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NEWSLETTER

AJAY RATTAN & CO. Chartered Accountants

Newsletter for November'22
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DUE DATES | NOVEMBER 2022

Due Date	Compliance Detail	Applicable To
7th	<ul style="list-style-type: none"> a) TDS/ TCS deposit b) Equalization Levy deposit c) Income-tax Return (where Transfer Pricing is not applicable) 	<ul style="list-style-type: none"> a) Non-Government Deductors b) All Deductors c) i) Corporates ii) Non corporates (whose accounts are required to be audited) iii) Partner of firm whose accounts are required to be audited.
10th	<ul style="list-style-type: none"> a) GSTR – 7 (TDS return under GST) b) GSTR – 8 (TCS return under GST) 	<ul style="list-style-type: none"> a) Person required to deduct TDS under GST b) Person required to collect TCS under GST
11th	GSTR – 1 (Outward supply return)	<ul style="list-style-type: none"> a) Taxable persons having annual turnover > Rs. 5 Crore in FY 2021-22 b) Taxable persons having annual turnover ≤ Rs. 5 Crore in FY 2021-22 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme.
13th	<ul style="list-style-type: none"> a) Invoice Furnishing Facility – IFF (Details of outward supplies of goods or Services). b) GSTR-6 [Return by Input Service Distributor (ISD)] 	<ul style="list-style-type: none"> a) Taxable persons having annual turnover ≤ Rs. 5 Crore in FY 2021-22 and opted for Quarterly Return Monthly Payment (QRMP) Scheme. b) Person registered as ISD
15th	<ul style="list-style-type: none"> a) Deposit of PF & ESI contribution b) Issue of TDS Certificate (other than salary and Payments to Indian tax residents) 	<ul style="list-style-type: none"> a) All Deductors b) All Deductors
20th	<ul style="list-style-type: none"> a) GSTR-5 (Return by Non-resident) b) GSTR-5A {(OIDAR) services return} c) GSTR-3B (Summary return) 	<ul style="list-style-type: none"> a) Non-resident taxable person b) OIDAR services' provider c) (i) Taxable person having annual turnover > Rs. 5 Crore in FY 2021-22 (ii) Taxable persons having annual turnover ≤ Rs. 5 Crore in FY 2021-22 and not opted for Quarterly return Monthly Payment (QRMP) Scheme.
25th	Form GST PMT-06 (Payment of tax for QRMP filers)	Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and opted for QRMP scheme.
29th	Filing of Annual Return in form MGT-7 & 7A with ROC	All Companies
30th	<ul style="list-style-type: none"> a) Income – Tax Return (where Transfer Pricing is applicable) b) TDS Return in Form 26Q 	<ul style="list-style-type: none"> a) All taxpayers subject to Transfer Pricing regulations as per Income-tax Act, 1961 b) TDS deducted on non-salary payments to tax residents in India

III. Tax exemption to educational institutions –Supreme Court’s decision in case of New Noble Educational Society denying tax exemption to institutions with multiple objects

The SC recently in a batch of appeals (lead by a taxpayer called New Noble Educational Society) has rejected the claim for grant of approval for tax exemption to following categories of taxpayers:

- Educational institutions not existing solely for the educational purposes, and
- Educational institutions not registered under applicable state laws

The SC ruled as below:

Question 1: Whether tax exemption u/s 10(23C)(vi) is available only if the educational institution exists solely for educational purposes?

Ruling: Yes. The educational institution will qualify for tax-exemption only if all objects of the institution relate to imparting of education and does not have objects unrelated to education.

Where objective of the institution is profit-oriented, such institution would not qualify for tax-exemption; though, generation of surplus in 1 or more years itself will not debar the institution from tax-exemption provided that such surplus is generated in the course of providing education or incidental activities.

However, the ruling of the SC is prospective (and not retrospective) to give taxpayers time and space to make suitable adjustments.

Question 2: While deciding to grant or reject approval for tax-exemption, whether the examination by Principal Commissioner must be restricted to objects of the institution or can it stretch further?

Ruling: The examination by Principal Commissioner need not be restricted to the objects of the institution. He / she is free to call for such other information (including audited accounts) as is necessary for recording satisfaction regarding genuineness of the institution’s intention to achieve the objects.

Question 3: Whether the institutions are mandatorily required to register and comply with the applicable state regulations?

Ruling: Yes. Such compliance will help the Principal Commissioner to check genuineness of the institution.



COMPANY LAW

I. Clarification for filling up absolute figures in AOC-4

The Ministry of Corporate Affairs has clarified that:

“Amendment to Schedule III to the Companies Act, 2013 vide MCA Notification GSR 207(E) dated 24th March 2021 mandates companies to round off the figures appearing in the Financial Statements depending upon their total income. However, if the companies provide absolute figures in e-forms i.e., AOC-4, the same shall not be treated as incorrect certification by the Professionals.”

