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INCOME TAX



GUIDELINES UNDER SECTION 9B & 45(4) OF I.T ACT

The CBDT has issued Circular that it is noticed that the amount taxed under sub-section (4) of section 45 of the Act is required to be attributed to the remaining capital assets of the specified entity, so that when such capital assets get transferred in the future, the amount attributed to such capital assets gets reduced from the full value of the consideration and to that extent the specified entity does not pay tax again on the same amount. It is further noticed that this attribution is given in the Act only for the purposes of section 48 of the Act. It may be seen that section 48 of the Act only applies to capital assets which are not forming block of assets. For capital assets forming block of assets there is sub-clause (c) of clause (6) of section 43 of the Act to determine written down value of the block of asset and section 50 of the Act to determine the capital gains arising on transfer of such assets. However, the Act has not yet provided that amount taxed under sub-section (4) of section 45 of the Act can also be attributed to capital assets forming part of block of assets and which are covered by these two provisions.

GUIDELINES UNDER SECTION 9B & 45(4) OF I.T ACT

To remove difficulty, it is clarified that rule 8AB of the Income Tax Rules, 1962 notified vide notification no. 76 dated 02.07.2021 also applies to capital assets forming part of block of assets. Wherever the terms capital asset is appearing in the rule 8AB of the Rules, it refers to capital asset whose capital gains is computed under section 48 of the Act as well as capital asset forming part of block of assets. Further, wherever reference is made for the purposes of section 48 of the Act, such reference may be deemed to include reference for the purposes of sub clause (c) of clause (6) of section 43 of the Act and section 50 of the Act. For the removal of doubt it is further clarified that in case the capital asset remaining with the specified entity is forming part of a block of asset, the amount attributed to such capital asset under rule 8AB of the Rules shall be reduced from the full value of the consideration received or accruing as a result of subsequent transfer of such asset by the specified entity, and the net value of such consideration shall be considered for reduction from the written down value of such block under sub clause (c) of clause (6) of section 43 of the Act or for calculation of capital gains, as the case may be, under section 50 of the Act.(Circular No 14/2021 dated 2nd July,2021.)

GUIDELINES UNDER SECTION 9B & 45(4) OF I.T ACT

Capital		
A	1/3	10
B	1/3	10
C	1/3	10
Total		30

Assets	Value	Rule 11 (U)
Land S	10	70
Land T	10	70
Land U	10	50
Total	30	190

A exit settle his account :

Capital	11
Land U	50
Total	61

Section 9B deemed Transfer of Firm

U to Partner A	50	Cost to A
Index Cost	15	
Capital Gain in Firm	35	

GUIDELINES UNDER SECTION 9B & 45(4) OF I.T ACT

Tax	7
Net Book Profit (50-10-7)	33

Capital A/c of A	10	
Share in Capital Gain	11	(33/3)
	21	

Against this he has received Rs 61 lakh (10 lakh Cash + 50 lakh Land)

Extra Received 40 lakh

As per Section 48(III) read with Rule 8AB Rs 40 lakh attribute to remaining assets S & T 20 Lakh each

Rs 40 lakh which is taxed u/s 45(4) of the Act is long term capital gain since amount attribute to S & T Land which are both Long Term Assets.

Hence – Rs 35 Lakh chargeable u/s 9B

Rs 40 Lakh chargeable u/s 45(4)

STCG ON GOODWILL

The CBDT has issued notification and inserted Rule 8AC in Income Tax rules related to Computation of short term capital gains and written down value under section 50 where depreciation on goodwill has been obtained(Notification No 77/2021 dated 7th July,2021)

FORM NO 10A

Income Tax Form 10A is Available now on IT Portal
(Application for registration or provisional registration
or intimation or approval or provisional approval u/s
12A/10(23C)/80G/35)

OMISSION OF FORMS & RULES

The Central Board of Direct Taxes (CBDT) has notified two new rules, i.e., rule 130 and rule 131 to the Income-tax Rules, 1962. Rule 130 provides for the omission of certain existing rules and Forms. A few of such rules which have been omitted are Rules 5A, 5AB, 6ABB, 12B, etc. In respect of Forms, Rule 130 has listed down several forms which shall be omitted such as ITR-8, 2B, 2C, 2E, etc. However, most of these forms have already become redundant.

