

Key Highlights of the 38th GST Council Meeting

The 38th GST Council Meeting was held on 18th December, 2019 at New Delhi under the Chairmanship of Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman. The meeting was also attended by Union Minister of State for Finance & Corporate Affairs Shri Anurag

Thakur besides Finance Ministers of States & UTs and senior officers of the Ministry of Finance.

Recommendations made by the GST Council on:

A. Law & Procedure related changes

- Grievance Redressal Committees (GRC) to be constituted at Zonal / State level consisting of CGST & SGST Officers, representatives from trade & industry and other GST stakeholders. GRC shall address grievances of specific / general nature of taxpayers at Zonal / State levels.
- Due date of filing of Form GSTR-9 (i.e. Annual Return) and GSTR-9C (i.e. Reconciliation Statement) for FY 2017-18 to be extended to 31st January 2020.
- Measures to improve filing of Form GSTR-1 (i.e. monthly / quarterly outward supply return):
 - ✍ Waiver of late fee for all pending Form GSTR-1 pertaining to July 2017 to November 2019. if filed by 10th January 2020
 - ✍ E-way Bill to be blocked if Form GSTR-1 is not filed for 2 tax periods
- Input tax credit (ITC) in respect of invoices / debit notes that are not reflected in Form GSTR-2A of the recipient shall be restricted to 10% of the eligible credit available in Form GSTR-2A
- In order to check the menace of fake invoices, suitable action to be taken for blocking of fraudulently availed ITC in certain situations
- Standard Operating Procedure for tax officers would be issued for action to be taken in cases of non-filing of Form GSTR 3B (i.e. monthly summary return)
- Due date for GST Returns for November 2019 to be extended for few North Eastern States
- The GST Council also approved various law amendments which will be introduced in Budget 2020.

Press release relating to Law and Procedure related changes. The above recommendations shall be made effective from the date as specified in Notifications / Circular.

B. GST Rate Changes

The GST Council recommended the following changes in GST rates & exemptions:

Exemption of upfront amount payable for long term lease
of industrial / financial infrastructure plots by an entity

1st January
2020

having 20% (reduced from 50%) or more ownership of
Central / State Government

Uniform rate of GST @ 18% (increased from 12%) on
woven and non-woven bags and sacks of polyethylene
or polypropylene strips or the like, whether or not

laminated, of a kind used for packing of goods (HS code
3923 / 6305) including Flexible Intermediate Bulk
Containers (FIBC)

Single rate of GST @ 28% on both State run and State
authorized lottery (presently, GST rates on lottery is 12%
for State owned and 28% on State-authorized lottery)

