

NEWSLETTER

AJAY RATTAN & CO.

CHARTERED ACCOUNTANTS

*Newsletter for
August, 2020
Volume 10, Issue 8*



IN THIS ISSUE

TITLE

EDITORIAL	1-3
COMPLIANCE	4-4
GST	5-5
INCOME TAX	6-8
FEMA & CO LAW	9-11

*"The value of an idea lies
in the using of it."*

-Thomas Edison

ADVISORY BOARD



CA. Ajay Aggarwal
B.com. (Hons.), FCA, FCS, LLB
DISA, Dip. (International taxation)
Email ID: ajay@ajayrattanco.com
Phone Number: 9810005583



CA. Varun Garg
B.com. (Hons.), FCA
Email ID : varun@ajayrattanco.com
Phone Number: 9023637000

EDITORIAL BOARD

CA. Yamini Khola
Manager (Direct Taxation)

Shimona Agrawal
B.Com

CA. Gaurav Bansal
Manager (Indirect Taxation)

Mahek Narang
B.Com

EDITORIAL:

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 July, 2020.

Direct Tax updates:

1. Income tax department asked officers to process returns filed up to the assessment year (AY) 2017-18 with refund claims by October 31, 2020. In an order, the Central Board of Direct Taxes (CBDT) extended the time given to the tax officers to process such returns, which were not picked up for scrutiny, from earlier date of December 31, 2019.

Editor's comments:

Though this is a welcome step, but no where it is explained why it could not be done up to December 31, 2019. The refunds will now be issued with interest which is additional and an unnecessary burden on the exchequer. The returns for AY 2017-18 were filed till 30th September, 2017 and despite more than two and a half years, the tax payers are not given their due refunds. But no reason is stated for such delay and it is simply extended to October 31, 2020 which is surprising.

As in various statutes, interest is being charged on a progressive basis, why is the income-tax department paying only 6% p.a. for its own defaults? It is time to change the interest rates which should go up to 24% p.a. as is being charged under GST laws and other laws which would act as a deterrent to non-processing of refunds within time.

2. The CBDT has granted one-time relaxation to the taxpayers for verification of tax-returns for the Assessment Years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 which are pending due to non-filing of ITR-V form and processing of such returns {vide circular no. 3/2020 dated 13th July, 2020}.
3. The CBDT has said that the new Form 26AS is the faceless hand-holding of the taxpayers to e-file their income tax returns quickly and correctly. Information received by the Income-tax Department from Significant Financial Transactions (SFTs) will be shown under Part E of Form 26AS. It will facilitate voluntary compliance, tax accountability and ease of e-filing

of ITR. This would also bring in further transparency and accountability in the tax administration.

Editor's comments:

This is a welcome step. At times, assessee is handed a notice for transactions which he is not even aware of or unable to confirm from respective filer due to the time-gap between transaction date and notice date. Now, the assessee will get real-time information and can get wrong reporting corrected in advance and avoid unnecessary harassment later on.

4. Central Board of Direct Taxes (CBDT) has signed MOU with various agencies like Securities and Exchange Board of India (SEBI), Central Board of Indirect Taxes and Customs (CBIC), Ministry of Micro, Small & Medium Enterprises (MSME) etc. to have a seamless linkage for data exchange.

Editor's comments:

This is a welcome step. It will help exchequer to unearth blatant evasion of taxes due to mis-reporting of information to various agencies. It is time that all agencies pool-in information and detect evasion efficiently.

