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Surcharge on Dividend Income of Resident Individual-AY 21-22

Finance Act 2019 introduced the enhanced surcharge on Individuals (Resident or Non-resident), ranges from 10% to 37%, and through other amendments, the surcharge on Capital Gains taxable u/s 111A and 112A was restricted to 15%. In view of distinct rate of taxation of capital gains taxable u/s 111A and 112A, the separate surcharge amount can be computed on

a) Capital gains taxable u/s 111A & 112A and

b) Income, other than such Capital Gains.

Finance Act 2020, inter-alia, makes following amendments, as applicable for Assessment year 2021-22:-

a) Dividend is made fully taxable in the hands of shareholders,

b) Surcharge on Dividend income received by an Individual shareholders (Resident or Non- resident) is restricted to 15%.

c) The taxation rate of dividend on Non-resident Individual will be 20%, as per section 115A

d) In case of Resident Individual, the dividend income will be part of total Income and will be taxable as per applicable slabs

The Surcharge mechanism as applicable to Individual (Resident or Non-resident) is summarized as under:-

<table>
<tr><td rowspan="2">Total Income</td><td colspan="2">Total Income level –Nature</td><td colspan="2">Surcharge Rate on Tax.</td></tr>
<tr><td>Income other than Capital Gain (Taxable u/s 111A & 112A) or Dividend</td><td>Capital Gain (Taxable u/s 111A & 112A) or Dividend</td><td>Tax on Income other than Capital Gain (Taxable u/s 111A & 112A) or Dividend</td><td>Tax on Capital Gain (Taxable u/s 111A & 112A) or Dividend</td></tr>
<tr><td>Exceeding 50 lacs but up to Rs. 1 Cr</td><td colspan="2">Any Nature or level of Income</td><td>10%</td><td>10%</td></tr>
<tr><td>Exceeding 1 Cr but up to Rs. 2 Cr</td><td colspan="2">Any Nature or level of Income</td><td>15%</td><td>15%</td></tr>
<tr><td rowspan="3">Exceeding 2 Cr but up to Rs. 5 Cr</td><td>Exceeding Rs 2 Cr but upto 5 Cr</td><td>NIL</td><td>25%</td><td></td></tr>
<tr><td>Exceeding Rs 2 Cr but upto 5 Cr</td><td>2 Cr or less/ Exceeding Rs 2 Cr but upto 5 Cr</td><td>25%</td><td>15%</td></tr>
<tr><td>2 Cr or less</td><td>Exceeding Rs 2 Cr but upto 5 Cr</td><td>15%</td><td>15%</td></tr>
<tr><td></td><td>Exceeding Rs. 5 Cr</td><td>NIL</td><td>37%</td><td></td></tr>
</table>

Exceeding Rs 5 Cr	Exceeding Rs. 5 Cr	5 Cr or less/ Exceeding Rs. 5 Cr	37%	15%
	5 Cr or less but more than 2 Cr	Exceeding Rs. 5 Cr	25%	15%
	2 Cr or less	Exceeding Rs. 5 Cr	15%	15%

Issue:- How to compute Surcharge on Dividend Income, when total income exceeds Rs. 2 Cr, taking following data as an example

a) Other Income – 250 lacs
b) Dividend Income – Rs. 10 lacs
c) Total Income – Rs. 260 lacs

Non-Resident - No issue involved explained as under

S.No.	Particulars	Normal Tax	Surcharge
1.	Other Income (Assuming Individual has not opted for Section 115BAC) and applicable surcharge rate is 25%, as total income exceeds Rs. 2 Cr	73,12,500	18,28,125
2.	Dividend taxable @ 20% and surcharge @ 15%.	2,00,000	30,000
3.	TOTAL TAX	75,12,500	18,58,125

Resident – There is no clarification on *how to compute separate tax on dividend*, as for *resident individual there is no special taxation rate*, as in case of Non-resident

There could be following options to compute Tax on Dividend and surcharge thereon.

S.No.	Particulars	Normal Tax	Surcharge
1.	Total Income- Rs. 260 lacs (Assuming Individual has not opted for Section 115BAC)	76,12,500	
2.	Less: Tax on Dividend (either of following options)		
a)	Tax on Dividend on Average basis (10/260 * 76,12,500)	2,92,788	43,918
b)	Tax on Dividend @ 30%	3,00,000	45,000
c)	Tax on dividend (assuming that out total income of Rs. 260 lacs, First Rs. 10 lacs are dividend). Tax on 10 lacs income is Rs. 1,12,500.	1,12,500	16,875
3.	Surcharge on Income, other than dividend, will be @ 25% on tax amount, which remains after excluding tax on Dividend		

Assessee will be most benefited when tax on dividend, in the instant case, is levied @ 30%. I hope Government will provide Clarification on above aspect in due course.

Allowability of Sec. 54 exemption

If amount spent towards residential house after due date prescribed in Sec. 139(1)

Section 54 of the Income-tax Act, 1961 ("Act") provides for exemption of capital gains arising to a specified assessee from transfer of a long- term capital asset to the extent capital gains are invested in a residential house within a prescribed period. The said exemption is available if the residential house is purchased or constructed within the prescribed period of one year before or two years after (in case of purchase); or three years after (in case of construction) the date of transfer of the long-term capital asset.

Invariably, a person is not able to utilize the entire amount of capital gains on or before the due date of filing of return for the year in respect of which such capital gains arose. Such a situation is addressed by sub-section (2) by providing for deposit of unutilized funds in a Capital Gains Account Scheme before the prescribed date so that an assessee may not lose upon the exemption of unutilized funds. Section 54(2) reads as under:

> *"(2) The amount of the capital gain which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset :*
>
> *……"*

Section 54(2) provides for an interesting proposition that the amount of capital gains which is not appropriated by the assessee for prescribed purposes within one year before; or on or before the due date of filing of return of income under section 139, shall be deposited in the capital gains account scheme. It needs to be emphasized that the literal reading of section 54(2) provides for the two dates i.e. the due dte under section 139 and the due date under section 139(1).

Pertinently, section 139 cannot be said to mean only section 139(1), but it means all sub-sections of section 139.

It may kindly be noted that the aforesaid provision mandates that the period of utilization or appropriation of the capital gains in purchase or construction of the new residential house is to be considered till the due date under section 139 [which also covers sub-section (4) and (5) of section 139]. However, for the purpose of taking the benefit of Capital Gains Account Scheme, the time limit for making such deposit has been prescribed to be till the due date under section 139(1) [see the text of section 54(2) as contained in the parenthesis].

In other words, the sub-section (2) clearly provides a pigeonhole in the sense that the investment by way of purchase or construction, without resorting to the Capital Gains Account Scheme, can be made till the date of belated return under section 139(4) or revised return under section 139(5) as the wordings used in section 54(2) is "section 139", and not section 139(1), which covers all sub-sections of section 139. The Supreme Court, in the context of interpretation of provisions of 276CC, in ***Prakash Nath Khanna* v. *CIT*** [2004] 135 Taxman 327/264 ITR 1 (SC) had observed that *"…Had the Legislature intended to cover sub-section (4) also, use expression "section 139" alone would have sufficed."* Therefore, in terms of the decision of the Supreme Court, since the legislature in section 54(2) used the words "section 139" only, the interpretation as discussed above seems plausible.

Section 54(2) is a subject matter of extensive litigation. Further, the view of various High Courts and Tribunals of the country in the following cases clearly outlines that the judicial consensus is that the exemption to be allowed in regard to the amount invested in purchase or construction of the residential house under section 54 or 54F is to be considered till the date of filing return of income under section 139(4) of the Act.

The aforesaid interpretation has been approved by the Hon'ble Supreme Court in the case of ***Xavier J. Pulikkal*** **v.** ***Dy. CIT*** *where court decided that* while allowing the civil appeal, modified (or so to say - reversed) the reasoning of the Kerala High Court in the underlying order reported in [2016] 242 Taxman 206 (Kerala). The Kerala High Court held as under:

"7. So far as the facts of the present case, we have already stated above, it is possible that facts of the other appeal considered by the Appellate Tribunal along with appeal of the revenue may be different. The scheme for depositing capital gain is contemplated under Section 54F(4) and it depends upon when the property of the assessee is sold and when exactly the amounts were invested, whether it was invested in a residential house or otherwise. All these facts have to be considered with reference to provisions of Section 54F(4) along with Section 139 (1) of the Act, as the due time would be under Section 139(1) only not under Section 139(4) of the Act.

8. Tribunal, as a matter of fact, has accorded one more opportunity to the appellant assessee to place on record relevant facts for consideration and if his case were to be different from the facts of the other case and makes a vast difference altogether. So far as provisions of law is concerned, it is always open to him to place such facts before the Assessing Officer for consideration. However, Assessing Officer while applying the provisions of law to facts of a case without interdependent on facts of the other case has to consider the same.

With these modifications, we dispose of the appeal directing the Assessing Officer to dispose of the matter in the light of the above observations."

It is to be noted that the Hon'ble Supreme Court, in (2016) 242 Taxmann 59 (SC), while remanding the matter for denovo consideration to the assessing officer has clearly modified the aforesaid observations of the Hon'ble Kerala High Court. The purported effect of the decision of the Hon'ble Supreme Court is that it has modified the "modifications" made by the Kerala High Court in the civil appeal after granting the SLP under Article 136 of the Constitution of India. Pertinently, the Supreme Court has allowed the appeal of the assessee and the effect of allowing an appeal by the Hon'ble Apex Court is to vacate a preceeding order of the Kerala High Court containing a specific position taken by the Revenue. Also, the Supreme Court has to be understood to have differed in law with the Kerala High Court. The following verdict of the Hon'ble Supreme Court in the case of ***Kunhayammed*** **v.** ***State of Kerala*** supports the aforesaid proposition:

"41. Once a special leave petition has been granted, the doors for the exercise of appellate jurisdiction of this Court have been let open. The order impugned before the Supreme Court becomes an order appealed against. Any order passed thereafter would be an appellate order and would attract the applicability of doctrine of merger. It would not make a difference whether the order is one of reversal or of modification or of dismissal affirming the order appealed against. It would also not make any difference if the order is a speaking or non-speaking one. Whenever this Court has felt inclined to apply its mind to the merits of the order put in issue before it though it may be inclined to affirm the same, it is customary with this Court to grant leave to appeal and thereafter dismiss the appeal itself (and not merely the petition for special leave) though at times the orders granting leave to appeal and dismissing the appeal are contained in the same order and at times the orders are quite brief. Nevertheless, the order shows the exercise of appellate jurisdiction and therein the merits of the order impugned having been subjected to judicial scrutiny of this Court."

It is also submitted that the order passed by the Hon'ble Supreme Court, albeit in brief, is the declaration of law in terms of Article 141 of the Constitution of India. In the opinion of the author, while the reasoning of, or the judicial consensus across various High Courts is that the exemption needs to be allowed if the amount is invested on or before the due date of filing of return under section 139(4), an authoritative pronouncement from any of High Court placing reliance upon the aforesaid decision of the Supreme Court will put the issue to rest permanently.

Taxation for Individual/HUF (Resident or Non-resident) Opting for taxation under Section 115BAC

a) Concessional Tax rates

Total Income	Tax rate
Upto Rs. 2,50,000	NIL
From Rs 2,50,001 to Rs 5,00,000	5%
From Rs 5,00,001 to Rs 7,50,000	10%
From Rs 7,50,001 to Rs 10,00,000	15%
From Rs 10,00,001 to Rs 12,50,000	20%
From Rs 12,50,001 to Rs 15,00,000	25%
Above 15,00,000	30%

b) Conditions to be full-filled for availing option u/s 115BAC

Particulars	Individual, not having income from business or profession. (Employee)	Individual or HUF, having income from Business or Profession
How to avail Option u/s 115BAC	In order to avail option for any assessment year, Assessee needs to file FORM 10-IE, before due date of filing ITR.	i. In order to avail option for any assessment year, Assessee needs to file FORM 10-IE, before due date of filing ITR. ii. Option once exercised for any AY, will continue to apply for subsequent AY mandatorily. iii. Assessee can withdraw the option and once he do it, then this option cannot be avail again. He can avail the option again, if he ceased to carry on the business.
Deductions/ exemption not Allowed	i. Leave travel concession/allowance ii. House Rent Allowance iii. Allowances specified u/s 10(14). However Travel allowance, transfer allowance and Conveyance allowance is allowed as a deduction. iv. Free food provided by an employer through paid voucher, having value upto Rs. 50/meal. v. Daily allowance /constituency allowance received by MP/MLA vi. Standard Deduction from Salary and deduction on account of Entertainment allowance and	**i.** Interest on Housing loan on **self-occupied Property** **ii.** Exemption to units in SEZ **iii.** Additional Depreciation. **iv.** The depreciation on any block of assets, where depreciation rate is more than 40%, will be restricted to 40% only. **v.** Investment in new plant or machinery in notified backward areas in certain States (Section 32AD) **vi.** Tea /Coffee/ Rubber Development account Section 33AB **vii.** Specific expenditure on scientific expenditure-Section 35 **viii.** Deduction in respect of expenditure on

