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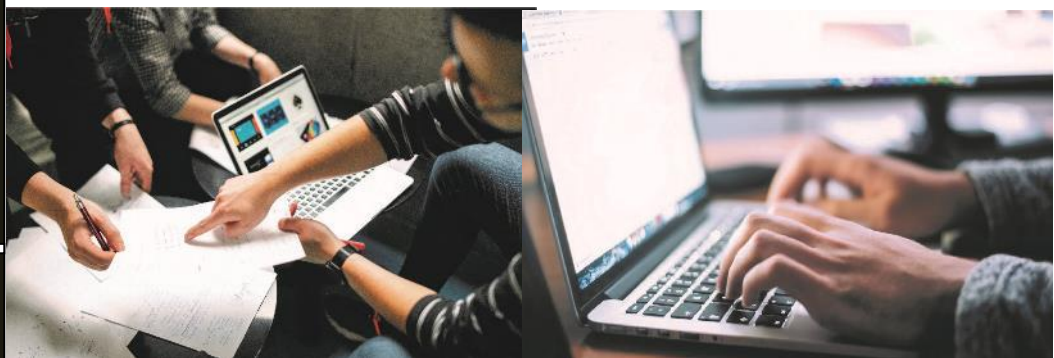
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NEWSLETTER

AJAY RATTAN & CO.

Chartered Accountants

Newsletter For January'22
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DUE DATES | JANUARY 2022

Due Date	Compliance Detail	Applicable To
7 th	TDS/ TCS deposit Equalization Levy deposit	Non- Government deductors. 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)	Taxable person having turnover > Rs. 5 crore
13 th	a) GSTR – 1 (Outward supply return) b) GSTR-6 [Return by input service distributor (ISD)]	a) Taxable person having turnover < Rs. 5 crore b) Person registered as ISD
15 th	a) Deposit of PF & ESI contribution b) Quarterly statement of TCS Deposited c) Filing of Tax Audit Report u/s 44AB of Income-tax Act	a) All Deductors b) All Collectors c) Applicable in case annual turnover during FY 2020-21 exceeds threshold limit as below: <ul style="list-style-type: none"> For businesses – (a) Rs. 1 crore (b) Rs. 10 crore in case cash receipts / cash payments do not exceed 5% of aggregate receipts/payments during the year For profession – Rs.50 lakh
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 b) OIDAR services provider c) All taxable persons (except composition dealer) having annual turnover > Rs. 5 crore in FY 2020-21
22 nd	GSTR 3B (Summary return)	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, 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 th		All taxable person (except composition dealer) having annual turnover upto Rs. 5 crore and having principal place of business in any other state.
30 th	TCS certificate in Form 27D.	All Collectors
31 st	Quarterly statement of TDS Deducted Transfer Pricing Report in Form 3CEB	All deductors Applicable in case of international transactions with associated enterprises/ specified domestic transactions

INCOME TAX



One-time relaxation for verification of all income tax-returns e-filed for the Assessment Year 2020-21 which are pending for verification and processing of such returns - reg.

In respect of all ITRs for Assessment Year 2020-21 which were uploaded electronically by the taxpayers within the time allowed under section 139 of the Act and which have remained incomplete due to non-submission of ITR-V *Form* pending e-Verification, the Board, in exercise of its powers under section 119(2)(a) of the Act, hereby permits verification of such returns either by sending a duly signed physical copy of ITR-V to CPC, Bengaluru through speed post or through EVC/OTP modes as listed in para 1 above. Such verification process must be completed by 28.02.2022.



Extension of timeline till 30th June 2022 for companies to conduct Annual General Meeting (AGM) & Extraordinary General Meeting (EGM) through video conferencing (VC) or other audio visual means (OAVM)

Due to the continued pandemic situation, MCA vide circular no(s) 19/2021 & 21/2021 dated 8th December 2021 and 14th December 2021 respectively has further allowed companies whose AGMs are due to be held in the year 2021 and 2022, to conduct their AGMs on or before *30th June 2022* through VC or OAVM.

MCA has further clarified that the above extension is limited to holding of AGM through VC or OAVM and in no way provides extension of time period for holding AGMs by companies under the Companies Act, 2013. Thus, companies which have not adhered to the relevant timelines of holding AGM for the FY 2020-21 shall remain subject to legal action under the Act.

Relaxation on levy of additional fees in filing of e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 Non-XBRL and MGT-7/MGT-7A for the financial year ended on 31.03.2021 under the Companies Act, 2013

Keeping in view various requests received from stockholders regarding relaxation of levy of additional fees for annual financial statement/ return filings required to be done for the financial year ended on 31.03.2021, it has been further decided that no additional fees shall be levied upto 15.02.2022 for the filing of e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 Non-XBRL and upto 28.02.2022 for filing of e-forms MGT-7/ MGT-7A in respect of the financial year ended on 31.03.2021 respectively. During the said period, only normal fees shall be payable for the filing of the above mentioned e-forms.



