



# JUST 5 MINUTES

TAXCON<sup>TM</sup> INDIA PRIVATE LIMITED

# INCOME TAX ACT

## *1. Widen the scope of Specified Activities u/s 285B*

The Govt. has widened the scope of section 285B to include persons engaged in 'specified activities' to expand the reporting requirements in Form 52A. 'Specified Activities' would mean event management, documentary production, etc. To incorporate this change in the existing Rule & Form, the CBDT has amended Rule 121A and Form 52A. Form 52A shall be filed electronically within 60 days from the end of the previous year.

## *1. Guidelines to remove difficulty of TDS u/s 194R*

The Central Board of Direct Taxes (CBDT) has issued another set of guidelines to remove difficulties on deduction of tax at source under section 194R. The additional guidelines give clarity on earlier guidelines issued by CBDT vide Circular no. 12 of 2022

# INCOME TAX ACT

## 3. *Revision of guidelines for compounding of offence*

The Central Board of Direct Taxes (CBDT) has reviewed the guidelines on the compounding of offences under the Income-tax Act intending to simplify and facilitate the compounding of offences. Accordingly, in supersession of all earlier guidelines, the board has issued revised guidelines for compliance by all concerned.

## 4. *New form u/s 170A upon business reorganisation*

The Central Board of Direct Taxes (CBDT) has notified a new Rule 12AD and Form ITR-A to be filed by successor entities to furnish modified return of income under section 170A consequent to business reorganization.

# COMPANIES ACT

## 1. *DIR 3 -KYC due date extended*

The Ministry of Corporate Affairs and extended the due date for filing e-form DIR-3-KYC and web-form DIR-3-KYC from September 30, 2022 to October 15, 2022.

## 2. *Amendment in CSR Rules*

MCA vide notification has notified the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2022. The gist of the changes are:-

- To align Rule 3 with Section 135(1) i.e. omission of Rule 3(2),
- Requirement of the constitution of CSR Committee if any amount is lying in the Unspent CSR Account,
- Widening of the categories of entities that can be appointed as Implementing agencies,
- Revision in the limits to book expenditure towards impact assessment,
- Rationalization of the format of Annual Report on CSR.

# COMPANIES ACT

## 3. *Verification of registered offices*

The ROCs and MCA are working to verify all the registered offices of the companies / LLPs registered in India by geo tagging and physical verification (to the extent possible) to ensure that all the companies are real and not fake. This drive is to identify fake companies which are used for fake GST Invoices and fake business transactions to evade taxation in India. The first target would be the place where multiple companies have the same registered office address.

## 4. *Revision in definition of Small Company*

MCA has revised the definition of Small Company by increasing their maximum thresholds for paid up capital from Rs. 2 crores to Rs. 4 crores and turnover from Rs. 20 crores to Rs. 40 crores. These measures were taken to facilitate the ease of doing business.

# GST

## 1. *Revision of TRAN-1/TRAN-2*

The Supreme Court has provided a one-time opportunity to all the aggrieved taxpayers to file Form TRAN-1/TRAN-2 and claim their transitional input tax credit in GST system. It is available from Oct 01, 2022 till Nov 30, 2022. Guidelines for filing/revising TRAN-1/TRAN-2 are

- The applicant may file declaration in TRAN-1/TRAN-2 or revise earlier filed TRAN-1/TRAN-2 on the common portal.
- The applicant shall at the time of filing or revising the declaration in TRAN-1/TRAN-2, also upload on the common portal the pdf copy of a specified declaration.
- No claim for transitional credit shall be filed in respect of such C-Forms, F-Forms, and H/I-Forms which have been issued after Dec 27, 2017.

# GST

- Where the applicant files a claim in TRAN-2, he shall file the entire claim in one consolidated TRAN-2.
- The applicant shall download a copy of the TRAN-1/TRAN-2 and submit a self-certified copy of the same, along with specified declaration to the jurisdictional tax officer within 7 days.
- In cases where the credit availed by the registered person on the basis of TRAN-1/TRAN-2 filed earlier, has either wholly or partly been rejected by the proper officer, the appropriate remedy in such cases is to prefer an appeal against the said order.
- After the verification of the claim, the jurisdictional tax officer will pass an appropriate order thereon on merits after granting appropriate reasonable opportunity of being heard to the applicant.