	Professional tax. vii. Interest on Housing loan on **self-occupied Property** viii. No standard deduction from Family pension. ix. **Deduction under chapter VIA**, other than employer contribution to NPS x. Exemption of Rs. 1500 on account of clubbing of Minor Income	specified business- Section 35AD ix. No standard deduction from family pension x. **Deduction under chapter VIA**, other than deduction in respect of new employee u/s 80JJAA xi. Exemption of Rs. 1500 on account of clubbing of Minor Income
Losses Set-off Provisions , when option u/s 115BAC is exercised	**a) Bought forward Loss** under the head **"PGBP"** and **"Capital Gain"**, ***if attributable to deductions not allowable u/s 115BAC***, will **NOT be set-off and will lapse forever** **b) Other Bought forward loss** under the head **"PGBP"** and **"Capital Gain", can be set-off, if any and can be further carried forward, if any** **c) Bought forward unabsorbed ADDITIONAL depreciation CANNOT be set-off and will lapse forever.** **d) Bought forward unabsorbed depreciation (NORMAL), can be set-off and further carried forward, if any.** **e) Loss under the head "Income from House property"** **i) Bought forward loss on account of self-occupied property, CANNOT** be **set-off against income from house property** and **such loss will lapse forever.** **ii) Bought forward loss on account of Let out property, CAN** be **set-off against income from house property** and **such loss can be carried forward, if not set-off.** **iii) Current Year Loss CANNOT** be **set-off against any other income and such loss will lapse forever.** **Refer Example below**	
Others		If option for section 115BAC is availed for AY 2021-22, the WDV of block of Assets as at 1- 4-2020, shall be increased by bought forward unabsorbed ADDITIONAL DEPRECIATION disallowed as above If Option is exercised after AY 2021-22, then above benefit of increasing WDV of Block of Assets is not available.

c) Other Points- The following special income will continue to be taxable at special rates mentioned in respective sections

i) Short Term Capital Gains u/s 111A
ii) Long term Capital Gains u/s 112
iii) Long term capital gains u/s 112A
iv) Tax on winning from lotteries etc. us/ 115BB
v) Tax on unexplained credit, unexplained investment etc. u/s 115BBE
vi) Tax on income from patent u/s 115BBF

Example

1. Mr. A is working as an employee in PY 20-21 and as at 31/3/2020, he was entitled to carried forward the following Losses from business, which was stopped in FY 19-20.
   a) Business Loss (Not due to deductions not allowed u/s 115BAC) – Rs. 5,00,000
   b) Bought forward unabsorbed Additional Depreciation – Rs. 3,00,000
   c) Bought forward unabsorbed Normal Depreciation – Rs. 1,00,000

   If Mr. A avail option for taxation u/s 115BAC, the following consequences will prevail
   i) He can continue to carry business loss of Rs. 5 lacs and can set-off such business loss , if starts business in future within the time frame within which such loss is allowed to set- off.
   ii) Bought forward unabsorbed Additional depreciation of Rs. 3 lacs will lapse forever.
   iii) He can continue to carry unabsorbed Normal Depreciation of Rs. 1 lakh and can set-off such depreciation, if starts business in future.

2. Mr. A is having bought forward loss under the head 'Income from House Property" ,on account of self-occupied property ,to the extent of Rs. 1,60,000 as at 31-03-2020. He has Income from house property in PY 20-21 – Rs.1,70,000. If Mr. A opts for taxation u/s 115BAC in PY 20-21, he cannot set-off of Rs. 1,60,000 against income of Rs. 1,70,000 and such loss will lapse forever, even if he does not opt for taxation in subsequent PY 21-22.

Benefits for Senior Citizens Under Income Tax Act 1961- At a Glance

- Senior Citizen must be of the age of 60 years or above but less than 80 years at any time during the respective year
- Very Senior Citizen must be of the age of 80 years or above at any time during the respective year.
- For ordinary individual tax payers, the basic limit for exemption, up to which he is not required to pay tax is presently Rs. 2,50,000 up to A.Y. 2021-22.
- However, for Senior Citizens, the basic exemption limit is fixed at a higher figure of Rs. 3,00,000. For Very Senior Citizen do not have to pay tax up to Rs. 5,00,000 of Annual total income.
- Deduction in respect of health insurance premium paid by an individual and HUF is deductible up Rs. 25,000 and additional deduction up to Rs.25,000 for the health insurance premium paid for parent or parents of the assessee is available.
- Under above circumstances if an assessee is a Senior or Very Senior Citizen deduction will be available up to Rs.50,000. Please remember that for claiming this deduction the health insurance premium is paid by any mode other than cash.
- Over and above any medical expenditure incurred on medical treatment of specified diseases. To claim the amount of expenditure the assessee is required to obtain the prescription for such medical treatment from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as prescribed in the amended rule 11DD(2). Allowable amount is of Rs.1,00,000.
- Individual tax payers, other than senior citizens are allowed maximum deduction of Rs. 10,000 u/s 80TTA in respect of interest income from saving bank account. However, from A.Y. 2019-20 onwards, a senior citizen are allowed the deduction up to ***Rs. 50,000*** u/s 80TTB in respect of interest income earned not only on savings bank accounts but also on interest income earned on any bank deposits or any deposits with post office or co-operative Banks.
- Section 194A of the Income Tax Act 1961 gives corresponding provisions that no tax shall be deducted at source from payment of interest by bank or post office or co-operative bank to a senior citizen up to Rs. 50,000.
- As per section 208 every persons whose estimated tax liability for the year is Rs. 10,000 or more shall pay tax in advance in the form of Advance Tax. However, section 207 gives relief from payment of advance tax to a resident senior citizen. As per Section 207 a resident senior citizen not having any income from business or profession, is not liable to pay advance tax.
- From A.Y. 2019-20, a standard deduction up to Rs. 40,000 against salary income earned during the year has been introduced u/s 16. Accordingly, a Senior Citizen who is in receipt of pension income from his former employer can claim up to Rs. 40,000 against such salary income. This limit is increased to ₹ 50,000 p.a. by Finance Act, 2019 [FY 2019-20, A/Y 2020-21].
- Very Senior Citizen aged 80 years or more filling his return of income in Form SAHAJ (ITR-1) or SUGAM (ITR-4) and having total income of more than Rs, 5,00,000 or having a refund claim can file his return of income in paper mode. For such individuals, electronic filling of ITR 1 or ITR 4 (as the case may be) is not mandatory. However, he may opt or e – filling if he chooses to do so.
- A senior citizen may submit form No 15H to the deductor for non deduction of TDS on certain incomes referred to in that section, if the tax on his/her estimated total income of the concerned year comes at nil.
- The transfer of a residential house property by way of a reverse mortgage as per the Reverse Mortgage Scheme made and notified by the Central Government for senior citizens, is not liable to be taxed as Capital Gain nor under any other head of income.

TCS on sale of Goods

Introduction:

1. Through Finance Act, 2020, sub-section (1H) in section 206C was introduced in the I.T Act,1961 (the Act) for collection of tax by the seller of goods from financial year 2020-21, however due to Covid-19,Pandemic the applicability of the provision deferred to 01.10.2020.

Section 206C(1H) introduced under the Act reads as under:

"Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, other than the goods being exported out of India or goods or covered in sub- section (1) or sub-section (1F) or sub-section (1G) shall, at the time of receipt of such amount collect from the buyer, a sum equal to 0.1 percent of the sale consideration exceeding fifty lakh rupees as income-tax.

Meaning of 'Buyer' as defined under Explanation (*a*) to section 206C (1H):

2. Buyer means a person who purchases any goods, but does not include,-

(A) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or

(B) a local authority as defined in the Explanation to clause (20) of section 10; or

(C) a person importing goods in to India or any other person as the Central Government may by notification in the Official Gazette, specify for the purpose, subject to such conditions as may be specified.

Meaning of 'Seller' as defined under Explanation (*b*) to section 206C (1H):

3. 'Seller' means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the sale 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 there in.

Meaning of 'Goods' not defined in section 206C (1H):

5. The term ' Goods' have not been defined under the Act, hence we have to borrow the reference from other Acts where the term ' Goods' is defined like Sales of Goods Act,1930 or Goods and Service Tax Act,2017 . In both the Acts the term 'Goods' has been defined as 'Goods' means every kind of movable property other than money and securities but includes actionable claims, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply

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Salient features of the section 206C (1H):

6. Considering the provision of section 206C (1H) reading with Explanation (*a*) and (*b*) the salient features of the section 206C (1H) are as under:

(i) Seller of goods whose turnover, sales or gross receipts from business is exceeding Rs.10.00 Crores in the immediately preceding financial year 2019-20 shall be liable for TCS from the buyer for the financial year 2020-21 w.e.f 01/10/2020.

(ii) Immediately preceding financial year is the base year whose business turnover, gross receipts or sales has to be considered so as to decide the fulfilment of criteria of threshold limit of rupees ten crore and applicability of TCS under section 206C(1H). (For example: For financial year 2021-22 the turnover, sales or gross receipts from business of the financial year 2020-21 has to be considered).

(iii) Normal rate of TCS @0.1%(Rate will be 0.075% till 31.03.2021).

(iv) In absence of Permanent Account Number or the Aadhaar number of the buyer TCS @1% is applicable.

(v) Receipt of sale consideration during the financial year in excess of rupees fifty lakhs is buyer specific.

(vi) TCS is applicable on the balance excess amount of sale consideration received beyond rupees fifty lakhs from a buyer during the financial year.

(vii) TCS is applicable as soon as receipt of sale consideration during a financial year from a buyer exceeds rupees fifty lakhs irrespective of the year in which the actual sale was made. **(Clause 4.4 of the CBDT Circular No.17 of 2020 dated 29/09/2020).**

Exceptions given under the section 206C (1H):

7. Seller is not required to collect TCS on all types of sale of goods under section 206C (1H), there are some exceptions given to this provision. These are listed below:

(a) Goods exported out of India.

(b) Goods are of such type on which TDS is liable to be deducted by the buyer (Like in case of Job Work, Composite Supply).

(c) Goods covered for TCS under section 206(1) such as Alcoholic Liquor for human consumption, Tendu leaves, Timber, Scrap, Any other forest produce, Minerals, being coal or lignite or iron ore.

(d) Goods covered under section 206(1F) i.e. Motor Vehicle dealer is liable to collect TCS where the value of a motor vehicle exceeds Rs.10.00 Lacs. [Where sale consideration from a buyer exceeds rupees fifty lakhs during a financial year on account of sales of motor vehicles having sales value of Rs10.00 Lacs or less than that TCS is applicable under section 206C(1H).**(Clause 4.5.2(*ii*) of the CBDT Circular No.17 of 2020 dated 29/09/2020).**

(e) Gods covered under section 206C (1G) i.e. Authorised Dealer for remittance of money outside India under the Liberalized Remittance Scheme (LRS) of Reserve Bank of India.

Due date for deposit of TCS, filling of Quarterly E-TCS Return, Issuance of TCS certificate and late fee for delay in filling Quarterly E-TCS Return:

8. Due date for deposit of TCS collected under section 206C (1H) including filling of E- TCS quarterly returns are same as applicable to other TCS provisions .

After collection of TCS on sale of goods from the buyer, seller is required to deposit TCS on monthly basis . Collected TCS should be deposited within 7 days from the end of the respective month.

Every seller shall file his E-TCS return on quarterly basis in Form 27EQ disclosing PAN wise details of buyers and TCS collected.

Further every seller shall issue TCS certificate in Form 27D to the buyer within fifteen days from the due date for furnishing the statement of tax collected at source.

Following are the due dates for filling quarterly E-TCS returns and issuing TCS certificates.

Quarter	*Period*	*Due date for Quarterly return in Form 27EQ*	*Due date for Quarterly certificate in Form 27D*
Q1	April to June	15th July	30th July
Q2	July to September	15th October	30th October
Q3	October to December	15th January	30th January
Q4	January to March	15th May	30th May

A delay in filling quarterly E-TCS return will attract a late fee of Rs200/- per day during which delay continues subject to maximum amount of TCS collected.

Some practical issues which needs attention of the CBDT:

9. (A) Mis-Match of 26AS and Books:

Since under the section 206C (1H) liability to deposit the TCS amount with the Govt. will be arises on receipt on sale consideration hence there may be instances where Buyer purchase the goods in one financial year and made payment in the next financial year and seller will deposit TCS on receipt basis i.e. in the next financial year . This may lead to mismatch in the buying as shown in the books of accounts and buying reflecting in the Form 26AS.

(B) Hybrid system of Accounting:

Liability to deposit TCS with the Govt. arises on receipt basis it is going to be aburdensome task, as every time seller received the payment from the buyer he has to remit the TCS to the Govt. That means for accounting of sales, seller may follow Mercantile system of accounting however for accounting TCS the seller is bound to follow Cash system of accounting.

© Inconsistency with other provisions of TDS/TCS :

Other provisions of TDS/TCS creates liability to deposit TDS/TCS on the basis of Due or Receipt which ever is earlier and as this provision of TCS is creating liability on receipt basis hence seller can not follow the practice of charging and depositing TCS on the invoice basis.

