

Just 5 Minutes
TAXCON™ INDIA PRIVATE LIMITED

INCOME TAX

1. New Form 15CA & 15CB submission process

Income-tax Department has introduced a completely new re-engineered Form 15CA and Form 15CB submission process based on various feedbacks provided by numerous corporates and professionals all over India. These transformations will simplify the preparation, assignment, submission, and verification process involved in the entire filing cycle of the Form. The major key transformations are:

- (a) Taxpayers are no more required to assign the same CA for multiple 15CA/CB submission in a year. Appointment of CA for Form 15CB is a one-time activity for a particular Financial Year.
- (b) The practice of multiple acceptance/rejection for every form is removed
- (c) The CA can now access Form 15CB from File Income Tax Forms functionality for filing instead of Worklist For your Action.
- (d) Offline/Bulk Mode of submission process is enabled since 4th Oct.

INCOME TAX

2. Clarification for no tax demand for any offshore indirect transfer of Indian assets

Taxation Laws (Amendment) Act, 2021 provided that no tax demand shall be raised on basis of amendment to Section 9 of Income-tax Act vide Finance Act, 2012 for any offshore indirect transfer of Indian assets before 28-05-2012. The CBDT has notified Rule 11UE and Rule 11UF for implementing this amendment. Rule 11UE provides for specified conditions to claim relief and Rule 11UF provides form and manner of furnishing undertaking for withdrawal of pending litigation, claiming no cost, damages, etc.

3. No change in interest rate on various small saving scheme

The Interest rate of various small saving scheme for the December 2021 quarter shall remain unchanged from the current rate applicable for the second quarter of the Financial Year 2021-22.

INCOME TAX

4. Returns of AY 17-18 can be processed till Nov 30, 2021

Vide, Order F. No.225/98/2020-ITA-II, dated 5-7-2021, the CBDT has directed that all validly filed returns up to Assessment Year 2017-18 with refund claims, which have become time-barred, can be processed till 30-09-2021. Considering the pendency of taxpayer's grievances, the board has decided to extend the time frame by two months. Now the ITRs shall be processed by Nov 30, 2021.

5. OECD fixes minimum tax of 15% on MNCs from 2023

Multinational corporations will be subject to a minimum tax of 15% from 2023, in a major reform of the international tax system finalised by the OECD recently. The framework, backed by 136 countries, including India, seeks to ensure a fair share of taxes for countries where multinationals and global digital companies such as Netflix, Google earn revenues from. "The landmark deal, agreed by 136 countries and jurisdictions

INCOME TAX

6. CBDT notifies 'safe harbour' rates for transfer pricing

The tax department has notified the 'safe harbour' rates for FY21 for calculation of transfer pricing by foreign companies in India. Generally, safe harbour is defined as circumstances in which the tax authority shall accept the transfer price declared by the taxpayer to be at arm's length.

The Central Board of Direct Taxes, via a notification, has extended the applicability of Safe Harbour Rules (SHR) to 2020-21.

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.



COMPANIES ACT

1. Extension of time for filing Cost Audit Report

The Ministry of Corporate Affairs has extended the due date for filing of Form CRA 4 - Cost Audit Report in respect of the FY 2020-21 upto Nov 30, 2021.

GST

- 1. *CBIC issues clarifications regarding GST rates and classification*
 - a) **Supply of ice cream by ice cream parlours**

Where ice cream parlours sell already manufactured ice-cream, it is supply of ice cream as goods and not as a service, even if the supply has certain ingredients of service. Hence, ice cream sold by a parlour or any similar outlet would attract **GST at the rate of 18%**.

- b) **Services by cloud kitchens/central kitchens**

Service provided by way of cooking and supply of food by cloud kitchens/central kitchens are covered under restaurant service and **attracts 5% GST**

- c) **Renting of vehicles to State Transport Undertakings and Local Authorities**

Services where the vehicles are rented or given on hire to State Transport Undertakings or local authorities are eligible for the exemption as per Entry 22 of the exemption notification irrespective of whether such vehicles are under the effective control of State Transport Undertakings or local authorities who determine the rules of operation or plying of vehicles.