# FEMA/ RBI/ FDI

## 1. *Extension of Foreign Trade Policy*

The Government has extended the Foreign Trade Policy (2015-2020), which was valid till Sept 30, 2022 for a further period of six months, w.e.f. October 1st, 2022.

## 2. *MHA Extends Validity of FCRA Registration Certificate till 31.03.2023*

The Ministry of Home Affairs (MHA) has extended the validity of FCRA registration of NGOs, the renewal applications of which are pending, till March 31, 2023.

Also, the validity of those FCRA entities whose five years validity period is expiring during October 1, 2022 to March 31, 2023, and which have applied for renewal before expiry of five years validity period, will stand extended up to March 31, 2023 or till the date of disposal of renewal application.



# FEMA/ RBI/ FDI

## 3. *Uniformity in imposition of late submission fee in reporting under FEMA*

Reserve Bank of India (“RBI”) has issued circular, with the aim of bringing uniformity in imposition of Late Submission Fee (LSF) against delayed reporting’s under FEMA, Directions, Regulations, Circulars, Rules issued from time to time. The new LSF provisions shall come into effect immediately for the delayed filings made on or after Sept 30, 2022

- a) “n” is the number of years of delay in submission rounded-upwards to the nearest month and expressed up to 2 decimal points.
- b) “A” is the amount involved in the delayed reporting
- c) Maximum LSF amount will be limited to 100% of ‘A’ and will be rounded upwards to the nearest hundred.

# FEMA/ RBI/ FDI

Revised late fee structure on various types of reporting is as under:

| Type of Reporting   | LSF on delay in reporting                          |
|---|--|
| Form ODI Part-II [Annual Performance Report (APR)]            | INR 7500   |
| Annual return on Foreign Liabilities and Assets [FLA] Returns | INR 7500   |
| FC-GPR  | $[\text{INR } 7500 + (0.025\% \times A \times n)]$ |
| FCTRS   | $[\text{INR } 7500 + (0.025\% \times A \times n)]$ |
| Form LLP(I)   | $[\text{INR } 7500 + (0.025\% \times A \times n)]$ |
| Form LLP(II)  | $[\text{INR } 7500 + (0.025\% \times A \times n)]$ |
| Form ECB / ECB 2  | $[\text{INR } 7500 + (0.025\% \times A \times n)]$ |

# LABOUR LAWS

## 1. *Reg process of giving life certificate to the pensioners sitting at home by EPFO*

The Employees' Provident Fund Organization (EPFO) has taken a new step keeping in mind the convenience of the pensioners. Now pensioners can present life certificate from their mobile sitting at home and for this pensioner will not need to go to the office of EPFO.

## 2. Minimum Wages in Uttar Pradesh – Effective Oct 01, 2022

| Class of Employment | Basic Per Month | VDA Per Month | Total Per Day | Total Per Month |
|---------------------|-----------------|---------------|---------------|-----------------|
| Unskilled           | 5750.00         | 3993.00       | 374.73        | 9743.00         |
| Semi-skilled        | 6325.00         | 4392.00       | 412.19        | 10717.00        |
| Skilled             | 7085.00         | 4920.00       | 461.73        | 12005.00        |

# LABOUR LAWS

## 3. Minimum Wages in Bihar- Effective Oct 01, 2022

| Class of Employment      | Basic Per Day | Basic Per Month | VDA Per Day | VDA Per Month | Total Per Day | Total Per Month |
|--------------------------|---------------|-----------------|-------------|---------------|---------------|-----------------|
| Unskilled                | 366.00        | 9516.00         | 7.00        | 182.00        | 373.00        | 9698.00         |
| Semi-Skilled             | 380.00        | 9880.00         | 8.00        | 208.00        | 388.00        | 10088.00        |
| Skilled                  | 463.00        | 12038.00        | 9.00        | 234.00        | 472.00        | 12272.00        |
| Highly Skilled           | 566.00        | 14716.00        | 11.00       | 286.00        | 577.00        | 15002.00        |
| Supervisory/<br>Clerical | 403.00        | 10478.00        | 8.08        | 210.00        | 411.08        | 10688.00        |

