



MONTHLY UPDATES

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1. GOOD & SERVICES TAX (GST)



Goods and Services Tax Updates (1/13)

❑ 1. Recommendations by GST Council in its 51st meeting

The 51st Meeting of the GST Council was held on 2 August 2023 via video conferencing at New Delhi under the chairpersonship of the Union Finance & Corporate Affairs Minister, Smt. Nirmala Sitharaman.

Recommendations made by the GST Council in its 51st Meeting held on August 2, 2023, were regarding

1. Value of supply of online gaming & actionable claims in casinos for levy of GST
2. Registration of supplier of online money gaming located outside India

The CGST (Amendment) Bill, 2023 seeks to amend the CGST Act based on recommendations of the GST Council relating to the taxability of casinos, horse racing and online gaming. The following definitions are proposed to be amended/introduced:

- Specified actionable claim Online money gaming Online gaming Supplier Virtual digital asset
- Every person supplying online money gaming from a place outside India to a person in India shall be required to be mandatorily registered under the CGST Act, 2017
- The proposed amendments shall be without prejudice to any other law for the time being in force, providing for prohibiting, restricting or regulating betting, casino, gambling, horse racing, lottery or online gaming.

The IGST (Amendment) Bill, 2023 seeks to amend IGST Act based on recommendations of the GST Council relating to taxability of online gaming.

- Supplier of online money gaming located outside the taxable territory
 - A supplier of online money gaming located in a non-taxable territory shall be liable to pay IGST on the supply of online gaming to a person in the taxable territory
 - Such supplier shall obtain a single registration under the Simplified Registration Scheme
 - If any person located in the taxable territory is representing such supplier for any purpose, then the representative shall get registered and pay the IGST on behalf of the supplier
- Notwithstanding anything contained in the Information Technology Act, 2000, in case of failure to comply with above provisions, any information in any computer resource shall be liable to be blocked for access by the public

Goods and Services Tax Updates (2/13)

❑ 1. Recommendations by GST Council in its 51st meeting (Contd....)

- Online money gaming shall be excluded from the scope of 'Online information and database access or retrieval' services
- Place of supply - Where the supply of goods is made to an unregistered person, the place of supply shall be: Location of the unregistered person as recorded in the invoice; or Location of the supplier if the address of the unregistered person is not recorded in the invoice.

❑ 2. Central Board of Indirect Taxes & Customs (CBIC) issues notifications & circulars to give effect to recommendations of the 50th GST council meeting held on 11 July 2023

The 50th Meeting of the GST Council was held on 11 July 2023 under the chairpersonship of the Union Finance & Corporate Affairs Minister, Smt. Nirmala Sitharaman.

Keys recommendations were made in the areas of GST rate changes, measures for facilitation of trade and measures for streamlining compliances in GST. To give effect to the recommendations of the 50th GST Council meeting, CBIC issued a series of notifications and circulars on 17 July 2023.

Subsequent Notifications issued by CBIC on 26 July, 31 July and 4 August 2023.

S.No	Notifications	Particulars
1	Particulars 1 Notification no. 06/2023 – Central Tax (R) dated 26 July 2023 Notification no. 08/2023 – Central Tax (R) dated 26 July 2023	Goods Transport Agencies (GTAs) to pay GST under forward charge: GTAs are not be required to file declaration by 15 March of the preceding year for opting to pay GST under forward charge every year. Such option can be exercised only once from 1 January to 31 March of the preceding financial year (FY) which shall be applicable for subsequent FYs unless the GTA files a declaration that it wants to revert to the reverse charge mechanism. The above amendments have become effective from 27 July 2023.

Goods and Services Tax Updates (3/13)

- ❑ **2. Central Board of Indirect Taxes & Customs (CBIC) issues notifications & circulars to give effect to recommendations of the 50th GST council meeting held on 11 July 2023**

S.No	Notifications	Particulars
2	Notification no:07/23 - Central Tax (R) dated 26 July 2023	GST exemption extended to all entities providing satellite launch services: Satellite launch services were exempted only when the same were provided by Indian Space Research Organization (ISRO), Antrix Corporation limited and New Space India Limited (NSIL). Such exemption has now been extended to all entities providing satellite launch services with effect from 27 July 2023 onwards.
3	Notification no:09/23 - Central Tax (R) dated 26 July 2023	<ul style="list-style-type: none"> • GST Rate changes on specified goods: GST rate on following goods has been reduced to 5% (CGST + SGST) with effect from 27 July 2023 onwards: <ul style="list-style-type: none"> • Un-fried / un-cooked snack pellets manufactured through extrusion process (from 18%) • Fish soluble paste (from 18%) • Linz-Donawitz (LD) Slag (from 18%) • Imitation zari thread or yarn known by any name in trade parlance (from 12%)
4	Notification no:10/23 - Central Tax (R) dated 26 July 2023	Reference of Foreign Trade Policy (2015-2020) to be substituted with Foreign Trade Policy, 2023: Notification no. 26/2018 – Central Tax (R) dated 31 December 2018 provided GST exemption on supply of gold, silver and platinum by nominated agencies to registered persons. Any reference of Foreign Trade Policy, 2015-2020 has been substituted with Foreign Trade Policy, 2023 with effect from 27 July 2023 onwards.

