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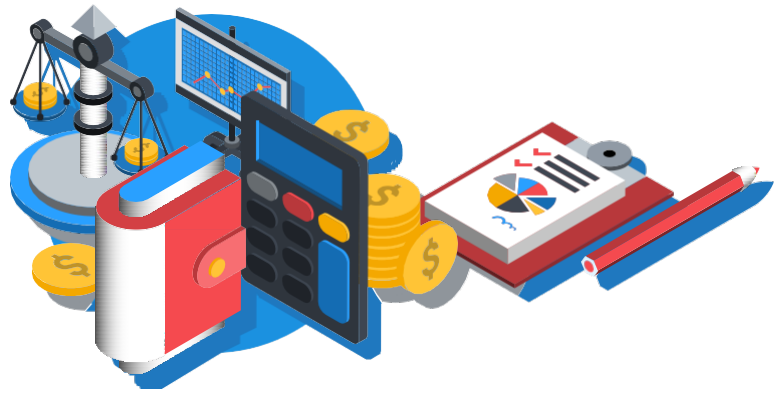
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# TAXES



## Direct TAX

**CBDT notifies annual circular for TDS on salaries for FY 2020-21**

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**CBDT's Vivaad Se Vishwas Scheme - FAQs clarify on eligibility in AAR, MAP, Settlement Commission cases; Allows revision of declaration**

CBDT's second set of 34 FAQs on Vivad se Vishwas Scheme ('VsVS') further clears air on the scope/eligibility (20 FAQs), computation (4 FAQs), consequences (8 FAQs) and procedure (2 FAQs).

Clarifies on availability of the Scheme where appeal / arbitration was pending as on the specified date (i.e. Jan 31st, 2020), but was subsequently disposed off before filing of declaration.

Further, clarifies that where the application for condonation is filed before the date of issue of this circular, and appeal is admitted before the date of filing of the declaration, "such appeal will be deemed to be pending as on 31st Jan, 2020." Likewise, clarifies that cross objections, MAs pending as on the specified date will also be covered under the Scheme, however, denies availability of Scheme where proceedings are pending before the Settlement Commission.

Also, issues clarification on Scheme entitlement in respect of cases before AAR and cases where MAP is invoked, states that "in a case where MAP resolution is pending or the assessee has not accepted MAP decision, the related appeal shall be eligible for VsVS."

However, makes it clear that appeal against Trust's registration denial is not eligible for VsVS; Rejects consequential relief in Sec. 201 proceedings where appeal involving Sec. 40(a)(i)/(ia) disallowance is settled under the VsVS.

Similarly, after making payment of tax under VsVS in respect of cash credit addition u/s. 68, CBDT clarifies that the assessee cannot make entries in his books by crediting the said loan in his capital account. Lastly, provides for revision of declaration "any number of times before the DA issues a certificate u/s 5(1) of VsV Act."

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## **Extension of Due date for compliances and actions in respect of anti-profiteering proceedings under GST till 31-03-2021**

The Central Government has extended the time limit for completion or compliance of any action, by any authority, specified in, or prescribed or notified under section 171, i.e. anti-profiteering proceedings, which falls during the period from the 20th day of March, 2020 to the 30th day of March, 2021" till 31st day of March, 2021.

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## **Amendments regarding GST Registrations**

- Every application for registration under Rule 8 shall be followed by Aadhar based authentication or biometric and KYC documents verification unless the applicant is exempted under Section 25(6D).
- The period under Rule 9 for grant of registration has been increased to 7 working days, and in case a person does not undergo Aadhar based authentication or where proper officer deems fit, registration shall be granted within 30 days after physical verification of place of business. In case, the registration is not granted within prescribed days, then the application for registration shall be considered as approved.
- Registration may be cancelled under Rule 21 if ITC is availed in violation of Section 16, or if the value of outward supplies furnished in GSTR-1 exceeds the value declared in GSTR-3B, or on violation of Rule 86B.
- Registration can be suspended under Rule 21A without affording an opportunity of being heard if the proper officer has reasons to believe that that the registration of a person is liable to be cancelled under Section 29 or Rule 21.
- In case of significant differences or anomalies indicating contravention of the provisions leading to the cancellation of registration, the registration shall be suspended under clause (2A) and the person shall be given 30 days to explain the cause of differences.
- Clause (3A) has been inserted in Rule 21A to restrict the refund on unutilised ITC on account of zero-rated supplies without payment of tax or inverted duty structure under Section 54 during the period of suspension of registration.

## **Restrictions on use of amount available in electronic credit ledger**

The registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent. of such tax liability in the cases where the value of taxable supply other than exempt supply and zero-rated supply exceeds Rs.50 lakhs in a month.