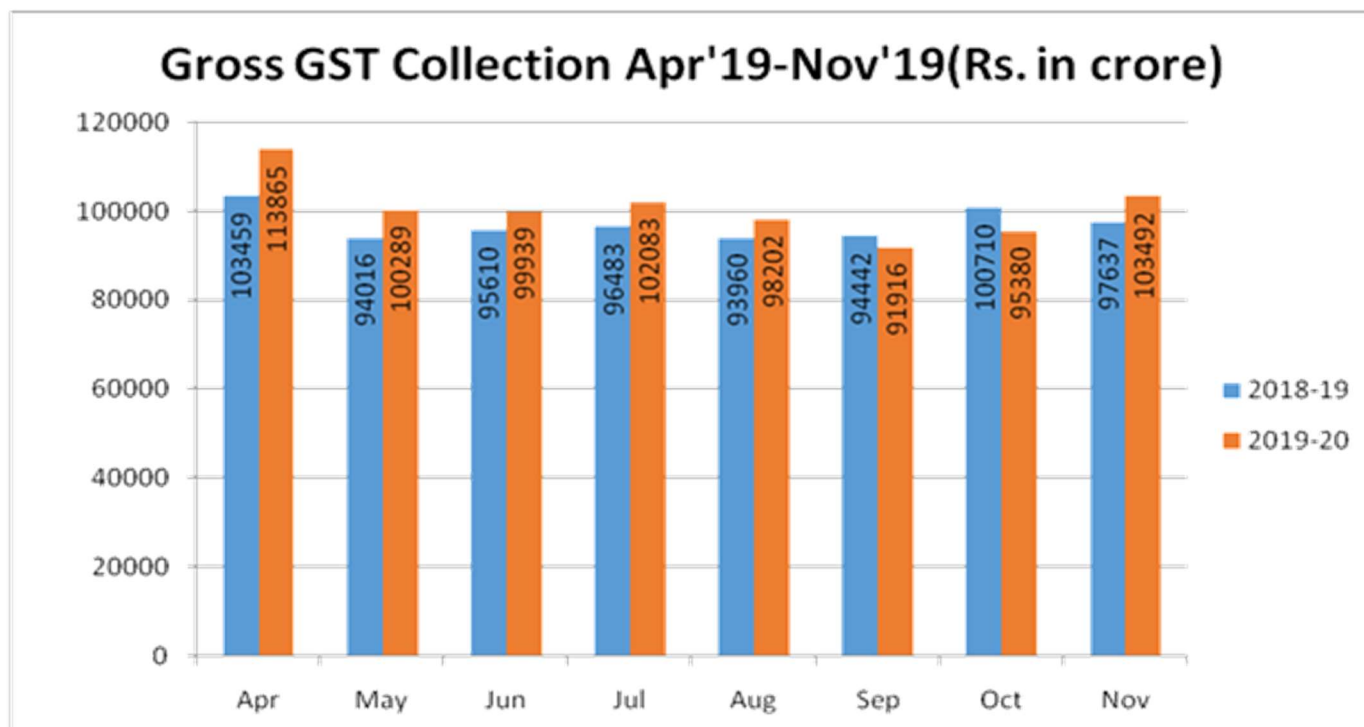
1st March
2020

Press release on changes in GST rates & exemptions. The above
recommendations would be given effect through Gazette Notifications/ Circulars
which shall have the force of law.

GST revenue collection for November 2019 - growth of 6% over revenue for November 2018

Gross GST revenue collection in the month of November, 2019 is Rs. 1,03,492 crore (details given below), a growth by 6% over revenue collection for the same month last year (i.e., November 2018). Total number of GSTR 3B Returns filed for the month of October up to 30th November, 2019 is 77.83 lakh.

IGST (Integrated Goods and Services Tax)	Rs. 49,028 crore
CGST (Central Goods and Services Tax)	Rs. 19,592 crore
SGST (State Goods and Services Tax)	Rs. 27,144 crore
Compensation cess	Rs. 7,727 crore
Total	Rs. 1,03,491 crore



Press release dated 1st December, 2019.

E-invoicing and Quick Response (QR) code generation from 1st April, 2020 onwards

The Central Board of Indirect taxes and Customs (CBIC) has issued notifications to enforce provisions governing e-invoicing and Quick Response (QR) code generation from 1st April, 2020 onwards. Summary of the provisions are given below:

- A list of 10 common GST Electronic Portals (i.e. E-Invoice portal) for generation of IRN (Invoice reference number) has been specified
- Registered person, whose aggregate turnover in a financial year > INR 1 billion, shall prepare e-invoice for supplies made to a registered person after obtaining a unique IRN from specified websites.
- Form GST INV-01 containing various particulars will need to be uploaded by the taxpayer on E-Invoice portal for generation of IRN. Rule 48 (4) rule has been inserted with effect from 1st April, 2020 for the same.
- Registered person, whose aggregate turnover in a financial year > INR 5 billion, shall issue invoice to an unregistered person to have a QR code or if such registered person is paid via the application of a Dynamic QR Code made available to the recipient through a digital display, such invoice containing cross reference of the payment via the Dynamic QR code shall be considered to meet the criteria
- Invoice issued without IRN shall be treated as invalid
- This process now eliminates the requirement to issue duplicate/ triplicate invoice copies as given in Rule 48(1) and 48(2) of CGST rules, 2017

Notification dated 13th December, 2019 for list of E-Invoice portal.

Notification dated 13th December, 2019 for insertion of rule governing E-Invoicing.

Notification dated 13th December, 2019 for class of persons required for generation of E-Invoice.

Notification dated 13th December, 2019 for class of persons required to issue invoice having QR code.

Standard Operating Procedure (SOP) to be followed in case of non-filers of returns

Background:

The GST Council has recommended in its 38th meeting to issue SOP for tax officers for action to be taken in cases of non-filing of Form GSTR 3B.

