

NEWSLETTER

SEPTEMBER 2021

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DIRECT TAXES

CBDT notifies 'safe harbour' rates for AY 2021-22

CBDT has notified safe harbour rates for AY 2021-22 via notification no. 117/2021 dated 24th Sep 2021 for calculation of transfer pricing by foreign companies in India.

As per the notification, the rates under SHR applicable from 2016-17 to 2018-19, and later extended to 2019-20, will continue to apply for 2020-21 as well.

Complete notification can be accessed at:

<https://www.incometaxindia.gov.in/communications/notification/notification-117-2021.pdf>

Notification for calculation of taxable PF Interest

The government came up with an amendment in the budget 2021, stating that interest on the employee PF contribution exceeding 2.5 Lakhs would be taxable. For the government sector employees, the monetary ceiling shall be Rs 5 lakh. Section 10(11) and 10(12) were amended to incorporate this amendment.

CBDT has inserted Rule 9D vide Notification no. 95/2021 dated 31st August 2021 for calculation of taxable and non-taxable interest on PF contribution. As per the new rule, for the purpose of calculation of taxable interest, separate accounts within the provident fund account will be maintained during the previous year 2021-2022 and all subsequent previous years for taxable contribution and non-taxable contribution made by a person.

https://incometaxindia.gov.in/communications/notification/notification_95_2021.pdf



CBDT notifies 'safe harbour' rates for AY 2021-22

ITR Form 5, 6 and 7 also released for filings. Now, all 7 forms are available for ITR filing for AY 2021-22: ITR Form 1, 2, 3, 4, 5, 6 and 7.

Due dates for various form Filings Extended

CBDT has extended due dates for electronic filing of various forms under Income Tax Act after difficulties in electronic filing raised by the tax payers and stakeholders:

Sr.No.	Particulars	Due Date	Revised DueDate after further extension
1	PAN Aadhar Linking	30 th Sep 2021	31 st Mar 2022
2	ITR Filing (Non-Audit Assesseees)	30 th Sep 2021	31 st Dec 2021
3	ITR Filing where TP is applicable	31 st Dec 2021	28 th Feb 2022
4	ITR Filing (Others)	30 th Nov 2021	15 th Feb 2022
5	Furnishing of Audit Report	31 st Oct 2021	15 th Jan 2022
6	Furnishing TP Report	30 th Nov 2021	31 st Jan 2022
7	Belated Return for AY 2021-22	31 st Jan 2022	31 st Mar 2022

Notification extending various timelines can be accessed at:

<https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/969/Press-Release-CBDT-extends-due-dates-for-filing-of-IT>Returns-dated-09-09-2021.pdf>



INDIRECT TAXES

In the 45 th GST Council meeting, multiple measures were discussed to streamline compliances in GST:

- The Aadhaar authentication of registration has been made mandatory for a taxpayer to be eligible to file a refund claim and an application for the revocation of cancellation of registration.
- Late fees for the delayed filing of Form GSTR-1 will now be auto-populated and collected in the next open return in Form GSTR-3B.
- GST refunds will be made to the bank account linked with the same PAN through which GST registration has been obtained.
- Rule 59(6) of the CGST Rules will be amended with effect from 1st January 2022 to provide that registered persons will not be allowed to furnish Form GSTR-1 if they have not furnished their return in Form GSTR-3B for the preceding month.
- Rule 36(4) of the CGST Rules will be amended once the proposed clause (aa) of Section 16 (2) of the CGST Act is notified. It will restrict the availability of ITC with respect to invoices/debit notes to the extent the respective suppliers furnish the details of such invoices/debit notes in Form GSTR-1/IFF. Further, they should be communicated to the taxpayer in Form GSTR-2B.

*The above rate changes and exemptions are effective from the date of the CBIC notification.



