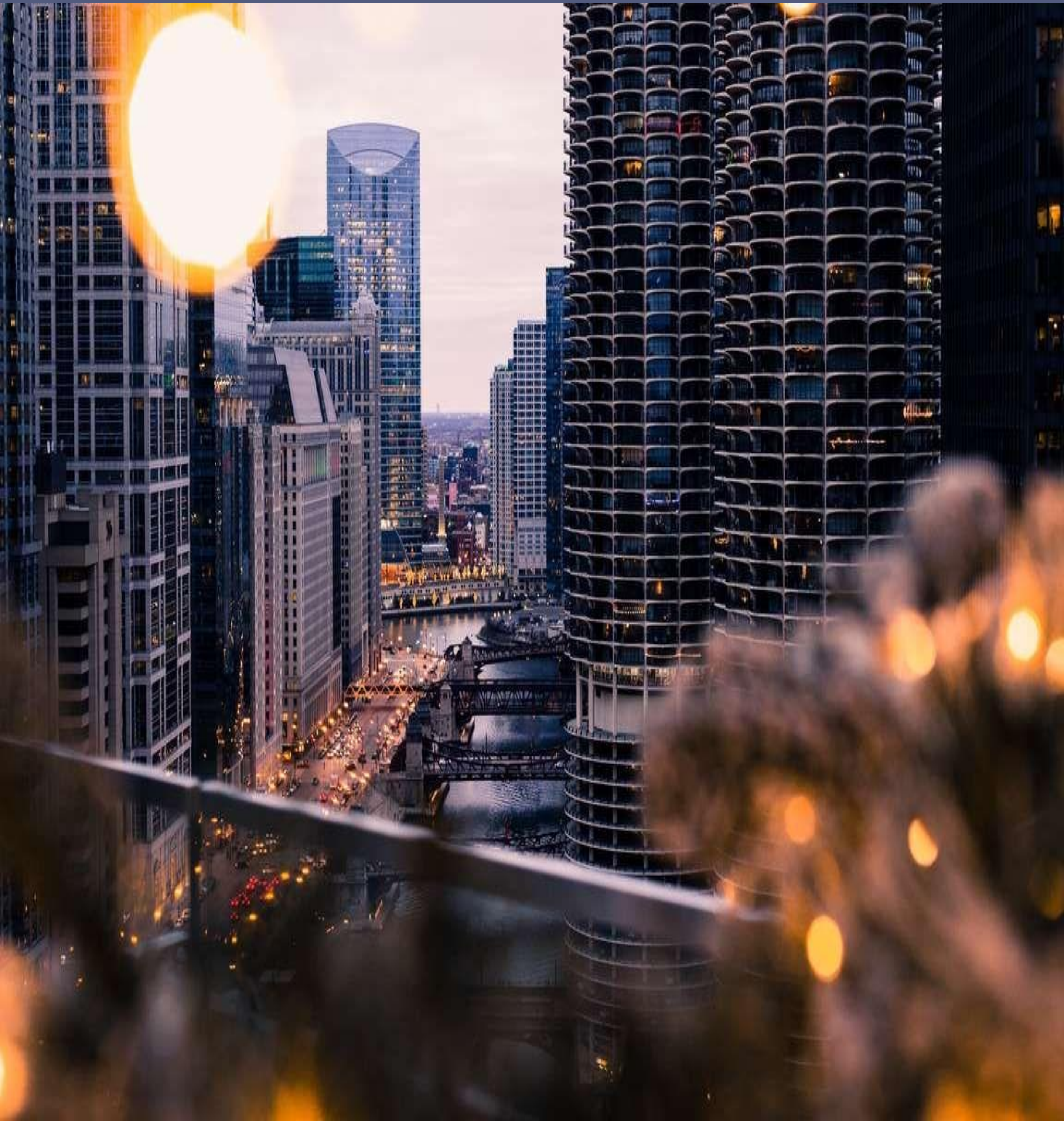
PKP NEWSLETTER

An Initiative by Pratapkaran Paul & Co

VOLUME 17
June 2021



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MANAGING PARTNER ADDRESS

Dear PKPians,

Its seems like ages since we had the last issue of the Newsletter. Anyway, as the saying goes, better late than never. We need to welcome the new staff who have joined our firm and on behalf of all , I extend a warm welcome to them. Covid has been continuing to play havoc in all our plans and we managed to complete the lockdown with work from home, before reopening fully.

