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A cartoon illustration of a hand holding a large, tan-colored money bag. The bag has a large black rupee symbol (₹) on it. The hand is positioned on the right side of the image, with fingers curled around the top of the bag.

# INCOME TAX



# CLARIFICATION ON SECTION 194Q ETC

The Central Board of Direct Taxes (CBDT) has issued circular and clarified applicability of Section 194O, 194Q and 206(C) of the Income Tax Act,1961:

## **Applicability Of Section 194O On E-auction Activities**

In order to remove difficulty, it is clarified that the provisions of section 194-0 of the Act shall not apply in relation to e-auction activities carried out by e-auctioneers if all the condition are satisfied . This clarification shall not apply if any of these facts are not satisfied. Further, it is clarified that the buyer and seller would still be liable to deduct/ collect tax as per the provisions of section 194Q and 206C (I H) of the Act, as the case may be.

## **Adjustment of various state levies and taxes other than GST**

In this regard, it is hereby clarified that in case of purchase of goods which are not covered with in the purview of GST, when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of VAT/Sales tax/Excise duty/CST, as the case may be, has been indicated separately in the invoice, then the tax is to be deducted under section 194Q of the Act on the amount credited without including such VAT/Excise duty/Sales tax/CST, as the case may be. However, if the tax is deducted on payment basis, if it is earlier than the credit, the tax is to be deducted on the whole amount as it will not be possible to identify the payment with VAT/Excise duty/Sales tax/CST component to be invoiced in the future . Furthermore, in case of purchase returns, the clarification as provided in Para 4.3.3 of circular no. 13 of 2021 shall also apply to purchase return relating to non GST products liable to VAT/excise duty/sales tax CST etc

# CLARIFICATION ON SECTION 194Q ETC



## **Applicability of section 194Q of the Act in cases where exemption has been provided under section 206C (1 A) of the Act**

The issue has been examined. It is seen that the provisions of section 194Q of the Act does not apply in respect to those transactions where tax is collectible under section 206C [except sub-section ( I H) there off of the Act. Since by virtue of sub-section ( IA) of section 206C of the Act, the tax is not required to be collected for goods covered under sub-section ( I) of the said section, it is hereby clarified that in such cases, the provisions of section 194Q of the Act will apply and the buyer shall be liable to deduct tax under the said section if the conditions specified therein are fulfilled.

## **Applicability of the provisions of section 194Q in case of department of Government not being a public sector undertaking or corporation**

In connection with above, it is further clarified that any other person, such as a Public sector Undertaking or corporation established under Central or Stale Act or any other such body, authority or entity, shall be required to comply with the provisions of section 194Q and ta x shall be deducted accordingly.(Circular No 20/2021 dated 25th November,2021.)

# SUBSTITUTION OF FORM NO 52A

The CBDT has issued Notification amended the Income Tax Rules ,1961 and substituted “FORM NO. 52A- Statement to be furnished to the Assessing Officer under section 285B of the Income-tax Act, 1961, in respect of production of a cinematograph film. ( Notification No 132/2021 dated 23rd November,2021.)



# UPDATION OF UDIN

CBDT extends the last date for updating UDINs for all the IT forms at the e-filing portal to 31st January, 2022.



# **GOODS AND SERVICES TAX AND CUSTOMS DUTY**

# CLARIFICATION ON REFUND RELATED ISSUES

The CBIC has issued circular and clarification :

S. NO	ISSUE	CLARIFICATION
1	Whether the provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would be applicable in cases of refund of excess balance in electronic cash ledger?	No, the provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger
2	Whether certification/ declaration under Rule 89(2)(l) or 89(2)(m) of CGST Rules, 2017 is required to be furnished along with the application for refund of excess balance in electronic cash ledger?	No, furnishing of certification/ declaration under Rule 89(2)(l) or 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in electronic cash ledger as unjust enrichment clause is not applicable in such cases



# CLARIFICATION ON REFUND RELATED ISSUES

S. NO	ISSUE	CLARIFICATION
3	Whether relevant date for the refund of tax paid on supplies regarded as deemed export by recipient is to be determined as per clause (b) of Explanation (2) under section 54 of CGST Act and if so, whether the date of return filed by the supplier or date of return filed by the recipient will be relevant for the purpose of determining relevant date for such refunds?	<p>Clause (b) of Explanation (2) under Section 54 of CGST Act reads as under:</p> <p>“(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, <b>the date on which the return relating to such deemed exports is furnished;</b>”</p> <p>On perusal of the above, it is clear that clause (b) of Explanation (2) under section 54 of the CGST Act is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports,</p>
4	Whether refund of TDS/TCS deposited in electronic cash ledger under the provisions of section 51 /52 of the CGST Act can be refunded as excess balance in cash ledger	<p>The amount deducted/collected as TDS/TCS by TDS/ TCS deductors under the provisions of section 51 /52 of the CGST Act, as the case may be, and credited to electronic cash ledger of the registered person, is equivalent to cash deposited in electronic cash ledger. <b>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 .</b></p>

(Circular No. 166/22/2021-GST dated 17th November,2021.)

