

NEWSLETTER

News Letter for December'21
Volume 11, Issue 12

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DUE DATES | DECEMBER 2021

Compliance Due Date	Compliance Detail	Applicable To
7 th December	a) Equalization Levy Deposit	a) All Deductors
	b) TCS/TDS Deposit	b) Non- Government deductors.
10 th December	a) GSTR – 7 (TDS return under GST)	a) Person required to deduct TDS under GST
	b) GSTR – 8 (TCS return under GST)	b) Person required to collect TCS under GST
11 th December	a) GSTR – 1 (Outward supply return)	a) All taxable persons having turnover >Rs 5 crore.
13 th December	a) GSTR – 6 [Return by input service distributor (ISD)]	a) Person registered as ISD
	b) Invoice Furnishing Facility-IFF (Details of outward supplies of goods or services)	b) Taxable Persons having turnover < Rs.5 crore.
15 th December	a) Deposit of PF & ESI contribution	a) All Deductors
	b) 3 rd Installment of Advance Tax	b) Taxpayers liable to pay advance tax
20 th December	a) GSTR – 5 (Return by Non-residents)	a) Non-resident taxable person
	b) GSTR – 5A [online information database access and retrieval (OIDAR) services return]	b) OIDAR services provider
	c) GSTR 3B (Summary return)	c) All taxable persons (except composition dealer) having annual turnover > Rs. 5 crore in FY 2020-21
25 th December	a) Form GST PMT -06 (Payment of tax for Quarterly filers)	a) All taxable persons (except composition dealer) having annual turnover < Rs. 5 crore in FY 2020-21
30 th December	a) Filing of Annual Accounts in Form 8 (ROC)	a) Limited Liability Partnerships (LLPs)
31 st December	a) Annual Return in Form GSTR-9	a) All taxpayers having aggregate turnover >Rs. 2 crore in FY 2020-21
	b) Annual Return in Form GSTR-9A	b) Composition taxpayers having aggregate turnover >Rs. 2 crore in FY 2020-21
	c) Reconciliation Statement in Form GSTR-9C	c) All taxpayer having aggregate turnover >Rs. 5 crore in FY 2020-21
	d) Income – tax Return for AY 2021-22	d) All assesses other than <ul style="list-style-type: none"> • Corporate – assessee • Non – corporate assessee (whose books of account are required to be audited) • Partner of a firm whose accounts are required to be audited • Assessee required to furnish transfer pricing report u/s 92E
	e) Form AOC – 4 (Annual Accounts)	e) All companies are required to file Annual accounts with ROC within 30 days from conclusion of AGM



CBDT issues more clarifications on deduction and collection of tax at source under sections 194-O, 194-Q, & 206C (1H)

Circular 20 of 2021, dated 25-11-2021

The Finance Act, 2020 and the Finance Act, 2021 have sections 194-O, 194-Q, and 206C (1H) to the Income tax Act mandating deduction and collection of tax at source on certain transactions. These sections also empower the CBDT to issue guidelines for removing any difficulties and provide clarity to taxpayers on any provision of sections.

The CBDT had already issued *Circular 17 of 2020, dated 29-09-2020*, and *Circular 13 of 2021, dated 30-06-2021*, providing such guidelines. In continuance of this, the CBDT has issued another set of guidelines for the taxpayers.

1. Applicability of TDS provisions under Section 194-O

1.1 E-auction services carried out through an electronic portal

In case of purchase of goods through the digital or electronic facility or platform, every e-commerce operator, facilitating the sale of goods or provision of services of an e-commerce participant through its digital or electronic facility or platform, is required to deduct tax at source under Section 194-O.

In an e-auction, the e-auctioneer is only responsible for the price discovery, and the transaction of purchase/sale is carried out directly by the purchase & seller. Further, the price so discovered can be negotiated between parties without the knowledge of the e-auctioneer. Thus, the CBDT has clarified that section 194-O shall not apply in relation to e-auction activities carried out by e-auctioneers if the prescribed conditions have been satisfied.

2. Applicability of TDS provisions under Section 194Q

2.1 TDS on the component of indirect taxes other than GST

Any buyer who is responsible for paying any sum to any resident seller for the purchase of any goods of the value or aggregate of such value exceeding Rs. Fifty lakhs in any previous year shall be liable for deduction of tax under Section 194Q.

The CBDT vide *Circular 13 of 2021, dated 30-06-2021*, has clarified that in case GST component has been indicated separately in the invoice, tax is to be deducted under section 194Q only on the amount credited in account of seller without including GST. However, Circular 13 of 2021 is silent on other non-GST levies such as VAT, excise duty, CST, etc.

Now, the CBDT has clarified that if the component of VAT, sales tax, excise duty, CST, etc., have been indicated separately in the invoice, then TDS under section 194Q is to be deducted without including such amounts.