Goods and Services Tax Updates (4/13)

- ❑ **2. Central Board of Indirect Taxes & Customs (CBIC) issues notifications & circulars to give effect to recommendations of the 50th GST council meeting held on 11 July 2023 (Contd....)**

S.No	Notifications	Particulars
5	Notification no. 01/2023 - IT dated 31 July 2023	<p>Specified goods which may be exported on payment of IGST and refund can be claimed: Pursuant to amendment made by the Finance Act, 2021 with effect from 1 October 2023 onwards, the following notified goods may be exported on payment of integrated tax and on which the supplier of such goods may claim the refund of tax so paid:</p> <ul style="list-style-type: none"> • Pan masala • Certain specified tobacco products • Following essential oils other than those of citrus fruit namely: 1. Peppermint (Mentha piperita); 2. Other mints: Spearmint oil (ex-mentha spicata), Water mint-oil (ex-mentha aquatic), Horsemint oil (ex-mentha sylvestries), Bergament oil (ex-mentha citrate), Mentha arvensis.
6	Notification no. 3/2023- Compensation Cess (Rate) dated 26 July 2023	<p>Applicability of ad-valorem rate as against retail sale price for the levy of Compensation Cess on certain products: Ad-valorem rate as was notified where it is not legally required to declare retail sale price for the levy of Compensation Cess on pan masala and certain tobacco products.</p> <p>It has been clarified that the words 'declared retail sale price' shall mean the retail sale price in compliance with the Legal Metrology Act, 2009 or under any other law for the time being in force. The above amendment is effective from 27 July 2023 onwards.</p>
7	Notification no. 3/2023- Compensation Cess (Rate) dated 26 July 2023	<p>Compensation cess on utility vehicles:</p> <p>Entry no. 52B of Notification no. 1 /2017 – Compensation Cess (Rate) dated 28 June 2017 has been substituted to include all utility vehicles including Sports Utility Vehicles (SUV), Multi Utility Vehicles (MUV), Multi-purpose vehicles (MPV) or Cross-Over Utility Vehicles (XUV) which satisfy the following parameters:</p> <ul style="list-style-type: none"> • Length: exceeding 4000 mm • Engine Capacity: exceeding 1500cc • Ground clearance (in un laden condition): 170mm and above <p>The above amendment is effective from 27 July 2023 onwards.</p>

Goods and Services Tax Updates (5/13)

- ❑ **2. Central Board of Indirect Taxes & Customs (CBIC) issues notifications & circulars to give effect to recommendations of the 50th GST council meeting held on 11 July 2023 (Contd....)**

S.No	Notifications	Particulars
8	Notification no. 32/2023-CT dated 31 July 2023	Exemption from filing of Annual Return for FY 2022-23: Registered persons with aggregate turnover up to Rs. 2 crore in FY 2022-23 have been exempted from filing of annual return in Form GSTR-9 for the said FY
9	Notification no. 33/2023-CT dated 31 July 2023	Consent based sharing of information by the common portal through 'Account Aggregator': Section 158A of the CGST Act, 2017 provides for consent-based sharing of information by the common portal with such other systems as may be notified by the Government. The Central Government has notified 'Account Aggregator' as the system with which information may be shared by the common portal based on consent. 'Account Aggregator' means a non-banking financial company which undertakes the business of an Account Aggregator in accordance with the policy directions issued by Reserve Bank of India and defined as such in the Non-Banking Financial Company – Account Aggregator (Reserve Bank) Directions, 2016. The notification is applicable from 1 October 2023 onwards.
10	Notification no. 30/2023 CT dated 31 July 2023	<p>Special procedure to be followed by a registered person engaged in manufacturing of pan masala and tobacco products:</p> <p>A special procedure has been prescribed for registered persons engaged in the manufacture of pan masala and certain other tobacco products. Such registered persons will have to submit the following details on the common portal:</p>

Goods and Services Tax Updates (6/13)

- ❑ **2. Central Board of Indirect Taxes & Customs (CBIC) issues notifications & circulars to give effect to recommendations of the 50th GST council meeting held on 11 July 2023 (Contd....)**

Form	Description	Time limit	
		Prior to July 31, 2023	After July 31, 2023
Form SRM-I	Details of packing machines used for pouches or containers.	Within 30 days from 31 July 2023	Within 15 days from the date of grant of registration.
Form SRM-IA	If the production capacity of the manufacturing unit or machines is declared to any other government department / other agency / organization		Within 15 days of filing the declaration with the Government department or any other agency or organisation
Form SRM-IIA	Additional filling and packing machine installed	Within 24 hours of such installation.	
Form SRM-IIB	Existing filling or packing machine being removed	Within 24 hours of such removal	
Form SRM-IV	Monthly statement depicting the details of inputs used and the final goods, electricity consumption and production of goods	On or before the 10th day of the month succeeding such month.	

S.No	Notifications	Particulars
11	Notification no. 30/2023 CT dated 31 July 2023	The following details are also required to be maintained in each place of Business:

Form	Particulars
FORM SRM -IIIA	<ul style="list-style-type: none"> Daily record of inputs procured and utilized in quantity and value terms Details of waste generated Daily record of reading of electricity meters and generator set meters.
FORM SRM -IIIB	<ul style="list-style-type: none"> Shift-wise record of machine-wise production Product-wise and brand-wise details of clearance in quantity and value terms.