Certain doubts have been raised across the field formations in respect of the appropriate procedure to be followed in case of non-furnishing of return u/s 39 (i.e. GSTR-3B) or u/s 44 (Annual return along with reconciliation statement, if applicable) or u/s 45 (Final return) of the CGST Act, 2017. Divergent practices are being followed in case of non-furnishing of the said returns.

The matter has been examined and following clarification issued by the Government:

Clarification issued by Government:

- Section 46 of the CGST Act read with rule 68 of the CGST Rules, 2017 requires issuance of a notice in Form GSTR-3A to a registered person who fails to furnish the returns, requiring him to furnish such return within 15 days. Further section 62 (best judgment assessment) provides for assessment of non-filers of return of registered persons who fails to furnish returns even after service of notice u/s 46.

- No separate notice is required to be issued for best judgment assessment and in case of failure to file return within 15 days of issuance of Form GSTR3A, the best judgment assessment in Form ASMT-13 can be issued without any further communication.

- Following guidelines have been prescribed to ensure uniformity in implementation of law:

- ✍ A system generated message would be sent to all the registered persons 3 days before the due date to remind them about filing of the return by the due date.
- ✍ A system generated mail / message would be sent to all the defaulters immediately after the due date to the effect that the said registered person has not furnished his return for the said tax period; the said mail/message is to be sent to the authorized signatory as well as the proprietor/ partner/ director/ karta etc.
- ✍ 5 days after the due date, a notice in FORM GSTR-3A shall be issued electronically to such registered person who fails to furnish return, requiring him to furnish such return within 15 days;
- ✍ In case the said return is still not filed by the defaulter within 15 days, the proper officer may proceed to assess the tax liability to the best of his judgement taking into account all the relevant material available / gathered and would issue order u/r 100 of the CGST Rules in Form GST ASMT-13. The proper officer would then be required to upload the summary thereof in Form GST DRC 07;
- ✍ For assessment of tax liability to the best of his judgement, the proper officer may take into account the details of outward supplies available in Form GSTR-1, details of supplies auto populated in Form GSTR-2A, information available from e-way bills, or any other information available from any other source, including from inspection u/s 71;
- ✍ In case the defaulter furnishes a valid return within 30 days of the service of assessment order in Form GST ASMT-13, the said assessment order shall be withdrawn. However, if the said return remains unfurnished within such 30 days, then proper officer may initiate proceedings u/s 78 and recovery u/s 79 of the CGST Act;

Above general guidelines may be followed by the proper officer in case of non-furnishing of return. In deserving cases, based on the facts of the case, the Commissioner may resort to provisional attachment to protect revenue before issuance of Form GST ASMT-13.

The proper officer would initiate action for cancellation of registration in cases where the return has not been furnished for the period specified in section 29.

Circular dated 24th December, 2019.

Quoting of Document Identification Number (DIN) on communication issued by tax officers to taxpayers

Background:

The board vide its circular 122/41/2019 dated 5th November, 2019, has specified that the DIN monitoring system would be used for incorporating a DIN on search authorizations, summons, arrest memos, inspection notices etc. to begin with. A facility was provided to enable the recipient of these documents/ communications to easily verify their genuineness by confirming the DIN online at cbic.gov.in.

Direction by CBIC:

- CBIC has now directed that electronic generation and quoting of DIN shall be done in respect of all communications (including emails) sent to tax payers and other concerned persons by any office of the CBIC across the country.
- Electronic generation of DIN has been suitably enhanced online on digital/ platform/ facility. The same would create a digital directory for maintaining a proper audit trail of communications sent to tax payers and other concerned persons and on the other hand, would provide the recipient to ascertain the genuineness of the communication.
- The standardized format for the documents has been prepared on the recommendations made by the committee constituted by the Board and uploaded the same on Directorate of Data Management (DDM) and are ready to be used. The standardized documents when downloaded and printed would bear a pre-populated DIN thereon. These standardized formats shall be used by all the GST/ Central Excise/ Service Tax formations from 1st January, 2020 onwards.
- The Board has directed that any specified communication which does not bear the electronically generated DIN and is not covered by exceptions given in circular no. 122/41/2019, shall be treated as invalid and shall be deemed to have never been issued.

Circular dated 23rd December, 2019.