(d) GST charged on sales is a part of TCS when collected where as GST is excluded for TDS purpose:

TCS under this provision is collected on receipt of sale consideration hence GST collected from the buyer being part of sale consideration will also suffer TCS . **(Clause 4.6 of the CBDT Circular No.17 of 2020 dated 29/09/2020).**

CBDT vide Circular No.1/2014 dated 13/01/2014 relying upon the judgment of the Hon'ble Rajasthan High Court in the case of *CIT* (*TDS*) *Jaipur* v. *Rajasthan Urban Infrastructure* reported in (2013) 37 taxmann.com 154 has decided not to deduct TDS on the service tax portion when service tax component was shown separately on the face of the invoice.

Referring to above CBDT Circular No.1/2014 dated 13/01/2014 as GST charged separately on the face of the invoice is not suffering TDS hence under the same principle 'GST' when collected may not suffer TCS .

(e) GST charged on sales is a part of TCS when collected where as no GST is charged for TCS shown separately on the face of the invoice:

CBIC vide corrigendum letter dated 7th March 2019 as corrigendum to Circular No: 76/50/2018-GST dated 31st December,2018 has made it clear that no GST has to be charged for TCS shown separately on the face of the invoice than how sales consideration collected inclusive of GST shall suffer GST.

(f) Applicability of levy of TCS under B2B arrangements where goods are sold for manufacturing, processing or producing articles or things or for generation of power and not for trading purpose:

Under the current TCS regime, no tax is required to be collected at source from a buyer who is resident in India and who purchases goods specified under section 206C(1) for the purpose of manufacturing, processing or producing any article or thing or for the purpose of generating power and not for trading. The buyer is required to furnish adeclaration in Form 27C to the seller under section 206C (1A) that the goods purchased are to be utilized in the carrying on aforesaid purpose.

Under the newly introduced law related to TCS on sale of goods, there is no such enabling provision where in buyer of goods can declare the purpose of utilization of goods so as to free from tax collection and hence, it seems all buyers would be covered for TCS under the new TCS law.

(g) Applicability of levy of TCS in case of indivisible contracts:

In the case of indivisible contract there is no bifurcation of contract price between goods and services and accordingly invoice is raised for an absolute figure without bifurcation of goods and services.

In such case an issue may arise regarding the applicability of TDS under section 194C vis-a-vis TCS on the sale consideration in case of indivisible contracts. The nature of overall transaction whether sale of goods or rendering of services, will be critical to determine whether TDS or TCS will apply. In case considering the nature of the transaction, TDS in not applicable, the issue which require consideration is whether TCS would be required on the contract price which includes both for supply of goods and services. Therefore, a clarification may be issued regarding indivisible contracts.

(h) Past taxable event that is sales made in earlier years shall suffer TCS on collection basis :

Taxable event that is sale was happened in earlier years. Tax has to be collected on collection of sale consideration in the financial year 2020-21 which was collected after 30th September, 2020 once the collection from individual buyer exceeds rupees fifty lacs. This shows that tax is going to be collected on those past sale even when originally sale was made, the new tax collection law was not in the Act. Accordingly the new tax collection rule is inconsistency in the accepted principle that past taxable event happened in one financial year shall not create any compliance burden upon the parties i.e. both seller and buyer in another financial year because each financial year is distinct and separate.

TDS on Rent of Casual Accommodation.

The Income Tax Appellate Tribunal (ITAT), Mumbai Bench held that TDS cannot be deducted on the rent if the accommodation services were taken on a casual basis. The assessee, Dadiba kali Pundole Esplanade House is engaged in the business of auctioning fine and decorative arts, promoting, publishing, documenting, executing, and selling arts. The assessee filed its return of income declaring his total income, which was processed under section 143(1) of the Act. Thereafter, the case of the assessee was selected under scrutiny and statutory notices were issued and served upon the assessee. During the course of assessment proceedings, the Assessing Officer noticed that the assessee has paid Rs.4,68,543 towards rent of hotel accommodation to Royal Bombay Yacht Club on which no TDS was deducted. Accordingly, a show cause was given to the assessee as to why the same should not be disallowed under section 40(a)(ia) of the Act for non- deduction of Tax Deducted at Source. The assessee also submitted that no single payment was made in excess of Rs.1,80,000 at any point in time. The assessee also referred to Circular No.5 dated July 30, 2020, issued by CBDT, wherein it has clarified the provisions relating to tax deduction at source regarding changes introduced through Finance Act, 1995. The assessee also submitted that in the said Circular the Board clarified that the TDS is applicable to the payments made by persons other than individual and HUF for hotel accommodation taken on a regular basis which will be in the nature of rent would be subject to TDS under section 194-I of the Act. The AO disallowed and added the same under section 40(a)(ia) of the Act for non-deduction of TDS. The CIT(A) confirmed the addition by holding that the assessee has paid accommodation charges for the hotel accommodation which is on a regular basis from the club without deduction of TDS at source. The two-member bench headed by the Vice- President, Mahavir Singh observed that the accommodation was booked by the assessee in the club not on a regular basis but on casually and occasionally as and when the foreign consultants visited the assessee in connection with the assessee's business. "We are quite convinced with the arguments of the learned Counsel that this accommodation is occasional/ casual as no specific accommodation is earmarked and the same is made available to the assessee on the availability basis," the tribunal noted. Therefore, the tribunal while setting aside the order passed by CIT(A) held that the Circular has very clearly mentioned that the provision of section 194(I) is applicable where the accommodation is taken on a regular basis, which means that a specific accommodation is earmarked to be let out for the specific period but in the present case the facts are different

TDS LIABILITY CANNOT BE FASTENED BY RETROSPECTIVE AMENDMENT OR SUBSEQUENT DECISION

The payer of income does tax deduction as per the law in force when she makes remittance. The Indian legislature has powers to make retrospective amendment to the statutes. Similarly, a judicial decision, which is always retrospective, may reverses a settled position on taxability of income in the hands of payee.

A question arises as to when a retrospective amendment is made, whether it also retrospectively impacts the TDS provisions. For example, by Finance Act 2012, a retrospective amendment was made to the definition of royalty with retrospective effect from 01.04.1976. One of the objectives was to cover software payments within the definition of royalty.

Similarly, the Karnataka HC in CIT v Samsung Electronics Co. Ltd. (16 taxmann.com 141) (passed on October 15, 2011) held that software purchases are liable for TDS. Prior to this decision, the Courts had consistently taken a view that software purchases are not liable for TDS.

Therefore, an issue arose whether TDS liability can be fastened by retrospective amendment or subsequent Court decision on the payer to deduct tax at source on software purchase. TDS is a vicarious or secondary liability. The retrospective amendment cannot create a retrospective liability to deduct TDS. This is for the reason that the detector would have remitted the amount to the payee without deducting TDS as per the law prevailing. There would be impossibility of performance from the deductor's prospective (Maxim ***'lex non cogit ad impossiblia'***). Statute cannot ask the deductor to perform something, which is impossible. Therefore, a retrospective amendment can create retrospective liability on a person who earns the income and not on the payer.

In many cases, the Courts have dealt with the issue whether the assessee can be fastened with the TDS liability on account of subsequent retrospective amendment or subsequent ruling of the Court. The courts have held that such liability cannot be fastened. Accordingly, the Courts have quashed the Orders passed u/s 201(1) and 201(1A) of the Act. Also, disallowance made u/s 40(a)(i) of the Act have been deleted. These cases are discussed below:

Cases where 40(a)(i)/40(a)(ia) disallowance were deleted

Channel Guide India Ltd (2012) 25 Taxmann.com 25 (Mumbai ITAT) – The Assessee made payment for facility of satellite Up-linking and Telecasting programmes. TDS was not deducted and AO made disallowance. Applying the maxim 'lex non cogit ad impossiblia', the ITAT held that amendment will not to apply to deductor. The ITAT held that the assessee could not be held to be liable to deduct tax at source relying on the subsequent amendments made in the Act with retrospective effect. In the said case. Explanation to section 9(2) was inserted by the Finance Act, 2007 with retrospective effect from 1.6.1976 and it was held by the Tribunal that it was impossible for the assessee to deduct tax in the financial year 2003-04 when as per the relevant legal position prevalent in the financial year 2003-04, the obligation to deduct tax was not on the assessee.

Metro & Metro v Ad.CIT [2013] 39 taxmann.com 26 (Agra – Trib.) – The ITAT held that expense disallowance for non-deduction of TDS u/s 40(a)(i) was not applicable as the leather testing services in that case became taxable only by virtue of retrospective amendment to Sec 9(1) by Finance Act, 2010.

Virola International [2014] 42 taxmann.com 286 (Agra ITAT) – Held that retrospective amendment in law cannot change the tax withholding liability with retrospective effect, but changes only the tax liability in respect of an income with retrospective effect.

New Bombay Park Hotel Pvt. Ltd TS-522-ITAT-2013(Mumbai ITAT) – The assessee made

payment for Transfer of design etc. Services outside India. The ITAT held that retrospective amendment does not create any additional TDS liability as the legal position prevailing at the relevant time should be considered.

NGC Networks (India) Pvt Ltd [TS-41-HC-2018(BOM)] – The Assessee had made payment for channel placement fee. Disallowance was made under section 40(a)(i). The ITAT deleted the disallowance on the ground that retrospective amendment does not create any TDS liability. The head see upheld the order of the Tribunal. The HC also observed that that meaning of royalty for the purposes of Sec. 40(a)(ia) is as provided in Explanation 2 to Section 9(1)(vi) and not Explanation 6 to Section 9(1)(vi), since channel placement fee is not royalty in terms of Explanation 2 to Section 9(1)(vi), HC holds disallowance u/s. 40(a)(ia) cannot be made

Courts have consistently upheld the above view. Some decisions are:

- ITO v. Clear Water Technology Services (P.) Ltd [2014] 52 taxmann.com 115 (Bang. – Trib.) – The Assessee made payment for telecom services. The Tribunal held that liability to deduct tax at source under Section 195 of the IT Act cannot be fastened on an assessee on the basis of retrospective amendment. Also refer for AY 11-12 in ITA No.1419/Bang/2017.
- Sonic Biochem Extractions (P.) Ltd. v. ITO (2013 – 35 taxmann.com 463) – payment towards purchase of software leading to disallowance u/s 40(a)(ia).
- DDIT (Int'l Tax) vs Igate Computer Systems Ltd ITA No.1172 to 1174/PN/2013
- Kerala Vision Ltd v ACIT [2014] 46 taxmann.com 50 (Cochin – Trib.)
- ITO v Bovis Lend Lease India P Ltd (2012) 21 Taxmann.com 100 – The ITAT held that retrospective amendment to section 9 cannot apply to deductor. It applies to recipient of income.
- TTK Prestige [TS-555-ITAT-2014(Bang)] – Assessee made payment towards royalty on export sales. The AO made disallowance u/s 40(a)(ia). The Assessee relied on Madras HC decision in Aktiengesellschaft Kuhnle Kopp wherein it was held that royalty payment was not liable to TDS when it was made for earning income from source outside India (i.e export sales). The ITAT observes that payment was made before introduction of retrospective amendment, by virtue of which 'territorial nexus' is no longer required to tax 'receipts' of non-residents. The ITAt holds that assessee could not be held in default for non-deduction of tax when such retro amendment was introduced subsequent to payment.
- ACIT vs. Ajit Ramakant Phatarpekar (ITAT Panaji) [2015] 56 taxmann.com 357 (Panaji – Trib.) – The ITAT held that if an amount becomes taxable due to a retrospective amendment, payments prior to the amendment cannot be disallowed for want of TDS. The ITAT held that Assessee cannot be penalized for performing an impossible task of deducting TDS in accordance with the law which was brought into the statute book much after the point of time when the tax deduction obligation was to be discharged

<u>Cases dealing subsequent Judicial Decision and its impact on TDS deduction</u>

In the case of **Aurigene Discovery Technologies (P.) Ltd. [IT (TP) Appeal No. 1479 (Bang.) of 2015,** the Assessee had made payment for software purchase. Since TDS was not deducted, the AO made disallowance u/s 40(a)(ia). Before the ITAT, the Assessee submitted that prior to the decision of Karnataka HC in the case of CIT (International Taxation) v. Samsung Electronics Co. Ltd. [2010] 320 ITR 209/[2009] 185 Taxman 313 (Kar.), the assessee was under the bona fide belief that the payment on account of software licenses does not fall under the definition of royalty and therefore the assessee was under no obligation to deduct tax at source on the said payment for

software license. Thus, the Assessee submitted that a subsequent amendment or a decision cannot be thrust upon the assessee for deduction of tax in respect of a transaction completed much prior to the said decision. The Tribunal accepted the contention and deleted the disallowance.

Same view is taken in the following cases (disallowance for not deducted TDS on software purchases):

- Allegis Services India (P.) Ltd vs DCIT [2017] 86 taxmann.com 63 (Bangalore-Trib.)
- Teekays Interior Solutions Pvt Ltd vs DCIT [ITA No.400/Bang/2017] [AY 2011-12] –
- Ingersoll Rand India Ltd v ACIT [2019] 112 taxmann.com 343 (Bangalore – Trib.)
- ACIT v Acer India Pvt Ltd ITA No 119/Bang/2016.

