

NEWSLETTER

AJAY RATTAN & CO.

Chartered Accountants

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IN THIS ISSUE:

TITLES	1
COMPLIANCE	2
Direct Tax	3
Company Law	9
GST	10
DISCLAIMER	13

COMPLIANCE

DUE DATES | MAY 2023

Due Date	Details	Applicable To
7 th	a) TDS/TCS deposit b) Equalization Levy deposit	a) Non- Government deductors. b) All Deductors
10 th	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
11 th	GSTR – 1 (Outward supply return)	<ul style="list-style-type: none">• Taxpayers having annual turnover > Rs. 5 crore in FY 2022-23• Taxpayers having annual turnover ≤ Rs.5 crore in FY 2022-23 and not opted for QRMP Scheme
13 th	a) GSTR-6 [Return by input service distributor] b) Invoice Furnishing Facility – IFF (Details of outward supplies of goods or services)	a) Person registered as ISD b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2022-23 and opted for QRMP scheme.
15 th	a) Deposit of PF & ESI contribution b) Form 27EQ – TCS return	a) All Deductors b) All Collectors
20 th	a) GSTR-5 (Return by Non-resident) b) GSTR-5A (OIDAR) services return c) GSTR-3B (Summary return)	a) Non-resident taxable person (NRTP) b) OIDAR services provider c) <ul style="list-style-type: none">• Taxpayers having annual turnover > Rs. 5 crore in FY 2022-23• Taxpayers having annual turnover ≤ Rs. 5 crore in FY 2022-23 and not opted for QRMP scheme
25 th	Form GST PMT-06 (payment of tax for QRMP filers)	Taxpayers having annual turnover ≤ Rs. 5 crores in FY 2022-23 and opted for QRMP scheme (depending on the State).
30 th	a) Issue of TCS Certificate b) Form 11 (Annual Return) with Ministry of Corporate Affairs c) Submission of Form 49C	a) All Collectors b) Limited Liability Partnerships (LLPs) c) Non –Resident having a Liaison Office in India.
31 st	a) Statement of financial transaction (Form No.61A) b) TDS Return c) Annual statement of reportable accounts (Form no.61B)	a) Specified reporting persons as per section 285BA of the Income-tax Act,1961 b) All Deductors c) Financial Institutions

DIRECT TAX

Long Capital Gain - CBDT notifies '348' as Cost Inflation Index (CII) for FY 2023-24

CBDT vide Notification no. 21 dated 10 April 2023 has notified 348 as CII for FY 2023-24. 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 CII for base FY 2001-02 is 100.

Obligation of employer to withhold tax at source on salary payments – Employers fastened with the responsibility to obtain declaration from employee regarding choice of tax regime (i.e., old or new) preferred to be followed by the employee.

Background

- Vide Union Budget 2020, the Finance Minister had introduced an alternative scheme of taxation (new regime) for individuals and Hindu Undivided Families (HUFs), wherein taxable income would be computed without deductions / exemptions and would be subject to different slab rates of tax
- The taxpayers (individuals and HUFs) were given an option to be governed by the old regime or new regime of taxation, as per their choice. The intention behind introduction of the new regime of taxation was to gradually phase out exemptions / deductions under the Income-tax law, existence of which as per the Government of India only led to complications.

- Vide Finance Act 2023, the Finance Minister has made the new regime of taxation as the default regime for individuals / HUFs. In other words, for FY 2023-24 onwards, individuals / HUFs shall need to file a form with tax authorities in case they want to choose to be governed by the old regime of taxation. The form needs to be submitted before due date of submission of Income-tax return (ITR) for the relevant year
- As per the withholding tax laws of India, an employer is required to estimate in advance the total taxable income expected to be earned by each employee during the FY from all sources (including salary) and deduct the tax accordingly. For the purpose of such estimation, an employer is required to obtain a declaration in writing from each employee towards the beginning of each FY regarding the expected value of tax saving investments proposed to be made by the employee during the FY. Based on the disclosures made by the employee in the declaration, the employer is required to estimate the taxable income and proceed with the deduction of tax at source
- Reportedly, representations have been received by the Government as to how would an employer know in advance at the beginning of each year, which scheme of taxation would an employee choose to follow for the said year (since law gives time to the employee to decide this question till after the end of relevant year and before submission of ITR). To clarify this, CBDT has issued Circular no. 4 dated 5 April 2023 as below

Responsibility of employer to obtain declaration from employee regarding their intended tax regime.