Waiver of late fee on filing Form GSTR-1 for the period July, 2017 to November, 2018

Based on recommendations made in 38th GST Council Meeting, CBIC has waived late fee for Form GSTR-1 (monthly/ quarterly) for the period July, 2017 to November, 2018, if the same is filed after due date but between 19th December, 2019 to 10th January, 2020.

Notification dated 26th December, 2019.

Amendment in CGST rules – Reduction in limit for availability of Input Tax Credit (ITC), denial of ITC availed fraudulently, blocking of E-way bill for non-filing of Form GSTR-1

Background:

Based on recommendations made in 38th GST Council Meeting, CBIC has made the following amendments in CGST rules:

Reduction in limit for availability of ITC:

Government has reduced the limit of 20% of ITC availability to 10%, for invoices not appearing in GSTR-2A.

Disallowance of ITC utilized fraudulently:

Commissioner or an officer authorised by him, having reasons to believe that ITC has been availed fraudulently or is ineligible in below cases, shall disallow the debit of such credit in Electronic Credit Ledger for discharge of outward liability or for claim of any refund of unutilised amount.

- Supplier issuing tax invoice is non-existent or does not conduct business from a place for which registration has been obtained
- Recipient found non-existent or does not conduct business from a place for which registration has been obtained
- Recipient has availed ITC without receipt of goods/ services or without having possession of tax invoice or on supply on which tax has not been paid

Department may subsequently allow debit in case it is satisfied that above condition(s) no longer exist.

Blocking of E-way bill for not filing of GSTR-1:

From 11th January 2020 onwards, E-way bill shall be blocked for those taxpayers who failed to file Form GSTR-1 for any 2 months or quarters. Earlier, the same was blocked due to non-filing of only Form GSTR-3B for 2 months.

Notification dated 26th December, 2019.

Relief to IT enabled services sector – Withdrawal of circular no. 107/26/2019 dated 18th July, 2019

•Earlier this year, Government had issued Circular no.107/26/2019 dated 18th July, 2019 clarifying that any Information Technology enabled services (ITeS) service provider engaged in facilitation of supply of goods / services will be considered as 'intermediary' (unless it is on his own account) implying that ITeS service providers would be subject to GST @ 18% since the benefit of export (i.e. zero rated supplies) shall not be available.

•Giving effect to the above Circular, GST authorities issued notices to various multinational Business Process Outsourcing (BPOs) / Knowledge Process Outsourcing (KPOs) in India for recovery of GST and also denied GST refunds on inputs on the ground that the work done for parent companies are not considered as exports.

•The Circular also caused hardship in understanding as to which back-end services constitute support services (like pre-delivery, delivery, post-delivery, post-sales support etc) and which services would qualify as 'arranging or facilitating the supply of goods or services between 2 or more persons'.

•In view of representations received by Government from the industry expressing apprehensions on implications of the above Circular and to ensure uniformity in implementation of law, Government has withdrawn the above Circular, likely to be a major relief for ITeS sector.

Circular dated 4th December, 2019.

Extension of due date for filing Annual Return (Form GSTR-9) and Reconciliation Statement (Form GSTR-9C) for FY 2017-18

Based on recommendations made in 38th GST Council Meeting, CBIC has extended due dates for filing Annual Return and Reconciliation Statement for the FY 2017-18 to 31st January, 2020 (from 31st December 2019).

CBIC's order dated 26th December, 2019.

The ITeS services for the above purposes included back office operations, call centres or contact centre services, data processing and data mining, insurance claim processing, legal databases, creation and maintenance of medical transcription excluding medical advice, translation services, payroll, remote maintenance, revenue accounting, support centres, website services, data search integration and analysis, remote education excluding education content development, clinical database management services excluding clinical trials, except any research and development services whether or not in the nature of contract research and development services

Constitution of Grievance Redressal Committees (GRC) at Zonal / State level for redressal of taxpayers' grievances

The GST Council in its 38th meeting has decided that a structured grievance redressal mechanism should be established for the taxpayers to tackle taxpayers' grievances. The constitution of each such GRC, its functions and mandate shall be as below.

Constitution of the Committee:

Each Zonal/State level Grievance Redressal Committee shall comprise of the following:

- Central and State level tax officers
- Representative from GST network (GSTN)
- Representative of trade and industry
- Other GST stake-holders

Term of the Committee:

The GRC will be constituted for 2 years and the term of each member so nominated shall be for 2 years. Any member of the Committee who is absent for 3 consecutive meetings without adequate reasons, will be considered to have withdrawn from the Committee and his position will be filled afresh.