GST

Goods and Service Tax

Measures for streamlining compliance in GST

- CBIC has issued notification [**Refer Notification No- 37/2021-Central Tax dated 01.12.2021**] to make the following amendments:
 - I. Extension of tenure of National Anti-Profiteering Authority (NAPA) to 5 years (from 4 years) with effect from 30th November 2021 onwards.
[NAPA is the statutory authority under GST law to check and curb the unfair profiteering activities by the registered suppliers under GST law NAPA's core function is to ensure that the benefits of the reduction in GST rates on goods and services done by the GST Council and of the input tax credit are passed on to the recipients by way of proportionate reduction in the prices by the suppliers].
 - II. **FORM GST DRC-03**, —
 - Form GST DRC-03 shall be used to intimate the tax ascertained through Form GST DRC-01A
[Form GST DRC-01A is used to communicate details of tax, interest and penalty ascertained by GST officer on scrutiny assessment].
 - Form DRC-03 shall also be used to pay mismatches between-
 - Form GSTR-1 (outward supplies) and Form GSTR-38 (summary return), and
 - Form GSTR-2B (auto drafted input tax credit statement) and Form GSTR-3B.
- The CBIC has implemented Rule 10B of CGST Rules, 2017 [**Refer Notification No- 38/2021-Central Tax dated 21.12.2021**], as per the said rule, it is mandatory for a registered person to undergo Aadhaar authentication for the below purposes:
 - Filing of application for revocation of cancellation of registration in Form GST REG-21 under Rule 23 of CGST Rules 2017.
 - Filling of refund application in Form RFD-01 under Rule 89 of CGST Rules, 2017.
 - Refund of the IGST paid on goods exported out of India under Rule 96 of CGST Rules 2017.

A taxable person who has not yet authenticated his/her Aadhaar, may like to go through the authentication process before filing the above applications and enabling GST system to validate and transmit the IGST refund data from GST system to ICEGATE system.

If Aadhar number has not been assigned to the concerned person, he/ she may undergo e-KYC verification by furnishing the following:

- Feeding Aadhar Enrolment ID and uploading the acknowledgement; and

- Uploading any of the following documents:

- Bank passbook with photograph; or Voter identity card issued by the Election Commission of India or
- Passport or
- Driving Licence

Aadhar authentication or e- KYC verification before filing of refund may be completed by navigating to “Dashboard>My Profile>Aadhar Authentication Status” on the portal.

- **[Refer Notification No- 39/2021-Central Tax dated 21.12.2021]**

In exercise of the powers conferred by clause (b) of sub-section (2) of section 1 of the Finance Act, 2021, the Central Government hereby appoints the 1st day of January, 2022, as the date on which the provisions of sections 108, 109 and 113 to 122 of the said Act shall come into force. The implications of this amendment are as follows:

	Before and upto 31 st Dec, 2021	On and after 1 st January, 2022
Penalty where any person transport goods or stores any goods while they are in transit in contravention of the provisions of CGST Act or the rules made thereunder. (Sec 129 of CGST Act)	100% of tax payable {Sec129(1)(a)} – where owner of goods comes forward. 50% of tax payable [5% in case of exempted goods] {sec 129(1)(b)} – where owner of goods does not come forward.	200% of tax payable [2% in case of exempted goods], {Sec129(1)(a)}- where owner of goods comes forward. 50% of value of goods or 200% of the tax payable, whichever is higher [5% in case of exempted goods], {section 129(1)(b)} – where owner of goods does not come forward.
Zero rated supply (Sec 16 of IGST Act)	The assessee can claim refund with payment of tax and without payment of tax under LUT/ Bond without any restriction.	The assessee can claim refund of IGST without payment of integrated tax. Further non realisation of sale proceeds within time limit be liable to deposit the refund so received with interest. w.e.f., 1 st January 2022, only specified class of persons can make supply of goods with payment of tax <i>(no notification has been issued yet for specified class of persons).</i>
Agriculture Infrastructure and development cess		New cess levied at the rate not exceeding the rate of custom duty.