RBI (Reserve Bank of India)

Uniform imposition of late submission fee (LSF) for delayed reporting under Foreign Exchange Management Act (FEMA)

(circular 16 dated 30th September 2022)

RBI has imposed uniform late submission fee (LSF) for delayed reporting with respect to Foreign Direct Investment (FDI), External Commercial Borrowings (ECBs) and Overseas Direct Investments (ODI) undertaken by entities / individuals under the provisions of FEMA. The brief of LSF is as follows:

Form ODI Part II/ Annual Performance Report (APR)	To be filed annually by resident entities who have undertaken ODI and accordingly have an overseas Joint Venture/ wholly owned subsidiary (WOS) in existence	7500
Foreign Liabilities and Assets (FLA) return	To be filed annually by every Indian Company/ Limited Liability Partnership (LLP) which has received FDI in the previous year(s)	
Form OPI	To be filed on half-yearly basis by resident entities making Overseas Portfolio Investment (OPI) or transferring such investment during the reporting period	
Form FC-GPR	To be filed by every Indian Company issuing shares/ debentures to non-resident individual/ entity within 30 days from the issue of such shares/ debentures	[7500+(0.025% x A x n)]Notes: a) 'n' is the number of years of delay rounded-upwards to the nearest month and expressed up to 2 decimal points b) 'A' is the amount involved in the delayed reporting c) Maximum LSF amount will be limited to 100% of 'A' and will be rounded upwards to the nearest hundred



Goods & Services Tax

1. Implementation of mandatory mentioning of HSN codes in GST-1 (advisory issued on 22nd October, 2022)

Vide Notification No. 78/2020 – Central Tax dated 15th October, 2020, it is mandatory for the taxpayers to report minimum 4 digit or 6 digit of HSN Code in table-12 of GSTR-I on the basis of their Aggregate Annual Turnover (AATO) in the preceding Financial Year.

To facilitate the taxpayers, these changes are being implemented in a phase-wise manner on GST Portal.

From 1st November, 2022, Phase-2 would be implemented on GST Portal and the taxpayers would need to report HSN in table 12 of GSTR-1

Tax payers having AATO below 5 crores will be required to comply with following procedure:99999

- Taxpayers would be required to mandatorily report 4-digit HSN code.
- Manual user entry would be allowed for entering HSN or description and in case of a wrong HSN reported, a warning or alert message will be shown. However, taxpayers will still be able to file GSTR-1.

The taxpayers are advised to correct the HSN details where there is an error and a warning message is shown. However, it is not a mandatory validation for filing GSTR-1.

2. Opening up of Tran-1 & Tran-2 for two months

In accordance with the directions of Supreme Court, the facility to file TRAN-1 & TRAN-2 is now available on GST portal from 1st October, 2022 to 30th November, 2022.

Form TRAN-1 is a transition form to be filed by taxpayer registered in old taxation laws (erstwhile VAT, Sales tax & Service Tax) prior to GST to carry forward ITC from earlier regime to GST regime.

Form TRAN-2 is a transition form filed by a taxpayer who is registered under GST but was unregistered under old taxation laws (primarily under excise laws) prior to GST to claim ITC on the stock held as on 30th June 2017.

As this is one time opportunity given to taxpayers after long drawn litigation of five years due to problems with Government portal, all eligible tax-payers should avail it.

3. Implementation of sequential filing of GSTR-1 & GSTR-3B (advisory on sequential filing of GSTR-1 dated 21st October 2022)

Sequential filing of GSTR-1 & filing of GSTR-1 before GSTR-3B On GST portal

The Central Government has amended section 37 & section 39 of Central Goods & Services Tax Act, 2017 with effect from 1st October 22. According to section 37(4) of CGST Act, a taxpayer shall not be allowed to file GSTR-1, if previous GSTR-1 is not filed & as per section 39(10), a tax payer shall not be allowed to file GSTR-3B, if the GSTR-1 for the same period is not filed.

These changes are being implemented prospectively and will be operational on GST portal from 1st November 2022.

Accordingly, from October-22 tax period onwards, the filing of previous period GSTR-1 will be mandatory before filing current period GSTR-1.

For example - Filing of October-22 period GSTR-1 will be mandatory before filing GSTR-1 of November-22 period.

Further from October-22 tax period onwards filing of GSTR-1 will also be mandatory before filing, GSTR-3B.

For example, tax-payer will not be allowed to file GSTR-3B for October-22 period if the GSTR-1 of October-22 period is not filed.



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