

NEWSLETTER

AUGUST 2021

Simplify > Accelerate > Grow



DIRECT TAXES

The Taxation Laws (Amendment) Act 2021

The Taxation Laws (Amendment) Act, 2021 (2021 Act), which received the assent of the President on the 13th August, 2021, has, inter-alia, amended the Income-tax Act, 1961 so as to provide that no tax demand shall be raised in future on the basis of the amendment to section 9 of the Income-tax Act made vide Finance Act, 2012 for any offshore indirect transfer of Indian assets if the transaction was undertaken before 28th May, 2012 (i.e., the date on which the Finance Bill, 2012 received the assent of the President).

The amendment made by 2021 Act also provides that the demand raised for offshore indirect transfer of Indian assets made before 28th May, 2012 (including the validation of demand provided under Section 119 of the Finance Act 2012) shall be nullified on fulfillment of specified conditions such as withdrawal or furnishing of undertaking for withdrawal of pending litigation and furnishing of an undertaking to the effect that no claim for cost, damages, interest, etc. shall be filed and such other conditions are fulfilled as may be prescribed. The amount paid/collected in these cases shall be refunded, without any interest, on fulfillment of the said conditions. The CBDT has proposed to insert a new Rule 11UE along with Forms 1 to 4 which specify the conditions to be fulfilled and the process to be followed to give effect to the amendments.

ITR Forms released:

ITR Form 3 also released for filings. Now, 4 forms are available for ITR filing for AY 2021-22: ITR Form 1, 2 3 and 4.

Due dates for various form Filings Extended

CBDT extends due dates for electronic filing of various forms under Income Tax Act after taxpayers and other stakeholders raised complains about facing difficulties in electronic filing:

Due dates for various form Filings Extended			
Sr. No.	Particulars	Due Date	Revised Due Date
1	Application for registration or intimation or approval under Section 10(23C), 12A, 35(1)(ii)/(iia)/(iii) or 80G of the Act in Form No. 10A	31 st Aug 2021	31 st March 2022
2	Application for registration or approval under Section 10(23C), 12A or 80G of the Act in Form No.10AB	28 th Feb 2022	31 st March 2022
3	Equalisation Levy Statement in Form No.1 for the Financial Year 2020- 21	31 st Aug 2021	31 st Dec 2021
4	Quarterly statement in Form No. 15CC for Q1	31 st Aug 2021	30 th Nov 2021
5	Quarterly statement in Form No. 15CC for Q2	15 th Oct 2021	31 st Dec 2021
6	Uploading of the declarations received from recipients in Form No. 15G/15H for Q1	31 st Aug 2021	30 th Nov 2021
7	Uploading of the declarations received from recipients in Form No. 15G/15H for Q2	15 th Oct 2021	31 st Dec 2021
8	Form No.3CEAC	30 th Nov 2021	31 st Dec 2021
9	Form No. 3CEAD	30 th Nov 2021	31 st Dec 2021
10	Form No. 3CEAE	30 th Nov 2021	31 st Dec 2021

Glitches in e-filing portal continues

Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman took a meeting with Mr. Salil Parekh, MD & CEO, Infosys on August 23, 2021 to convey the deep disappointment and concerns of the Government and the taxpayers about the continuing glitches in the e-filing portal of the Income Tax Department even after two and half months since its launch, which was also delayed. Smt. Sitharaman sought an explanation from Infosys for the repeated issues faced by taxpayers. The Finance Minister demanded that the issues faced by taxpayers on current functionalities of the portal should be resolved by the team by September 15, 2021 so that taxpayers and professionals can work seamlessly on the portal.

INDIRECT TAXES

No Flood Cess in Kerala after 31.07.2021

Kerala Flood Cess (KFS) @1 %/0.25% was imposed two years back w.e.f. 01.08.2019 for a period of two years. It has been notified that KFS imposed alongwith GST for reconstruction of post-flood Kerala will end on July 31, 2021.

GSTN Functionality on Annual Aggregate Turnover (AATO)

A new functionality on AATO has been made available on GSTN portal for taxpayers:

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

Amnesty Scheme date extended

Time limit to avail GST Amnesty Scheme extended up to 30th November 2021. It continues to apply for GSTR-3B from July 2017 up to April 2021 via CGST notification number 33/2021 dated 29th August 2021.

Facility to file returns via EVC

Company taxpayers can continue filing GSTR-1 and GSTR-3B using EVC or DSC up to 31st October 2021



Non-Filing of GSTR 3B

From 1st September 2021, taxpayers will not be able to file GSTR-1 or use the IFF for August 2021 on the GST portal if they have pending GSTR-3B filings. It applies if GSTR-3B is pending for the past two months till July 2021 (monthly filer) or for the last quarter ending 30th June 2021 (quarterly filer), as per CGST Rule 59(6).