When the going gets tough, the tough get going is quite apt , as we quickly adapted to lost time and immersed ourselves in catching up with the various deadlines. Keep going teams as we approach all the deadlines with renewed vigour.

Its been a mixed bag for the economy as certain indicators point to a recovery, while there are areas which are lagging.

One very important thing which emerges is that this year is going to be a big challenge in coping with the extraneous pressures of the pandemic and its impact. Goal posts have been moved and deadlines changed , because of this very reason.

We have started the knowledge dissemination sessions and do hope that this continues to be of benefit to the students. The exam schedules have continued to be changed due to Covid , throwing all the plans of well prepared candidates to the wind.

However as I have already mentioned, the conscientious student, who prepares on an ongoing basis and does diligent study , will never have to fear the exams.

Changes have been seen in all our lives, with more dependence on the Net , than ever before. The Income Tax announced a revamped website, with a lot of fanfare in the first week of June. We were all quite disappointed to realise that the operations were curtailed due to the constant glitches. However, we are quite hopeful that in course of time all the issues will be addressed and we will be able to derive the benefit of this.

Stay safe and take care.

Best wishes,
Pratapkaran Paul
Managing Partner

GROWING CONCEPT OF ESG

B SUNDARAJAN
Manager – Legal Advisory

ESG stands for Environment, Social and Governance. This concept is gaining momentum globally to recognize the performances of the Corporates.

ESG's three central factors are:

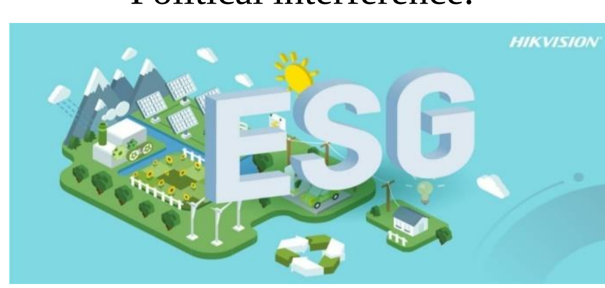
- **Environmental** criteria, which examines how a business performs as a steward of our natural environment focusing on:
  - Waste and pollution
  - Resource depletion
  - Greenhouse gas emission
  - Deforestation & climate change

- **Social** criteria, which looks at how the company treats people and concentrates on:
  - Employee relations & diversity
  - Working conditions including child labor and slavery
  - Local communities

seeks explicitly to fund projects or institutions that will serve poor and underserved communities globally

  - Health and safety
  - Conflict

- **Governance** criteria, which examines how a corporation polices itself, how the company is being governed and focuses on:
  - Tax strategy
  - Donations and political lobbying
  - Corruption and bribery
  - Board diversity & structure
  - Accurate Accounting Procedure, internal audit, software and hardware management.
  - Political interference.



- Investors are increasingly applying these non-financial factors as part of their analysis process to identify material risks and growth opportunities of a particular company. ESG metrics are not commonly part of mandatory financial reporting , though companies are increasingly making disclosures in their annual report or in a standalone sustainability report. Numerous international institutions, are working to form standards and define materiality to facilitate incorporation of these factors into the investment process.

- ESG standards are gradually becoming a significant part of the alternative investment world. ESG issues are not only important for measuring the sustainability of the non-financial impacts of investments but also have a material impact on the return profile and long-term risk of investment portfolios.
- A recent study found that investors who choose ESG-screened investments receive a 'double dividend' in the form of lower risk plus a better **rate of return.
- It has been found that businesses that adopt ESG standards tend to be more conscientious, less risky and consequently more likely to be successful in their long-term commercial plans.
- Traditional investors are becoming increasingly interested in the ESG framework, and many have begun using its criteria for assessing risk in the investment decision-making process.
- "ESG weeds out unsustainable companies with outdated practices and harmful side effects, while also minimizing risk for investors as they invest in more responsible companies with a greater likelihood of succeeding in the long run."