Functions and mandate of the Committee:

- Examining and resolving all the grievances and issues of the taxpayers (including procedural and / or IT related issues)
- Referring any issue requiring a change in Act / Rules / Notification / Form / Circular / Instruction, etc., to the GST Council Secretariat and the relevant Policy Wing of the CBIC
- Referring any GST portal-IT-related issue to GSTN

Periodicity of Meeting:

The Committee shall meet once every quarter or more frequently as decided by the Co-chairs.

Mechanism of Working of the Committee:

The stakeholders will send their grievances/suggestions to the Secretary of the Committee, who shall place the same before the Committee. The Secretary shall also submit a quarterly progress report to the GST Council Secretariat as well as to the GST Policy Wing, CBIC.

For time bound handling of grievances and accountability GSTN shall develop a portal for recording all such grievances, status of their disposal, details of action taken on all issues, which shall be available for viewing to all stakeholders to check the status of the resolution.

Special Economic Zones (3rd Amendment) Rules, 2019 – Reforms for minimum land area and sector-specific and multi-product SEZs

The Ministry of Commerce & Industry vide notification no. G.S.R 940(E) dated December 17, 2019, has notified the Special Economic Zones (3rd Amendment) Rules, 2019. By issue of this notification, the Government recently announced reforms u/r 5 of Special Economic Zones Rules, 2006, whereby provisions for minimum land area and sector-specific and multi-product SEZs have been amended.

Key amendments:

- Henceforth, all existing and new SEZs would become multi-sector SEZs encouraging co-existence of an SEZ unit from any sector along with any other SEZ unit.
- Provisions governing the minimum land area requirement for setting up of SEZs have also been relaxed and simplified. For instance, amended legal framework mandates a minimum land area requirement for setting up a multi-product SEZ to be 50 hectares from an earlier 500 hectares.
- For setting up SEZ in the States of Assam, Meghalaya, Nagaland, Arunachal Pradesh, Mizoram, Manipur, Tripura, Himachal Pradesh, Uttarakhand, Sikkim, Goa or in Union territory, the minimum area should be 25 hectares.
- There will be no minimum land area requirement for setting up SEZ for Information Technology (IT) or Information Technology enabled Services (ITeS), Biotech or Health (other than hospital) service. However, minimum built up processing area requirement has been prescribed based on category of cities.

Likely impact:

This move is likely to provide a boost to the SEZs in India. Many IT- ITES SEZs are developed by IT companies themselves. As per the erstwhile rules, excess land in such SEZs could have been utilised only by bringing in IT-ITeS companies. The new proposal will allow multi-sectoral SEZs, giving flexibility to SEZ developers to use unutilised land parcels by inviting units from other sectors too. Reduction in minimum land area will provide a boost to smaller companies to develop SEZ as well.

Notification dated 17 December 2019 issued by Ministry of Commerce & Industry.

GIST OF INCOME TAX CHANGES

Taxation Laws (Amendment) Bill, 2019 receives Presidential assent

- The Finance Act 2019 was enacted on 1st August 2019. Subsequent to the enactment of the Finance Act in view of various developments, it was felt by the Government that there is an urgent need to take additional fiscal measures so as to boost the investment and growth in the economy for which the Government has already announced certain measures.
- It was also noticed that many countries across the world has reduced corporate income-tax to attract investment and create employment opportunities, thus necessitating the need for similar measure in India to make the Indian industry more attractive. Thus, it became necessary to amend certain provisions of the Income-tax Act and Finance Act 2019. However, since the Parliament was not in session and considering the urgency of the matter, the Taxation Laws (Amendment) Ordinance 2019 was promulgated on 20 September 2019
- In view of representations received from the industry to provide clarity, the Government introduced the Taxation Laws (Amendment) Bill, 2019 on 25th November, 2019 in the Lower House of Parliament seeking to replace the aforesaid Ordinance and making further amendments to the Income-tax Act
- The Taxation Laws (Amendment) Bill, 2019 was finally passed in Lok Sabha (lower house of Parliament) on 2nd December 2019 with further amendments and in Rajya Sabha (upper house of Parliament) on 5th December 2019. The bill has received President of India's assent on 11th December 2019 and has become the Taxation Laws (Amendment) Act, 2019.