2.2 TDS if exemption is provided under section 206C(1A)

Section 206C(1H) provides the collection of tax (TCS) by a seller from the amount received as consideration for the sale of goods if it exceeds Rs. 50 lakhs in any previous year. Said section also provides that no tax shall be collected in respect of goods which are covered by sub-section (1), (1F), or (1G).

Further, section 206C(1A) provides that the seller is not required to TCS from the resident buyer if such buyer has filed a declaration that goods are purchased for manufacturing, processing, or producing articles or things or for generation of power and not for trading purpose.

Considering the above, it has been represented that goods that are covered under sub-section (1) but exempted under sub-section (1A), no TCS would be collectible as section 206C(1H) categorically exclude the goods which are covered under sub-section (1). The stakeholders requested to clarify whether the provisions of section 194Q will be applicable in such a case?

The provisions of section 194Q don't apply to those transactions where tax is collectible under section 206C except sub-section (1H) thereof. Since by virtue of section 206(1A), tax is not required to be collected for goods covered under sub-section (1), the CBDT has clarified that the provisions of section 194Q will apply, and the buyer shall be liable to deduct tax if specified conditions are fulfilled.

2.3 TDS in case of department of Government other than PSU or Corporation

A government department that is not carrying out any business or commercial activity is not regarded as a 'buyer' for section 194Q. Thus, such organizations are not required to deduct TDS on goods purchased by them

The issue has been raised with regards to whether the dept. of Government will be considered 'Seller' for deduction of TDS under section 194Q.

The CBDT has clarified that the Central Government or State Government shall not be considered as 'seller'. No tax is to be deducted under section 194Q if the seller of goods is Central Government or State Government.

It is also clarified that no such exemption is provided to Public Sector Undertaking (PSU) or Corporation established under the Central or State Act or any other body, authority or entity. They are required to comply with the provisions of section 194Q.



Waiver of Late Fee in case of delay in filing Financial Statements & Annual Return of FY 2020-21 upto 31st December 2021.

General Circular No. 17/2021

MCA has provided relaxation on levy of additional fee for annual financial statement filings required to be done for the financial year ended on 31.03.2021, it has been decided that no additional fees shall be levied upto **31.12.2021** for the filing of e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 Non-XBRL and MGT-7/MGT-7 in respect of the financial year ended on 31.03.2021. During the said period, only normal fees shall be payable for the filing of aforementioned e-forms.

Extension of time limit till 30th December 2021 for filing cost Audit Report in Form CRA -4 with Registrar of Companies

General Circular No. 18/2021

As per Rule 6(5) of Companies (Cost Records & Audit) Rules, 2014, every Cost Auditor is required to submit the signed cost audit report to the company within 180 days from the close of each FY (i.e., on or before 30th September of each year).

Due to pandemic, MCA vide circular dated 27th September 2021 had extended the above time limit till 31st October 2021 for the FY 2020-21. The said time limit has again been extended from 31st October 2021 till *31st November 2021*.

Consequently, the time limit for filing cost audit report in Form CRA-4 for the FY 2020-21 (i.e., 30 days from the date of receipt of audit report by the company), has also been extended from 30th November 2021 till 30th December 2021.



GST UPDATES

Measures for streamlining compliance in GST

- CBIC has amended notification no.1/2017-Central Tax Rates dated 28 June 2017 (with effect from 1st January 2022 onwards) to revise GST rates on following goods **w.e.f., 1st January, 2022**[Refer Notification No- 14/2021-Central Tax (Rates) dated 18.11.2021]:

Heading	Goods	Existing Rates	Proposed Rates
5007, 5111 to 5113, 5208 to 5212, 5309 to 5311, 5407,5408, 5512 &5516	Woven Fabrics	5%	12%
5607	Jute twine, coir cordage or ropes		
5608	Knotted netting of twine, cordage, or rope, made up fishing nets and other made-up nets, of textile materials		
5801	All goods		
5806	Narrow woven fabrics, other than goods of heading 5807, narrow fabrics consisting of warp without weft assembled by means of an adhesive.		
5808	Saree fall		
5809,5810	Embroidery or zari articles, that is to say, imi, zari, kasab, saima, dabka, chumki, gotasitara, naqsi, kora, glass beads, badla, gizal		
60	Knitted or crocheted fatinics All goods		
61 or 6501 or 6505 or 62	Articles of apparel and clothing accessories, not knitted or crocheted, of sale value not exceeding INR 1000 per piece		
63 (other than 6305 32 00, 6305 3300,6309)	Other made-up textile articles, sets, of sale value not exceeding INR 1000 per piece		

6309 or 6310	Worn clothing and other worn articles; rags		
64	Footwear of sale value not exceeding INR 1000 per pair		
63 (other than 6309)	Other made-up textile articles, sets of sale value not exceeding INR 1000 per piece.		
5402, 5403, 5404, 5405, 5406, 5501, 5502, 5503, 5504, 5506, 5507	Synthetic or artificial filament	18%	12%
5505	Waste of manmade fibres		

- Changes in Rates of services related to Work Contracts & Job work for textile and textile products **w.e.f., 1st January, 2022**[Refer Notification No- 15/2021-Central Tax (Rates) dated **18.11.2021**].

