Station. Further, the CBIC, in few cases as it may deem fit, may notify time period for filing BOE.

Withdrawal of Exemptions

- Conditional Exemptions under the custom laws are proposed to be valid for a period of 2 years from the date of grant or variation (unless otherwise specified/ varied/ rescinded). Further all existing conditional exemptions would be valid upto March 31, 2023.

Customs Duty

Introduction of penalty for procuring invoices by fraudulent means

- Section 114 AC has been introduced under the Customs Act which prescribes penalty in cases where invoices have been obtained by fraud, collusion etc. to utilize ITC in relation thereto, and where such ITC has been utilized for discharging any duty or tax on export of goods.

Introduction of Common Electronic portal

- A Common Customs Electronic Portal similar to GST portal shall be introduced under the Customs law
- The portal shall facilitate various processes via online mode such as registration, filing of BOE, service of notices, orders, summons, payment of duty, etc.

Extension of time limit for issuing show cause notice (SCN)

- To ensure timely completion of inquiries/ investigations, law has been proposed to be amended to provide that SCN is be issued within 2 years from the date of initiation of such inquiry/ investigation. However, such time limit of 2 years can be further extended by 1 year by the Commissioner. Notably, provisions would apply to fresh proceedings only.

Salary Income



Amendment in Leave Travel Concession - (Applicable for AY 2021-22 only)

- A second proviso has been added to clause (5) of section 10 of the act stating that cash expenditure in lieu of Leave Travel Concession (LTC) may be exempted for AY 2021-22 subject to prescribed rules. Further corresponding amendment has been made in the explanation that no exemption shall be allowed under this clause in respect of such prescribed expenditure to any other individual of his/her family.

Taxability of Interest accrued on Contribution under section 10(11) & 10(12) **(Applicable from AY 2022-23 onwards)**

- A proviso to the relevant clause has been proposed to be added for taxing the interest accrued during the previous year in the account of the person who has made contribution exceeding 2,50,000/- in any previous year in the Provident fund to which PF Act, 1925 applies on or after April 01, 2021.

Profits and Gains of Business & Profession

Clarification w.r.t. allowance of employee contribution as expenditure

(Applicable from AY 2021-22 onwards)

- Explanation 2 to section 36 (va) of Income tax act' 1961 (“the Act”) has been added to clarify that contribution received by the employers from their employees towards PF or any other welfare fund shall be allowed only if such sum is credited by the employer to the employee’s account in the relevant fund on or before the due date prescribed under the Provident Fund or any other relevant Act. The explanation specifically highlights that the due date shall not be construed to be as the due date of filing of return and no deduction shall be allowed even if such contribution has been credited to employee’s account before the due date of filing return. Corresponding explanation has also been added to section 43B of the Act to exclude such employee contributions from the ambit of section 43B.

44ADA not available to a Limited Liability Partnership (LLP)

(Applicable from AY 2021-22 onwards)

- Amendment has been made to section 44ADA of the Act restricting a Limited Liability Partnership (LLP) from opting for presumptive taxation in case of specified professions. Thus, only an Individual, HUF or a Partnership Firm shall be eligible to opt for presumptive taxation under section 44ADA of the Act.

Profits and Gains of Business & Profession

Change in Tax Audit Threshold- (Applicable from AY 2021-22 onwards)

- If at least 95% of the business receipts and payments are made through electronic modes, the threshold limit for the tax audit is proposed to be increased from Rs. 5 crores to Rs. 10 crores.

Goodwill- A non-depreciable capital asset- (Applicable from AY 2021-22 onwards)

- It has been proposed to amend section 2(11) to specifically provide that “block of assets shall not include goodwill” be it acquired or self-generated. Section 55 is also proposed to be amended to provide that if the assessee has claimed depreciation on goodwill prior to the AY 2021-22, then the cost of purchase of such goodwill in his hands will be reduced by such amount of depreciation while computing capital gains.



Income Tax Returns

Reduction in time limit for filing belated or revised return by three months

(Applicable from AY 2021-22 onwards)

- Belated return or revised return [u/s 139(4) and 139(5)] could now be filed three months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Relaxation to Senior Citizens having only Pension and Interest Income

(Applicable from AY 2021-22 onwards)

- Resident Senior citizen who is of the age of 75 years or above shall not be required to file the return of income if he has only pension income and interest income from the same bank in which he is receiving his pension. However, the bank shall be required to deduct tax at the rates in force.

Reduction in time limit for processing of Income Tax Return

(Applicable from AY 2021-22 onwards)

- The time-limit for processing of Income-tax return and sending of intimation to the assessee has been proposed to be reduced from 12 months to 9 months from the end of the financial year in which the return is filed.

Assessments

Reduction in time limit for issuing Notice u/s 143(2) - (Applicable from AY 2021-22 onwards)

- The time-limit to serve a notice for scrutiny assessment is proposed to be reduced from 6 months to 3 months from the end of the financial year in which the return of income is furnished.

Reduction of maximum time limit for issuance of notice in cases of concealment of income- (Applicable from AY 2021-22 onwards)

- No notice shall be issued if 3 years have elapsed from the end of the relevant assessment year. However, if the income escaping assessment exceeds or is likely to exceed Rs. 50 lakhs, the notice can be issued within 10 years from the end of the relevant assessment year. Further, such notice can only be issued beyond 3 years if the Assessing Officer has in his possession, the evidence which reveals that the income has been escaped.