Taxation Laws (Amendment) Act, 2019.

Extension in due date for deposit of tax deducted at source (TDS / WHT) u/s 194M for September & October 2019 due to delay in deployment of online utility

Background:

- Section 194M, introduced in law from 1st September 2019 onwards, requires withholding of tax (WHT / TDS) @ 5% on payments made by Individual / Hindu Undivided Family (HUF) to a resident for carrying out any work / execution of contract / commission / brokerage / professional fees. However, no TDS is required to be deducted if the aggregate payment does not exceed Rs. 50 lakh in a year. TDS needs to be deducted at the time of payment or credit in accounts, whichever is earlier.
- Vide notification dated 18 November 2019, CBDT has notified rules for time-limit for (a) deposit of above TDS with Government, and (b) issue of TDS certificate. WHT u/s 194M should be deposited with Government electronically within 30 days from the end of the month in which the deduction is made. Challan-cum-statement for deposit of WHT u/s 194M should be in Form 26QD. TDS certificate in Form 16D to be issued to the payee within 15 days from due date for furnishing Form 26QD.

CBDT's circular no.31 dated 19 December 2019:

Considering that the utility for payment of TDS u/s 194M was deployed only on 17 December 2019, CBDT has extended the due dates for compliance u/s 194M as below:

September 2019	31 December 2019 (from 31 October 2019)	
October 2019	31 December 2019 (from 30 November 2019)	15 January 2020
Circular dated 19th December 2019		

CBDT amends Form 10DA for claiming deduction u/s 80JJAA in respect of employment of new employees

Background:

- Form 10DA is required to be issued by a practising Chartered Accountant certifying the amount of deduction claimed by a taxpayer u/s 80JJAA being an incentive provision for encouraging recruitment of new employees.
- The section grants deduction of 30% of additional employee cost incurred by the taxpayer for 3 tax years starting from the tax year in which such employment is provided.
- The Government has come up with changes in Form 10DA which are largely consequential to the amendment made by Finance Act, 2018 in respect of new employees, who do not complete 240 days in 1st year but complete 240 days in 2nd year, to treat the mas new employees in 2nd year.
- The changes also clarify the legal position that in any tax year, the taxpayer is entitled to deduction in respect of new employees employed over 3years viz. current tax year and 2 preceding years.

Key changes:

- The earlier form prior to amendment by Finance Act 2018 did not deal with spill-over employees. The new form categorically requires reporting of number and emoluments paid to spill-over employees in line with amendmentbyFinanceAct2018.
- The earlier form required reporting of particulars only for the 1st year and did not require reporting of deduction in respect of emoluments paid / payable to additional employees in respect of preceding 2 years. The new form addresses this lacuna and requires reporting of particulars for 3 years, viz. current tax year and 2precedingyears.

By requiring reporting of particulars for 3 years, the new form has addressed a lacuna long-pending. The other changes are largely in line with recent amendments to section 80JJAA. Taxpayers and practicing Chartered Accountantsareadvisedtotakenoteofthechangesandcomplywiththenewrequirementsaccordingly.

Notification dated18th December 2019.

CBDT permits belated submission of income accumulation statements by Trusts for AY 2017-18

- The provisions of Income-tax Act governing the taxation of charitable and religious trust/ institutions, provides that while 15% of the income can be accumulated indefinitely by the trust or institution, 85% of the income can only be accumulated up to 5 years subject to the condition that such trust/ institutions submits the prescribed Form 10 electronically to the Assessing Officer within the due-date of furnishing of return of income.

- Further, where the income from the property held under trust/institutions applied to charitable or religious purposes falls short of 85% of the income derived during the year for the reason that the income has not been received during the year or any other reason, then on exercise of the option by submitting Form 9A electronically by Trust / institution on or before the due date of furnishing return of income, such income shall be deemed to have been applied for charitable or religious purposes.

- CBDT vide its circular dated 20th December 2018 last year had permitted the belated submission of income accumulation statement in Form 10 and application for deemed income application for charitable / religious purposes in Form 9A for the AY 2016-17.

- Government has extended the applicability of above circular to AY 2017-18. Consequently, religious trust/ institutions are permitted to belatedly submit income accumulation statement in Form 10 and application for deemed income application for charitable / religious purposes in Form 9A for the AY 2017-18 as well.