International tax updates:

1. The Hon'ble Supreme Court has held that a project Office won't be constituted as Permanent Establishment (PE) if the company wasn't carrying out its core business through it.
[DIT v. Samsung Heavy Industries Co. Ltd. - [2020] 117 taxmann.com 870 (SC)]
2. Where payment was made to two foreign scientists for Independent scientific services covered under Article 14 being rendered by them, no tax was required to be deducted at source by assessee as they had no fixed Permanent Establishment (PE) in India nor had they stayed in India for 183 days or more.
[Poddar Pigments Ltd. v. ACIT - [2020] 117 taxmann.com 728 (Delhi - Trib.)]
3. Where assessee, engaged in business of e-publishing, outsourced its work to various companies located abroad, in view of fact that services rendered by non-resident such as copy editing, indexing and doing proof reading required only knowledge in language and it did not require to have necessary expertise in subject matter of text, it could be concluded that services rendered by non-residents were not technical in nature and, as a result, amount paid for said services was not taxable in India.
[DCIT v. Integra Software Services (P.) Ltd. - [2020] 113 taxmann.com 9 (Chennai - Trib.)]

Indirect Tax updates:

1. Place of supply in 'Bill to Ship to' cases shall be the location of person giving direction for shipment. For example, GOA dealer sends goods to GOA recipient on the directions of Non-GOA customer, it is **inter-state supply** liable to IGST.

[High Tech Refrigeration & Air Conditioning Industries, In re - [2020] 117 taxmann.com 819 (AAR - GOA)]

Editor's comments:

This advance ruling is very helpful to dealers as there existed a lot of confusion in case of "Bill to Ship to" model where goods are sent by supplier to recipient on the directions of the third party.

2. **Form ITC-02 can be filed in case of transfer of business from one state to another as going concern, and it is exempt from GST** - The applicant has transferred its business as a whole along with capital assets from the unit in the State of Andhra Pradesh as a going concern to unit in the State of Karnataka for a monetary consideration. The Authority for Advance Ruling ('AAR') observed that in the given case the activity of transfer is made for a consideration neither in the course of business nor in the furtherance of business. A going concern is a onetime affair made where the business is sold in entirety or as an independent part. As per Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017, services by way of going concern, as a whole or an independent part thereof, are NIL rated, not liable to GST. The transferor shall be allowed to transfer ITC which remains unutilised in its electronic credit ledger to transferee by filing Form ITC-02.

[Shilpa Medicare Limited - AAR No. 05/AP/GST/2020 dated 24-02-2020 AAR of Andhra Pradesh]

Hope you will find the reading insightful and informative.

Sincerely yours,

CA Ajay Aggarwal
B. Com. (Hons), FCA, FCS, LLB
DISA, Dip (Intl Tax)

COMPLIANCES-AUGUST 2020

Compliance Due Date	Reporting Period	Compliance Detail	Applicable for
3rd August	April-June 2020	GSTR-1 (Outward supply return)	Taxable persons having turnover < Rs. 1.5 crore
5th August	June 2020		Taxable persons having turnover > Rs. 1.5 crore
7th August	July 2020	TDC/TCS deposit	Non-government Deductors
		Equalization Levy deposit	All Deductors
11th August	July 2020	GSTR-1 (Outward supply return)	Taxable persons having turnover > Rs. 1.5 crore
14th August	F.Y 2019-20	Annual Return on Foreign Assets & Liabilities (FLA)	Indian companies having Foreign Direct Investment (FDI)
15th August	July 2020	Deposit of PF & ESI contribution	All Deductors
	January-March 2020	TDS/TCS certificate (non-salary)	
	FY 2019-20	Annual TDS certificate in Form 16 (salary)	
20th August	July 2020	GSTR-3B (Summary return)	All taxable persons (except composition dealer) having annual turnover > Rs. 5 crore in FY 2019-20
31st August	June 2020	GSTR-5 (Return by Non-resident)	Non-resident taxable person
		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
		GSTR-7 (TDS return under GST)	Person required to deduct TDS under GST
		GSTR-8 (TCS return under GST)	Person required to deduct TCS under GST
	F.Y 2019-20	GSTR 4 (Annual Return for composition dealer)	Composition dealer