- **[Refer Notification No- 40/2021-Central Tax dated 21.12.2021]**

The notification has been issued to notify the CGST (Tenth Amendment) rules 2021. The key changes to come into effect are as follows: -

- **1. Rule 36(4)** has been substituted to provide that ITC shall not be available to the registered person unless such invoices/ debit notes have been reflected in **GSTR-2B** of the said person.
- **Due date for GSTR-9 as well as GSTR-9C for the F.Y 2020-21 has been extended from 31st Dec, 2021 to 28th Feb, 2022.**
- Rule 95 has been amended to provide that where Unique Identity Number of the applicant is not mentioned in a tax invoice, the refund of tax paid by the applicant on such invoice shall be available only if the copy of the invoice, duly attested by the authorized representative of the applicant, is submitted along with the refund application in FORM GST RFD-10.
- Rule 142 has been amended to align it with new provisions of Sec 129 providing for 7 days’

time for issuance of notice and further 7 days for issuance of order.

- A new rule 144A has been inserted providing for recovery of penalty by sale of goods or conveyance detained or seized in transit:
 - Where the penalty u/s 129 is not paid within 15 days of date of receipt of order of detention, Proper officer shall proceed for sale or disposal of goods or conveyance so detained.
 - The said goods or conveyance shall be sold through a process of auction, including e-auction, for which a notice shall be issued in FORM GST DRC-10.
 - Auction process shall be cancelled where the person transporting said goods or the owner of such goods pays the amount of penalty, including any expenses incurred in safe custody and handling of such goods or conveyance, after the time period of 15 days but before the issuance of notice for auction.
 - At least 15 days' notice to be given for auction.
 - Where an appeal has been filed by the person under the provisions of sub section [1] read with sub-section (6) of section 107, the proceedings for recovery of penalty by sale of goods or conveyance detained or seized in transit under this rule shall be deemed to be stayed.
 - Rule 154 has been substituted to provide for disposal of proceeds of sale of goods or conveyance and movable or immovable property.
 - Rule 159 has been amended to provide that a copy of order of attachment in FORM DRC-22 shall also be sent to the person whose property is being attached under section 83.
 - Other changes in Rule 159 have been made to incorporate the changes made in Sec 83 providing for attachment of property of a person other than the taxable person i.e., any person specified in sub section (LA) of section 122.
 - Any objection to the order of provisional attachment of property is to be fed in FORM OR22A whose format has also been notified now.
 - Changes have been made in FORM DRC-10, DRC-11, DAC 12, DRC-22, DRC 23 and APL 1 to incorporate above changes as well as the changes brought vide N. N. 30/2021-CT dated 21st December 2021.
-
- On account of implementation of new Harmonized System (HS) Nomenclature 2022 w.e.f., 01.01.2022, CBIC in order to give effect to such changes made certain amendments by way of the Notifications as under:
 - Amends Tax Rate Notification no- 01/2017 Central Tax Rates dated 28.06.2017 wherein changes have been made in tax rate schedules of 2.5%, 6%, 9% & 14% [**Refer Notification No- 18/2021 Central Tax Rates dated 28.12.2021] (w.e.f., 1st January 2022).**
 - Amends Exemption notification no-02/2017 Central Tax Rates dated 28.06.2017 wherein few entries of the notification stand amended [**Refer Notification No- 19/2021 Central Tax Rates dated 28.12.2021] (w.e.f., 1st January 2022).**
 - Amendments notification no-01/2017 Central Tax Rates dated 28.06.2017 which provides for concessional CGST rates on handicraft items [**Refer Notification No- 20/2021 Central Tax Rates dated 28.12.2021] (w.e.f., 1st January 2022).**
 - Inserted entry for “footwear of sale value not exceeding Rs. 1,000/- per pair” in 12% rate (earlier it was under 5% rate). [**Refer Notification No- 21/2021 Central Tax Rates dated 31.12.2021] (w.e.f., 1st January 2022)**
 - Composite supplies of works contract services to governmental authorities or governmental entities made taxable @ 18% [**Refer Notification No- 22/2021 Central Tax Rates dated 31.12.2021].**

- CBIC has issued circular to address various issues relating to the liability of E- Commerce operators to pay GST supply of restaurant services made through it with effect from 1st January 2022 onward.