Amendments made to simplify Annual Returns w.e.f 1st Aug 2021

- Section 35(5) on mandatory requirement of audit of annual return and reconciliation statement was omitted.
- Section 44 of **CGST Act, 2017** on annual return was substituted to remove mandatory requirement of furnishing a reconciliation statement duly audited by specified professionals and to provide for filing of annual return on self certification basis
- Exemption has been provided to registered persons whose aggregate turnover in FY is upto Rs. two crore under GST law from filing of annual return for the financial year 2020-21

GSTR 9 Annual return form

GSTR 9 Annual return form is available for e-Filing for FY 2020-21 on the GST official web portal.

No GST on canteen charges recovered from employees

Tata Motors had approached the Gujarat bench of Authority for Advance Ruling (AAR) seeking a ruling on whether Goods and Services Tax (GST) is applicable on the nominal amount recovered by it from employees for the usage of canteen facility.

The AAR has ruled that GST will not be levied on the amount paid by employees for availing canteen facilities provided by their employers. In its ruling, the AAR also said that the ITC on GST paid on canteen facility is blocked credit under the GST Act and inadmissible to applicant.

COMPANIES ACT, 2013

New Norms On Company Names To Take Effect From September 1, 2021

In pursuance of Section 16 (1) and (3) and Section 469 (1) and (2) of the Companies Act, the Ministry of Corporate Affairs has now vide, the Amendment, added Rule 33A under the Rules, as per which, in case a company fails to change its name or new name, as the case may be, in accordance with the direction issued under Section 16 (1) of the Companies Act within a period of 3 (three) months from the date of issue of such direction, the letters 'ORDNC' (Order of Regional Director Not Complied), the year of passing of the direction, the serial number and the existing Corporate Identity Number of the company shall become the new name of the company without any further act or deed by the company.

Furthermore, the Registrar of Companies will accordingly make the entry of the new name in the register of companies and issue a fresh certificate of incorporation in Form No. INC-11C. A proviso has been added to the abovementioned rule saying that nothing contained above shall apply in case e-form INC-24 filed by the company is pending for disposal at the expiry of 3 (three) months from the date of issue of direction by the Regional Director, unless the said e-form is subsequently rejected.

As per sub-rule 2 of the Rule 33A, a company whose name has been changed under sub-rule (1) shall at once make necessary compliance with the provision of Section 12 of the Companies Act and the statement, "Order of Regional Director Not Complied (under Section 16 of the Companies Act, 2013)" shall be mentioned in brackets below the name of the company, wherever its name is printed, affixed, or engraved. However, no such statement shall be mentioned in case the company subsequently changes the name in accordance with provisions of Section 13 (Alteration of Memorandum) of the Companies Act.

Form No. INC - 11C has also been introduced by virtue of the Amendment. The MCA has notified September 1, 2021 as the effective date of the Amendment.

COVID Jabs to be considered as an eligible CSR expenditure

Companies spending funds on COVID vaccination for individuals other than employees and their families will be considered as a CSR expenditure. The corporate affairs ministry, which is implementing the Companies Act, 2013, has issued a clarification in this regard. "It is further clarified that spending of CSR funds for COVID-19 vaccination for persons other than the employees and their families, is an eligible CSR activity," the ministry said in a circular on July 30.

OTHER AMENDMENTS

PLI benefits to be returned with interest for midway exit: DPIIT

In a set of FAQs on PLI scheme for white goods - ACs and LED lights, the Department for Promotion of Industry and Internal Trade (DPIIT) said that midway exit by a selected applicant without fulfilling investment criteria thwarts one of the selection criteria of maximizing gross value added (GVA) to economy, as also deprive selection opportunity to another eligible firm under the scheme.

Therefore, if any selected applicant declines the offer of approval under the scheme at any stage or exits the scheme without making full committed investment for reasons whatsoever; in such case, the applicant shall have to refund the incentive availed by it under the scheme till such date along with interest calculated at the prevailing three year SBI MCLR compounded annually and the bank guarantee furnished by the selected applicant shall also be invoked

Increase in FDI in Insurance Sector from 49% to 74%

The Central Government, Ministry of Finance vide Notification No. S.O. 3411(E) dated August 19, 2021 has amended Schedule-I of the existing Foreign Exchange Management (Non-debt Instruments) Rules, 2019 ("the FEMA Rules"). Schedule-I of the FEMA Rules deals with Purchase or sale of equity instruments of an Indian company by a person resident outside India. The FEMA Rules have been amended to increase the limit of foreign direct investment in insurance sector from 49% to 74%.