Cases where Order under section 201 were quashed in the context of TDS u/s 192

In the case of **Canara Bank v ITO (2008) 121 ITD 1 (ITAT Nagpur), 41B BCAJ 529,** the Assessee provide accommodation to employees and recovered fixed charges. When Assessee deducted TDS, as per section 17, there was no concession. Retrospective amendment was made to section 17(2) deeming that there is a concession. The AO held that TDS to be deducted. The Assessee contended that it deducted TDS as per the law and it has no remedy to recover the tax. The Tribunal held that the assessee is not at default. The ITAT held that even if amendment had been brought into section 17(2) with retrospective effect, assessee could not be treated as an 'assessee-in-default' retrospectively and interest under section 201(1A) could not be charged on a liability which came into existence by a retrospective amendment.

Same view is taken in the following cases (disallowance for not deducted TDS on software purchases):

- SBI v DCIT 2010-TIOL-231-ITAT-HYD, (2010) 40 SOT 160 (Hyderabad ITAT)
- ONGC 2011-TIOL-227-ITAT-MUM

Cases where Order under section 201 were quashed in the context of Royalty (software, gartner, etc)

In the case of **Acer India Pvt Ltd v DCIT IT(IT)A No. 107 to 114/Bang/2018**, the Assessee made payment towards purchase of software but did not deduct TDS. The AO passed order under section 201 and held that the assessee should have deducted TDS. Before the Tribunal, the assessee contended that it could not be treated as assessee in default as at the time when the assessee made payment for purchase of software, there were favourable decisions which held that there is no liability to deduct TDS on software purchases. The assessee contended that the decision of Karnataka High Court in the case of Samsung is dated 15 October 2011 and before that date it cannot be treated as assessee in default. The Tribunal accepted the contention of the assessee and held that up to 15 October 2011, it cannot be treated as assessee in default for non-deduction of TDS on purchase of software.

In the case of **Wipro Ltd v DCIT ITA No. 581/Bang/2019**, the assessee made payment to M/s Gartner group for license for using its data base. The AO held that TDS should have been deducted and passed order u/s 201(1). The Tribunal quashed the Order following Acer India.

GSTR 3B AND FORM 26AS – The two different poles.

In exercise of powers conferred under section 119 of the Income-tax Act,1961 read with sub-rule (2) of Rule 114-I of the Income-tax Rules,1962, the Central Board of Direct Taxes ('Board'), vide its order F. No. 225/155/2020/ITA.II dated 29-09-2020 authorized the Principal Director General of Income-tax (Systems) or the Director-General of Income-tax (Systems) to upload information relating to GST return, which is in his possession, in the Annual Information Statement in Form 26AS, within three months from the end of the month in which the information is received by him.

In this way, the details of an assessee's monthly turnover as per Form GSTR 3B now finds place in Part H of Form 26AS. Registration of dealers under GST Act was PAN based since inception and it was evident that the Income Tax and GST details would be linked. A beginning was made from Assessment Year 2018-19 by including clauses for amount of GST Turnover and GST registration number in Income Tax Returns.

It is appropriate to consider the purpose which is intended to be served by incorporating the information relating to GST Return in Form 26AS.

If the Income Tax Department wishes to match the Turnover as per an assessee's accounts and records with that furnished in GSTR 3B, it would be comparing apples with oranges. It is a futile exercise, inter alia, for the basic reason that whereas in GST, inter-state branch transfers of goods/services are treated as supply and forms part of turnover, it is not so considered in financial statements prepared under Generally Accepted Accounting Principles (GAAP) which stipulate that a person cannot sell goods or render services to himself. The Income Tax Returns are filed on the basis of such financial statements. Apart from this fundamental difference between the concept of 'turnover", there are many bona fide reasons for mismatch of the two data which are discussed hereinafter.

Initially, a Form 26AS was a consolidated "Annual tax statement" issued by the Income Tax Department and contained various useful information pertaining to an assessee including information about the taxes deducted on his income by employers, banks and other and specified persons, advance tax or self- assessment tax paid during the year, tax collected at source, details of any refunds and other prescribed information. Specified Financial Transactions were also included in it.

The Finance Act, 2020, omitted section 203AA of the Income Tax Act, 1961 ("the Act") w.e.f. 1-6-2020 and from that date, inserted section 285BB, providing for uploading of "Annual Information Return (AIR)".

Every taxpayer cross-checks his Form 26AS to ascertain that the taxes deducted and the advance tax paid during the year match with the tax deposited as per the tax department's records because any discrepancy could lead to the tax authority issuing a notice. He also makes note of any income that is reflected in the Form 26AS but does not match the income that he has received or vice versa. The mismatch could have occurred due to wrong entry of Permanent Account Number (PAN), AY, or the amount while deductor files his TDS;

So far as Turnover as per Form GSTR 3B is concerned, the Income Tax Department would simply upload such information as is in its possession, within the stipulated time. Obviously, the Department has not assumed the responsibility of ensuring the completeness and accuracy of the information which it would upload.

Earlier, it has been stated that 'Turnover' as per GST Act includes inter-state branch transfers of goods and/or services but not in financial statements prepared under GAAP. Apart from this fundamental difference between the concept of 'turnover' under GST and financial statements, there are, inter alia, the following other differences:

1. **Income by way of interest:** As per Entry no. 27 in Notification no. 12/2017-Central Tax (rate) dated 28-6-2017 issued by Govt. of India, Ministry of Finance, Department of Revenue, "services by way of –

(a) extending deposit, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services)" is taxable at NIL rate. As per sub- section 47 of section 2 of ibid, 'exempt supply' means supply of any goods or services or both which attract nil rate of tax or which may be wholly exempt from tax under section 11 or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply. As per sub-section (6) of section 2 of CGST Act, "aggregate turnover" includes exempt supply. Thus, income by way of interest forms part of 'turnover' under GST laws. But such income is not considered as 'turnover' in financial statements prepared under GAAP. In Return of Income, interest income is not a part of turnover.

2. **Financial Credit Notes**: Credit notes issued for Trade discounts are deducted from 'turnover' in financial statements prepared under GAAP. Such discounts are not excluded while determining the value of supply under GST law as such discounts are not known at the time of supply as the conditions laid down in clause (b) of section 15(3) of the CGST Act are not satisfied. Thus, the 'turnover' under GST and Return of Income are bound to be different.

Moreover, the turnovers reported in Forms GSTR 3B are not final and can be rectified when filing annual return in Form GSTR 9. In other words, the turnover reflected in GSTR 3B are not final and subject to correction, if necessary. Form 26AS for Assessment Year 2020-21 contains the monthly turnovers reported in GSTR 3B for the months of April 2019 to March, 2020. The amounts of these turnovers may be modified, rectified vide Annual Return in Form GSTR 9 which can be filed by 31-12-2020. **Therefore, it is not prudent on the part of the Income Tax Department to obtain information about turnover from GSTR 3B.**

The purpose of including the Turnover of an assessee as per Form GSTR 3B in Form 26AS is not stated. Sub- rule (2) of Rule 114-I of Income Tax Rules, 1962 is reproduced below:

"(2) The Board may also authorise the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or any person authorised by him to upload the information received from any officer, authority or body performing any function under any law or the information received under an agreement referred to in section 90 or section 90A of the Income-tax Act, 1961 or the information received from any other person to the extent ***as it may deem fit in the interest of the revenue*** *in the annual information statement referred to in sub-rule (1)".*

[Emphasis supplied]

It is not clear how the uploading of an irrelevant information would serve the "interest of the revenue". It is assumed that such turnover would be matched with the 'Turnover' reported by an assessee in his Return of Income and in the event of mismatch, necessary enquiries would be made.

If an Assessee is required to reconcile the amount of turnover reported in Form GSTR 3B with that in his Income Tax Return and is subjected to scrutiny for such mismatch, there would be serious miscarriage of justice and unnecessary harassment to him. He is reminded of the nightmare which he experienced when data contained in Form 26AS was relied upon by the Income Tax Department for giving credit for pre-paid taxes and for computerised processing of Returns of Income. An Assessee can never forget the decision

dated 14th March, 2013 of Hon'ble Delhi High Court rendered on its own motion in ***Court on its own motion v. Commissioner of Income Tax*** **reported in [2013] 31 taxmann.com 31 (Delhi)/[2013] 214 Taxman 335 (Delhi)/[2013] 352 ITR 273 (Delhi)** wherein the Court considered the plight of lakhs of tax payers, spread all over the country, who faced numerous difficulties due to faulty processing of the Income Tax Returns and denial of due credit for the Tax deducted at source. The Hon'ble Court came to the rescue of the taxpayers by issuing the following mandamus:

"An assessee as a deductee should not suffer because of fault made by deductor or inability of the Revenue to ask the deductor to rectify and correct. Once payment has been received by the Revenue, credit should be given to the assessee. Board will issue such suitable directions in this regard and this is the sixth mandamus which we are issuing." [Para 42]

Further, please refer the quote the following passage from a write-up titled as "Psychological Factors Behind Tax Compliance" written by Anupama Prasad, Member (DRP)-1, Delhi in Taxalogue Vol. 2, Issue 5 (July-Sep. 2020):

"Role of Trust

A number of studies have proved the relevance of trust between taxpayers and tax authorities as a means of securing tax compliance. The conclusions also hold true in the Indian context. It would not be out of place to mention that people tend to evade taxes if they feel that the Government is unresponsive to their needs, or that they are being treated unfairly by the tax regime. Lack of trust of the tax regime can erode the ethics of taxpayers to comply. The general perception is not to perceive the tax administration as a facilitator and provider of services to a tax paying citizen. The general attitude among Indians is that an interface with tax authorities is a nightmare."

The platform, named as **"Transparent Taxation – Honouring the Honest"** was launched by the Hon'ble Prime Minister Shri Narendra Modiji on 13-08-2020. In the Taxpayer's Charter, CBDT has enlisted the duties which the Income-tax Department and its officials should fulfil to protect the interest of the taxpayers of the country. One of the duties listed therein is:

"Imparting of Accurate and Complete Information:

Income Tax Department shall provide correct information to help taxpayers in making legal compliances."

Section 119A inserted by Finance Act, 2020 w.e.f. 1-4-2020 provides for adoption and declaration of a "Taxpayers' Charter" by the Board and if the impugned Order issued under section 119 on 29-09-2020 furnishes misleading information and expects a taxpayer to reconcile and match the same, such an order would be *void ab initio* by operation of section 119A of the Act.

GST on Legal Services Provided by Advocates

Meaning of Legal Services Prior to Corrigendum dated 25th Sep 2017, "Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity."

To remove the ambiguity, changes have been made in the definition vide Corrigendum dated 25th Sep 2017. "Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly,…" Explanation - "Legal Service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.

Comment –

1. Now legal service is not limited to representational service but it also covers any type of advice or consultancy of any law.

2. When will Legal Services provided by an Advocate fall under Reverse Charge? As per Notification No. 13/2017 - Central Tax (Rate) dated 28th June 2017, there are three conditions which are required to be fulfilled:

Condition 1 - The Service provider should be : An individual advocate including a senior advocate, or A firm of advocates by way of legal service.
Condition 2 - Recipient should be: Any business entity.
Condition 3 - Location: Recipient should be located in the taxable territory.

3. When is an Advocate required to be registered? As per Notification No. 5/2017 - Central Tax (Rate) dated 19th June 2017, suppliers who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under section 9(3) of CGST Act, 2017 are exempted from obtaining registration. When the service provided is covered under Reverse Charge Mechanism (RCM), the advocate is exempted from GST Registration.

4. When are Legal Services exempt? As per Notification No. 12/2017 - Central Tax (Rate) dated 28th June 2017, read with Notification No. 2/2018 - Central Tax (Rate) dated 25th Jan 2018, Legal Services are exempted from GST when,

A. A partnership firm of advocates or an individual as an advocate other than a senior advocate, provides legal service to :
(i) An advocate or partnership firm of advocates providing legal services; or
(ii) Any person other than a business entity; or
(iii) A business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year; or
(iv) Central Government, State Government, Union territory, local Authority, Government Authority or Government Entity.

B. A senior advocate by way of legal service to :
(i) Any person other than a business entity; or
(ii) A business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year or,
(iii) Central Government, State Government, Union territory, local Authority, Government Authority or Government Entity. Important Note - A Senior Advocate providing legal service to an Advocate or Advocate firm is not exempt. "Special category States" as specified in Article 279A(4)(g) of the Constitution, includes the State of Assam, Arunachal Pradesh, J&K, Himachal Pradesh, Uttarakhand, Manipur, Mizoram, Sikkim, Meghalaya, Nagaland and Tripura.

5. Is it mandatory for recipient to get GST registration? As per Section 24(iii), persons who are required to pay tax under RCM shall mandatorily take registration in GST . Therefore, if legal services are not exempt and the recipient is a business entity located in the taxable territory then the recipient shall get himself registered in GST to pay tax under reverse charge.

6. Can the liability under RCM be adjusted through Input Tax Credit? Any amount payable under Section 9(3) of CGST Act and Section 5(3) of IGST Act, under RCM shall be paid by cash only. Reverse charge liability cannot be discharged by using input tax credit. Now there are certain important queries which we need to analyze.

Q1. If the recipient is not carrying any business but is taking legal service from an advocate, what is the applicability of RCM and is the recipient required to take mandatory registration in this case as per Section 24(iii) of CGST Act?