- **With this growing global urgency around climate, conversations about energy transition will become increasingly nuanced and the nature of transition conversations will shift from climate mitigation to climate resilience.**

PERFORMANCE OF ESG IN FINANCIAL MARKETS

- Assets managed under sustainable and responsible investment (SRI) theme have been on a steady rise recording USD 22.9 trillion in AUM by 2016.

- As of 2016, United States accounted for ~56% of AUM managed under ESG theme followed by Europe (27.8%) and Canada (10.1%).
- In NIFTY100 ESG index was launched in 2018 covering 3 main pillars:
  - **Environmental (E),**
  - **Social (S)**
  - **Governance (G).**

- Out of NIFTY 100 companies, 23 Indian companies had an ESG score of below 50 while only 2 Indian companies had an ESG score of above 80 as on February 2018. This highlights the fact that approx. 70% of Indian large cap companies lie in 3rd quartile (50 to 75) on the basis of ESG score. The average ESG score of NIFTY 100 companies is ~58.

- NSE has further expanded the Thematic indices under ESG. At present there are three ESG indices,
  - NIFTY100 ESG INDEX,
  - NIFTY100 ENHANCED ESG INDEX,
  - NIFTY100 ESG SECTORAL LEADERS.

- Avendus India ESG Fund is India's first ESG fund. It is a Category III Alternate Investment Fund (AIF) focused on providing investors the opportunities for long term risk adjusted returns by investing in companies that practice sound Environmental Social and Governance (ESG) policies.

- The fund is the oldest ESG-based fund in India that was established on 01 January 2013. The AUM of the fund is Rs.3518 crores as on 1st April 2021. Return since inception for the fund is 8.9% p.a

- Rating Agencies are the companies that provide independent and unbiased ESG assessment reports with available data.

- ESCI, CRISIL and other rating agencies are contemplating to rate ESG companies based on available parameters.

- To achieve a better score under ESG metrics, big corporates have started planning on decarbon, environment friendly products, pollution free atmosphere, Electric vehicles, better waste management viz waste segregation, waste recycling, waste logistics, proper effluent treatment etc.

- RBI on various publications have warned about the expected climate changes and the risks thereon and the mitigating procedures thereon.

Outlook

- The concept of ESG is focused in a big way recently. It has high potential in the days to come. We can expect a top down approach from big corporates to MSME sector at the earliest. Many sops like tax, interest concessions, soft loan, subsidy can be expected. ESG compliant companies will be the preferred one.

- Citizens would be educated the importance of ESG and observance at individual level in their walk of life. It can be expected to be a part of education in schools and colleges to protect the environment reputation in the market.

- After getting the standard for ESG risk assessment model, many companies would opt for ESG Rating. Big CA firms have already formed ESG divisions to service such clients. Many reputed institutions offer certificate programs in ESG matrix. It will be the future topic of survival for corporates.

Trust and its Registration under Income Tax Act

SAI SAGAR
Article Assistant

- 12A registration is a one-time registration which is granted by the Income Tax Department to trusts and other not for profit organisations Section 8 Companies, Trusts and NGOs which have obtained 12A registration enjoy exemption from paying income tax on their surplus income.
- This tax relief was introduced, keeping in consideration that non-profit entities work for social welfare and not for generating profit. Owing to their selfless contribution towards the society, they are exempted from taxes that come under the purview of Section 11 and Section 12

Benefits of 12A registration

- The fund used for charitable or religious purposes is considered to be the application of the income. The income application refers to the expenses used for charitable or religious purposes for calculating the taxable income of the not-for-profit organisation.

- The income received will be free from the charge of Income Tax.
- The person who is registered under Section 12A can avail benefits for accumulating or setting aside income. However, the income which is set aside should not be more than 15% of the amount applied towards charitable or other non-commercial purposes.
- The accumulation of income which is considered to be the income application shall not be included in the assesse’s total income.