- Going forward, employer shall seek information from each employee regarding the intended tax regime preferred to be followed by the employee. The employee shall intimate the same to the employer who shall proceed to compute the estimated taxable income for coming year accordingly and deduct tax at source
- If intimation is not made by the employee, it shall be presumed that the employee continues to be in the default (new) tax regime and has not exercised the option to opt for the old regime
- Such intimation would not bind the employee to follow the declared / disclosed tax regime at the time of submitting his / her ITR. The employee would be required to make disclosure independently to the tax authorities before submission of his / her ITR as required u/s 115BAC(6) of the Income-tax Act. His/ her choice of the preferred scheme of taxation can be different from that declared / disclosed to the employer earlier during the year

Central Board of Direct Taxes (CBDT) notifies procedure for application & grant of certificate for non-deduction of tax at source u/s 195(3) of the Income-tax Act

Background

Section 195(3) of the Income-tax Act provides for grant of certificate to a person entitled to receive interest or other taxable sum (payee) without deduction of tax at source. For this purpose, an application needs to be submitted by the payee to the tax authorities in the following forms:

- Form 15C, by a banking company or insurer
- Form 15D, by any other person who carries on business or profession in India through a branch

The objective is to reduce tax compliance burden on non-residents.

Notification no. 1 dated 29 March 2023 issued by CBDT

CBDT extends due date for linking of PAN & Aadhaar till 30 June 2023

As per the Income-tax Act, 1961, every person who has been allotted a PAN as on 1 July 2017 and is eligible to obtain Aadhaar Number, was required to intimate his Aadhaar to the tax authorities on or before 31 March 2023, on payment of a prescribed fee. Failure to do so was supposed to attract penal repercussions under the Act.

The above due date for intimation of Aadhaar to the authorities has been extended from 31 March 2023 to 30 June 2023. From 1 July 2023 onwards the PAN of taxpayers who have failed to intimate their Aadhaar shall become inoperative and the consequences during the period that PAN remains inoperative shall be as below:

- No refund shall be made against such PANs
- Interest shall not be payable on such refund
- Tax shall be deducted / collected at source at a higher rate as per the Income-tax Act

The PAN can be made operative again in 30 days, upon intimation of Aadhaar to the prescribed authority after payment of statutory fee of INR 1,000.

The following persons are exempt from the requirement of linking PAN with Aadhaar. They shall not be liable to the consequences mentioned above.

- Non-residents
- Non-citizens of India
- Individuals > 80 years of age
- Residents of the states of Assam, Meghalaya or Jammu & Kashmir

Amendments to Finance Bill, 2023

The Finance Bill, 2023 was presented by The Finance Minister on 1st February 2023. While moving the Bill for approval by the lower house of Parliament on 24th March 2023, The Finance Minister introduced approx. 60 amendments to the Bill which have since been accepted and received the assent of the President to form the Finance Act 2023, effective from 1st April 2023 onwards.

Key amendments to the Finance Bill, 2023

- Income-tax / withholding tax rate on Royalty and Fees for Technical Services (FTS) payable to non-resident has been increased from 10% to 20% for amounts payable on or after 1st April 2023. Of course, benefits under applicable double taxation avoidance agreement may be availed by non-residents subject to production of tax residency certificate, Form 10F and No- Permanent Establishment Certificate. With this, the provision u/s 206AA of Income-tax Act for withholding tax at a higher rate on payment to non-residents, has become redundant.
- Effective date for requirement to withhold tax on net winnings from online games moved from 1st July 2023 to 1st April 2023. Higher rate of withholding tax in case of non-filers of Income-tax returns not applicable in case of withholding on net winnings from online games
- The tax rates mentioned are exclusive of surcharge and cess
- Marginal relief in rebate for resident individuals covered under new concessional tax regime introduced for net taxable income over INR 7 lakh