Goods and Services Tax Updates (7/13)

- ❑ **2. Central Board of Indirect Taxes & Customs (CBIC) issues notifications & circulars to give effect to recommendations of the 50th GST council meeting held on 11 July 2023 (Contd....)**

S.No	Notifications	Particulars
12	Notification no. 31/2023-CT dated 31 July 2023	Applicability of biometric based Aadhaar authentication extended to Puducherry: The applicability of Notification no. 27/2022-Central Tax dated 26 December 2022 providing biometric based Aadhaar authentication and taking of photograph for completion of registration application in Gujarat has now been extended to Puducherry.
13	Notification no. 34/2023- CT dated 31 July 2023	<p>Mandatory registration waived for persons supplying goods through an Electronic Commerce Operator (ECO). The Central Government has specified the persons supplying goods through an ECO (who is required to collect tax at source) and having an aggregate turnover below the prescribed threshold limit for registration in the preceding and current FY as the category of persons exempted from obtaining registration, subject to the following conditions:</p> <ul style="list-style-type: none"> • Such persons shall not make any inter-state supply of goods • Such person shall not make supply of goods through ECO in more than 1 State or Union Territory • Such persons shall be required to have Permanent Account Number under Income-tax Act and will have to declare the same on the portal along with the address of the place of business and the State or Union territory in which he seeks to make such supply subject to validation on the common portal • On successful validation of the details furnished, the person will be granted an enrolment number on the portal. Such persons shall not be granted more than 1 enrolment number • No supplies shall be made by the persons through ECO without the enrolment number • Where such persons are subsequently granted registration, the enrolment number shall cease to be valid from the effective date of registration. This notification is applicable from 1 October 2023 onwards.

Goods and Services Tax Updates (8/13)

- ❑ **2. Central Board of Indirect Taxes & Customs (CBIC) issues notifications & circulars to give effect to recommendations of the 50th GST council meeting held on 11 July 2023 (Contd....)**

S.No	Notifications	Particulars
14	Notification no.- 36/2023-CT dated 4 August 2023	<p>Supplies of goods made through ECO by Composition taxpayers: The following procedure shall be followed by an ECO (who is required to collect tax at source) in respect of supply of goods made through it by a composition taxpayer with effect from 1 October 2023 onwards:</p> <ul style="list-style-type: none"> • It shall not allow any inter-state supply of goods made through it by the said persons • It shall collect tax at source in respect of supply of goods made through it by the said persons and pay to the Government • It shall furnish the details of supplies of goods in Form GSTR-8 electronically on the common portal
15	Notification no.- 37/2023-CT dated 4 August 2023	<p>Supplies of goods made through ECO by specific unregistered persons: The following procedure shall be followed by an ECO (who is required to collect tax at source) in respect of supply of goods made through it by a person who is exempted from the requirement of obtaining registration with effect from 1 October 2023 onwards:</p> <ul style="list-style-type: none"> • It shall allow the supply of goods only if enrolment number has been allotted on the common portal to the said person in accordance with Notification no.- 34/2023- CT dated 31 July 2023 above • It shall not allow any inter-state supply of goods made through it by the said person • It shall not collect tax at source from said person; and • It shall furnish the details of such supplies in Form GSTR-8 electronically on the common portal Where multiple ECOs are involved in a single supply of goods through ECO platform, the ECO shall mean ECO who finally releases the payment
16	Notification no. 38/2023 – CT dated 4 August 2023	<p>Amendments relating to:</p> <ul style="list-style-type: none"> • Verification of GST registration application and approval • Furnishing of bank account details • Suspension of registration • Revocation of cancellation of registration • Determination of Input Tax Credit (ITC) on capital goods and reversal thereof in certain cases • Tax invoice • Difference in ITC available in auto-generated statement vis-à-vis availed in return

Goods and Services Tax Updates (9/13)

- ❑ **2. Central Board of Indirect Taxes & Customs (CBIC) issues notifications & circulars to give effect to recommendations of the 50th GST council meeting held on 11 July 2023 (Contd....)**

S.No	Notifications	Particulars
16	Notification no. 38/2023 – CT dated 4 August 2023	<ul style="list-style-type: none"> • Submission of return by persons providing Online Information Database Access and Retrieval services • Form and manner of submission of statement of supplies through an ECO • Application for refund of tax, interest, penalty, fees or any other amount • Order sanctioning interest on delayed refunds • Refund of integrated tax paid on goods or services exported out of India • Appeal / Application to appellate authority • Information to be furnished in case of intra-state movement of gold, precious stones, etc. and generation of e-way bills thereof • Intimation of certain amounts liable to be recovered • Procedure for compounding of offences • Consent based sharing of information <p>Amendments relating to:</p> <ul style="list-style-type: none"> • Verification of GST registration application and approval • Furnishing of bank account details • Suspension of registration • Revocation of cancellation of registration • Determination of Input Tax Credit (ITC) on capital goods and reversal thereof in certain cases • Tax invoice • Difference in ITC available in auto-generated statement vis-à-vis availed in return • Submission of return by persons providing Online Information Database Access and Retrieval services • Form and manner of submission of statement of supplies through an ECO • Application for refund of tax, interest, penalty, fees or any other amount

Goods and Services Tax Updates (10/13)

- ❑ **2. Central Board of Indirect Taxes & Customs (CBIC) issues notifications & circulars to give effect to recommendations of the 50th GST council meeting held on 11 July 2023 (Contd....)**

S.No	Notification	Particulars
16	Notification no. 38/2023 – CT dated 4 August 2023	<ul style="list-style-type: none"> • Order sanctioning interest on delayed refunds • Refund of integrated tax paid on goods or services exported out of India • Appeal / Application to appellate authority • Information to be furnished in case of intra-state movement of gold, precious stones, etc. and generation of e-way bills thereof • Intimation of certain amounts liable to be recovered • Procedure for compounding of offences • Consent based sharing of information

Subsequent Notifications were issued by CBIC on 26 July, 31 July and 4 August 2023.

S.No	Circular	Particulars
1	Circular no. 201/13/2023- GST dated 1 August 2023	<p>Services supplied by director of the company in his personal capacity: It has been clarified that services supplied by a director of a company / body corporate to the company / body corporate in his private or personal capacity (such as services supplied by way of renting of immovable property) shall not be taxable under reverse charge mechanism. Only those services which are supplied by him in the capacity of director of the company or body corporate shall be taxable under reverse charge mechanism in the hands of the company or body corporate.</p> <p>Taxability of the supply of foods or beverages in cinema halls: It has been clarified that supply of food or beverages in a cinema hall shall be taxable as 'restaurant service' provided:</p> <ul style="list-style-type: none"> • The food or beverages are supplied by way of or as part of a service, and • Supplied independent of the cinema exhibition service. Where the sale of cinema ticket and supply of food and beverages are clubbed together, it will be treated as composite supply subject to GST at the rate applicable to service of exhibition of cinema being the principal supply.