Recommendations by GST Council

- A previous Council decision stated that interest is to be charged only in respect of the net cash liability under GST. Section 50 (3) of the CGST Act to be amended retrospectively, from 1st July 2017, to provide that interest is to be paid by a taxpayer on “ineligible ITC availed and utilised” and not on “ineligible ITC availed”. It has also been decided that interest in such cases should be charged on the ineligible ITC availed and utilised at 18% from 1st July 2017.
- The unutilised balance in the CGST and IGST cash ledgers may be transferred between distinct persons (i.e., entities with the same PAN but registered in different states) without a refund procedure. This is subject to certain safeguards.

https://www.cbic.gov.in/resources//htdocs-cbec/press-release/PRESS_RELEASE_45.pdf



COMPANIES ACT, 2013

Consultation Paper on Statutory Audits

NFRA, in a new Consultation Paper on Statutory Audit and Auditing Standards for Micro, Small and Medium Companies (MSMCs)* has sought stakeholders' comments to revisit the requirement of compulsory statutory audit for MSMCs in public interest. The consultation paper specifically questioned: "Do you think that Micro, Small and Medium Companies (MSMCs) depending upon some criteria and threshold should be exempted from the mandatory statutory audit under Companies Act, 2013? If not, why not and if yes, what would be the criteria and thresholds for exemption?"

<https://nfra.gov.in/sites/default/files/NFRAConsultationPaperMSMCs.pdf>

Extension of timeline for conducting AGM

The due date for holding the AGM by the corporate entities and laying down their annual audited financial statements for the FY 2020-21 was 30.9.2021.

After the extensions in filing of various returns and forms in income tax law, MCA also came up with an order for extension of the AGM due date. Extension orders have been issued by the respective RoCs, extending the due date to 30.11.2021 i.e. by a period of two months. There is no obligation to file any additional form with the ROC for the extension of the AGM.

As per Section 122 of Companies Act, 2013, OPC is not required to hold any Annual General Meeting. Therefore, General Extension of holding of AGM shall not impact One Person Company for the purpose of Annual Filings. Further, extension of AGM shall only be applicable on Companies not on LLP. Therefore, it will not impact Annual Filling of LLP.

Notifications for extension can be accessed at:

<https://www.mca.gov.in/content/mca/global/en/data-and-reports/rd-roc-info/extension-agm.html>



OTHER AMENDMENTS

UDIN Issue timeline

Time limit for generating UDIN has been extended from 15 to 60 days from the date of signing of certificates/reports/documents.

<https://www.icai.org/post/aligning-the-time-limit-of-generating-udin-from-15days-to-60days>

SEBI LODR Amendments 2021

SEBI has amended the SEBI (LODR) , 2015 by notifying the SEBI (LODR) (Fifth Amendment) Regulations, 2021. The Amendments come into force from 7th September 2021.

Complete amendment can be accessed at :

https://www.sebi.gov.in/legal/regulations/sep-2021/securities-and-exchange-board- of-india-list-ing-obligations-and-disclosure-requirements-fifth-amendment- regulations-2021_52488.html

SEBI approves stricter norms for RPT

SEBI in its Board meeting held on September 28, 2021 has approved the amendments in related party transaction framework that were proposed by the Working Group in January, 2020. The notification amending SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('Listing Regulations') is awaited. Some of the amendments made include:



1) Definition of Related Party widened:

- All persons or entity belonging to the promoter (P) or promoter group (PG) will be regarded as related party, irrespective of its shareholding in the listed entity;
- Any person or entity holding, directly or indirectly, 20% or more of the equity shareholding in the listed entity will be regarded as a related party w.e.f. April 1, 2022;
- Any person or entity holding, directly or indirectly, 10% or more of the equity shareholding in the listed entity will be regarded as a related party w.e.f. April 1, 2023

2) Prior approval of shareholders for Material RPTs

Material RPT = transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds: Rs. 1000 crore or 10% of annual consolidated turnover of the listed entity, whichever is lower.

RBI notifies new rules on ECS

RBI has made amendments to the rules on ECS mandate. Now, no automatic recurring payments are permissible for various services including utility bills, DTH etc, as additional factor authentication is made mandatory.

For recurring payments above ₹5,000, banks are required to send a one-time password to customers as per the new guidelines

Any standing instructions registered using bank accounts for mutual funds, SIPs, equated monthly installments for loans will not be impacted by these new rules.

The above changes are made effective from 1 st October 2021, after multiple extensions were given to the banks and organizations for making necessary arrangements to comply with the same.

Notification announcing the applicability date can be accessed at:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12051&Mode=0>