GST

d) GST on overloading charges at toll plaza

Overloading charges at toll plazas would get the same treatment as given to toll charges

e) Services by way of grant of mineral exploration and mining rights

Even if the rate schedule did not specifically mention the service by way of grant of mining rights, during the period 1 July 2017 to 31 December 2018, it was **taxable at 18%**

f) Admission to indoor amusement parks having rides etc.

Admission to a place having casino or race club even if it provides certain other activities or admission to a sporting event like IPL **attracts GST @28%**. All other cases of admission to amusement parks, or theme park, etc. **attracts GST @18%**.

GST

g) **Services supplied by contract manufacturers to brand owners for manufacture of alcoholic liquor for human consumption**

Services by way of job work in relation to manufacture of alcoholic liquor for human consumption are not eligible for the GST rate of 5% prescribed under the said entry. Such job work would attract **GST at the rate of 18%**

FEMA/ RBI Regulations

1. DPIIT notifies 100% FDI in telecom sector via automatic route

The government has permitted 100% FDI under automatic route in the telecom services sector. As per the press note of Department for Promotion of Industry and Internal Trade (DPIIT), foreign investment in telecom services will be subject to the condition of Press Note 3 of 2020. That means, an entity of a country, which shares a land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the government route.

LABOUR LAWS

1. Change in Minimum Wages UP, w.ef.01-10-2021

Class of Employment	Basic Per Month	VDA Per Month from 1-10-2021	Total Per Month	Total Per Day
Unskilled	5750	3434	9184	353.23
Semi-skilled	6325	3777.29	10102.29	389
Skilled	7085	4231.16	11316.16	435.24

CASE LAWS - INCOME TAX

1. *Akashganga Infraventures India Ltd. v. National Faceless Assessment Centre, Delhi*

It has been held that section 144B(7) mandatorily provides for issuance of a prior show cause notice and draft assessment order before issuing final assessment order

2. *Sohan Lal Aggarwal v. ACIT, Circle 62(1), New Delhi*

It has been held that where there was difference between assessee's books of account and accounts as per TDS certificate, on said difference, only embedded portion of profits was to be taken into consideration and addition was to be made thereon; there was no justification in making addition of entire turnover to income of assessee -

CASE LAWS - INCOME TAX

3. Town Essential (P.) Ltd. v. Commissioner of Income-tax (Appeals)-7, Bengaluru

It has been held that where Assessing Officer made additions under section 56(2)(viib) after fresh valuation of shares adopting different method (NAV) from that adopted by assessee (DCF method), since Assessing Officer was entitled to scrutinize valuation report and determine fresh valuation but without changing method of valuation opted by assessee, impugned addition was to be set aside -

4. Income-tax Officer, Ward-1(1)(2), Ahmedabad v. Bajaj Herbals (P.) Ltd.

Where assessee company had paid freight charges to an agent of a non-resident ship owner or charter without deduction of tax at source, in view of special provisions of section 172, no TDS deduction under section 194C was required on such charges and, thus, provision of section 40(a)(ia) was not applicable

CASE LAWS - INDIRECT TAX

1. Doing WFH due to Covid no reason to cancel of GST registration: HC

The Calcutta high court has set aside the GST authority's order cancelling the registration of a company on the ground that the firm was not operating from the registered place at the time of investigation due to Covid-19. The company's application for revocation of cancellation of registration was rejected by ignoring the relevant materials which established that at the time of inspection, the assessee was following a work-from-home (WFH) model due to the nationwide pandemic and therefore was temporarily unavailable at its registered place of business.

2. No GST ITC on CSR Expenses

The Gujarat bench of the Authority for Advance Rulings (AAR) has recently held that corporate social responsibility (CSR) activities under the Companies (CSR Policy) Rules are excluded from the normal course of business. The AAR held that company would not be eligible for input tax credit (ITC) under goods and services tax (GST) laws.



Fortnightly Update No : 366TH

Disclaimer: This is for private circulation only. Every effort has been made to provide the correct information for the facility of our clients.
Specific advice/clarification should be obtained in case there is any doubt relating to the aforesaid