Eligibility for 12A registration:

- In order to qualify for registration under Section 12A, the organisation should meet the definition of charitable purpose as defined in the Income Tax Act. Charitable purpose means relief to the poor, education, medical relief and activities undertaken with the objective of preserving the environment. The pursuit of any other objective of a public utility will also qualify for a charitable purpose.
- The primary qualifying criterion will be to check whether there is any profit motive involved in the activities carried on by the assessee. In the absence of a profit motive, registration shall be granted.
- If the assessee is carrying on activities related to trade or commerce, then the facility granted under this section is restricted. In such cases, registration is granted exclusively if the receipts from the trade activity are less than 20% of the total receipts of the assessee.
- Private and Family owned trusts and charities cannot qualify for exemption under this act.
- Form 10A is a form which should be filed by entities which wish to take a registration under Section 12A. The process for applying for Section 12A registration and the process of Form 10A filing has been made exclusively online

Documents Required for 12A registration:

- A document stating the establishment of the trust or organisation.
- A document that serves as proof of the creation or establishment of a trust or institution.
- Registration with the Registrar of Companies(RoC), Registrar of Public Trusts or Registrar of Firms and Societies.
- Documents that serve as proof of adoption or alteration of objects.
- Trusts or institutions' annual accounts.
- An existing order granting permission for registration under either Section 12A or Section 12AA.
- A list that highlights the activities of the trust or institution.

Major amendment registration procedure u/s 12A

- A new section, section 12AB replaces the existing section 12AA.
- The process of registration and approval of NGO would be made completely electronic.
- Under this new scheme, the registration would be granted for a period of five years.
- As a result, registration will have to be renewed every 5 years. Provisional registration would be granted for 3 years to the charitable institutions which are yet to start their activities.
- NGO's registered before 1st April, 2021 would be required to make an application again under new scheme of registration

What are the new forms introduced for trusts?

The person who wants to avail of benefit as per section 11 & 12 has to apply in the prescribed standard form, i.e. 10A or 10AB, to the Principal Commissioner to register the trust or institution.

When would Form 10A be used?

Form 10A would be used for –

Already registered/approved cases: Application for revalidation of registration/approval for existing trust registered/approved under Section 12A/12AA/10(23C)/80G.

New Cases: Application for provisional registration/approval under section 12AB/10(23C)/80G.

When would Form 10AB be used?

Conversion of provisional registration into regular registration.

Renewal of registration/approval after five years.

Activating inoperative registration due to approval under section 10(23C)/10(46).

Time limit for various Forms:

Trust availing exemption under section	Form Applicable	Due date
Registered under section 12A or 12AA before 1st April, 2021	Form 10A	30th June,2021
Having approval under section 10(23C), 35AC or 80G	Form 10A	30th June,2021
Trusts making application for provisional registration/approval	Form 10A	One month before the commencement of the previous year in which the charitable activity has to be started
Having provisional registration under section 12AB	Form 10AB	At least 6 months prior to expiry of period of the provisional registration or within 6 months of commencement of its activities, whichever is earlier
Section 12AB (Renewal of registration/approval after five years)	Form 10AB	At least 6 months before the expiry of the registration period.
Re-registration for modification of objects for entities registered under Section 12AB	Form 10AB	Within a period of 30 days from the date of the said adoption or modification

SECTION 194Q – TDS ON PURCHASE OF GOODS

ABIRAMI
Article Assistant

- As we are aware, Finance Act 2020 had amended the provision of Section 206C of the Income-tax Act 1961 ('the Act') by inserting new sub-section (1H) which came into effect from 1st October 2020.
- The Provision states that "Every person, being a seller (whose total sales, gross receipts or turnover from the business carried on by him exceeds Rs.10 Crores during the previous year) who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees, other than the goods being exported out of India or goods covered in sub-section (1) or (1F) or (1G) shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1 per cent of the sale consideration exceeding fifty lakh rupees as income-tax.
- "From the aforesaid provision we can understand that this section applies only to sellers whose turnover is more than 10 crores.
- But there will be circumstances where the seller receives sale consideration of value exceeding 50 lakhs but still not be liable to collect tax at source as turnover is below the threshold limit.
- Considering such cases, in order to extend the scope of taxability the government proposes to insert a new Section 194Q w.e.f. 1st July 2021 on the similar lines of section 206C (1H) in the Finance Bill, 2021.
- According to section 194Q (1), Any person, being a buyer who is responsible for paying any sum to any resident (referred to as the seller) for purchase of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, shall, at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode, whichever is earlier, deduct an amount equal to 0.1 percent of such sum exceeding fifty lakh rupees as income-tax.

WHO IS A BUYER ?