Notifications/Circulars issued in July'2020

- **SMS Facility:** Nil statement in Form GSTR-1 and GSTR-3B can now be filed via SMS for any tax period. These rules may be called as the CGST (Eighth Amendment) Rules,2020 and shall come into force from 1st July,2020.(N.N. 58/2020-CT dated 01.07.2020)
- **Extension of Due date for Form GSTR-4 :** Due date for Form GSTR-4 is extended to 31st day of August,2020. (N.N. 59/2020-CT dated 13.07.2020)
- **Schema for “E-Invoicing System”:** The Central Board of Indirect Taxes and Customs (CBIC) released a notification and introduced the “Schema for E-Invoice” for imposing the e-invoicing named as “**Form GST INV-01**”. It is for electronically-authenticated invoices, which will be implemented from October 1, 2020. **The schema of E-Invoice is specified in the following link:** <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-60-central-tax-english-2020.pdf>(N.N. 60/2020-CT dated 30.07.2020)
- **Applicability of “E-Invoicing System”:** The E-Invoicing is mandatory for the business entities whose aggregate turnover exceeds ₹ 500 cr.and it shall not applicable to SEZ units.(N.N. 61/2020-CT dated 30.07.2020).
For the further clarification, irrespective of turnover, e-invoicing shall not be applicable to the following categories of registered persons:
 - ✓ SEZ units
 - ✓ Banking Company or a financial institution, including a NBFC.
 - ✓ A Goods transport Agency
 - ✓ A registered person supplying passenger transport services
 - ✓ A registered person supplying services by way of admission to the exhibition of cinematograph films in multiplex screens.



Notifications and updates:

➤ **Processing of returns with refund claims u/s 143(1) beyond the prescribed time limit in non-scrutiny cases:**

Due to certain technical issues / other reasons not attributable to the taxpayer, several returns for various AYs up to AY 2017-18 could not be processed u/s 143(1) of the Act. Consequently, intimation u/s 143(1) could not be sent within 1 year from the end of relevant FY in which such returns were filed as required in law. This led to a situation where the taxpayer is unable to get legitimate refund in accordance with provisions of the Act, although the delay is not attributable to him.

CBDT has time to time relaxed the above time limit for processing of such validly filed returns with refund claims in non-scrutiny cases. As per latest order dated 5th August 2019, time frame was given till *31 December 2019* to process such returns with refund claims.

To address taxpayers' grievances related to issue of refund and to mitigate genuine hardship being faced by taxpayers, CBDT has directed that all validly filed returns up to AY 2017-18 with refund claims, which could not be processed u/s 143(1) and which have become time-barred, can be processed now with prior administrative approval of Principal Chief Commissioner of Income-tax (CCIT) /CCIT concerned and intimation of such processing u/s 143(1) can be sent to the assessee by *31st October 2020*.

The above relaxation shall not be applicable to the following returns:

- Returns selected in scrutiny
- Returns remaining unprocessed, where either demand is shown as payable in the return or is likely to arise after processing it
- Returns remaining unprocessed for any reason attributable to the taxpayer

➤ **CBDT notifies National Pension Scheme Tier II-Tax Saver Scheme, 2020 u/s 80C for Central Government employees:**

Last year, in order to enable CG employees to have more options of tax-saving investments under National Pension System, section 80C was amended by Finance Act (No.2), 2019 to provide that contribution by a CG employee to his Tier-II account of the 'pension scheme' shall be eligible for deduction u/s 80C from AY 2020-21 onwards.

For this purpose, the Ministry of Finance has issued the National Pension Scheme Tier II-Tax Saver Scheme, 2020, effective from 7th July 2020 onwards. As per the scheme, the minimum amount of contribution to activate the NPS Tier-II account is INR 1,000 and the minimum amount of subsequent contribution shall be INR 250 only.

Contribution made under the scheme shall have a lock-in period of 3 years from the date of credit of amount of the specified account during which the contribution shall not be permitted to be assigned, pledged or hypothecated.