Ans - No Reverse Charge is applicable in this case because recipient is not a specified recipient. As per Notification No. 13/2017, if the recipient is a person who is doing business then it would be applicable. Also, it is worthwhile to note that in case service is exempt, then the question of reverse charge does not arise. As per Sr No. 45(b)(ii) / 45(c)(i) of Notification No. 12/2017 as explained above, it is clearly stated that if the recipient is a person other than business entity then the service is exempt.

Q2. If the recipient is carrying on business but below threshold limit, is the recipient required to pay taxes under RCM?

Ans - Same as above, as per Sr No 45(b)(iii) / 45(c)(iii) of Notification No. 12/2017, if the recipient is a business entity with an aggregate turnover upto threshold limit then legal service is exempt. Again the underlying service is exempt so no question of reverse charge.

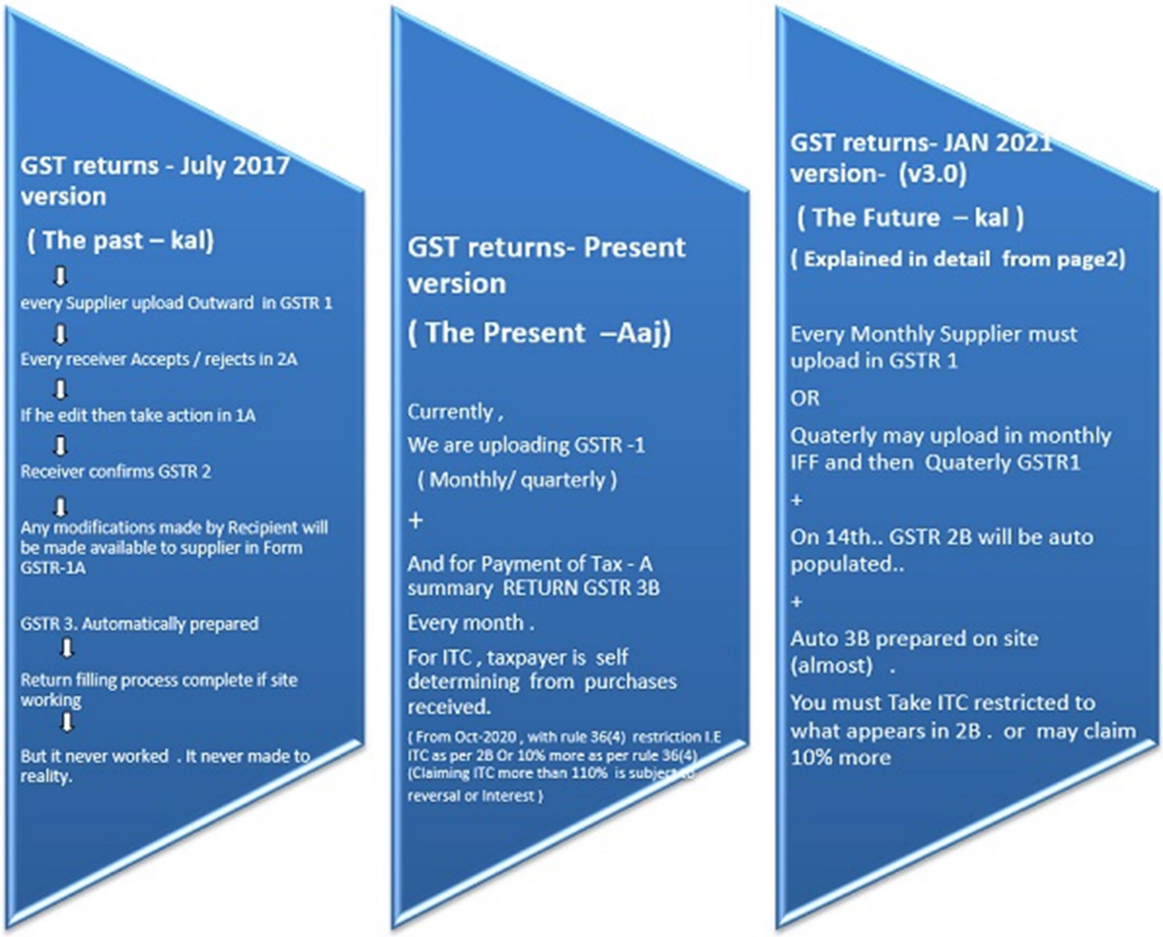
Q3.What are the possibilities of reverse charge in case where the Recipient is located in Non Taxable Territory and taking legal service from an Indian Advocate?

Ans - In case services are provided outside India, then RCM is not applicable as the business entity is located outside taxable territory. However the service is not exempt as per Notification No. 12/2017 and hence, the Advocate is required to take GST Registration. An invoice will be raised in this case. Also, services provided outside India may qualify as Export of Services provided all conditions of Section 2(6) of IGST Act are fulfilled.

An Analysis of GST Return Version 3.0.

From 1 Jan 2021, GST Return Filing System will see major changes (which we will version 3.0). The intention to overhaul the GST return filing system, but whether it is the correct solution is something that only time can tell. Notification 82 to 85 to notify/amend rule 60/61/62/61A and Circular No. 143/13/2020 were issued on 11-11-2020.

Let us Start at The Beginning - KAL, AAJ, AUR KAL



In essence it all seems to be the same, wherein we are in a scenario similar to July 2017, except for the option to accept /reject/edit. There may be a potential problem which is “You can take ITC only what appears in GSTR 2B till 14th date”.

These seem to be tighter restrictions than the original system. There arises questions regarding the natural right to take ITC, the promises of a Seamless ITC and Section 16 which says if you have invoices, you have to claim ITC.

Please note that for your reference – From Oct-2020, with rule 36(4) restriction i.e. ITC as per 2B or 10% more as per rule 36(4). (Claiming ITC more than 110% is subject to reversal or Interest).

Now Let Us Understand In Detail New GST Return Filling System From 1 Jan 2021

Category 1 – Return Filling System for Turnover Below 5 Crore

Part A – For uploading Sales invoices –

If turnover below 1.5 crore	If turnover above 1.5 crore but less than 5 crore
Ø M1 (1st month of Qtr.) – May upload in IFF (Only B2B) before 13th Ø M2 (2nd month of Qtr.) – May upload in IFF (Only B2B) before 13th Ø M3 (3rd month of Qtr.) – FILE GSTR-1 before 13th (as usual) B2B, B2C, Other B2B invoices, B2CL, Other Dr. & Cr. Notes	File Monthly GSTR1 before 11th (as usual) B2B, B2C, Other B2B invoices, B2CL, Other Dr. & Cr. Notes

What is Invoice Furnishing Utility (IFF)?

Upload B2B invoices, using Invoice Furnishing Facility.

Of course, there is no need to report invoices again in GSTR-1 if already reported in IFF. The invoices in IFF is to be furnished from 1st day of next month till 13th day of next month.(1-13th) (So it's similar to GSTR 1). IFF is an improvised solution to upload monthly B2B invoice in case of 1quarterly dealers, so that the counter party can claim ITC monthly.

READ NOTIFICATION EXTRACT –

Quarterly dealers may furnish the details of outward supply for the first and second months of a quarter, up to a cumulative value of fifty lakh rupees in each of the months,- using invoice furnishing facility (hereafter in this notification referred to as the —IFF') electronically on the common portal, duly authenticated in the manner prescribed under rule 26, from the 1st day of the month succeeding such month till the 13th day of the said month.

For example-

For January- Upload invoices in IFF (B2B) till 13th February

For February- Upload invoices in IFF (B2B) Till 13th March

For March- Upload invoices (B2B + B2CS + B2CL) in GSTR1 till 13th April.

PART B – For payment of Tax –

QRMP scheme from 01-01-2020 (We call it alternative method of 3B below Rs. 5 crores. Keep in mind you can still file GSTR 3B. This seems optional)

QRMP (full form) – Quarterly Return Monthly Payment (for supposed ease)

1. How it works?

For any Quarter:

M1 (first month) – pay challan – GST PMT-06 by 25th day of succeeding month

M2 (second month) – pay challan – GST PMT-06 by 25th day of succeeding month

M3 (third month) – File GSTR 3B (as usual) – 22nd or 24th day

2. How to ascertain? – 2 methods to ascertain tax liability in QRMP FOR M1 & M2 month.

Method 1 – Self assessment

it is like being self-assessed under 3B, but do not file 3B. Just pay challan (in PMT 6) after considering outward

liability and inward ITC from 2B.(this will have to be calculated manually each month for your self-assesment). That's means, जैसा चल रहा था ऐसा ही चलने दो.

Method 2 – Fixed sum method

Pre-filled challan in PMT 6. It's for lazy people, pay amount as equal to 35% of total amount paid in last quarter (Read again… "35% of Last quarter Net tax") in M1 & M2.

3. How PMT-6 will work ?

The amount deposited through PMT-06 for 1st and 2nd month will remain in the cash ledger and will be adjusted on filing GSTR 3B at the end of the quarter.

Any claim of refund of such amount lying in balance in the electronic cash ledger, if any, out of the amount so deposited shall be permitted only after the return in Form GSTR-3B for the said quarter has been filed.

Let's see how this system will actually work after 1 Jan 2021. People may continue with GSTR 3B.

You will file GSTR 1 if TO above 1.5 cr / IFF monthly (i.e B2B invoice upload facility for 1.5 cr below TO) . And a simplified challan system replacing GSTR 3B. So both tasks are monthly compliance only. There is nothing that this compliance has reduced or eased up. These challan (instead of 3B) and uploading outward supplies are compliance for M1 and M2. For 3rd month, you must file GSTR 3B as usual and also upload GSTR 1 as usual. Of course, those invoices which are already upload in IFF, need not be uploaded again. It's like from outer pack, you are under quarterly, but from inside you have to do everything monthly. (No comment on interest and late fees and how it will work).

GSTR 3B was relatively stable and proper. It was easy and fast system of return filling. In the name of simplification, the processes should not end up hurting MSMEs

So, for Rs.5 crore below, check the scenario after 1 Jan 2021

On one side – GSTR 3B quarterly, but with monthly payment of approximate tax (almost like 3B). For first 2 months, you **may** check 2B for ITC determination. In 3rd month, ITC will be restricted to the extent of available in GSTR 2B or as per 36(4). And a GSTR 3B after quarter end.

On other side – Monthly GSTR 1 OR IFF to upload monthly invoice. Also, a quarterly GSTR 1.

Category 2 – Return Filling System For Turnover Above 5 Crore

Part A – For uploading sales invoices –

Every month GSTR 1 before 11th (as usual)

Part B – For payment of tax –

GSTR 3B – AUTOMATIC (almost) – File Before 20th / 22 Th / 24th

How Automatic GSTR 3B will be taxpayers above 5 crore bracket?

FOR OUTWARD LIABILITY	It will be auto populated from GSTR 1 (You may / may not be allowed to edit)
For RCM	These details need to filled up after asking taxpayer
For Inward ITC details (including Import ITC) Read below	It will be auto populated from GSTR 2B from 12th day 00.00 hrs As per rule 36(4), taxpayer can claim 10% more ITC

	than what appears in GSTR 2B

How To Ascertain Details Of Inward Supplies

Inward Supplies from Monthly Filer

Since your monthly supplier will file GSTR 1 ideally before 11th, ITC details will be auto-populated.

INWARD SUPPLIES from Quarterly filer –

M1 (1st month of Qtr.) – may upload in IFF (only B2B) before 13th

M2 (2nd month of Qtr.) – may upload in IFF (only B2B) before 13th

M3 (3RD month of Qtr.) – FILE GSTR-1 before 13th (as usual)

So, ITC will be auto populated monthly from the purchases only if he uploads regularly in IFF before 13th.

Please note that as per rule 36(4), ITC amount will be restricted only to the extent of 10%* of the eligible ITC value already reflected in the GSTR-2A for that period.

BRIEF HISTORY ON RULE 36(4) – Before 9 October 2019, all taxpayers claimed ITC on a self-declaration basis in Table 4(a) of GSTR-3B. This means that they declared the summary figure of eligible tax credits under IGST, CGST, and SGST. There was no compulsion to reconcile the ITC figure with the GSTR-2A until now, although it was always advised.
Even if the GSTR-2A reflected an ITC amount lower than the books of accounts, taxpayers could still make their ITC claim in full in the GSTR-3B, and the un-reflected amount was treated as provisional credit.

After the implementation of this rule, the provisional ITC amount will be restricted only to the extent of 10% (With effect from 1 Jan 2020; Was earlier restricted to 20% for the period from 9 Oct 2019 to 31 Dec 2019) of the eligible ITC value already reflected in the GSTR-2A for that period. Apart from the 10% of eligible ITC which a taxpayer can claim as provisional credit, the balance tax liability will need to be paid in cash.

This new rule could affect the working capital of a taxpayer, as he will be required to make GST payments in cash, despite having paid his supplier for the tax invoice raised to him and having eligible ITC in his books.
Said rule was made optional for COVID period in 2020. The said Rule shall apply cumulatively for the period February, March, April, May, June, July and August, 2020 and the return in Form GSTR-3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months. So from October-2020, Finally Rule 36(4) is applicable in full force & restriction.