The above restriction shall not apply in the following cases:

- Taxpayer has paid Income Tax exceeding ₹1 lakh in two preceding financial years.
- Taxpayer has received a refund under Section 54 exceeding ₹1 lakh in the preceding financial year.
- Taxpayer has paid outward tax liability in cash which cumulatively exceeds 1 per cent of total tax liability upto the said month in the current financial year.
- the registered person is – (Contd...)

- a) Government Department
- b) Public Sector Undertaking
- c) Local authority
- d) Statutory body

### Amendments relating to E way Bill

An E-Way Bill or a consolidated E-Way Bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance the goods have to be transported, as mentioned in column (2) of the said Table

Type of Conveyance	Distance	Validity of E-Way Bill
Other than the over dimensional cargo	Less than 200 Kms	1 Day
Other than the over dimensional cargo	For every additional 200 kms or part thereof	Additional 1 day

Earlier the validity of the e-waybill was 1 day for each 100 Km. Now this limit has been changed to 200 Km.

As per Rule 138E in the CGST Rules which restricts generation of E-way bill by the taxpayer if the returns for a consecutive period of two months has not been furnished. For the words “two months”, the words “two tax periods” shall be substituted with effect from January 2021. Where the GST registration of a taxable person has been suspended neither the taxpayer/recipient nor the transporter will be able to generate E-way bill.

#### •Restriction on filing GSTR 1

The taxpayers will not be allowed to furnish form GSTR 1 if they have not furnished their Form GSTR 3B for preceding two months.

In case of registered person, required to furnish return for every quarter shall not be allowed to furnish the details of outward supplies of goods or services or both in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period.

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#### Due date for filing Annual Return and GSTR 9C for the F Y 2019-20 extended to 28.02.2021

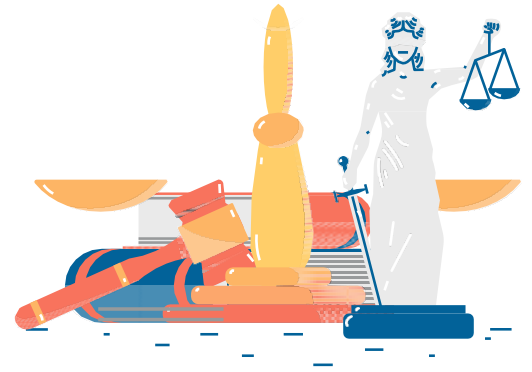
The due date for filing Annual Return and Form GSTR 9C for the Financial Year 2019-20 has been extended from 31.12.2020 to 28.02.2021.

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## Government announces RoDTEP Scheme on all export goods from 1 January 2021

- As per the press release, effective 1 January 2021, the benefit under RoDTEP scheme shall be allowed on all export goods. The scheme will refund the embedded central, state and local duties/ taxes that were so far not being rebated/ refunded.
- The claim amount will be available to the exporter as credits on ICEGATE portal. The exporter will be able to club the credits allowed for any number of shipping bills at a port and generate credit scrip for the same. Such scrip can be either used to pay basic customs duty or transferred to other importers.
- Further, necessary changes have been made in the Customs Automated System to accept and process the claims. Exporter will be required to indicate in the shipping bill his intent to claim the benefit of RoDTEP in respect of each export item. RoDTEP shall be allowed subject to fulfilment of certain conditions and exclusions as may be notified.
- Unless the declaration is specifically made in the shipping bill, no benefit will accrue to the exporter. Once the rates are notified, the system would automatically calculate the claim amount for all the items where the declaration is made. No changes in the claim will be allowed after filing of export general manifest.
- A detailed advisory for the benefit of the exporter on the scrip generation, ledger maintenance and transfer facilities will be published soon on ICEGATE.

# COMPANY LAW



## No relief to companies for filing belated documents

MCA clarifies that there is no change in the additional fee logic of eform MFT-7 and AOC-4/AOC-4 XBRL/AOC-4 CFS/AOC-4 NBFC for the FY2019-20 w.e.f. January 1, 2021, "...since extension was provided to all the companies for conducting AGM and not for filing the form."; hence, the due date for form filing shall be computed based on the actual date of AGM or due date/extended due date of AGM as the case may be.

MCA Specifies that post December 31, 2020, additional fees shall be applicable from the actual date of AGM or due date of AGM + 30 days for AOC 4 and +60 days for MGT 7, and Rs. 100 per day shall be charged starting from such day even if such date falls prior to December 31.