# LABOUR LAWS

## 4. Minimum Wages in Chattisgarh- Effective Oct 01, 2022

| Class of Employment      | Basic Per Day | Basic Per Month | VDA Per Day | VDA Per Month | Total Per Day | Total Per Month |
|--------------------------|---------------|-----------------|-------------|---------------|---------------|-----------------|
| Unskilled                | 366.00        | 9516.00         | 7.00        | 182.00        | 373.00        | 9698.00         |
| Semi-Skilled             | 380.00        | 9880.00         | 8.00        | 208.00        | 388.00        | 10088.00        |
| Skilled                  | 463.00        | 12038.00        | 9.00        | 234.00        | 472.00        | 12272.00        |
| Highly Skilled           | 566.00        | 14716.00        | 11.00       | 286.00        | 577.00        | 15002.00        |
| Supervisory/<br>Clerical | 403.00        | 10478.00        | 8.08        | 210.00        | 411.08        | 10688.00        |

# LABOUR LAWS

## 5. Minimum Wages in Madhya Pradesh- Effective Oct 01, 2022

| Class of Employment | Basic Per Day | Basic Per Month | VDA Per Day | VDA Per Month | Total Per Day | Total Per Month |
|---------------------|---------------|-----------------|-------------|---------------|---------------|-----------------|
| Unskilled           | 250.00        | 6500.00         | 108.65      | 2825.00       | 359.00        | 9325.00         |
| Semi-skilled        | 271.42        | 7057.00         | 120.19      | 3125.00       | 392.00        | 10182.00        |
| Skilled             | 324.42        | 8435.00         | 120.19      | 3125.00       | 445.00        | 11560.00        |
| Highly Skilled      | 374.42        | 9735.00         | 120.19      | 3125.00       | 495.00        | 12860.00        |
|                     |               |                 |             |               |               |                 |

# CASE LAWS - INCOME TAX

## 1. *Sandeep kumar Agarwal v. Asstt. DIT Delhi.*

It has been held that the deduction for the AY 2018-19 and 2019-20 would be allowable regarding employee's contribution towards PF & ESI to assessee employer even if the same was paid after due date specified under respective Acts but before the due date of filing of return since amendment in section 36(1)(va) and 43B were applicable from assessment year 2021-22 and subsequent year.

## 2. *Dwarka Portfolio Pvt. Ltd. v Asst CIT (Delhi)*

It has been held that where name of assessee-company was struck down from ROC under section 248 of the Companies Act 2013, certificate of incorporation issued to such company could not be treated as cancelled and thus, appeal filed by it before Tribunal challenging order of revenue would be maintainable.



# CASE LAWS - INCOME TAX

## 3. *Stemade Biotech (P) LTD. Vs. DCIT, 20/05/2021, ( ITAT-Mumbai ) (Favour of Revenue)*

It has been held that the referral commission paid by the assessee company to doctors who refer potential customers for availing of stem cell banking services provided by the assessee is violative of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002 which renders it an expense that is prohibited by law and therefore the same is not allowable as deduction.

# CASE LAWS - INDIRECT TAX

## 1. *In re - Krishna Institute of Medical Sciences Ltd. [2022]*

The Authority for Advance Rulings, Andhra Pradesh, has held that administering of Covid-19 vaccination is in nature of composite supply where sale of vaccine forms principal supply and administration of vaccine becomes ancillary service; GST is payable at 5%.

## 2. *India Yamaha Motor (P.) Ltd. v. Assistant Commissioner*

The Madras High Court has held that where interest was payable on tax paid by debiting electronic cash ledger in respect of delayed filing of returns; availability of balance in cash ledger could not be assumed as payment of tax unless it was debited.

# CASE LAWS - INDIRECT TAX

## 3. No GST on sale of plots with basic infra: AAR

The Karnataka bench of the GST-Authority for Advance Rulings (AAR) has held that goods and services tax (GST) is not applicable on sale of plots even if these are sold after completion of works related to basic necessities (such as land levelling, installation of sewage lines, et al). It was always clear that land is not subject to GST

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