GST/CUSTOM



EXTENSION OF TIME LIMIT IN TERM OF S.C ORDER

The CBIC has issued Circular and it is hereby clarified that the extension of timelines granted by Hon'ble Supreme Court vide its Order dated 27.04.2021 is applicable in respect of any appeal which is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST Laws.(Circular No 157/03/2021 dated 20th July,2021.)

ANNUAL RETURN IN FORM 9 WITH SELF CERTIFIED 9C

The CBIC has issued Notification and notified section 110 and 111 of finance act,2021 wef 1st August,2021. This two section has amended section 44 and deleted clause (5) of section 35 of CGST Act,2017 Now every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed.(Notification 29/2021 dated 30th July,2021.)

PRESCRIBED FORM 9 WITH SELF CERTIFIED 9C

The CBIC has issued Notification and amend Rule 80 of CGST Rule 2017 and substituted Form 9 and Self certified Form 9 C. In Form 9 where ever the year 2019-20, the 2020-21 shall be substituted and in Form 9C, auditor certification and recommendation for additional tax liability omitted and self certification for verification and additional liability as per reconciliation statement inserted. The forms will be effective from 1st August,2021. (Notification 30/2021 dated 30th July,2021.)

EXEMPTION FROM FURNISHING ANNUAL RETURN

The CBIC has issued Notification and hereby exempts the registered person whose aggregate turnover in the financial year 2020-21 is up to two crore rupees, from filing annual return for the said financial year.(Notification 31/2021 dated 30th July,2021.)

ANNUAL AGGREGATE TURNOVER

Goods and Services Tax Network (GSTN) has implemented a new functionality on taxpayers dashboards with the following features :

- The taxpayers can now see the exact Annual Aggregate Turnover (AATO) for the previous FY, instead of just the two slabs of Above or Up to Rs. 5 Cr
- The taxpayers can also see the Aggregate Turnover of the current FY based on the returns filed till date.
- The taxpayers have also now been provided with the facility of turnover update in case taxpayers feel that the system calculated turnover displayed on their dashboard varies from the turnover as per their records.
- This facility of turnover update shall be provided to all the GSTINs registered on a common PAN. All the changes by any of the GSTINs in their turnover shall be summed up for computation of Annual Aggregate Turnover for each of the GSTINs
- The taxpayer can amend the turnover twice within a period of one month from the date of roll out of this functionality. Thereafter, the figures will be sent for review of the Jurisdictional Tax Officer who then can amend the values furnished by the taxpayer

BANK ACCOUNT IN GST REGISTRATION

A functionality to check status of bank account details update for the taxpayers who have taken new registration at GST Portal but have not yet furnished the same, has been introduced, in view of Rule 10A of the CGST Rules 2017. Such taxpayers are required to update their Bank Account Details within 45 days of the first login. henceforth, the system will prompt and force them to comply with the requirements

FILING OF GSTR₁ ON CANCELLATION OF REGISTRATION

In case registration of a taxpayer under QRMP Scheme is cancelled, with effective date of cancellation being any date after 1st day of Month 1 of a quarter, they would be required to file Form GSTR-1 for the complete quarter, as the last applicable return. For example if the taxpayer's registration is cancelled w.e.f. 1st of April, he/she is not required to file Form GSTR-1 for Apr-June quarter and Form GSTR-1 for Jan-Mar Quarter shall become the last applicable return. However, if the registration is cancelled on a later date during the quarter, the taxpayer would be required to file Form GSTR-1 for Apr-June quarter. In such cases the filing will become open on 1st of month following the month with cancellation date i.e. if cancellation has taken place on 20th May, Form GSTR-1 for Quarter Apr-June can be filed anytime on or after 1st of June.