[Refer Circular No- 167/23/2021 dated 17.12.2021]

S. No.	Issue	Clarification
1.	Would ECOs have to still collect TCS in compliance with section 52 of the CGST Act, 2017?	As 'restaurant service' has been notified under section 9(5) of the CGST Act, 2017, the ECO shall be liable to pay GST on restaurant services provided, with effect from the 1st January, 2022, through ECO. Accordingly, the ECOs will no longer be required to collect TCS and file GSTR 8 in respect of restaurant services on which it pays tax in terms of section 9(5). On other goods or services supplied through ECO, which are not notified u/s 9(5), ECOs will continue to pay TCS in terms of section 52 of CGST Act, 2017 in the same manner at present.
2.	Would ECOs have to mandatorily take a separate registration w.r.t. supply of restaurant service [notified under 9(5)] through them even though they are registered to pay GST on services on their own account?	As ECOs are already registered in accordance with rule 8 (in Form GST-REG 01) of the CGST Rules, 2017 (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service under section 9(5) of the CGST Act, 2017.
3.	Would the ECOs be liable to pay tax on supply of restaurant service made by unregistered business entities?	Yes. ECOs will be liable to pay GST on any restaurant service supplied through them including by an unregistered person.
4.	What would be the aggregate turnover of person supplying 'restaurant service' through ECOs?	It is clarified that the aggregate turnover of person supplying restaurant service through ECOs shall be computed as defined in section 2(6) of the CGST Act, 2017 and shall include the aggregate value of supplies made by the restaurant through ECOs. Accordingly, for threshold consideration or any other purpose in the Act, the person providing restaurant service through ECO shall account such services in his aggregate turnover.
5.	Can the supplies of restaurant service made through ECOs be recorded as inward supply of ECOs (liable to reverse charge) in GSTR 3B?	No. ECOs are not the recipient of restaurant service supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply (liable to reverse charge).
6.	Would ECOs be liable to reverse proportional input tax credit on his input goods and services for the reason that input tax credit is not admissible on 'restaurant service'?	ECOs provide their own services as an electronic platform and an intermediary for which it would acquire inputs/ input service on which ECOs avail input tax credit (ITC). The ECO charges commission/ fee etc. for the services it provides. The ITC is utilized by ECO for payment of GST on services provided by ECO on its own account (say, to a restaurant). The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service. ECO would be eligible to ITC as before. Accordingly, it is clarified that ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of section 9(5) of the Act. It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilized for payment of GST on restaurant service supplied through ECO)
7.	Can ECO utilize its Input Tax Credit to pay tax w.r.t. 'restaurant service'?	No. As stated above, the liability of payment of tax by ECO as per section 9(5) shall be discharged in cash.

	supplied through the ECO?	
8.	Would supply of goods or services other than 'restaurant service' through ECOs be taxed at 5% without ITC?	ECO is required to pay GST on services notified under section 9(5), besides the services/ other supplies made on his own account. On any supply that is not notified under section 9(5), that is supplied by a person through ECO, the liability to pay GST continues on such supplier and ECO shall continue to pay TCS on such supplies. Thus, present dispensation continues for ECO, on supplies other than restaurant services. On such supplies (other than restaurant services made through ECO) GST will continue to be billed, collected and deposited in the same manner as is being done at present. ECO will deposit TCS on such supplies.
9.	Would 'restaurant service' and goods or services other than restaurant service sold by a restaurant to a customer under the same order be billed differently? Who shall be liable for raising invoices in such cases?	Considering that liability to pay GST on supplies other than 'restaurant service' through the ECO, and other compliances under the Act, including issuance of invoice to customer, continues to lie with the respective suppliers (and ECOs being liable only to collect tax at source (TCS) on such supplies), it is advisable that ECO raises separate bill on restaurant service in such cases where ECO provides other supplies to a customer under the same order.
10.	Who will issue invoice in respect of restaurant service supplied through ECO - whether by the restaurant or by the ECO?	The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO.
11.	Clarification may be issued as regard reporting of restaurant services, value and tax liability etc. in the GST return.	A number of other services are already notified under section 9(5). In respect of such services, ECO operators are presently paying GST by furnishing details in GSTR 3B. The ECO may, on services notified under section 9 (5) of the CGST Act, 2017, including on restaurant service provided through ECO, may continue to pay GST by furnishing the details in GSTR 3B, reporting them as outward taxable supplies for the time being. Besides, ECO may also, for the time being, furnish the details of such supplies of restaurant services under section 9(5) in Table 7A (1) or Table 4A of GSTR-1, as the case maybe, for accounting purpose. Registered persons supplying restaurant services through ECOs under section 9(5) will report such supplies of restaurant services made through ECOs in Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B, for the time being.

- CBIC has issued circular to Mechanism for filing of refund claim by the taxpayers registered in erstwhile Union Territory of Daman & Diu for period prior to merger with U.T. of Dadra & Nagar Haveli. **[Refer Circular No- 168/24/2021 dated 30.12.2021]**
- The GST Council's 46th meeting was held on 31st December, 2021. It has recommended to defer the decision to change the rates in textiles recommended in the 45th GST Council meeting. Consequently, the existing rates in textile sector would continue beyond 1st January, 2022. **[Refer Press Release dated 31.12.2021]**



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