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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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**INCOME
TAX**

RULES FOR OFFSHORE INDIRECT TRANSFER

The Central Board of Direct Taxes (CBDT) has issued Press Release that the 2021 Act also provides that the demand raised for offshore indirect transfer of Indian assets made before 28th May, 2012 (including the validation of demand provided under Section 119 of the Finance Act 2012) shall be nullified on fulfillment of specified conditions such as withdrawal or furnishing of undertaking for withdrawal of pending litigation and furnishing of an undertaking to the effect that no claim for cost, damages, interest, etc. shall be filed and such other conditions are fulfilled as may be prescribed. The amount paid/collected in these cases shall be refunded, without any interest, on fulfillment of the said conditions.

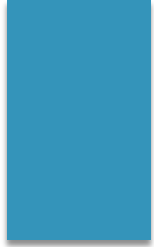
After examining the stakeholder comments and incorporating several suggestions contained therein, the rules for implementing the 2021 Act have been published in the Official Gazette vide Notification No. GSR 713(E) dated 1st October, 2021 wherein the following rules have been inserted to the Income-tax Rules, 1962:

- i. Rule 11UE which provides for the specified conditions in order to be eligible to claim relief under 2021 Act; and
- ii. Rule 11UF which provides the form and manner of furnishing the undertaking for withdrawal of pending litigation, claiming no cost, damages, etc. (Press Release dated 2nd October, 2021.)

ROLL OUT OF ANNUAL INFORMATION STATEMENT (AIS)

Income Tax Department has rolled out the new Annual Information Statement (AIS) on the Compliance Portal which provides a comprehensive view of information to a taxpayer with a facility to capture online feedback. The new AIS can be accessed by clicking on the link “Annual Information Statement (AIS)” under the “Services” tab on the new Income tax e-filing portal (<https://www.incometax.gov.in>) The display of Form 26AS on TRACES portal will also continue in parallel till the new AIS is validated and completely operational.

The new AIS includes additional information relating to interest, dividend, securities transactions, mutual fund transactions, foreign remittance information etc. The reported information has been processed to remove duplicate information. Taxpayer will be able to download AIS information in PDF, JSON, CSV formats.(Press Release dated 1st November,2021.)



REVISED PROCESS FOR FILING OF 15CA AND 15 CB

The CBDT has issued Process documents for Filing of 15CA and 15CB . (Instructions dated 7th October,2021.)



GUIDELINES UNDER CLAUSE 23(FE) OF SECTION 10

The CBDT has issued circular that it is hereby clarified that eligibility of exemption under clause (23FE) of section 10 of the Act of sovereign wealth funds and pension fund shall be as follows: -

(a) if the loans and borrowings have been taken by the specified fund or any of its group concern, specifically for the purposes of making investment by the specified fund in India, such fund shall not be eligible for exemption under clause (23FE) of section 10 of the Act; and

(b) if the loans and borrowings have been taken by the specified fund or any of its group concern, not specifically for the purposes of making investment in India, it shall not be presumed that the investment in India has been made out of such loans and borrowings and such specified fund shall be eligible for exemption under clause 23(FE) of section 10 of the Act, subject to the fulfilment of all other conditions under the said clause, provided that the source of the investment in India is not from such loans and borrowings



E-SETTLEMENT SCHEME,2021

The CBDT has issued Notification and notified an e-settlement scheme,2021 to settle pending income-tax settlement applications transferred to a settlement commission. The scheme will be applicable to "pending applications in respect of which the applicant has not exercised the option under sub-section (1) of Section 245M of the Act and which has been allotted or transferred by CBDT to an interim board.(Notification No 129/2021 dated 1st November,2021.)

EXEMPTION FROM FILING OF RETURN

The CBDT has issued Notification and hereby exempts the following class of persons mentioned from the requirement of furnishing a return of income under sub-section (1) of section 139 of the said Act from assessment year 2021-2022 onwards :-

1. (i) a non-resident, not being a company; or (ii) a foreign company.

(i) The said class of persons does not earn any income in India, during the previous year, other than the income from investment in the specified fund referred to in sub-clause (i) of clause (c) of Explanation to clause (4D) of section 10 of the said Act; and

(ii) The provisions of section 139A of the said Act are not applicable to the said class of persons subject to fulfilment of the conditions mentioned in sub-rule (1) of rule 114AAB of the Income-tax Rules, 1962

EXEMPTION FROM FILING OF RETURN

2 a non-resident, being an eligible foreign investor.