MISCELLANEOUS



Miscellaneous

AMENDMENT IN SECTION 16 OF COMPANIES ACT

The MCA has issued notification and appointed 1st day of September, 2021 on which Amendment of section 16 of Companies Act, 2013 come into force. In section 16 of the principal Act, – (i) in sub-section (1), in clause (b), for the words “period of six months”, the words “period of three months” shall be substituted; (ii) for sub-section (3), the following sub-section shall be substituted, namely: – “(3) If a company is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to the company in such manner as may be prescribed and the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name, which the company shall use thereafter: Provided that nothing in this sub-section shall prevent a company from subsequently changing its name in accordance with the provisions of section 13. (Notification dated 22nd July, 2021)

ALLOTMENT OF NEW NAME

The MCA has issued Notification that In the Companies (Incorporation) Rules, 2014, after rule 33, the following rule shall be inserted, namely:-

“33A. Allotment of a new name to the existing company under section 16(3) of the Act. (1) In case a company fails to change its name or new name, as the case may be, in accordance with the direction issued under sub-section (1) of section 16 of the Act within a period of three months from the date of issue of such direction, the letters “ORDNC” (which is an abbreviation of the words “Order of Regional Director Not Complied”), the year of passing of the direction, the serial number and the existing Corporate Identity Number (CIN) of the company shall become the new name of the company without any further act or deed by the company, and the Registrar shall accordingly make entry of the new name in the register of companies and issue a fresh certificate of incorporation in Form No.INC-11C: Provided that nothing contained in sub-rule (1) shall apply in case e-form INC-24 filed by the company is pending for disposal at the expiry of three months from the date of issue of direction by Regional Director, unless the said e-form is subsequently rejected. (2) A company whose name has been changed under sub-rule (1) shall at once make necessary compliance with the provisions of section 12 of the Act and the statement, “Order of Regional Director Not Complied shall be mentioned in brackets below the name of company, wherever its name is printed, affixed or engraved: Provided that no such statement shall be required to be mentioned in case the company subsequently changes its name in accordance with the provisions of section 13 of the Act.(Notification dated 22nd July,2021.)

AMENDMENT IN LLP ACT

The Union Cabinet has cleared the amendments to the LLP Act. The government has approved amendments to the Limited Liability Partnership (LLP) Act, including decriminalizing 12 offences under the law. Besides, a new definition for small LLPs and startup LLPs will be introduced under the amended Act.

D.I.C.G.C

The union cabinet has cleared an amendment that allows customers of failed or stressed banks which are placed under moratorium to get their deposits (upto Rs 5 lakh) back within 90 days of start of moratorium. They would be able to get the deposits up to Rs 5 lakh back under the deposit insurance scheme of the Deposit Insurance and Credit Guarantee Corporation (DICGC). Now 98.3 percent of bank accounts would be fully protected with the law.

OBJECTION BEFORE VAT

The Department of trade and taxes has issued circular that all assessing and objection hearing authorities , designated under DVAT Act are advised to adhere the order of hon,ble Supreme court while dealing with the limitation period in respect of suo motu review ,review, rectification , application and objection petition under the various provisions.

COMPLIANCE DATES FOR AUGUST,2021

7th August	Deposit of TCS/TDS for the month of July,2021.
10th August	Filing of GSTR-7 for the month of July,2021.
10th August	Filing of GSTR-8 for the month of July,2021.
11th August	Filing of GSTR-1 for the month of July,2021.
13th August	Filing of IFF for the Month of July,2021.
13th August	Filing of GSTR 6 for the month of July 2021.

DISCLAIMER : Although due care has been taken while compiling the above details, yet the author carries no responsibility for any inadvertent misquoting. Please check the relevant source before relying on any of the compilations. The notification and circulars covered under the compilation are chosen which are considered important and not all, issued under the relevant statute

COMPLIANCE DATES FOR AUGUST,2021

15th August	Deposit of P F for the month of July,2021.
15th August	Deposit of ESI for the month of July,2021.
20th August	File GSTR-3B Return for the month of July, 2021.(Turnover Above 5 crore) .
20th August	File GSTR-5A Return for the month of July,2021.
22nd August	File GSTR-3B Return for the month of July, 2021.(Turnover Below 5 crore) for specified states.
24th August	File GSTR-3B Return for the month of July, 2021.(Turnover Below 5 crore) for specified states.
31 st August	GST Return for pending period Amnesty Scheme
31 st August	MCA extended date for all forms to be filed between 1.4.2021 to 31.7.2021.

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Thank
you