- Increase in Securities Transaction Tax (STT) as below payable by seller on value of transaction
 - ✓ Sale of option in securities from 0.017% to 0.021%
 - ✓ Sale of futures in securities from 0.01% to 0.0125%
- Tax collected at source (TCS) leviable on any amount remitted under Reserve Bank of India's Liberalised Remittance Scheme (LRS), not restricted to remittances made 'out of India'. Higher rate of TCS leviable on non-filers of Income-tax returns and non-furnishing of PAN, capped at 20%
- Similar to market-linked debentures, gains from transfer, redemption or maturity of units of specified mutual funds to also be taxed as short-term capital gain
- New provision inserted under capital gains to exempt swap of interest in joint venture held by public sector company with shares of foreign company formed by foreign government
- Provision inserted to avoid double deduction of interest paid on loan borrowed for acquisition of real estate / house property, once while calculating income from house property and other while calculating capital gains on transfer of property
- Amendments related to Real Estate Investment Trusts (REITS) / Infrastructure Investment Trusts (InvIT) (business trusts)
 - ✓ Computation mechanism provided to arrive at the amount of certain distribution to be taxed as 'other income' in the hands of business trust unit holder
 - ✓ Cost of acquisition of units in business trusts for computing capital gains to be determined by reducing amount of certain distribution made to unit holders
 - ✓ No withholding is required on payment of interest on securities by special purpose vehicle to business trust
- Amendments to International Financial Services Center (IFSC)
 - ✓ Removal of condition proposed by Finance Bill 2023 for availing tax exemption by non-resident on distribution of income from Offshore Derivative Instruments issued by IFSC Banking Unit (IBU)
 - ✓ Dividend paid to non-residents by a unit in IFSC shall be taxable at the concessional rate of 10% as against the earlier rate of 20%
 - ✓ Interest paid on or after 1st July 2023 on monies borrowed from an overseas source by way of issue of long-term bond or rupee denominated bond which are listed on recognized stock exchanges located in IFSC, shall be taxable @ 9% as against the present rate of 4%
 - ✓ An enabling provision inserted to provide tax exemption to non-residents maintaining a bank account with an IBU in IFSC and receiving income in such bank accounts
 - ✓ Non-applicability of surcharge and cess on income from securities earned by Category III Alternative Investment Funds (AIFs) and investment banking division of an Offshore Banking Unit (OBU)

- ✓ Relocation of an off-shore Fund to IFSC - Expansion of the definition of 'Original Fund' to cover investment vehicle of Abu Dhabi Investment Authority, Government of Abu Dhabi and other funds (to be notified by Central Government)
- ✓ Ship Leasing - Enabling provision inserted to avail tonnage tax scheme by the units set up in IFSC
- ✓ Aircraft Leasing
 - Exemption to a non-resident or a unit in IFSC on income from sale of equity shares of a domestic company located in IFSC
 - Exemption to a unit in IFSC on receipt of dividends from another unit located in IFSC

COMPANY LAW

Closure of company under strike-off mode – Ministry of Corporate Affairs (MCA) transfers responsibility from Registrar of Companies (ROC) to Centre for Processing Accelerated Corporate Exit (C – PACE); introduces change in existing Form STK-2 (application for strike-off) to be submitted with C-PACE with effect from 1st May 2023 onwards.

Background

Companies Act, 2013 read with Insolvency & Bankruptcy Code, 2016 (IBC), provides modes for closure of companies such as:

- Strike off u/s 248 of Companies Act, 2013
- Voluntary Winding up under IBC

Closure of company via Strike off mode is the most common and easiest process in cases where company has:

- Not done any business in the preceding 2 FYs; and
- Nil assets and Nil liabilities at the time of submission of application for company closure

Prior to 1st April 2023, application for strike off of a company was required to be submitted with the RoC in e-Form STK-2. To expedite the process of approval of strike off applications and in line with Finance Minister's proposal in Union Budget 2023, the Government last month introduced a new authority C - PACE. The C – PACE is located at the Indian Institute of Corporate Affairs (IICA), Plot No. 6, 7, 8, Sector 5, IMT Manesar, Gurgaon, Haryana – 122050.

Change in existing forms and transfer of responsibility from ROC to C-PACE

With effect from 1st May 2023 onwards, the MCA has transferred the responsibility for strike– off from ROC to C-PACE. Further, changes have been introduced in the following forms:

- Form STK-2
- Form STK-6, new format introduced by MCA for public notice by C-PACE
- Form STK-7, new format introduced by MCA for order to be passed by C-PACE

GST













ADVISORY ON THE PORTAL

Time limit of 7 days imposed for reporting of old invoices on the e-Invoice Registration Portals (IRPs) for taxpayers with Aggregate Annual Turnover \geq INR 100 Crore

GSTN has proposed to impose a time limit for reporting of old invoices on the e-invoice IRP as below. to your systems, we propose to implement it from 01.05.2023 onwards.