Goods and Services Tax Updates (11/13)

❑ 2. Central Board of Indirect Taxes & Customs (CBIC) issues notifications & circulars to give effect to recommendations of the 50th GST council meeting held on 11 July 2023 (Contd....)

Subsequent Notifications issued by CBIC on 26 July, 31 July and 4 August 2023.

S.No	Circular	Particulars
2	Circular no. 200/12/2023-GST dated 1 August 2023	<p>Supply of raw cotton by agriculturist to cooperatives: It has been clarified that supply of raw cotton, including kala cotton, from agriculturists to registered cooperatives is a taxable supply subject to 5% GST on reverse charge basis under Notification no. 43/2017-Central Tax (Rate) dated 14 November 2017.</p> <p>Any past period issues will be regularized on 'as is basis'.</p> <ul style="list-style-type: none"> • GST rate on goods falling under HSN 9021 (trauma, spine and arthroplasty implants) • GST rate on all the goods falling under heading HSN 9021 (trauma, spine and arthroplasty implants) shall attract GST rate of 5%. <p>Further, no refunds will be granted if GST has already been paid at higher rate of 12%. Any past period issues will be regularized on 'as is basis'.</p>

❑ 3. Clarification regarding the taxability of fumigation services in a warehouse of agricultural produce

Fumigation services in a warehouse of agricultural produce were treated as support services to agriculture, forestry, fishing, and animal husbandry liable to NIL rate of tax. Such services are no longer treated as support services from 27 July 2023 onwards.

❑ 4. Date of becoming effective prescribed, for amendments made in the CGST Act, 2017 & IGST Act, 2017 vide Finance Act, 2023

The following amendments made vide Finance Act, 2023 in the CGST Act, 2017 will become effective from 1 October 2023 onwards: Subsequent Notifications issued by CBIC on 26 July, 31 July and 4 August 2023.

Goods and Services Tax Updates (12/13)

- ❑ **4. Date of becoming effective prescribed, for amendments made in the CGST Act, 2017 & IGST Act, 2017 vide Finance Act, 2023**

Section	Heading
10	Composition Levy
16	Eligibility and conditions for taking input tax credit
17	Apportionment of credit and blocked credits
23	Person not liable for registration
30	Revocation of cancellation of registration
37	Furnishing details of outward supplies
39	Furnishing of returns
44	Annual return
52	Collection of tax at source
54	Refund of tax
56	Interest on delayed refunds
62	Assessment of non-filers of returns
122	Penalty for certain offences
132	Punishment for certain offences
138	Compounding of offences
158A	Consent based sharing of information furnished by taxable person
Schedule III	Retrospective exemption to certain activities and transactions

Goods and Services Tax Updates (13/13)

❑ 4. Date of becoming effective prescribed, for amendments made in the CGST Act, 2017 & IGST Act, 2017 vide Finance Act, 2023

The following amendments made vide Finance Act, 2023 in the CGST Act, 2017 have become effective from 1 August 2023 onwards

Section	Heading
109	Constitution of Appellate Tribunal and Benches thereof
110	President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.
114	Financial and administrative powers of President
117	Appeal to High Court
118	Appeal to Supreme Court
119	Sums due to be paid notwithstanding appeal, etc

The following amendments made vide Finance Act, 2023 in the CGST Act, 2017 have become effective from 1 August 2023 onwards

Section	Heading
2(16)	Definition of Non-taxable online recipient
2(17)	Online information and database access or retrieval services
12	Place of supply of services where location of supplier and recipient is in India
13	Place of supply of services where location of supplier or recipient is outside India

Further, the amendment made vide the Finance Act, 2021 relating to zero-rated supply will become effective from 1 October 2023 onwards.

2. DIRECT TAX



Direct Tax Updates (1/7)

❑ Central Board of Direct Taxes (CBDT) amends perquisite valuation rules for calculation of rent-free accommodation provided by employer

Background

If an employer provides rent-free accommodation to its employees, certain percentage of its value is taxable in the hands of employee as a 'perquisite' under the head 'income from salaries' as per the Income-tax Act, 1961. The value of taxable perquisite for this purpose is determined as per Rule 3 of Income-tax Rules, commonly known as 'perquisite valuation rules'.

The Finance Act, 2023 brought in an amendment in the perquisite valuation rules with regard to the value of rent-free or concessional accommodation provided by an employer to an employee, for the purpose of introducing uniformity / consistency.

Notification no. 65 dated 18 August 2023 issued by CBDT

The categorization and the limits of cities and population have now been based on the 2011 census as against the 2001 census earlier. Also, the rates of perquisite valuation have been reduced as below.

Previous Categorization and Rates		New Categorization and Rates (effective from September 1, 2023 onwards)	
Population	Perquisite Rate	Population	Perquisite Rate
More than 25 Lakh	15%	More than 40 Lakh	10%
10 Lakh to 25 Lakh	10%	15 Lakh to 40 Lakh	7.5%
Less than 10 Lakh	7.5%	Less than 15 Lakh	5%

This is a welcome move by the CBDT, as it reduces the tax liability of high-salaried individuals and expatriates who are commonly granted rent-free or concessional accommodation by their employers.