(i) The said class of persons, during the previous year, has made transaction only in capital asset referred to in clause (viiab) of section 47 of the said Act, which are listed on a recognised stock exchange located in any International Financial Services Centre and the consideration on transfer of such capital asset is paid or payable in foreign currency;

(ii) The said class of persons does not earn any income in India, during the previous year, other than the income from transfer of capital asset referred to in clause (viiab) of section 47 of the said Act; and

(iii) The provisions of section 139A of the said Act are not applicable to the said class of persons subject to fulfilment of the conditions mentioned in sub-rule (2A) of rule 114AAB of the said rules .



CLARIFICATION ON PRICE FIXED U/S

36(1)(XVII)

The CBDT has issued Circular and it is clarified that the phrase 'price fixed or approved by the Government' in clause (xvii) in sub-section (1) of section 36 of the Act includes price fixation by State Governments through State-level Acts/Orders or other legal instruments that regulate the purchase price for sugarcane, including State Advised Price, which may be higher than the Statutory Minimum Price/Fair and Remunerative Price fixed by the Central Government. (Circular No 18/2021 dated 25th October, 2021.)



VARIATION IN ARM'S LENGTH PRICE

The CBDT has issued Notification and hereby notifies that where the variation between the arm's length price determined under section 92C and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed one per cent. of the latter in respect of wholesale trading and three per cent. of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for Assessment Year 2021-2022. (Notification No 124/2021 dated 29th October, 2021.)



GOODS AND SERVICES TAX AND CUSTOMS DUTY

CLARIFICATION ON GST RATES ON GOODS

The CBIC has issued circular and clarification, with reference to GST levy, related to the following are being issued:

- i. Fresh vs dried fruits and nuts;
- ii. Classification and applicable GST rates on Tamarind seeds;
- iii. Coconut vs Copra;
- iv. Classification and applicable GST rate on Pure henna powder and leaves, having no additives;
- v. Scented sweet supari and flavored and coated illaichi;
- vi. Classification of Brewers' Spent Grain (BSG), Dried Distillers' Grains with Soluble [DDGS] and other such residues and applicable GST rate;
- vii. GST rates on goods [miscellaneous pharmaceutical products] falling under heading 3006;

CLARIFICATION ON GST RATES ON GOODS

- viii. Applicability of GST rate of 12% on all laboratory reagents and other goods falling under heading 3822;
- ix. Requirement of Original/ import Essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) on each inter-State stock transfer of goods imported at concessional GST rate for petroleum operations;
- x. External batteries sold along with UPS Systems/ Inverter;
- xi. Specified Renewable Energy Projects;
- xii. Fiber Drums, whether corrugated or non-corrugated.
(Circular No. 163/19/2021-GST dated 6th October,2021.)

CLARIFICATION REGARDING GST RATES ON SERVICES

The CBIC has issued circular and issued clarification regarding applicable GST rates on the following activities:

1. Services by cloud kitchens/central kitchens,
2. Supply of ice cream by ice cream parlors,
3. Coaching services to students provided by coaching institutions and NGOs under the central sector scheme of „Scholarships for students with Disabilities”,
4. Satellite launch services provided by NSIL.
5. Overloading charges at toll plaza,
6. Renting of vehicles by State Transport Undertakings and Local Authorities,
7. Services by way of grant of mineral exploration and mining rights attracted GST,
8. Admission to amusement parks having rides etc.
9. Services supplied by contract manufacture to brand owners or others for manufacture of alcoholic liquor for human consumption.

(Circular No 164/20/2021 GST dated 6th October,2021.)

GUIDELINES FOR DIS. DEBIT OF ELECTRONIC CREDIT LEDGER



The CBIC has issued guidelines for disallowing debit of electronic credit ledger under Rule 86A of the CGST Rules, 2017 -Reg.

The amount of fraudulently availed or ineligible input tax credit availed by the registered person, as per the grounds mentioned in sub-rule (1) of rule 86(4) shall be prima facie ascertained based on material evidence available or gathered on record. It is advised that the powers under rule 86A to disallow debit of the amount from electronic credit ledger of the registered person may be exercised by the Commissioner or the officer authorized by him, as per the monetary Limits. The officer should apply his mind as to whether there are reasons to believe that the input tax credit availed by the registered person has either been fraudulently availed or is ineligible, as per conditions/ grounds mentioned in sub-rule (1) of rule 86(4) and whether disallowing such debit of electronic credit ledger of the said person is necessary for restricting him from utilizing/ passing on fraudulently availed or ineligible input tax credit to protect the interests of revenue. Such "Reasons to believe" shall be duly recorded by the concerned officer in writing on file, before he proceeds to disallow debit of amount from electronic credit ledger of the said person. The amount disallowed for debit from electronic credit ledger should not be more than the amount of input tax credit which is believed to have been fraudulently availed or is ineligible, as per the conditions/ grounds mentioned in sub-rule (1) of rule 86A.