CBDT issues draft notification on manner of calculating remuneration to eligible fund manager u/s. 9A

Background

- Section 9A of the Income-tax Act provides for a special taxation regime in respect of certain off shore funds in the context of their fund managers being located in India. It is provided that in case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund. Further, it is provided that an eligible investment fund shall not be said to be resident in India merely because the eligible fund manager undertaking fund management activities on its behalf is located in India subject to the conditions mentioned in section 9A(3), one of which [clause (m) of said sub-section] provides that the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the arm's length price of the said activity.

- Accordingly, Income-tax Rules were amended by way of insertion of rules 10V to 10VB and Forms 3CEJ and 3CEK vide notification No 14/2016 dated 15th March 2016. Rule 10V was further amended vide notification No 106/2016 dated 21st November 2016. Sub-rule (5) to (10) of rule 10V of the Rules contains the provisions relating to determination of the arm's length price in respect of any remuneration paid by the eligible investment fund to an eligible fund manager.

- Finance (No 2) Act, 2019 with effect from 1st April, 2019 amended section 9A(5)(m), so as to provide that the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the amount calculated in such manner as may be prescribed.

Manner of calculation of remuneration payable to eligible fund manager:

Manner for calculation of the amount, compared to which the remuneration paid to the eligible fund manager should not be less, is required to be prescribed. A draft notification to amend the rules for this purpose was uploaded by CBDT on www.incometaxindia.gov.in seeking inputs from stakeholders and general public. The inputs on the draft rules were invited latest by 19th December, 2019.

Notification dated 5th December 2019 including amendment in rules for calculation of remuneration.

Extension of time limit for filing of response to notices u/s 142(1) under E-assessment Scheme, 2019

With a view to provide relief to taxpayers and tax professionals and to facilitate compliance with respect to e-assessment proceedings under E-assessment scheme, 2019. the time limit for filing of response to notices u/s 142(1) of the Income-tax Act issued upto 24 December 2019 by the National e-assessment Centre has been extended to 10 January 2020 or time given in such notices, whichever is later.

Notification dated 24th December 2019 by National e-Assessment Centre, Delhi.

INTERNATIONAL TAXATION PROVISIONS

Union Cabinet approves signing of Double Taxation Avoidance Agreement (DTAA) with Chile

The Union Cabinet chaired by Prime Minister Shri Narendra Modi approved the signing of the DTAA and Protocol between India and Chile for the elimination of double taxation and prevention of fiscal evasion and avoidance with respect to taxes on income.

The DTAA will facilitate elimination of double taxation. The Agreement and Protocol implements minimum standards and other recommendations of G-20 OECD Base Erosion Profit Shifting (BEPS) Project. Inclusion of Preamble Text, a Principal Purpose Test, a general anti-abuse provision in the Agreement along with a Simplified Limitation of Benefits Clause as per BEPS Project will result in curbing of tax planning strategies which exploit gaps and mismatches in tax rules.

COMPANY LAW CHANGES

Revision in threshold limits for entering into Related Party Transactions (RPT)

The Ministry of Corporate Affairs (MCA) has notified amendments in the Companies (Meeting of Board and its Powers) Rules, 2014 through the Companies (Meeting of Board and its Powers) Second Amendment Rules, 2019 on 18th November 2019.

Background:

- Section 188 requires prior approval of the shareholders by way of a resolution for entering into Related Party Transactions (RPTs) if the transaction value is beyond the threshold limits.
- The existing rules specified minimum values of transaction (INR 100 crores or INR 50 crores), irrespective of the size of the company, beyond which shareholder's approval was required. The amended rules seek to ease the compliance burden on large companies since the threshold now is only linked to the turnover of such company.