## MCA allows companies to hold EGMs through VC upto June 30

MCA further extends time for companies to conduct EGMs through Video Conference other Audio Visual Mode or to transact items through postal ballot in accordance with the framework stipulated earlier in this regard, upto June 30, 2021

And states that all other requirements provided in the earlier Circulars shall remain unchanged.

## MCA provides for extension of name reservation period upon payment of fees

MCA provides for extension of reservation of name by Registrar in certain cases by using web service SPICe+ upon payment of prescribed fees, w.e.f. January 26, 2020, by way of new Rule 9A under the Companies (Incorporation) Third Amendment Rules, 2020.

The Companies (Incorporation) Third Amendment Rules, 2020 inter alia stipulates that the Registrar can extend the name reserved upto

- 40 days from the date of approval under Rule 9, on payment of fees of Rs. 1,000 made before expiry of 20 days from approval date,
- 60 days from the approval date on payment of fees of Rs. 2,000 made before the expiry of 40 days referred above.

However, specifies that the Registrar shall have the power to cancel the reserved name in accordance with Sec. 4(5) Companies Act. Lastly lays down a revised version of Part-A of SPICe+, to include details about the main division of industrial activities of the Company, and particulars of the proposed or approved name.

## **MCA: Decriminalises certain offences, reduces penalties under Companies Act w.e.f. December 21**

MCA notifies December 21, 2020 as the date on which certain provisions of the Companies (Amendment) Act, 2020 would come into effect.

The new amendments decriminalises defaults pertaining to the requirements for formation of Sec. 8 Cos., non-compliance with provisions prescribing matters to be stated in the prospectus, transfer and transmission of securities and rectification of register of members.

Further, states that if a company does not maintain a register of members or debenture-holders or other security holders or fails to maintain them in accordance with the provisions of the Act, the company shall be liable to a penalty of Rs. 2 lakhs and every officer of the company who is in default shall be liable to a penalty of Rs. 5,000 (against fine of Rs. 50,000 to Rs. 3 lakhs earlier).

Also notifies amendment to Sec. 134 (Financial Statement, Board's report, etc.) stating that if a company is in default with the said provisions, the company shall be liable to a penalty of Rs. 3 lakhs, and every officer in default shall be liable to a penalty of Rs. 50,000 (earlier, officer in default was punishable with imprisonment/fine).

MCA also reduces the penalty on auditors for non-compliance with provision requiring filing of Form ADT -3 with the company from which he resigns and the RoC, within 30 days, to Rs. 2 lakhs (from Rs. 5 lakhs).

Further, for any individual who breaches the number of directorships prescribed u/s 165, reduces penalty from Rs. 5,000 to Rs. 2,000 for each day after the first during which such violation continues, subject to a maximum of Rs. 2 lakhs.

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## **IBC: Government further extends IBC suspension for 3 months**

Government extends suspension of initiation of corporate insolvency resolution processes for 3 more months, from December 25, 2020.

Due to the distress caused to businesses on account of COVID-19, and to save them from being pushed into insolvency process, the Govt. enforced the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020, thereby suspending Sec. 7, 9 and 10 of IBC, for a period of 6 months.

The suspension was due to expire on September 25, 2020. Vide a subsequent Notification, the suspension was extended by 3 months.



## **MCA defers CARO, 2020 applicability to April 1, 2021**

MCA notifies that the Companies (Auditor's Report) Order, 2020 shall be applicable for financial years commencing on or after April 1, 2021.

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## **MCA lays down rules for purchase of minority shareholding held in DEMAT form**

MCA lays down framework for purchase of minority shareholding held in demat form, vide amendment to the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016.

The amendment

- provides that a company shall, within 2 weeks from the date of receipt of the amount equal to the price of shares to be acquired by the acquirer u/s 236 of the Companies Act, verify the details of such minority shareholders
- requires the company to send notice to the minority shareholders by registered/speed post/courier or vide email, about a cut-off date, which shall not be earlier than 1 month, on which the shares shall be debited from their account and credited to the designated demat account of the company, unless the shares are credited in the account of the acquirer, as specified in such notice.
- further, states that the company shall inform the depository immediately after publication of the notice regarding the cut-off date and submit certain declarations, specifying inter alia that the corporate action is being effected in pursuance of Sec. 236, and that the minority shareholders shall be paid by the company immediately after completion of corporate action.
- defines "corporate action" as any action taken by the company relating to transfer of shares and all the benefits accruing on such shares namely, bonus shares, split, consolidation, fraction shares and right issue to the acquirer
- adds that after receiving the intimation of successful transfer of shares from the depository, the company shall immediately disburse the price of shares so transferred, to each of the minority shareholders, after deducting the applicable stamp duty which shall be paid by the company on behalf of the minority shareholders.



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