Reduction in time limit for completion of assessments-(Applicable from AY 2021-22 onwards)

- The time for completion of assessment shall be 9 months under Section 143 (scrutiny assessment) and Section 144 (Best Judgment Assessment) from the end of the assessment year in which the income was first assessable.

Withholding Tax (TDS/TCS)

Insertion of new section 194Q - (Applicable from 01.07.2021)

- New Section 194Q is proposed to be inserted for deduction of TDS by a person (whose turnover exceeds Rs. 10crores) who is paying any sum to any resident for purchase of any goods of the value exceeding Rs. 50lakhs in any previous year. The tax shall be deducted at the rate of 0.1%, which shall be increased to 5% if the seller does not provide his PAN. However, a transaction which is subject to TCS under sub-section (1H) of section 206C as well as TDS under this section, then only TDS under this section shall be carried out on such transaction.

TDS/TCS at twice the rate for non filers of ITR- (Applicable from 01.07.2021)

- The Finance Bill proposes to insert Section 206AB and Section 206CCA to provide for deduction and collection of TDS and TCS at the higher rates in case of non-filers of the income tax return. The rate of TDS/TCS shall be at

- (i) twice of the specified rate or,
- (ii) twice the tax rate in force or,
- (iii) 5%, whichever is higher.

These provisions shall not be applicable where the tax is required to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act.

Withholding Tax (TDS/TCS)

Non deduction of TDS on Dividend income of Business Trust **(Applicable from 01.04.2020 retrospectively)**

- TDS shall not be deducted on dividend income credited or paid to a Business trust by a special purpose vehicle (SPV) or payment of dividend to any other person as may be notified.

Rationalization of the provision concerning withholding on payment made to Foreign Institutional Investors (FIIs) – (Amendment will take effect from 01.04.2021)

- Earlier under section 196D, TDS rate was specified as 20% deductible on income taxable under section 115AD(1)(a) and no benefit was provided of lower tax rates defined in Double Taxation Avoidance Agreement w.e.f. April 01, 2021, the benefit of such lower tax rates defined in DTAA has been allowed for the purpose of deduction under section 196D.

Charitable Trust

Increase of threshold limit for approval u/s 10(23) (iiia) & (iiib) **(Applicable from AY 2022-23 onwards)**

- In order to provide benefit to small trust & institutions, the limit of exemption has been increased from 1 crore to 5 crores.

Rationalization of the provision of Charitable Trust & Institutions to eliminate possibility of double deduction while calculating application or accumulation- (Applicable from AY 2022-23 onwards)

- In order to rationalize the provisions of charitable trust, it has been proposed that-
 - Voluntary contributions made with a specific direction that it shall form of the corpus shall be invested or deposited in one or more of the forms or modes specified in Section 11(5) maintained specifically for such corpus.
 - Application out of corpus shall not be considered as application for charitable or religious purpose of third proviso of Section 11(23C) & Section 11(a) & Section 11(b). However, when it is invested or deposited back, into one or more of the forms or modes specified in section 11(5) maintained specifically for such corpus from the income of previous income, such amount shall be allowed as application in the previous year in which it is deposited back to corpus to the extent of such deposit or investment.

Charitable Trust

- Application from loans & borrowings shall not be considered as application for charitable or religious purposes for the purposes of third proviso of section 11(23C) & Section 11(a) & Section 11(b). However, when loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as application in the previous year in which it is repaid to the extent of such repayment.
- Clarify in both Section 10(23C) & Section 11 that for the computation of Income required to be applied or accumulated during the previous year, no set off or deduction or allowance of any excess application, of any of the year preceding the previous year, shall be allowed.

Other Amendments

Taxation of proceeds of high premium unit linked insurance policy (ULIP)

- The exemption under section 10(10D) is not available for the amount received under ULIP issued on or after February 01, 2021 if the amount of aggregate premium (for all ULIPs) payable for any of the previous year during the term of such policy exceeds 2,50,000/-.

Extension of date of incorporation for eligible startup for exemption

- A start-up is eligible for deduction under section 80-IAC if it satisfies certain conditions. One of the conditions provides that it should be incorporated between April 01, 2016 and March 31, 2021. The Finance Bill 2021 proposes to extend the outer date of incorporation to March 31, 2022.

Exemption of capital gain which arises from the transfer a residential property

- Section 54GB provides for exemption from the capital gain arising from the transfer of a residential property on or before March 31, 2021 if the assessee utilizes the net consideration for investment in the equity shares of an eligible start-up. The Finance Bill 2021 has proposed to extend the said outer date of transfer of residential property to March 31, 2022.

International Taxation

Benefit of Tax treaty on Dividend Income to FPIs –(Applicable from AY 2021-22 onwards)

- Dividend received by a foreign company on its investment in India shall be excluded for calculation of book profit in case the tax payable on such dividend income is less than MAT liability on account of concessional tax rate provided under DTAA.

Amendment w.r.t. Equalization levy– (Applicable from AY 2021-22 onwards)

- Consideration taxable as royalty or fee for technical service shall be excluded from the ambit of Equalization levy. However, Consideration received through online sale of goods or provision of services shall always be subject to Equalization Levy irrespective of the fact that whether the goods are owned by the e-commerce operator or the services are provided by e-commerce operator and further such Incomes shall be exempt from tax under section 10(50) of the Act.



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