➤ **CBDT further extends due date for filing of ITR for FY 2018-19 till 30th September 2020:**

In view of constraints due to the COVID-19 pandemic & to further ease compliances for taxpayers, CBDT has further extended the due date of filing ITR for the FY 2018-19 (AY 2019-20) from 31st July 2020 to 30th September 2020.

➤ **New Form 26AS is the faceless hand-holding of taxpayers: newly introduced 'Part E' to reflect information collected through Statement of Financial Transactions (SFTs):**

- The new Form 26AS is the faceless hand-holding of taxpayers to e-file their ITRs quickly and correctly. Henceforth, taxpayers will see an improved Form 26 AS carrying additional details on taxpayers' financial transactions as specified in the *Statement of Financial Transactions (SFT)* u/s 285BA of the Income-tax Act.
- The information being received by the Income-tax Department from the filers of the specified SFTs is now being shown in Part-E of Form 26AS to facilitate voluntary compliance, tax accountability and ease of e-filing of returns. This is likely to bring further transparency and accountability in the tax administration.

- The earlier Form 26AS used to give information regarding TDS and tax collected at source (TCS) relating to a PAN, besides certain additional information including details of other taxes paid, refunds and TDS defaults. Now, it will have SFTs to help the taxpayers recall all their major financial transactions so that they have a ready reckoner while filing ITR.
- The Tax Department used to receive information like cash deposit/withdrawal from saving bank accounts, sale/purchase of immovable property, time deposits, credit card payments, purchase of shares, debentures, foreign currency, mutual funds, buy back of shares, cash payment for goods and services, etc. u/s 285BA from 'specified persons' like banks, mutual funds, institutions issuing bonds and registrars or sub-registrars etc., with regard to individuals having high-value financial transactions since the Financial Year 2016 onwards (also called Annual Information Return). Now, all such information under different SFTs will be shown in the new Form 26AS.
- Form 26AS for any taxpayer henceforth will display different fields in Part-E as below. This is likely to help taxpayers with updated financial transactions while filing their returns.

Part E - Details of SFT Transaction								
Sr. No.	Type of Transaction ⁴	Name of SFT Filer	Transaction Date	Single / Joint Party Transaction	Number of Parties	Amount (Rs.)	Mode	Remarks ^{**}
Page 0 of 0								No Transactions Present

International Tax

FOREIGN EXCHANGE MANAGEMENT ACT (FEMA)

RESIDENTIAL STATUS

Resident in India	Resident outside India	Resident but not permanently resident in India
Sec 2(v)(i) of FEMA	Sec 2(w) of FEMA	Explanation to Schedule III of Current Account Rules
<p>Resident in India for more than 182 days during preceding financial year but does not include –</p> <p>A. Going/ staying out of India -</p> <p>i. For taking up employment</p> <p>ii. For carrying business or profession</p> <p>iii. For any other purpose in such circumstances as would indicate his intention to stay outside India for uncertain period</p> <p>B. Coming/ staying in of India otherwise than</p> <p>a. For taking up employment</p> <p>b. For carrying business or profession</p> <p>c. For any other purpose in such circumstances as would indicate his intention to stay in India for uncertain period</p>	<p>A person who is not resident in India.</p>	<p>❖ A person resident in India on account of his employment or deputation of a specified duration (irrespective of length thereof) or for a specific job or assignment, the duration of which does not exceed 3 years, is considered to be a person resident but not permanently resident in India.</p> <p>❖ Such person enjoys almost all benefits of a resident in India.</p>

NOTES:

- FEMA puts emphasis on "**intention**" of 'coming to India' or 'leaving India' rather than physical stay as in Income-tax Act.