Now, Government wants to restrict ITC anyhow. “Claim only to the extent available in 2B”. That’s it. Earlier GSTR 1/1A/2/2A/3 was conceptualised on this principle only.

In present return filling system, ITC is subject to GSTR 2B. But the potential problem for taxpayers is that ITC from quarterly dealers do not appear in GSTR 2B in M1 and M2. So taxpayer may not be able to claim ITC as equal to books. This problem is huge if taxpayer has purchases from quarterly dealers in particular month. On other hand, claiming ITC more than 110% is subject to reversal of interest.

To remove this problem, Government has come up with highly ambitious project. To do these, Notification 82 to 85 issued to notify/amend rule 60/61/62/61A. Also, Circular No. 143/13/2020- GST is issued applicable from 01-01-2021. And for this, IFF is introduced and this might be an improvised solution that quarterly dealer may able to upload his SALES invoices before 13th (of course B2B only) every month, And recipients will be able to claim ITC on monthly basis. Let us see how this added workload on part of professionals will be

dealt by them.

GSTR 3B will be almost auto drafted. You may/may not change ITC amount by claiming 10% more. Or let's see how things turn out after January -2021 on portal. It is too early to say for now.

Strategy to make it successful

1. Instruct every client to send GSTR 1 in 1st week of the month

2. Now even quarterly dealers will be able to upload their B2B invoices in IFF monthly. So every professional should educate clients, and clients should inform their all suppliers to upload invoice on time

3. For getting full ITC, instruct every client to employ full-time employee who will call each suppliers regularly (including each quarterly supplier) from whom purchases are made and get screenshots from them ensuring that counter party has uploaded invoice in GSTR 1/ IFF before due date. Everyone must be on-time

4. Send your clients GSTR 2B on 14th (at least to all clients having TO at Rs. 5 crores & above). So that he can analyse that which counter party has uploaded and which has not yet uploaded.

IN SUMMARY, THIS MIGHT BE THE FINAL PICTURE FOR RETURN FILLING AFTER 1-1-2021

	TO BELOW 1.5 CRORE	TO > 1.5 CR BUT < 5 CR	TO ABOVE 5 CRORE
MONTHLY UPLOADING OUTWARD SUPPLIES	IFF FOR M1 M2 before 13th AND GSTR 1 FOR M3 before 13th of Qtr ending	GSTR 1 before 11th	GSTR 1 before 11th
FOR MONTHLY PAYMENT OF TAX	PMT-6 FOR M1 & M2 before 25th GSTR 3B* for M3 before 22th / 24th	PMT-6 FOR M1 & M2 before 25th GSTR 3B* for M3 before 22th / 24th	GSTR 3B* before 20th

GSTR 3B after considering ITC from 2B or 10% more . Lets see .

As a taxpayer, how your monthly timeline will look

This will be monthly timeline for compliance work of Jan, Feb, April, May, July, Aug, Oct, Nov:

- **1-11th** = Upload GSTR 1 Of monthly clients above Rs. 1.5 crores
- **12-13th** = Upload IFF of quarterly clients below Rs. 1.5 crores
- **14th** = Send 2B To All Clients above Rs. 5 crores
- **15th – 20th** = File 3B of clients above Rs. 5 crore
- **25TH** = File challan PMT-6 for those having 5 crore above (instead of 3B) in M1 +M2, after the self-assessment

This will be monthly timeline for compliance work of over above work For Mar, June, Sept, Dec:

- 13th = Upload GSTR 1 of monthly clients with less that Rs. 1.5 crore only in M3
- 21st – 22nd/24th = File 3B for those having below 5 crores only in M3

Now GST data is visible In Income Tax 26AS, so keep reconciliation of 3B with 2A, 3B with 2B, 2A with 2B, 3B with 1, 3B + 1 with 9, 9 /9C with Books. All above with 26AS and all above with GST/IT audits.

Finally, let us consider, that for 2% of people claiming fake ITC or claiming Excess ITC, the Government is imposing strictest rule 36(4). Their goal seem clear that they want taxpayer to claim ITC only what appears in 2B. IF they want to achieve this target, It would be better if they removed the quarterly category to make 36(4) and Auto drafted 3B successful with help of 2B. The current setup might be difficult for clients and staff to understand. For companies, in totally uncertain regulatory environment, it might even be difficult to operate. They must give time to stabilize a system of 1.25 Cr tax payers.

Service of notices/ orders under GST – a new dimension

"We can't supply the material" – a shock given to the managing director of a leading pharmaceutical company which supplies lifesaving drugs to all big hospitals in the country. The reason – GST registration was cancelled, and e-way bills cannot be generated. The company has no clue, nor received any notice of any default or department intention to cancel the registration. The business so critical to healthcare services in the country has come to a standstill. What suddenly happened?

Service of a notice or an order is an extremely critical event in tax litigation and has been a matter of dispute over past many years. Introduction of technology based GST has just added another dimension to it.

Until now, taxpayers have, in many cases, argued non receipt of a notice or an order as a bonafide ground of delay in responding to the notice or filing of appeal. In a few cases, such arguments were made even to cover the lapse on part of the taxpayer in responding to the notice or filing the appeal within the stipulated timeline. The revenue authorities were generally not able to establish service of notice/ order and that too to the authorized person and hence, the said arguments were generally upheld.

Two recent decisions by the Kerala High Court and one by the Madhya Pradesh High Court are going to change this landscape completely. The GST law, as much as it is driven by the technology, has specified manner of service of notice/ order. The high courts have held that uploading of a notice or an order on the common portal maintained by GSTN is not only valid buy the only mode permissible under the law. If this is the legal position, the argument of non-receipt of a notice/ order simply goes out of the discussion. Now, if a taxpayer defaults in responding to the notice or delays in filing of an appeal within the prescribed statutory timelines, the legal consequences would follow. If delay is beyond the maximum period allowed to be condoned under the GST law, the taxpayer would have no choice but to approach the jurisdictional high court. Given the approach of the judiciary towards non-compliant taxpayers, the relief may not be forthcoming.

It is, therefore, imperative for any GST registered assessee to regularly visit the common portal maintained by the GSTN in order to retrieve any communication from the GST authorities and respond thereto within the stipulated timelines in order to avoid any unpleasant and avoidable complexities which could even result in bringing his business to a complete halt.

Should GST Taxpayers opt for QRMP Scheme from 1 Jan 2020 ? Know Pros &Cons

Quarterly Return Monthly Payment Scheme or QRMP as it is called is a recently introduced initiative by the Government in its initiative to simplify compliance for taxpayers. The Central Board of Direct Taxes (CBDT) issued notification 82/2020, 83/2020, 84,2020 and 85/2020 Central Tax dated 10-11-2020 and Circular 143/2020 on 10th November, to allow certain taxpayers to furnish their GST returns on a quarterly basis along with monthly payment of tax under QRMP Scheme, with effect from 1st January, 2021, i.e. from last quarter of FY 2020-21.

What is the Quarterly Returns with Monthly Payment (QRMP) Scheme?

Quarterly Returns with Monthly Payment (QRMP) Scheme is for eligible taxpayers to file their Form GSTR-1 and Form GSTR-3B returns on quarterly basis, while paying their tax dues on monthly basis through a challan.

Who all are eligible for the QRMP scheme?

- All taxpayers whose aggregate annual turnover (PAN based) is up to Rs. 5 Crore in the current financial year and the preceding financial year (if applicable) and have already filed their last due Form GSTR-3B return, are eligible for the QRMP scheme.
- If your aggregate turnover (PAN based) for FY 2019-20 and current Financial year is up to Rs. 5 Crore and you have filed your FORM GSTR- 3B for the month of October 2020 (at least) by 30th November 2020, you will be put under QRMP scheme by default, by the GST system.
- If you wish to remain in the scheme, then you may not take any action and file your returns by the due date in April 2021.
- However, if you wish to exit the scheme you may do so by 31st January 2021.

Pros of Opting the QRMP scheme

- Lesser Compliance- The roll-out of the GST in India was followed by the beginning of online GST Registration and e-filing of GST Return filing. GST has a number of returns to be filed monthly, quarterly or annually. It sometimes gets very difficult to keep a track of all the returns to be filed. Reducing return filing frequency from monthly basis to quarterly basis, will save a lot of time and energy of the taxpayers.
- It is very simple to avail this scheme. Taxpayers can opt in (avail) the scheme and opt out (exit) if they don't wish to continue quarterly filing by navigating to Login-> Services -> Returns -> Opt-in for quarterly return
- Once opted in, the scheme will continue for the taxpayer, unless they decide to exit or opt out. Hence, there is no issue of registering it every quarter to avail the benefit of this scheme.
- This scheme can be opted for different frequencies in different states. For instance, if a taxpayer has multiple GSTINs on the same PAN in different States, they can opt in for different frequencies (monthly or quarterly) in different States.
- There is no late fee for delayed payment of tax for any of the first two months
- One has ample time to opt in for this Scheme. You can opt in or opt out of the scheme as follows:

Quarter	Between
Q1 (April –May – June)	1st February to 30th April
Q2 (July – August – September)	1st May to 31st July
Q3 (October – November – December)	1st August to 31st October
Q4 (January – February – March)	1st November to 31st January

GSTR-2A and GSTR-2B will be continued to be made available every month. A GSTR-2B's quarterly view will also be made available. This will be made available under the return tab for the third month of the quarter. However, there will be no quarterly view of GSTR-2A.

- An additional optional facility has been provided to taxpayers to file their invoices in month M1 and M2. The facility will be similar to FORM GSTR-1 but will allow filing for only B2B invoices, credit notes, debit notes etc.
- One can file quarterly Nil return through SMS. Quarterly taxpayers may send the following SMS to 14409 to file a Nil GSTR-1 or Nil FORM GSTR-3B
    1. NIL 3B GSTIN MMYYYY
    2. NIL R1 GSTIN MMYYYY
    3. MM should be the last month of the quarter for which the return is being filed. For example, for the month of June 2020, taxpayer shall send NIL 3B XXXXXXXXXXXXXXX 062020 to 14409.

Cons of Opting the QRMP scheme

- This scheme is not available to all types of registered taxpayers. This scheme is available only to those who are liable to file FORM GSTR-1 and FORM GSTR-3B returns. Therefore, taxpayers who are not required to file GSTR 1 and GSTR 3B will not be able to avail the benefit of this scheme.
- Taxpayers whose turnover exceeds Rs. 5 crore will also not be able to avail this scheme. So large taxpayers will have to file the returns as before, on a monthly basis.
- System defaulting – If any taxpayer's aggregate turnover for FY 2019-20 is up to Rs. 5 Crore and they have filed their FORM GSTR3B for the month of October 2020 by 30th November 2020, they may be added to the scheme by the system on default. If you wish to remain in the scheme, then you may not take any action and file your returns by the due date in April 2021. However, if you wish to exit the scheme you may do so by 31st January 2021.
- Payment of tax is sometimes based on previous returns. One has an option to either self-assess your liability or pay 35% of cash liability paid in the FORM GSTR-3B for the last quarter (in case of where GSTR 3B was filed quarterly) or 100% of the cash liability paid in the FORM GSTR-3B for the last month (in case where FORM GSTR-3B was filed monthly) through a challan. So, if your previous month/quarter liability was higher, your current liability will also be higher (irrespective of actual liability), if the same is not computed on self-assessment basis.
- Cash deposited in the first month against your liability for the first month cannot be considered for balance for your electronic cash ledger for the second month. The action to be taken in the second month should be considered based on the balance in cash ledger after the deposit made for the first month.
- One cannot utilize amount deposited in month M1 and M2 for any other purpose, before filing FORM GSTR-3B for the quarter in which such deposits have been made. After filing FORM GSTR-3B, such cash may be used for other purposes also

So, QRPM is the scheme for small businesses that have an annual aggregated turnover of up to INR 5 Crores, which enables them to GST Return Filing on a quarterly basis, however, the tax payment will still remain to be a monthly activity This form for opting in the scheme shall be made available from the 5th of December 2020.

Direct Tax Update

- Scrip-wise reporting in ITR must only for LTCG exemption, not for day-trading, short-term gains: CBDT
- CBDT notifies changes to rules, tax return and tax audit forms pursuant to concessional tax rate regimes and also notifies forms for availing concessional tax rate by eligible non-corporates
- If any person has not paid the Self-Assessment Tax for FY 2019-20 yet and the amount of such tax is exceeding Rs. 1 lakh, in that case interest @1% for every month or part of the month shall be levied from the original due date till the filing of ITR.
- Form 10-IB, 10-IC and 10-ID is mandatory to file, to exercise the option of reduced rate of 25%, 22% and 15% respectively.
- 100% of expense amount shall be disallowed if the TDS has not been deducted or deducted but not paid in case of Non-resident Assessee and will be allowed on payment basis subsequently.
- 30% of expense amount shall be disallowed if the TDS has not been deducted or deducted but not paid in case of Resident Assessee and will be allowed on payment basis subsequently.
- Finance Minister announces tax exemption for “LTC Cash Voucher Scheme” for salaried taxpayers to boost consumer demand
- CBDT notifies sunset date for filing declaration under Vivad Se Vishwas Act and extends due date for payment
- CBDT amends rules to implement Equalization Levy on e-commerce supply and service
- CBDT extended the due date for filing income tax return for non tax audit cases to January 10, 2021 and tax audit cases to February 15, 2021. The VSVS application date also extended till January 31, 2021.