Direct Tax Updates (2/7)

❑ **Exchange Rate for the purpose of withholding tax at source on income payable in foreign currency**

Background

As per Rule 26 of Income-tax Rules, 1962, for the purpose of withholding tax at source on income payable in foreign currency, exchange rate to be adopted for the purpose of calculation of INR equivalent value of income payable to a taxpayer outside India, shall be the telegraphic transfer buying rate (TTBR) as on the date on which tax is required to be withheld at source by the person responsible for paying such income.

Notification no. 64 issued by CBDT on 17 August 2023

CBDT has issued a notification to include the following additional cases within the above rule:

- Income payable to a Unit located in International Financial Services Centre
- Income payable by a Unit located in International Financial Services Centre to a taxpayer in India

❑ **Tax exemption u/s 10(10D) of Income-tax Act, 1961 on income received under a Life Insurance Policy – Guidelines issued by CBDT regarding computation of taxable value**

Background/ Situation prior to amendment by Finance Act, 2023

- Section 10(10D) exempts the sum received under a life insurance policy wherein premium payable for any of the years during the term of the policy $\leq 10\%$ of actual capital sum assured. The intent is to provide benefits to small and genuine cases of life insurance coverage
- Reportedly, it was observed by the Government that high-net-worth individuals were misusing the exemption provision by investing in large premium insurance policies which are meant to be an investment for returns rather than life insurance coverage.

Direct Tax Updates (3/7)

❑ Amendment by Finance Act, 2023

- The Finance Ministry plugged the loophole by way of amendment vide Finance Act, 2023, in order to avoid misuse of tax exemption by high net worth individuals on life insurance policies
- As per the amendment, tax exemption shall not be available on income from life insurance policies issued on or after 1 April 2023 and having aggregate premium > INR 5 lakh year (except if income is received on death of person). Such income shall be taxable under the head 'other sources' u/s 56(2)(xiii). Deduction shall be allowed for premium paid by the taxpayer (if not claimed earlier)
- The provision is not applicable to unit linked insurance policies or keyman insurance policies since they are already covered by existing provision of law Guidelines issued by CBDT on 16 August 2023 Consideration received during a year under an eligible life insurance policy issued on or after 1 April 2023 shall be tax-exempt or not exempt u/s 10(10D), subject to fulfillment of conditions. Different situations that could arise are broadly summarized below:
- Situation 1 - No consideration is received by the taxpayer on any eligible life insurance policies (issued on or after 1 April 2023) during any year preceding the relevant year, OR, consideration has been received on such eligible life insurance policies but has not been claimed exempt for tax purposes
- Situation 2 - Consideration has been received by the taxpayer under any 1 or more eligible life insurance policies (issued on or after 1 April 2023) during any year preceding the relevant year and it has been claimed tax-exempt u/s 10(10D).
- CBDT has issued Circular no. 15 on 16 August 2023 explaining how tax exemption u/s 10(10D) shall be determined in the above situations, including examples.

Further, CBDT has inserted new Rule 11UACA in the Income-tax Rules prescribing the method as to how taxable income shall be computed if the sum received is taxable as income from other sources u/s 56(2)(xiii) and tax exemption u/s 10(10D) is not available. The method is described below.

Direct Tax Updates (4/7)

❑ Amendment by Finance Act, 2023 (Contd...)

- In case taxpayer receives any amount for the 1st time under a life insurance policy, at any time during a particular FY, then taxable income shall be computed as below:
 - $A - B$, where A = Amount received under the life insurance policy during the 1st FY, and
 - B = Aggregate of premium paid during the term of the life insurance policy till date of receipt of the amount mentioned in A above, that has not been claimed as a deduction under any other provision of the Income-tax Act
- In case taxpayer receives any amount under a life insurance policy during a FY, subsequent to
 - (i) above, then the taxable income shall be computed as below:
 - $C - D$,
 - where C = Amount received under the life insurance policy during a FY, subsequent to
 - (i) above D = Aggregate of the premium paid during the term of life insurance policy till the date of receipt of amount, but does not include the following:
 - Premium that has already been considered for calculation of taxable amount in FYs (refer B), and
- Amount of premium that has been claimed as a deduction, if any, under any other provision of the Income-tax Act Amounts received under unit linked insurance policies or keyman insurance policies would not form part of the above.

Direct Tax Updates (5/7)

- ❑ **Amortization of preliminary expenditure u/s 35D(2)(a) of Income-tax Act, 1961 – CBDT prescribes Form 3AF to be furnished by taxpayer annually 1 month prior to filing Income-tax Return (ITR) for the relevant year**

Background

- Section 35D of the Income-tax Act provides for amortization of certain preliminary expenses incurred prior to commencement of business (or after commencement, in connection with extension of an existing undertaking)
- The preliminary expenses include expenditure in connection with preparation of feasibility report, project report, market survey, etc. Such work can be carried out by the taxpayer itself or a concern which is approved by CBDT
- A need was felt to ease the process by removing the condition of above activities to be carried out by a concern approved by CBDT. Accordingly, vide Finance Act, 2023, the condition for activities to be carried out by a concern approved by CBDT, has been removed. Instead, taxpayer has been required to furnish a statement with tax authorities (in prescribed form and within time limit) mentioning the details of such expenditure. The form was yet to be prescribed by CBDT Notification no. 54 issued by CBDT on 1 August 2023

CBDT has issued a notification on 1 August 2023

Prescribing Form 3AF for this purpose (inserted vide new Rule 6ABBB in the Income-tax Rules, 1962). The Form needs to be filed electronically 1 month prior to the due date of filing ITR annually for each year. Key disclosures required to be made in Form 3AF include the below:

- General information of the taxpayer (such as name, legal status, residential status, address, PAN, etc.)
- Relevant year for which statement is being filed
- Details of expenditure
- Preparation of feasibility report
- Preparation of project report
- Conducting market surveys
- Engineering services relating to business of the taxpayer Certain consequential amendments have also made to Form 3AE, i.e, audit report required to be furnished by a Chartered Accountant on behalf of a taxpayer claiming benefit u/s 35D

Direct Tax Updates (6/7)

- ❑ **CBDT exempts requirement to deduct / withhold tax at source u/s 194I on payment of rental to Unit of an International Financial Services Centre (IFSC) for lease of ship / aircraft, on which tax deduction is available u/s 80LA(2)(d) of the Income-tax Act, 1961**

Background

- Section 80LA(1A) read with sub-section (2)(d) allows tax deduction to a taxpayer being Unit of an IFSC, on income arising from lease of ship or aircraft, provided the Unit has commenced operation on or before 31 March 2024. The amount of tax deduction is 100% of such income for any 10 (out of 15) consecutive assessment years, beginning with the year in which permission from the relevant statutory authority was obtained. Notification no. 57 issued by CBDT on 1 August 2023
- With effect from 1 September 2023 onwards, CBDT has exempted the requirement to deduct / withhold tax at source u/s 194I of the Income-tax Act, on payment of lease rent to such Units, on satisfaction of following conditions:
 - Lessor (Unit) to furnish a statement-cum-declaration in Form 1 to the lessee, giving details of the years for which the former intends to claim tax deduction u/s 80LA on the rental income from lease of ship / aircraft. The Form to be furnished for each year for which the Lessor intends to claim the tax deduction
 - On receiving Form 1, the lessee shall not deduct / withhold tax at source on the lease rental payments. Such payments on which tax is not deducted / withheld at source shall be duly reported by the lessee in its withholding tax returns
 - The relaxation from requirement to deduct / withhold tax at source shall be applicable only for those 10 years mentioned by the lessor in Form 1 for which it plans to claim the tax deduction. In other words, for the remaining years, tax shall be duly required to be deducted / withheld at source on the lease payments.

Direct Tax Updates (7/7)

- ❑ **Tax deduction of payments by sugar factories to farmers for purchase of sugarcane, for years prior to Assessment Year (AY) 2016-17 – CBDT prescribes Standard Operating Procedure (SOP) for filing & disposal of applications as per newly inserted section 155(19)**

Background

- Section 36(1)(xvii) was inserted in the Income-tax Act effective from AY 2016-17 onwards, to encourage co-operative movement in the Sugar sector. The provision allows tax-deduction of amount paid by sugar factories to farmers for purchase of sugarcane at a price \leq the price fixed by the Government. However, pending tax demands and litigation persisted for years prior to AY 2016-17
- Consequently, a new enabling section 155(19) was inserted by the Finance Act, 2023 from 1 April 2023 onwards, to allow the tax officer, on an application made by taxpayer, to allow tax deduction for years prior to AY 2016-17 on similar lines as current section 36(1)(xvii). Time limit of 4 years u/s 154(7) would be reckoned accordingly. The objective was to settle old litigations being faced by sugar mills in co-operative sector

SOP issued by CBDT

- CBDT has issued a circular on 27 July 2023 outlining the SOP to be followed for filing of application with the tax officer and its disposal, for AYs prior to AY 2016-17. The SOP is explained briefly below.
- The applicant must be a 'co-operative society' defined u/s 2(19) of the Income-tax Act, engaged in business of manufacture of Sugar. It must file the application with the jurisdictional Assessing Officer • The jurisdictional Assessing Officer may seek certain documents from the applicant, such as audited financials, tax computation, tax audit report, order(s) of assessment denying claim of tax deduction to the taxpayer, any other document required by the officer to process the claim of the taxpayer
- The jurisdictional Assessing Officer shall re-compute the taxable income of the applicant u/s 155(19) read with section 154 of the Income-tax Act (latest uptill 31 March 2027) and pass the order within 6 months from the end of the month in which applicant is received by him / her

3. INTERNATIONAL TAX



International Tax Updates (1/1)

❏ **Transfer Pricing – Applicability of Safe Harbor Rules extended till AY 2023-24**

Rule 10TD of the Income-tax Rules, 1962 prescribes a list of 'eligible international transactions' where transfer price declared by the taxpayer shall be required to be accepted by the tax authorities (safe harbor). The Rule was valid until AY 2022-23. CBDT has now extended the validity of the Rule till AY 2023-24.

For the purpose of information, the list of such 'eligible international transactions' comprises of the following, as per Rule 10TC of the Income-tax Rules.

- Provision of software development services
- Provision of ITes
- Provision of knowledge process outsourcing services
- Advance of intra-group loan
- Provision of corporate guarantee
- Provision of contract research & development services relating to software development
- Provision of contract research & development services relating to generic pharmaceutical drugs.
- Manufacture and export of core auto components
- Manufacture and export of non-core auto components
- Receipt of low value-adding intra-group services from 1 or more members of its group

4. CORPORATE LAW & REGULATORY



Company Law Updates (1/5)

❑ **Company Law - Application in Form RD-1 to Central Government [Regional Director, Ministry of Corporate Affairs (MCA)] – Changes introduced by MCA**

Form RD-1 is a commonly used form for filing application with Central Government (Regional Director, MCA) for purposes of obtaining approvals such as shifting of registered office from 1 state to another, change in FY, conversion from public to private company, etc. Certain additions have been made in the existing form, namely the below:

- Date of publication of advertisement in English and vernacular language
- Particulars of creditors and debenture holders
- Details of previous applications or conversions made within last 5 FYs and their outcomes
- Details of the transferor company
- Requirement to attach documents like copy of board resolution, special resolution, advertisement, approved scheme of merger in Form CAA-11