OCI AND PIO

Overseas Citizen of India (OCI)	Person of Indian Origin (PIO)
Notification No 3(R) – Borrowing and Lending Regulations	Notification No 5(R) – Deposit Regulations
OCI Cardholder shall have same meaning assigned to it u/s 7(A) of the Citizens Act, 1955	
<p>(a) Any person of full age and capacity –</p> <ol style="list-style-type: none"> i. Who is a citizen of another country, but was a citizen of India, at the time of, or at any time after the commencement of the Constitution; or ii. Who is a citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; iii. Who is a citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or iv. Who is a child or a grandchild or a great grandchild of such a citizen; or <p>(b) A person who is a minor child of a person mentioned in clause (a); or</p> <p>(c) A person, who is a minor child, and whose both parents are citizens of India or any one of the parents is a citizen of India; or</p> <p>(d) spouse of foreign origin of a citizen of India or spouse of foreign origin of an OCI Cardholder registered under section 7A and whose marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application under this section:</p> <p>Provided that for the eligibility for registration as an OCI Cardholder, such spouse shall be subjected to prior security clearance by a competent authority in India:</p> <p>Provided further that no person, who or either of whose parents or grandparents or great grandparents is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as an OCI Cardholder under this sub-section.</p>	<p>PIO means a person resident outside India who is a citizen of any country other than Bangladesh or Pakistan or such other country as may be specified by Central Government, satisfying the following conditions:</p> <ol style="list-style-type: none"> a. Who was a citizen of India by virtue of the Constitution of India or the Citizens Act, 1955; or b. Who belonged to a territory that became part of India after the 15th day of August, 1947; or c. Who is a child or a grandchild or a great grandchild of a citizen of India or of a person referred to in clause (a) or (b); or d. Who is a spouse of foreign origin of a citizen of India or spouse of foreign origin of a person referred to in clause (a), (b) or (c). <p>Explanation:- For the purpose of this sub-regulation, the expression PIO includes the OCI cardholder within the meaning of section 7(A) of the Citizen Act, 1955.</p>

COMPANY LAW

- Ministry of Corporate Affairs, vide Notification dated 23rd June, 2020 has amended Schedule VII of the Companies Act, 2013. Scope of Corporate Social Responsibility (CSR) activities for companies expanded to include measures taken for the benefit of Central Armed Police Forces (CAPF), Central Para Military Forces (CPMF) veterans and their dependents (including widows) within CSR policy of Companies.
- MCA deployed e-Form PAS-6 on MCA portal. Every unlisted public company is required to hold and issue securities in DEMAT form as per Rule 9A of Companies (Prospectus and Allotment of Securities) Rules, 2014. Accordingly, all such companies are required to submit 'Reconciliation of Share Capital Audit Report' in the prescribed e-Form PAS-6 on half yearly basis with the Registrar of Companies (ROC).
The said form has been deployed on the MCA portal from 15th July 2020 onwards and is available for filing.



DISCLAIMER

While every care has been taken in the preparation of this Bulletin to ensure its accuracy at the time of publication, Ajay Rattan & Co. assumes no responsibility for any errors which despite all precautions, may be found therein. Neither this bulletin nor the information contained herein constitutes a contract or will form the basis of a contract. The material contained in this document does not constitute/ substitute professional advice that may be required before acting on any matter. All logos and trademarks appearing in the newsletter are property of their respective owners.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited.



BRANCH OFFICES:

MCBZ-4,01716, BHATTI ROAD,
BATHINDA 151001, PUNJAB
EMAIL: BATHINDA@AJAYRATTANCO.COM

#754, SECTOR 38, SUBHASH CHAWK
GURUGRAM, HARYANA- 122001
EMAIL: PIYUSHJINDA_CA@YAHOO.COM

SCO-10, SECOND FLOOR, INDUSTRIAL
AREA, PHASE 2, CHANDIGARH-160002
EMAIL: SAHIL.GARG@GSTCONNECT.IN

LG CS-36, ANSAL PLAZA MALL, KAMMA-1
VAISHALI, GHAZIABAD, UTTAR PRADESH
EMAIL: CA.PRAKHARSRIVASTAVA@GMAIL.COM