Heading	Services	Existing Rates	Proposed Rates
9988	Services by way of job work by way of dyeing or printing of the textile and textile products	5%	12%
	Works contract services – as given in table below		

- The Government has amended earlier notification no. 12/2017-Central Tax Rates dated 28 June 2017 to cover E-commerce Operators providing passenger transport services. [Refer Notification No- 16/2021-Central Tax (Rates) dated **18.11.2021**]
- CBIC has amended notification no.17/2017-Central Tax Rates dated 28 June 2017 (with effect from 1st January 2022 onwards) to enlarge coverage of E-commerce Operators[Refer Notification No- 17/2021-Central Tax (Rates) dated **18.11.2021**]
- It has been clarified that applicability of dynamic QR code in cases where:
 - Invoice is issued to a recipient located outside India, for Supply of services of which the place of supply is in India.
 - The payment received by the supplier is not in foreign currency but through other modes approved by RBI.

In such case, invoice may be issued without a Dynamic QR Code.

Earlier, it was clarified that dynamic QR code is not required where invoice is issued to a recipient of services located outside India and payment is received in convertible foreign currency, but place of supply is in India[Refer circular no-165/21/2021, dated **17.11.2021**].

- **To clarify refund related issues as below:**
 - Provisions of Section 54 regarding time period, within which an application for refund can be filed, are not applicable in cases of refund of excess balance in electronic cash ledger. Thereby such application would never be time-barred.
 - Unjust enrichment clause is not applicable in cases of refund of excess balance in electronic cash ledger.
 - The amount deducted / collected as tax deducted at source (TDS)/ tax collected at source (TCS)

and credited to the electronic cash ledger of the registered person is equivalent to cash deposited in the electronic cash ledger.

- The registered person is at liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in Electronic Credit Ledger or through debit in Electronic Cash Ledger, as per his choice and availability of balance in the said ledgers.
- Any amount, which remains unutilized in Electronic Cash Ledger, after discharge of tax dues and other dues payable under CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in Electronic Cash Ledger in accordance with the proviso to section 54(1), read with section 490) of CGST Act.
- Section 54(2)(b) of the CGST Act is applicable for determining relevant date in respect of refund of tax amount of tax paid on the supply of goods regarded as deemed exports, irrespective of the fact whether the refund claim is filed by the supplier or by the recipient.
- Further CBIC clarified that, as the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, therefore, the relevant date for purpose of filing of refund claim for refund of tax paid on such supplies would be the date of filing of return, related to such supplies **[Refer circular no-166/22/2021, dated 17.11.2021]**.

Analysis of Notification No. 15/2021-CTR in case of Works Contract	Existing Rates				Proposed Rates (Effecting from 01 st January 2022)			
Nature of Service	Provided to	Rate of Tax	Provided to	Rate of Tax	Provided to	Rate of Tax	Provided to	Rate of Tax
1. Composite supply of works contract by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,—(a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);(b) canal, dam or other irrigation works;(c) pipeline, conduit or plant for (i) water supply, (ii) water treatment, or (iii) sewerage treatment or disposal (referred to as point no. (iii) in the notification)	Central Government, State Government, Union Territory or Local Authority	12%	Government Authority or Government Entity	12%	Central Government, State Government, Union Territory or Local Authority	12%	Government Authority or Government Entity	18%
2. Composite supply of works contract by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or (c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.] (referred to as point no. (vi) in the notification)	Central Government, State Government, Union Territory or Local Authority	12%	Government Authority or Government Entity	12%	Central Government, State Government, Union Territory or Local Authority	12%	Government Authority or Government Entity	18%
3. Composite supply of works contract involving predominantly earth work (that is, constituting more than 75 per cent of the value of the works contract) (referred to as point no. (vii) in the notification)	Central Government, State Government, Union Territory or Local Authority	5%	Government Authority or Government Entity	5%	Central Government, State Government, Union Territory or Local Authority	5%	Government Authority or Government Entity	18%
Sub Contract of the above Services	Main Contractor providing service to - Central Government, State Government, Union Territory or Local Authority	Same as above Rates	Main Contractor providing service to- Government Authority or Government Entity	Same as above Rates	Main Contractor providing service to - Central Government, State Government, Union Territory or Local Authority	Same as above Rates	Main Contractor providing service to- Government Authority or Government Entity	Same as above Rates

Government Authority

an authority or a board or any other body, —

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with 90 per cent or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution

Government Entity

an authority or a board or any other body including a society, trust, corporation,

(i) set up by an Act of Parliament or State Legislature; or

(ii) established by any Government,

with 90 per cent or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority



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