# CLARIFICATION REGARDING QR CODE

The CBIC has issued circular and issued clarification regarding :

S. NO	ISSUE	CLARIFICATION
1	In cases, where receiver of services is located outside India, and payment is being received by the supplier of services ,through RBI approved modes of payment, but as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such supply of services is not considered as export of services as per the IGST Act 2017; whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?	No. Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier, in convertible foreign exchange or in Indian Rupees wherever permitted by the RBI, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier."

(Circular No 165/21/2021 GST dated 17th November,2021.)



# AMENDMENT IN FORM GST DRC-03

The CBIC has issued Notification and amended the central goods and services Rules, 2017, –

(i) in rule 137, with effect from the 30th day of November 2021, for the words “four years”, the words “five years” shall be substituted.

(ii) in FORM GST DRC-03 certain amendments has been made.

(Notification No 37/2021 dated 1st December, 2021.),

# AMENDMENT IN GST RATES WEF 01ST JANUARY, 2022

The Central Board of Indirect Taxes and Customs (CBIC) has notified an increase in goods and service tax rate of various kinds of textiles, apparel and footwear to 12% from 5% earlier, which will be effective from January 1, 2022.

However, GST rates for certain synthetic fibres and yarn have been lowered from 18% to 12%, according to the notification issued, bringing in uniformity of rates for the entire textiles sector as well as removing distortions due to the inverted duties.

The latest notification specifies that GST rate on article of apparel of any value will be 12%, from next year. So far, a 5% tax is levied on sale value of upto Rs 1,000 per piece.

Similarly, in the case of footwear, the GST rate has been changed to 12% from next year. At present, 5% GST is charged on sale value of upto Rs 1,000 per pair. (Notification No 14/2021 to 17/2021 dated 18th November, 2021.)

# AMENDMENT IN GST RATES WEF 01ST JANUARY, 2022

SAC	NATURE OF SERVICE	RATE
9964	Transport of passengers, with or without accompanied belongings, by – (b) non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or (c) stage carriage other than air conditioned stage carriage; if such services are supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017.	5%
9964	Service of transportation of passengers, with or without accompanied belongings, by – (e) metered cabs or auto rickshaws (including erickshaws) if such services are supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017.	5%
9964	Tax on the services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle, <u>omnibus or any other motor vehicle</u> shall be paid by the electronic commerce operator.	NA
9963	Tax on the supply of restaurant service other than the services supplied by <u>restaurant, eating joints etc. located at specified premises (i.e. declared tariff above INR 7,500/day)</u> shall be paid by the electronic commerce operator.	NA

**Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Governmental Authority or a Government Entity under SAC 9954 will taxable at 18%.**





# CLARIFICATION ON PASSING OF RESOLUTIONS

The MCA has issued circular and it has been decided to allow Companies to conduct their EGMs through video conference (VC) or other audio Visual means(OAVM) or transact items through postal ballot up to 30th Junr,2022.(General Circular No 20/2021 dated 8th December,2021.)



# **CLARIFICATION OF HOLDING AGM THROUGH VS OR OAVM**

The MCA has issued circular and clarified that circular on holding AGM before 30th June, 2022 through video conference (VC) or other audio Visual means (OAVM) shall not be construed as conferring any extension of time for holding AGMs by companies Act, 2013. (Circular No 19/2021 dated 8th December, 2021).



# EMPANELMENT WITH C.A.G

The CAG has issued instruction for Chartered Accountant firms (firms) and Limited Liability Partnership firm (LLPs) in the country with at least one full time FCA (Partner/Sole Proprietor) as on 1 January 2022 can apply for empanelment with the office of the CAG of India for the year 2022-2023 for the purpose of appointment of auditors. The policy of empanelment of CA Firms/LLPs and appointment of auditors is available on the website [www.care.cag.gov.in](http://www.care.cag.gov.in). The firms/LLPs who intend to be empaneled with this office need to submit their application online from 1 January to 15 February 2022 on the website [www.cag.gov.in](http://www.cag.gov.in).

# COMPLIANCE DATES FOR DEC,2021 & JAN,2022

15th December	Deposit of P F for the month of November,2021.
15th December	Deposit of ESI for the month of November,2021.
15th December	Payment of Advance Tax for the AY 2022-23.
20th December	File GSTR-3B Return for the month of November, 2021.(Turnover Above 5 crore) .
20th December	File GSTR-5A Return for the month of November,2021.
25th December	File PMT-06 for the month of November,2021.
30th December	Filing of Form No 8 of LLP
31st December	Filing of GST Annual Return in 9 & 9C for the year 2020-21.
31st December	Filing of Income Tax return for the Assessment year 2021-22 (Other than Audit Cases)

**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 DEC,2021 & JAN,2022

31st December	Filing of AOC-4, MGT 7 and Form No 7A
7th January	Payment of TDS/TCS for the month of December,2021.
10th January	Filing of GSTR-7 for the month of December,2021.
10th January	Filing of GSTR-8 for the month of December,2021.
11th January	Filing of GSTR-1 for the month of December,2021.
13th January	Filing of GSTR-1 for the Quarter of December,2021.
13th January	Filing of GSTR 6 for the month of December, 2021.
15th January	Deposit of P F for the month of December,2021.
15th January	Deposit of ESI for the month of December,2021.

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Thank  
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