Relaxation provided:

The threshold limits for entering into RPTs by a Company, beyond which RPTs would require approval of shareholders by way of a resolution are mentioned below:

		Limit of
15(3)(a)(i)	Shareholders' resolution is required in case value of transaction exceeds 10% of the turnover of the Company or INR 100 Crores, whichever is lower	INR 100 Crores has been done away with
15(3)(a)(ii) Selling or disposing or buying property of any kind (directly or through an agent)	Shareholders' resolution is required in case value of transaction exceeds 10% of net worth of the Company or INR 100 Crores, whichever is lower	
15(3)(a)(iii) Leasing of property of any kind	Shareholders' resolution is required in case value of transaction exceeds 10% of net worth of the Company or 10% or more of turnover of the Company or INR 100 Crores, whichever is lower	
15(3)(a)(iv) Availing or rendering of any services (directly or through an agent)	Shareholders' resolution is required in case value of transaction exceeds 10% or more of turnover of the Company or INR 50 Crores, whichever is lower	Limit of INR 50 Crores has been done away with

Circular dated 18th November 2019

Relaxation in additional fee and extension of last date for filing Form PAS-6 with ROC

MCA has issued a Circular on 28th November 2019 to relax additional fees and extend last date for filing of Form PAS-6 (Reconciliation of Share Capital Audit Report) for the half-year ended on 30th September 2019.

Background:

Form PAS-6 is required to be filed by every unlisted public company with the ROC within 60 days from the conclusion of each half year, duly certified by a company secretary in practice or chartered accountant in practice.

Relaxation provided:

The notification has extended the last date for filing PAS-6 without additional fee until 60 days from the day form PAS-6 is available on the website.

Circular dated 28th November 2019.

BANKING / RBI PROVISIONS

Introduction of Liquidity Support (LS) Facility - NEFT 24 x 7

In order to facilitate smooth settlement of NEFT transactions in the accounts of the member banks maintained with the Reserve Bank in a 24x7 environment, it has been decided to provide an additional collateralized intra-day liquidity facility, called Liquidity Support (LS).

Highlights:

- LS facility will be available for facilitating NEFT settlements, on 24x7 basis. The LS facility will operate as per the same terms and conditions as the Intra-Day Liquidity (IDL) facility.
- All member banks eligible for the IDL facility will be eligible to avail of the LS facility.
- The limit for LS facility would be set by the Reserve Bank from time to time.
Drawings under the LS facility shall be reckoned as part of the eligible IDL limit.
- The margin requirement on LS facility would be similar to that of IDL facility.
- Outstanding drawing at the end of the day under the LS facility will be automatically converted into borrowing under the Marginal Standing Facility (MSF). The above MSF borrowing reversal will take place along with other LAF operations as is currently being done.
- The extant instructions on intra-day-liquidity and reversal of IDL shall continue, as hitherto.
- The Reserve Bank may review the facilities based on the experience gained in operationalizing the scheme.

Notification dated 13th December 2019.

Compliance calendar for the month of January 2020

December 2019	TDC/TCS deposit	Non-government deductors
	Equalization Levy deposit	All Deductors
	a) GSTR-7 (TDS return under GST)	a) Person required to deduct TDS under GST
	b.GSTR-8 (TCS return under GST)	b.Person required to deduct TCS under GST
	GSTR-1 (Outward supply return)	Taxable persons having turnover > Rs. 1.5 crore
	GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
October-December 2019	Deposit of PF & ESI contribution	All Deductors
	Quarterly statement of TCS deposited for the quarter ending December 31, 2019	
	GSTR-4 (Return by composition dealer)	Person registered under composition scheme
	CMP-08 (Payment of GST)	
December, 2019		a) All taxable person making outward supply except composition dealer
	a) GSTR-3B (Summary return)	b) Non-resident taxable person
	b) GSTR-5 (Return by Non-resident)	c) OIDAR services provider
	c) GSTR-5A (Online Information Database Access and Retrieval (OIDAR) services return)	
October-December 2019	Quarterly TCS certificate in respect of tax collected for the quarter ending December 31, 2019	All Deductors
FY 2017-18		(a) All taxpayers having aggregate turnover > Rs. 2 crores. Optional for other taxpayers
	a) Form GSTR-9 (Annual Return) & Form GSTR-9C (Reconciliation Statement)	b) Optional
	b) Form GSTR 9A (Annual Return for composition)	
FY.2018-19	Intimation u/s 286(1) in Form No. 3CEAC (where FY of ultimate parent company runs from April-March)	A resident constituent entity of an international group whose parent is non-resident
October-December 2019	GSTR-1 (Outward supply return)	Taxable persons having turnover < Rs.1.5 crores
	Quarterly statement of TDS deposited for the quarter ending December 31, 2019	All Deductors