- For the purposes of sub-section (1) "buyer" means a person whose total sales, gross receipts or turnover from the business carried on by him exceeds ten crore rupees during the financial year immediately preceding the financial year in which the purchase of goods is carried out, not being a person, as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.
- The provisions of this section shall not apply to a transaction on which-
- (a) tax is deductible under any of the provisions of this Act; and
- (b) tax is collectible under the provisions of section 206C other than a transaction to which sub-section (1H) of section 206C applies.
- That is, if a transaction is subject to both TDS and TCS (other than sub section 1(H)) then the respective TCS provision will apply.

EFFECT OF 194Q ON SECTION 206AA

- Section 206AA states that the deductee (who receives any sum of money on which TDS is deductible under chapter XVIIB) should furnish his Permanent Account Number to the deductor (person responsible for deducting TDS), failing which tax shall be deducted at higher of the following rates:
  - (*i*) at the rate specified in the relevant provision of this Act; or
  - (*ii*) at the rate or rates in force; or
  - (*iii*) at the rate of twenty per cent.

AMENDMENT

- Subsequent to the introduction of 194Q, 206AA is amended by inserting the following proviso with effect from 1st July 2021.
- 'Provided further that where the tax is required to be deducted under section 194Q, the provisions of clause (iii) shall apply as if for the words "twenty per cent.", the words "five per cent." had been substituted.'

WHAT IF A TRANSACTION GETS COVERED UNDER BOTH 194Q AND 206C(1H)?

Let us understand this part by taking different scenarios:

Sales	Buyer's Turnover	Seller's Turnover	Section	Reason
Sales < 50 lakhs	T/O>10 Crore	T/O>10 Crores	NA	Sales not exceeding 50 Lakhs
Sales > 50 lakhs	T/O>10 Crore	T/O<10 Crores	194Q	Buyer's T/O exceeds the threshold limit of 10Crores
Sales < 50 lakhs	T/O<10 Crore	T/O>10 Crores	206C(1H)	Since Buyer's T/O is below 10 crores, 194Q doesn't apply. So, the seller continues to collect TCS
Sales < 50 lakhs	T/O>10 Crore	T/O>10 Crores	194Q	When both the sections are applicable 194Q is given preference.

If Buyer fails to deduct TDS in Scenario 4:

- TCS can be collected by seller
- 30% of purchase amount will be disallowed for non-deduction u/s 40(a)(ia)

POINTS TO PONDER

From which date the threshold limit of Rs. 50 Lakhs should be computed?

- A similar question arose when Section 206C(1H) was introduced. CBDT vide its circular NO. 17, dated 29-09-2020 has provided the clarification.
- According to the circular it is said that, since the threshold limit is with respect to the previous year, calculation of sale threshold can be computed from April itself.
- But where the sales consideration has exceeded Rs. 50 Lakhs on or before 30th September, the threshold can be computed from 1st October, 2020 and TCS need not be collected for Sales for period April-September.
- On similar lines we can conclude that threshold of Rs. 50 lakhs shall be computed from 01-04-2021. However, if a buyer has already purchased goods of value Rs. 50 lakhs or more up to 30-06-2021, TDS under this provision shall apply on all purchases on or after 01-07-2021.

Will TDS attract for Advances paid to Seller?

- The section mentions the word “Payment”, i.e, on payment of such amount TDS has to be deducted. The section didn’t differentiate such payment as advance or payment made at the time of purchase.
- Thus, it can be said that as long as the advance is for purchase of goods and it has an intention to be adjusted in future, TDS should be deducted on such Advance payments too.

Whether TDS needs to be deducted for Purchase of capital goods?

- According to section 194Q , TDS needs to be deducted if "goods" are purchased for a value exceeding 50 lakhs.
- Goods, under section 2(7) of Sale of Goods Act,1930 is defined as "Every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale."
- Thus, Capital goods which are immovable (like land, building etc.) will not be covered under section 194Q.

What if movable capital goods (say Jewellery) is purchased ? Will 194Q apply?

- Jewellery, being a movable property, is covered within the term goods. There is no specific exclusion under Section 194Q for deduction of TDS on purchase of jewellery. Thus, the tax shall be deductible on purchase of jewellery if other conditions are also fulfilled.