Extension of due date for payment of self-assessment tax by small taxpayers and furnishing of tax return and tax audit report by all taxpayers, for tax year 2019-20

With a view to relieve the burden of taxpayers, suffering through an unprecedented health and economic crisis due to the onset of the COVID-19 pandemic, the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (Ordinance)[1] was promulgated on 31 March 2020. The aim of the Ordinance was to relax various provisions, including extension of time limit in taxation and other laws and providing for reduction in interest, waiver of penalty and prosecution for delay in payment of certain taxes or levies during the specified period.

Certain notifications were also issued under the said Ordinance extending the due date for furnishing tax returns for all taxpayers who were required to file their tax returns for tax year (TY) 2019-20[3] on 31 July 2020 and 31 October 2020 to 30 November 2020. Correspondingly, even the due date for furnishing the tax audit report was extended to 31 October 2020. However, the notifications provided that the extended due date shall not be applicable for levy of interest in case of delayed furnishing of returns where self-assessment tax (SA tax) payable exceeds INR0.1m.

Subsequently, to codify the reliefs, The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020[4] was enacted by the Parliament ratifying the above provisions.

In this backdrop, as a relief to taxpayers, the Government of India (GOI) has decided to further extend the relevant due dates[5] as below:

Sl. no.	Particulars	Original due date	Extended due date as per earlier notification	Revised due date as announced now
A	Return filing due date for TY 2019-20 in respect of taxpayers who are required to get their accounts audited (including their partners) and furnish a tax audit report	31 October 2020	30 November 2020	31 January 2021
B	Return filing due date for TY 2019-20 in respect of taxpayers who are required to furnish report in respect of international/specified domestic transactions	30 November 2020	30 November 2020	31 January 2021
C	Return filing due date for TY 2019-20 in respect of other taxpayers	31 July 2020	30 November 2020	31 December 2020
D	Due date for taxpayers at (A) above to furnish the tax audit report for TY 2019-20	30 September 2020	31 October 2020	31 December 2020

Additionally, even the due date for payment of SA tax, not exceeding INR0.1m, without interest has been correspondingly extended till the revised due date of return filing for taxpayers at (A), (B) and (C) above.

The necessary notifications in this regard shall be issued by the GOI in due course.

The due date for filing belated/revised tax return for TY 2018-19 has already been extended to 30 November 2020 vide an order dated 30 September 2020[6].

Comments:

The above move is a welcome one for the industries still affected by the aftershocks of the COVID-19 induced lockdowns and offers them more time to carry out their compliances. Further, the extension of due dates also gives taxpayers the time to evaluate the revised information filing requirements of the recently notified revised tax return forms pursuant to the introduction of the option to certain eligible corporates to opt for a Concessional Tax Rate regime[7].

As was notified earlier, extension of due date is for the limited purposes of filing tax returns and for relief of interest payable on SA tax for small and medium taxpayers whose SA tax liability (after reducing tax deduction/collection at source and advance tax paid) is up to INR0.1Mn. Taxpayers whose SA tax liability exceeds INR0.1Mn will in any case be liable to pay interest for late filing of tax return. Further, for resident senior citizen, the threshold of INR0.1Mn is to be calculated by considering additional SA tax paid up to 31 July 2020 in terms of notifications

CBDT extended the due date for filing income tax return for non tax audit cases to January 10, 2021 and tax audit cases to February 15, 2021. The VSVS application date also extended till January 31, 2021

Finance Minister announces Diwali bonanza for developers and new home buyers

Relevant provisions of Income-tax laws (ITL):

- Where any person has received consideration for transfer of an immovable property[1], being land or building or both, and such consideration is less than the value[2] adopted or assessed by authorities for the purpose of stamp duty, for computing profits and gains on transfer, the value adopted by the authorities is deemed to be the consideration (deemed consideration provision).

  However, in case where the difference between the value adopted or assessed for the purpose of stamp duty and actual consideration does not exceed 10% (tolerance limit) of the actual consideration, the deemed consideration provision is not applicable.

- Where any person has received any immovable property, being land or building or both, for a consideration and such consideration is less than the value adopted or assessed by the authorities for the purpose of stamp duty, such difference is considered as income of the person (gift tax provision).

  However, in case where the difference between the value adopted or assessed for the purpose of stamp duty and actual consideration discharged does not exceed 10% (tolerance limit) of actual consideration, gift tax provision is not applicable.

Relief granted by the Union Finance Minister in press conference dated 12 November 2020:

- It has been acknowledged that the economic slowdown has led to a decline in the prices of residential units and this fall is in excess of the tolerance limit.

- In order to (i) boost the demand for the struggling residential real estate sector, (ii) allow the developers to sell their unsold inventory and (iii) reduce the hardships faced by the home buyers/developers and for the revival of the real estate sector, reliefs have been granted under the ITL by increasing the tolerance limit from 10% to 20% in applying the deemed consideration provision and gift tax provision.

- Relief is granted only to primary sale of residential units of value up to INR 20m between the period 12 November 2020 to 30 June 2021.

It has been clarified that suitable amendments will be carried out in the ITL in due course

Indirect Tax Update

Due date of filing GST annual return for FY 2018-19 further extended till 31 December 2020 and for FY 2019-20 extended till February 28, 2020.

Recent notifications issued by Central Board of Indirect Taxes and Customs ("CBIC") which have brought about several changes to the existing GST compliance system.

The summary of the notifications is as below:

- E-invoicing shall be applicable from 1 January 2021 for registered tax payers whose turnover exceeds INR 100 crores in any preceding financial year from 2017-18 onwards *(ref – Notification No. 88/2020 – Central tax).*
- **Introduction of Central Goods and Services Tax (Thirteenth Amendment) Rules, 2020:** The rules have introduced an advanced version of the existing GST return filing system and brought about a series of changes in furnishing Form GSTR 1, Form GSTR 3B and other specified returns under the GST law. *(ref – Notification No 82/2020 – Central Tax).* Following are the key highlights of the notified changes:

  - New scheme prescribed for registered persons furnishing quarterly Form GSTR 1 in terms of reporting of outward supplies using an invoice furnishing facility ('IFF'), manner of opting for furnishing quarterly return under the new scheme and monthly payment of tax;

  - Following details shall be made available to recipients in Form GSTR 2A:

    - Details of outward supplies reported by suppliers, including non-resident taxable persons;
    - Invoices furnished by an ISD;
    - TDS and TCS reported by deductors and e-commerce operators;
    - IGST paid on import of goods / goods brought in DTA from an SEZ unit or a SEZ developer under a bill of entry;

  - Notified Form GSTR 2B along with its format (Rule 60(7) of CGST Rules, 2017);

  - Notified due dates for furnishing Form GSTR 3B for categorized registered tax payers for the period October 2020 to January 2021;

- Extension in time limit for furnishing monthly Form GSTR 1 till 11th of the subsequent month and quarterly Form GSTR 1 till 13th of the month succeeding the said quarter w.e.f. 1 January 2021 *(ref – Notification No. 83/2020 – Central tax).*
- New scheme introduced for registered persons furnishing returns on a quarterly basis in terms of exercising the option to file quarterly returns, mechanism of filing outward supplies and monthly payment of tax thereon *(ref – Notification No. 84 & 85/ 2020 – Central Tax).*
- Rescinds Notification No.76/2020 – Central tax dated 15 October 2020 which provided for due dates for filing Form GSTR 3B for the tax periods from October 2020 to March 2021 since the said due dates have been re-notified vide Notification No 82/2020 – Central Tax *(ref – Notification No. 86/ 2020 -Central Tax);*
- Extension in time limit for furnishing declaration in Form ITC – 04 in respect of goods dispatched to / received from a job worker, during the period from July 2020 to September 2020 till 30 November 2020. Further, the extension in time limit is provided with a retrospective effect from 25 October 2020 *(ref – Notification No. 87/2020 – Central tax).*

- Government waives penalty for non-compliance of QR code on B2C invoices till March 2021

Date of compliance and completion of action under specified indirect tax laws extended

The revised due dates are as under:

Period covered earlier	Existing due dates	Revised period covered	Revised due date
20 March to 29 September 2020	30 September 2020	20 March to 30 December 2020	31 December 2020

Accordingly, the due date for compliance and due date for completion of action, falling within 20 March 2020 to 30 December 2020, under specified indirect tax laws stands extended to 31 December 2020.

GST Registration requirement:

- In case of goods, GST registration is mandatory in case of Inter-State Supplier of goods without any limit. In other outward supply cases (i.e. taxpayers supplying only goods and that too intra-state), registration is required in case turnover exceeds INR 40 lakhs.

- In case of Services, either the supplier is making Inter-State supply or making Intra-State supplies or both, registration is required in case turnover exceeds INR 20 lakhs.

- In case taxpayer is supplying goods and services both, registration is required mandatorily in case of Inter-State supplier and INR 20 lakhs limit will be applicable for Intra-State supplier.

GST Update | Notifications issued on 15th October 2020

The key changes made vide the Notifications are captured below:

I. <u>Due date for GSTR-1 and GSTR-3B for October 2020 to March 2021 prescribed</u>

1. **Notification No. 74 – Central tax dated 15 October 2020 –** Due date for furnishing GSTR-1 by registered persons **having aggregate turnover of up to INR 1.5 crores** in the preceding or current financial year ('FY') shall be as under:

arter	Time period
tober 2020 to December 2020	13th January 2021
nuary 2021 to March 2021	13th April 2021

2. **Notification No. 75 – Central tax dated 15 October 2020 –** Due date for furnishing GSTR 1 by registered persons having **aggregate turnover of more than INR 1.5 crores** in the preceding or current FY shall be **11th day of the month succeeding the month to which such return relates**.

3. **Notification No. 76 – Central tax dated 15 October 2020 -** Due date for furnishing **GSTR 3B** shall be as under:

tegory of registered persons	Due date
Taxpayers having aggregate turnover of more than INR 5 crores in the previous FY	20th of the month succeeding the month to which such return relates
Taxpayers having an aggregate turnover of up to INR 5 crores in the previous FY, (i) whose principal place of business is in Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli,	22nd of the month succeeding the month to which such return relates

	Puducherry, Andaman and Nicobar Islands or Lakshadweep	24th of the month succeeding the month to which such return relates
(ii)	whose principal place of business is in Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi	

Further, the tax liability or other charges such as interest etc. shall be discharged within not later than the last date for furnishing returns.

II. Revision in number of digits of HSN code to be captured on tax invoice

1. **Notification No. 78/2020 – Central tax and 06/2020–Integrated Tax dated 15 October 2020–** The number of digits of HSN code required to be disclosed on the tax invoice has been revised in the following manner:

Registered persons having aggregate turnover in preceding FY	ımber of digits of HSN code (up to 1 April 2021)	ımber of digits of HSN code (w.e.f. 1 April 2021)
to INR 1.5 crores		
re than 1.5 crores and up to INR 5 crores		
re than 5 crores		

Additionally, it is also provided that the tax payers with aggregate turnover up to INR 5 crores in previous FY shall not be required to mention HSN code on tax invoice raised in respect of supplies made to unregistered persons. These changes shall be **effective from 1 April 2021**

III. Other relevant changes

1. **Notification No. 77/ 2020 – Central tax dated 15 October 2020 –** Filing of annual returns for registered persons whose aggregate turnover in a financial year does not exceed INR 2 crores and have not furnished the annual return within the due date, shall be optional for FY 2019-20

2. **Notification No. 79/ 2020 – Central tax dated 15 October 2020** – Following amendment have been made in CGST Rules, 2017:

   - Rule 80 has been amended to **extend the exemption from filing GST audit report in Form GSTR – 9C for FY 2019-20** by registered persons having turnover up to INR 5 crores.

   - Rule 138E restricts a registered person from furnishing Part A of Form GST EWB – 01 if returns are not filed for consecutive period of two tax periods. Vide the above notification, this restriction has been relaxed during the period 20 March 2020 till 15 October 2020 if return has not been furnished for February 2020 to August 2020 *(This amendment is retrospectively applicable from 20th March 2020).*

   - The format for GSTR 2A has been substituted with a new format. Few key changes in the new format are captured below:

     – Certain additional fields such as effective date of cancellation of registration of supplier, amendment made if any (GSTIN, others), tax period in which amended, etc. has been inserted in table 3 and table 5 (inward supplies received from registered persons and credit notes/ debit notes received during current tax period respectively)

- Specific tables have been inserted for details of amendment to inward supplies received from registered persons (Table 4), amendments to debit notes/ credit notes (Table 6), amendment to ISD credit details (Table 8)

- In respect of ISD credit (table 7), status of ITC eligibility shall also be populated from the ISD return (GSTR-6)

- In respect of TDS/ TCS credit received (Table 9), the name of deductor/ e-commerce operator, relevant tax period shall be populated.

- Details in respect of import of goods on bill of entry and inward supplies of goods from SEZ units/ developers on bill of entry (including amendments) shall be populated in Table 10 based on data received from ICEGATE

• Certain amendments have also been made in other GST Forms such as RFD-01, GSTR 9, GSTR 9C etc.