ADVISORY ON GSTR 2B



Goods and Service Tax Networks (GSTN) has issued the Advisory for taxpayers on Form GSTR-2B wherein it was stated that availability of ITC made available to the taxpayers in the Afternoon of 14th of every month. Form GSTR-2B is an auto-drafted ITC statement that is generated for every normal taxpayer on the basis of the information furnished.

ADVISORY ON ITC OF 2020-21



As per Section 16(4) of CGST Act, 2017, no taxpayer shall take input tax credit in respect records (invoices and debit notes) for supply of goods or services (or both) for Financial Year 2020-21 after the due date of furnishing the return for the month of September 2021. In view of the same, the following may kindly be noted:

- i.) Records (invoice or debit notes) pertaining to Financial Year 2020-21 reported in GSTR-1 after due date of GSTR-3B of September 2021 will not reflect as “ITC Available” in GSTR-2B of the recipients. Such records will reflect in “ITC Not Available” section of GSTR-2B and such ITC shall in turn not be auto-populated in GSTR-3B.
- ii.) Records (invoice or debit notes) pertaining to Financial Year 2020-21 reported in GSTR-1 after due date of GSTR-3B of September 2021 will also not reflect as “ITC as per GSTR-2A” in Table-8A of GSTR-9 of the recipients.

It is requested that the taxpayers may take note of the above and ensure that their records pertaining to Financial Year 2020-21 are reported on or before the due date of their GSTR-3B for the month September 2021, or for the quarter of July to September 2021 in case of quarterly GSTR-3B filers. Availment of ITC by the recipients contrary to the legal provisions in GST may entail action by the tax administrations in accordance with law 2021.)





EXTENSION OF FILING OF LLP FORM

The MCA has issued circular and it has been decided to allow LLPs to file Form 8 (the Statement of Account and Solvency) for the Financial Year 2020-2021 without paying additional fees upto 30th December, 2021.(General Circular No 16/2021 dated 26th October,2021).

EXTENSION OF FILING OF ANNUAL FORMS

The MCA has issued circular and Keeping in view of various requests received from stock holders regarding relaxation on levy of additional fees 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-7A 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 the afore mentioned e-forms.(Circular No 17/2021 dated 29th October,2021).

EXTENSION OF COST AUDIT REPORT



The MCA has issued circular that in view of the disruption caused due to the pandemic, it has been decided that cost audit report for the financial year 2020-21 by the cost auditor to the Board of Directors of the companies is submitted by 30th November, 2021. Consequently, the cost audit report for the financial year ended on 31st March, 2021 shall be filed in e-form CRA-4 within 30 days from the date of receipt of the copy of the cost audit report by the company. (General Circular no 18/2021 dated 29th October,2021.)

DE-FLAGGING OF DINs



Ministry of Corporate Affairs had flagged the DINs of Directors found to be disqualified under sub-section 2(a) of section 164 of the Companies Act, 2013 w.e.f. 1st November 2016 for a period of five years. This is for the information of all the concerned that DINs eligible to be de-flagged on expiry of the period of disqualification are in the process of verification. Necessary action shall be taken shortly



EXTENSION OF LAST DATE OF MEF

The Multipurpose Empanelment Form (MEF) for the year 2021-22 is live at <https://meficai.org>. Considering the various requests received from the Members of ICAI, it has been decided by the Professional Development Committee to extend the last date for submission of online Multipurpose Empanelment Form along with the Declaration for the year 2021-22 by another 10 days. It is hereby informed that last date is extended from 10th November 2021 to 20th November 2021.



ADVISORY TO FILE NFRA-2 ANNUAL RETURN

ICAI vide announcement dated October 28, 2021 issued advisory to file Form NFRA-2 Annual Return for the reporting period 2018-2019 and 2019-20 immediately without any delay, if not filed already to avoid penal consequences.

COMPLIANCE DATES FOR NOVEMBER, 2021

13th November	Filing of IFF for the month of October, 2021.
13th November	Filing of GSTR 6 for the month of October, 2021.
15th November	Deposit of P F for the month of October, 2021.
15th November	Deposit of ESI for the month of October, 2021.
20th November	File GSTR-3B Return for the month of October, 2021. (Turnover Above 5 crore) .
20th November	File GSTR-5A Return for the month of October, 2021.
25th November	File PMT-06 for the month of October, 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 NOVEMBER,2021

7th December	Deposit of TCS/TDS for the month of November,2021.
10th December	Filing of GSTR-7 for the month of November,2021.
10th December	Filing of GSTR-8 for the month of November,2021.
11th December	Filing of GSTR-1 for the month of November,2021.

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Thank
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