What if the same jewellery is purchased for other than business purpose?

- "Tax is required to be deducted by a buyer carrying on business whose total sales, gross receipts or turnover from the business exceeds Rs 10 crores during the financial year immediately preceding the financial year in which such goods are purchased".
- There is no condition that the purchases should be connected with the business only. Thus, if a person is falling within the definition of the buyer, tax is required to be deducted even if such purchase is not connected with the business carried on by him.

HIGHLIGHTS OF 43RD GST COUNCIL MEETING

SUBHANI MULLA
Article Assistant

- GST Exemption to some COVID-19 supplies till 31st August 2021.
- A Particular Medicines for Black Fungus also exempted.
- Amnesty Scheme with reduced late fee to be launched for GST Small Taxpayers.
- Rationalization of Late fee for Small Taxpayers to be applicable for future liabilities.
- Annual Return form to be rationalized, Government to amend CGST Rules.
- Annual Return (GSTR-9) filing is rationalised and continues to be optional for small taxpayers with turnover up to Rs.2 crore.
- Companies can continue filing GST returns using EVC instead of digital signature till 31st August 2021.
- Due dates for IFF and GSTR-1 filing for May 2021 are extended by 15 days. Also, the due date for GSTR-4 for FY 2020-21 and ITC-04 for Jan-Mar 2021 is extended up to 31st July 2021 and 30th June 2021, respectively.
- Also, GSTR-9C (Reconciliation statement) to be still applicable for taxpayers with an annual turnover of equal to or more than Rs.5 crore, allowing self-certification.
- The Council decided to keep the GST rate of 5% on COVID vaccines. Also, the Council ruled out the possibility of notifying COVID related relief materials as zero-rated goods.

Amnesty Scheme

- Late fee capped to a maximum of Rs 500/- (Rs. 250/- each for CGST & SGST) per return for taxpayers, who did not have any tax liability for the said tax periods.
- Late fee capped to a maximum of Rs 1000/- (Rs. 500/- each for CGST & SGST) per return for other taxpayers.

GST Rate Rationalisation

- The GST Council may also take up the matter of levying GST on natural gas.
- Council may discuss bringing down the GST rate on two-wheelers which is currently 28%. It is projected to boost revenues that were impacted by the pandemic. It leads Competitive among manufacturers for increasing the sales as rural demand is increased in these days.
- Residential piped natural gas (PNG) may be taxed at a lower rate of 5%, commercial piped natural gas may be taxed at the median rate of 8%, and car fuel CNG may be taxed at the maximum rate of 28%..

Few Exempt services

- Supply by way of serving of food, including mid-day meals under any midday meals scheme sponsored by the Government, to an educational institution including Anganwadi, is exempt from the GST irrespective of the fact that such supplies are made from the funds received as government grants or corporate donations.
- GST Council to clarify the services provided by way of examination including entrance examination, where fee is charged for such examinations, by National Board of Examination (NBE), or similar Central or State educational Boards, and input services relating thereto are exempt from GST.

COMPLIANCE CALENDAR

Particulars	Previous due date/Extended Due Date	Extended due date
Filing of SFT (Statement of Financial Transactions)	31-05-2021	30-06-21
Q4 TDS Return for the F.Y.2020-21	31-05-2021	30-06-21
Issue of Form 16 for the employees of F.Y. 2020-21	15-06-2021	15-07-2021
TDS/TCS Book adjustment in form 24G for the month of MAY 2021	15-06-2021	30-06-2021
Due dates for Filing of ITR of Individuals & non tax audit cases for the A.Y. 2021-22	31-07-2021	30-09-2021
Due dates for Filing of ITR of tax audit and non Transfer pricing cases for the A.Y. 2021-22	31-10-2021	30-11-2021
Due dates for Filing of ITR of Transfer pricing cases for the A.Y. 2021-22	30-11-2021	31-12-2021
Due dates for Filing of tax audit report for non Transfer pricing cases for the A.Y. 2021-22	30-09-2021	31-10-2021
Due dates for Filing of tax audit report and Transfer pricing report cases for the A.Y. 2021-22	31-10-2021	30-11-2021
Due dates for furnishing the Belated Return and Revised Return for A.Y.2020-21	31-12-2021	31-01-2022

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