The above amendments are applicable with effect from 15th October 2020 (except the revision in digits of HSN code and amendment in rule 138E)

Important Changes introduced CGST(Fourteenth Amendment) Rules 2020 dated December 22, 2020.

Time limit for system-based GST Registration increased

1. The time for system-based registration has been enhanced from 3 days to 7 days. That means, now department shall be required to review and grant registration within 7 days against 3 days as provided earlier from the date of filing of registration application. Where the applicant does not do adhaar authentication or where department feels fit to carry out physical verification the time limit for grant of registration shall be 30 days instead of 7 days.

More Powers to GST department in cancellation of GSTIN

2. Now the officer can proceed for cancellation of GSTIN where a taxpayer avails Input Tax Credit (ITC) exceeding than that permissible in Section 16. Clause (e) has been inserted in Rule 21 of CGST Rules 2017.

3. Now where the liability declared in GSTR 3B is less than that declared in GSTR 1 in a particular month, department may now proceed with cancellation of GSTIN. There might be some practical difficulties in implementing such a provision as there are number of corrections which are made in GSTR 3B which may result in lower tax liability as compared with GSTR 1. The clause (f) newly inserted talks about details of outward supply to which we understand that Taxable value and tax both should be in synchronization between GSTR 1 and GSTR 3B.

4. Now, no opportunity of being heard shall be given to a taxpayer for suspension of GSTIN, where the proper officer (PO) has reasons to believe that the registration of person is liable to be cancelled. The words “opportunity of being heard has been omitted from clause (2) of Rule 21A.

5. Where there are significant deviation/anomalies between details of outward supply between GSTR 3B and GSTR1 or inward supplies (ITC) between GSTR 3B and GSTR 2B which indicate contravention of Act, department shall now serve a notice in FORM GST REG 31 to call explanation as to why GSTIN should not be cancelled. Taxpayer shall be required to submit his reply within 30 days of such notice being served to him.

6. Where a GSTIN is suspended no refund u/s 54 of CGST Act 2017 can be availed by the taxpayer. This means that first GSTIN Suspension proceedings have to be closed before applying refund.

Restriction on claim of ITC as per Rule 36(4)

7. The claim of ITC in respect of invoices not furnished by the corresponding vendors has now been restricted to 5% of the credit available in GSTR 2B. This limit earlier was 10% of ITC available. This would be mean that a taxpayer’s ITC claim shall now be restricted to 105% of the Credit reflected in his GSTR 2B. Any claim exceeding the specified limit shall result in violation of CGST Act read with rules which may result into suspension of GSTIN as described above. The provision shall come into effect from 1st January 2021.

GSTR 1 to be blocked in case of non-filing of GSTR 3B

8. Where a taxpayer fails to file GSTR 3B for two subsequent months, his GSTR 1 shall now be blocked. Earlier non filing of GSTR 3B used to result in blocking of E-way Bill facility but from now on it shall also result in blocking of GSTR 1 of the taxpayer. Similarly, for quarterly return filers, the taxpayer failing to file GSTR 3B for the preceding quarter shall not be permitted to file GSTR 1 of subsequent quarter.

9. A taxpayer whose is restricted to avail ITC as per rule 86B shall also not be permitted to file GSTR 1 where he has not filed GSTR 3b for the preceding tax period.

Restriction on Utilization of Input Tax Credit – Rule 86B

10. New Rule 86B shall be affected from 1st January 2021 wherein restriction has been placed on setting off more than 99% of tax liability from Input tax credit where the value of taxable supplies other than exempt supply and zero rated supply exceeds Rs. 50 lakhs in a month. Though few exceptions have been provided to this rule which are as follows:

(i) Where the taxpayer has paid Income Tax exceeding Rs. 1 lakh in two preceding financial year.

(ii) Where taxpayer has received refund exceeding Rs. 1 lakhs u/s 54 of CGST Act 2017.

(iii) Where taxpayer has used electronic cash ledger to pay of liability on outward supplies which cumulatively makes 1% of the total liability up to the said month

(iv) Where a person is a Government Department, Public Sector Undertaking (PSU), local authority or a statutory body.

Narrowing the validity of Eway bill

11. Earlier one day was permitted for distance up to 100 kms under e way bill provision. Now the same has been increased to 200 kms. This means that only one day validity shall be granted to cover a distance up to 200 kms which was earlier 100 km

Auto-population of e-invoice details into GSTR-1/2A/2B/4A/6A

For those taxpayers who had started e-invoicing from 1 October 2020, the auto-population of e-invoice data into GSTR-1 (of December 2020) has started from 3 December 2020. In this regard, following is to be noted:

- The data in GSTR-1 is available on T+3 day basis, i.e. for example, the data from e-invoices uploaded on 18 December 2020 would be visible in GSTR-1 on 21 December 2020
- The corresponding reflection of such e-invoice details in GSTR-2A/2B/4A/6A has also started
- The auto-population of e-invoice data into GSTR-1 is based on date of document (as reported to IRP). For example, a document dated 30 December 2020 is reported to IRP on 3 January 2021 and where GSTR-1 for December 2020 is not filed, then the details of that document will be available in GSTR-1 of December 2020. However, if the GSTR-1 for December was already filed by that date, then, the details of such document will be made available in the consolidated excel file downloadable from GSTR-1 dashboard (with error description as 'Return already filed'). The taxpayer may thereupon take necessary action.

Further, owing to existing validations in GSTR-1, e-invoices reported with below commonly observed issues would not be auto-populated in GSTR-1 but would be made available in the consolidated excel file downloadable from GSTR-1 dashboard (with corresponding error description):

- Supplier is found to be of type ISD/NRTP/TCS/TDS;
- Supplier is found to be composition taxpayer for that tax period;
- Document date is prior to Supplier's/Recipient's effective date of registration;
- Document date is after Supplier's/Recipient's effective date of cancellation of registration;
- Invoices reported as attracting "IGST on Intra-state supply" but without reverse charge.

The detailed advisory with methodology of auto-population etc. is already made available on the GSTR-1 dashboard ('e-invoice advisory').

Please note that the details so auto-populated from e-invoices into GSTR 1 is only a facility to taxpayers. After viewing the auto-populated data, the taxpayer is required to verify the propriety and accuracy of the amounts and all other data in each field, especially from the perspective of GSTR-1 and file the same, in the light of relevant legal provisions.

Case laws Update

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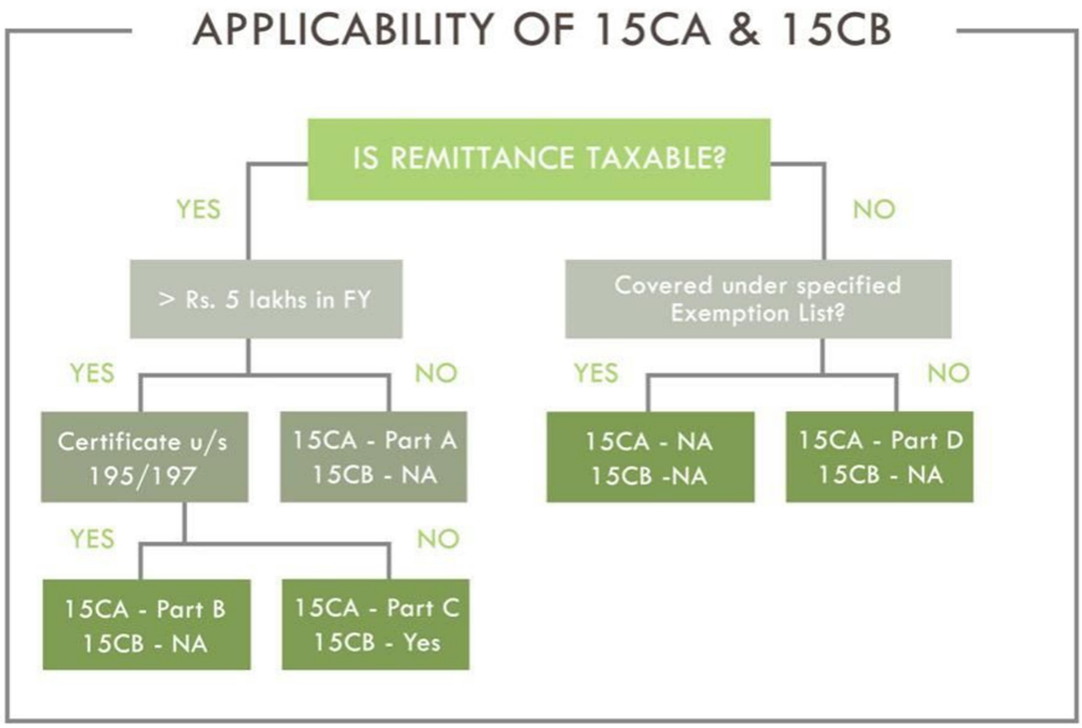
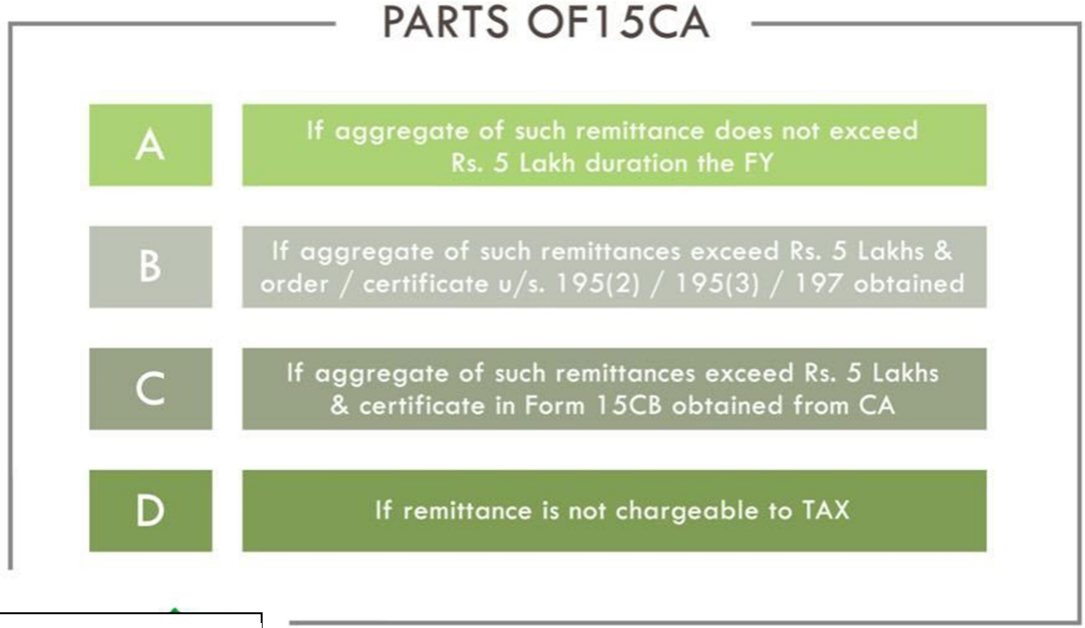
- Bangalore Tribunal explains approach for domestic transfer pricing in case of profit-linked tax holiday
- Gujarat High Court in Britannia Industries Ltd. v. Union of India & Ors case, allowed the refund claim filed by the Petitioner's SEZ unit in respect of the input tax credit distributed by the input service distributor (ISD) registration, where such credit remained unutilised in the hands of the SEZ unit.
- Delhi Tribunal rules on interplay of Double Taxation Avoidance Agreement and dividend distribution tax
- HC allows refund of input tax credit to duty free shops located at international airport in India
- HC rules that an amendment to adopt stamp duty valuation prevailing on the date of agreement to transfer capital asset being land or building or both is curative and retrospective in nature
- Karnataka High Court allows depreciation allowance on intangible assets in the hands of company on its corporatization with respect to actual cost incurred
- HC reverses single bench decision and rules against transition of EC, SHEC and KKC credit into GST
- Business advances to a loss-making AE is not a loan and fee should be charged for a Corporate Guarantee facility
- Testing and certification fee paid to German and Chinese entities taxable as FTS; no taxation for fee to entities in US and Netherland
- Services rendered by non-resident agent not FTS/ business profits; no taxation in India
- Reimbursements and export commission to UAE-based agent nottaxable in India
- ITAT deletes TP-adjustment on RBI approved Royalty payment considering the same at ALP. Also, excludes PSU as comparable relying on taxpayer's own case
- Mumbai Tribunal grants tax holiday for export by SEZs with respect to commercial profits before claim of tax depreciation and investment allowance under the Indian Tax Laws
- Karnataka HC upholds Special Bench ruling allowing ESOP discount as a deductible expenditure
- Sale of flats not exigible to GST, when sold after issuance of completion / occupancy certificate: AAR Karnataka
- Karnataka Highcourt Distinguishes Centrica. Decided, Expense reimbursement on seconded employees - Not FTS, No TDS

Understand applicability of 15CA & 15CB






Should you spend ₹3L to get ₹30k LTA tax sop?
Need Clarity On Those Under New I-T Regime Or Have Withdrawn Allowance, Say Experts
e-Invoicing will replace e-way bill system soon, says Finance Secretary
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FCRA law could dry up money for less popular causes, shut small NGOs down
AG not in favour of appealing against Voda arbitration awa

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