Particulars	Advisory/Comments
Current Scenario	There is no time limit to report the old invoice on e-Invoice IRPs. Taxpayers are generally allowed to report
Going forward	Taxpayers will not be allowed to report invoices older than 7 days
Applicability	Taxpayers having 'Aggregate Annual Turnover' (AATO) \geq INR 100 Crore
What is AATO?	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
Whether restriction is applicable on all categories of documents?	All documents (such as Invoice, Debit Note, Credit Note) for which Invoice Reference Number (IRN) is required to be generated
Date of enforcement	1 st May 2023 onwards
Illustration/Example	If an invoice is issued on 1 st April 2023, it cannot be reported after 8 th April 2023. The validation system built into the IRP will disallow the taxpayer from reporting the invoice after the 7-day window. Hence it is essential for taxpayers to ensure that they report the invoice within the new time limit of 7 days

Functionality for Bank Account Validation Launched on GST Portal

Particulars	Advisory/Comment															
Objectives	To ensure correctness of bank account details provided by taxpayer.															
How to check?	<ul style="list-style-type: none"> The validation status can be checked under the Bank Account Status tab through My Profile section. <p>Dashboard > My Profile</p> <table border="1"> <thead> <tr> <th>Quick Links</th> </tr> </thead> <tbody> <tr> <td>History of Amendment</td> </tr> <tr> <td>Change Password</td> </tr> <tr> <td>Manage API Access</td> </tr> <tr> <td>Register / Update DSC</td> </tr> <tr> <td>Aadhaar Authentication Status</td> </tr> <tr> <td>My Registration Certificate</td> </tr> <tr> <td>Core Business Activity Status</td> </tr> <tr> <td>Bank Account Status</td> </tr> </tbody> </table> <ul style="list-style-type: none"> Taxpayer will also receive the validation status on his registered email and mobile number. 	Quick Links	History of Amendment	Change Password	Manage API Access	Register / Update DSC	Aadhaar Authentication Status	My Registration Certificate	Core Business Activity Status	Bank Account Status						
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History of Amendment																
Change Password																
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Bank Account Status																
Post Validation	<p>Post validation, every bank account detail would have 1 status out of below mentioned 4 status types</p> <table border="1"> <thead> <tr> <th>Icon</th> <th>Description</th> <th>Remarks</th> </tr> </thead> <tbody> <tr> <td></td> <td>Success</td> <td>Bank account successfully validated & no errors found by GST portal.</td> </tr> <tr> <td></td> <td>Failure</td> <td> <ul style="list-style-type: none"> The entered PAN is invalid. PAN not available in the respective bank account PAN registered with GST viz-a-viz PAN given in bank are not same IFSC code is invalid. Taxpayers have been advised to ensure entering correct bank details and completion of KYC. </td> </tr> <tr> <td></td> <td>Success with Remark</td> <td>The bank is not integrated with National Payments Corporation of India (NPCI) for online bank account validation and taxpayer is advised to provide the alternate bank account details</td> </tr> <tr> <td></td> <td>Pending for Validation</td> <td>Taxpayer is advised to wait till further status.</td> </tr> </tbody> </table>	Icon	Description	Remarks		Success	Bank account successfully validated & no errors found by GST portal.		Failure	<ul style="list-style-type: none"> The entered PAN is invalid. PAN not available in the respective bank account PAN registered with GST viz-a-viz PAN given in bank are not same IFSC code is invalid. Taxpayers have been advised to ensure entering correct bank details and completion of KYC.		Success with Remark	The bank is not integrated with National Payments Corporation of India (NPCI) for online bank account validation and taxpayer is advised to provide the alternate bank account details		Pending for Validation	Taxpayer is advised to wait till further status.
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Can taxpayer add/delete the bank detail?	Yes															

New facility to verify document Reference Number (RFN) mentioned on offline communications issued by State GST authorities.

1. The GST portal (“System”) generates various documents, such as notices/ orders, etc which are communicated to the taxpayer. Most such documents have a system-generated unique identifier DIN (Document Identification Number)/ RFN (Reference Number). These documents, by virtue of being generated by the System, are already traceable in the portal, mostly on the taxpayer’s dashboard. Still, a facility for taxpayers to verify such documents through such auto generated RFN is under development and will be provided shortly.
2. In addition, in order to enable the taxpayers to ascertain that an offline communication (i.e. one which is not system-generated) was indeed sent by the State GST tax officer or not, a new facility for Reference Number (RFN) generation by State tax officer and verification by taxpayer has been provided. Under this feature, the State Tax office can generate a RFN for the physically generated correspondence sent to the taxpayer, which can be validated by the taxpayer (both pre-login and post-login). The facility to verify RFN of System-generated documents, once deployed, shall also be available in a seamless manner using the same link.
3. To verify a Reference Number mentioned on the offline communications sent by State GST officers that are being sent to you, navigate to Services > User Services > Verify RFN option and provide the RFN to be verified.
4. In case the RFN is of an offline communication generated by the State GST officer, the details with the valid RFN will be displayed. The limited details will be provided pre-login also for verification, while greater details will be provided when the taxpayer logs in and verifies RFN mentioned on an offline communication issued to him/ her.
5. This facility is for offline correspondence issued by State GST authorities. For documents issued by Central GST officers, CBIC DIN facility may be used.



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