❑ **Securities & Exchange Board of India (SEBI) - Standardization of time period to redress investor grievances for various regulations**

SEBI has notified the Facilitation of Grievance Redressal Mechanism (Amendment) Regulations, 2023, with the objective of standardizing the period to redress investor grievances. The standard duration for resolving investor grievances has been compressed to 21 calendar days for various regulations, as below

Regulation	Time Period (Prior to Amendment)
Securities Contract (Regulation) Act , 1956	No timeline specified
SEBI Act, 1992	
Depositories Act, 1996	
SEBI (Stock Broker) Regulation, 1992	1 month

Company Law Updates (2/5)

- ❑ **Securities & Exchange Board of India (SEBI) - Standardization of time period to redress investor grievances for various regulations**

Regulation	Time Period (Prior to Amendment)
SEBI (Merchant Banker) Regulation, 1992	No timeline specified
SEBI (Registrar to an Issue & Share Transfer Agent) Regulation, 1993	1 month
SEBI (Debenture Trustee) Regulation, 1993	
SEBI (Banker to an Issue) Regulation, 1994	
SEBI (Mutual Funds) Regulation, 1996	No timeline specified
SEBI (Collective Investment Schemes) Regulation, 1999	1 month
SEBI (Issue & Listing of Securitized Debt Instrument & 1 month Security Receipts) Regulation, 2008	
SEBI (KYC Registration agency) Regulation, 2011	No timeline specified
SEBI (Alternate Investment Fund) Regulation, 2012	
SEBI (Investment Advisers) Regulation, 2013	
SEBI (Research Analysts) Regulation, 2014	
SEBI (Real Estate Investment Trusts) Regulation, 2014	
SEBI (Infrastructure Trusts) Regulation, 2014	
SEBI (Listing Obligation & Disclosure Requirements) Regulation, 2015	
SEBI (Issue & Listing of Municipal Debt Securities) Regulation, 2015	30 days
SEBI (Depositories & Participants) Regulation, 2018	
SEBI (Portfolio Manager) Regulation, 2020	1 month
SEBI (Vault Managers) Regulation, 2021	No timeline specified

Company Law Updates (3/5)

❑ Director General of Foreign Trade (DGFT) - Restriction on import of laptops, tablets, personal computers & servers with effect from 1 November 2023 onwards

Towards encouragement of domestic manufacture of electronics in India, the DGFT has announced that from 1 November 2023 onwards, import of laptops, tablets, personal computers and servers falling within HSN code 8471 shall be restricted. Their import would be allowed against a valid license for 'restricted imports'.

The restriction shall not be applicable to imports under Baggage Rules. Further, exemption from import licensing requirement is provided for import of 1 laptop, tablet, personal computer, including those purchased from e-commerce portals, though post or courier. Import shall be subject to payment of duty as applicable.

Further, exemption from import license is provided for upto 20 such items per consignment for the purpose of research & development, testing, benchmarking and evaluation, repair and re-export, product development purposes. These imports shall be allowed subject to the condition that the imported goods shall be used for the stated purposes only and will not be sold. Further, after the intended purpose, the products would either be destroyed beyond use or re-exported.

Items which are an essential part of a capital good shall be exempt from the import licensing requirement.

While domestic manufacturers might benefit from the import restrictions, there could be disruption in the supply chain, potentially impacting availability of certain laptop models in the market. Importers might have to wait for a long time to obtain the requisite license, which could be a dampener. Having said that, opportunities could be created for new entrants and local manufacturers.

Brands currently importing most of their products from China, Vietnam, Taiwan, etc. might have to relocate their production to India or alternatively, source from domestic manufacturers who meet the quality standards.

Company Law Updates (4/5)

❑ Digital Personal Data Protection (DPDP) Act, 2023 passed by Parliament

The DPDP Act has been passed by both houses of Parliament and received the assent of the President of India on 11 August 2023. The Act aims to protect personal data (online or offline) and the need to process personal data for lawful purposes.

Highlights of the DPDP Act

1. Objective is protection of offline and online personal data of an Individual (Data Principal)
2. Data Fiduciary (Companies) must keep user data safe, even if someone else stores it
3. Before processing any personal data, the Data fiduciary is required to obtain consent from the Data Principal
4. Children or people with disability data need guardians' permission before use
5. Government of India shall control sending personal data outside India • Establishment of Data Protection Board (DPB)
6. If there is a data breach, Data Fiduciary must inform DPB and users
7. Appeal against DPB's decisions will be adjudicated by the Telecom Disputes Settlement and Appellate Tribunal (TDSAT)
8. DPB can ask Government to stop using a platform if it violates the provisions of this Act twice
9. Penalty – Ranging from Rs. 50 crore to 250 crore.

Company Law Updates (5/5)

❑ Mediation Bill, 2021 passed by Parliament

Mediation has arisen to be an effective tool for resolution in relation to commercial disputes. It is fast, efficient and inexpensive. However, there was no formal law to regulate the same even though Courts have admitted to its effectiveness in judicial precedents.

In view of the above, the Mediation Bill was introduced in the Parliament and was passed by both the houses in the 1st week of August 2023.

Highlights of the Mediation Bill

1. It mandates individuals to attempt the settlement of civil or commercial disputes through mediation prior to going for a formal court / tribunal proceeding
2. After 2 mediation sessions, a party can withdraw from the mediation process
3. The mediation process must conclude within 180 days, which can be extended by another 180 days upon mutual agreement
4. Under the Bill, the Mediation Council of India shall be constituted
5. The Bill governs 2 forms of mediation: (a) voluntary, and (b) mandatory
6. Voluntary mediation involves parties seeking mediation through a written agreement, either as part of a contract or independently
7. Mandatory mediation is required in specific areas, obligating parties to mediate before approaching a court or tribunal
8. Certain disputes are excluded, like serious allegations of fraud, criminal offenses, matters reserved for the National Green Tribunal, and issues related to competition, telecom, securities, electricity law, and land acquisition
9. The Central or State Government cannot be mandated to mediate unless the dispute is of a commercial nature
10. The provisions of the Bill do not prevent a court from referring disputes to mediation if deemed appropriate Corporate Law & Regulatory.

5. COMPLAINTS CALENDAR



Compliance Calendar Updates (1/4)

- ❑ **Compliance calendar for the month of April 2023 (Important due dates for the GST returns in the month of September 2023)**

Due date	Form to be filled	Period	Who should file?
10.09.2023	GSTR 7	August 2023	GSTR 7 is a return to be filed by the persons who are required to deduct TDS (Tax deducted at source) under GST
10.09.2023	GSTR 8	August 2023	GSTR 8 is a return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST
11.09.2023	GSTR 1	August 2023	Taxpayers having an aggregate turnover of more than Rs. 5 Crores or opted to file Monthly Return
13.09.2023	GSTR 1 IFF (QRMP)	August 2023	IFF for the taxpayers who opted for QRMP scheme (Optional)
13.09.2023	GSTR 6	August 2023	Input Service Distributors
13.09.2023	GSTR 5	August 2023	Due date for people registered as Non- Resident Taxpayer (NRTP)
20.09.2023	GSTR 5A	August 2023	Due date for OIDAR Service Providers
20.09.2023	GSTR 3B	August 2023	The due date for GSTR-3B having an Annual Turnover of more than 5 Crores
25.09.2023	GST Challan PMT-6	For all Quarterly filers	GST Challan Payment if no sufficient ITC for July(for all Quarterly Filers)

Compliance Calendar Updates (2/4)

- ❑ **Compliance calendar for the month of April 2023 (Important due dates for the Income Tax Compliance / PF / ESI in the Month of September 2023)**

Due date	Form to be filled	Period	Who should file?
07.09.2023	Challan No. ITNS-281	August 2023	Payment of TDS/TCS deducted /collected in August, 2023.
14.09.2023	TDS Certificate	July 2023	Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of July, 2023
14.09.2023	TDS Certificate	July 2023	Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of July, 2023
14.09.2023	TDS Certificate	July 2023	Due date for issue of TDS Certificate for tax deducted under section 194M in the month of July, 2023
14.09.2023	TDS Certificate	July 2023	Due date for issue of TDS Certificate for tax deducted under section 194S in the month of July, 2023 Note: Applicable in case of specified person as mentioned under section 194S
15.09.2023	Provident Fund (PF)	August 2023	Provident Fund (PF) & ESI Returns and Payment for August, 2023
15.09.2023	Provident Tax (PT)	August 2023	Professional Tax (PT) on Salaries for August 2023. Professional Tax Due Date Varies from State to State, kindly contact Ebizfiling.com for expert help.
15.09.2023	Form 24G by Government officer	August 2023	Due date for filing of Form 24G by an office of the Government where TDS/TCS for the month of August, 2023 has been paid without the production of a challan
15.09.2023	Advance Tax Payment	July to September 2023	Second installment of advance tax for July to September for the assessment year 2023-24.
15.09.2023	Form No. 3BB	August 2023	Due date for filing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of August, 2023

Compliance Calendar Updates (3/4)

- ❑ **Compliance calendar for the month of April 2023 (Important due dates for the Income Tax Compliance / PF / ESI in the Month of September 2023)**

Due date	Form to be filled	Period	Who should file?
30.09.2023	TDS Challan-cum-statement	August 2023	The statutory due date for filing of challan-cum-statement in respect of tax deducted under sections 194-IA, 194 IB, 194M, 194-S Note: Applicable in case of specified person as mentioned under section.
30.09.2023	Audit Report	AY 2023-24	Due date for Filing Income Tax Returns Audit Reports under Section 44AB; Form 3CB-3CD and 3CA-3CD (For the corporate-assessee or non-corporate assessee who is required to submit his/its return of income on October 31, 2023)
30.09.2023	Form 9-A	AY 2023-24	Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit Income Tax Return on November 30, 2023)
30.09.2023	Form 10	AY 2023-24	Statement in Form no. 10 to be filed to accumulate income for future application under section 10(21) or section 11(1) (if the assessee is required to submit Income Tax Return on November 30, 2023).
30.09.2023	TCS Return	Quarterly	Form 27EQ for TCS Return is a quarterly return for TCS deposited for the quarter ending June 30, 2023 Note: The statutory due date for filing TCS statement has been extended from June 30, 2023 to September 30, 2023; Circular no. 9/2023, dated 28-06-2023
30.09.2023	TDS Return	Quarterly	Quarterly return for TDS deposited for the quarter ending June 30, 2023 Note: The statutory due date for filing the TDS statement has been extended from June 30, 2023 to September 30, 2023; Circular no. 9/2023, dated 28-06-2023
30.09.2023	TDS Payment	August 2023	TDS Payment in Form 26QB (Property), 26QC (Rent), 26QD (Contractor Payments) for August 2023

Compliance Calendar Updates (4/4)

- ❑ **Compliance calendar for the month of April 2023 (Important due dates for the Company Annual Filing and LLP Annual Filing in the Month of September 2023)**

Due date	Form to be filled	Period	Who should file?
27.09.2023	Form AOC 4	FY 2022-23	AOC 4 filing by OPC(If we count 180 days from 1st April 2023)
30.09.2023	DIR 3 KYC	FY 2022-23	DIR 3 KYC for Directors



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