

ProXcel Advisory Services Private Limited

Delivering Professional Excellence

TAX NEWSLETTER

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Summary of Regulatory updates for Mar'2021



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1. Direct Tax Updates

Notifications, Circulars, News & Orders:-

1.1. Procedure for calculation of Annual Accretion under sub-clause (vii) of Clause (2) of Section 17

For the computation of annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to balance to the credit of the fund or scheme referred to in sub-clause (vii) of clause (2) of section 17 of the Act shall be the amount or aggregate of amounts computed in accordance with the following formula –

$$TP = (PC/2)*R + (PC1 + TP1)*R$$

- TP = Taxable perquisite for the current previous year;
- TP1 = Aggregate of taxable perquisite for the previous year or years commencing on or after 1st day April, 2020 other than the current previous year
- PC = Amount or aggregate of amounts of principal contribution made by the employer in excess of Rs. 7.5 lakh to the specified fund or scheme during the previous year;
- PC1 = Amount or aggregate of amounts of principal contribution made by the employer in excess of Rs. 7.5 lakh to the specified fund or scheme for the previous year or years commencing on or after 1st day April, 2020 other than the current previous year
- R = I / FAVG
- I = Amount or aggregate of amounts of income accrued during the current previous year in the specified fund or scheme account;
- FAVG = (Amount or aggregate of amounts of balance to the credit of the specified fund or scheme of the first day of the current previous Year + Amount or aggregate of amounts of balance to the credit of the specified fund or scheme on the last day of the current previous year) / 2.

Note: Where the amount or aggregate of amounts of TP1 and PC1 exceeds the amount or aggregate of amounts of balance to the credit of the specified fund or scheme on the first day of the current previous year, then the amount in excess of the amount or aggregate of amounts of the said balance shall be ignored for the purpose of computing the amount or aggregate of amounts of TP1 and PC1.

This is applicable from 1st April 2021 onwards

_Notification No. 11/2021/F. No. 370142/52/2020-TPL Dated 05-03-2021

1.2. University approved by the central government u/s 35

Central Government approves M/s Bennett University, Greater Noida, Uttar Pradesh (PAN: AAAJB1388A) under the category of 'University, College or other institution' for Scientific Research and Research in Social Science and Statistical Research under section 35

_Notification No. 12/2021/F. No. 203/13/2019/ITA –II) Dated 09-03-2021

1.3. **Rule 114E: Furnishing of statement of financial transactions**

CBDT has added three more Transaction under Section 285BA(1) - For the purposes of pre-filling the return of income, a statement of financial transaction Table below shall be furnished by the persons mentioned in column (3) of the said Table in such form, at such frequency, and in such manner, as may be specified by the Principal Director General of Income Tax (Systems) or the Director General of Income Tax (Systems).

Sl. No.	Nature of transaction	Class of person (reporting person)
1	Capital gains on transfer of listed securities or units of Mutual Funds	(i) Recognised Stock Exchange (ii) depository (iii) Recognised Clearing Corporation (iv) Registrar to an issue and share transfer agent registered under subsection (1) section 12 of the Securities and Exchange Board of India Act, 1992
2	Dividend income	A company
3	Interest income	(i) A banking company or a co-operative bank (ii) Post Master General (iii) Non-banking financial company which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934), to hold or accept deposit from public

_ Notification No.16/2021/F. No. 370142/03/2021/TPL Dated 12-03-2021

1.4. **Rule 29BA, Income Tax Rules For determination of sum chargeable to Tax**

- If a person is liable to pay a certain sum of amount to a non-resident, then the amount is not chargeable in the hands of recipient if he makes an application to the assessing officer in Form 15E electronically:
 - Under digital signature; or
 - Through electronic verification code
- **The assessing officer can examine whether the amount is chargeable or not, if yes, he shall proceed to determine the appropriate proportion of such sum chargeable to tax.**
- If the assessing officer finds that the amount is not chargeable to tax, he may issue a certificate determining appropriate proportion of such sum chargeable for the purpose of tax deduction under sub-section (1) of Section 195
- the Assessing Officer shall also take into consideration While examining the application
 - tax payable on estimated income of the previous year
 - tax payable on the assessed or returned or estimated income of preceding four previous years;
 - existing liability under the Income-tax Act and Wealth-tax Act
 - advance tax payment, tax deducted at source and tax collected at source for the assessment year relevant to the previous year till the date of making application.
- the certificate shall be valid only for the payment to non-resident named therein and for such period as may be specified in the certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.
- If the assessee wants to make an application for a fresh certificate may be made after the expiry of the period of validity of the earlier certificate or within three months before the expiry thereof.

- The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), shall lay down procedures, formats and standards for ensuring secure capture and transmission of data and uploading of documents and the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the furnishing of Form No 15E and issuance of Certificate under sub-rule (3).
- Form 15E is being notified from 1st April 2021. Under the Rule

_ Notification No.18/2021/F. No. 370142/03/2021/TPL Dated 16-03-2021

1.5. Further extension of time limit under various provisions of the Act

The summary of this notification is as following:

- the completion of any action referred to in clause (a) of sub-section (1) of section 3 of the Act relates to passing of an order under sub-section (13) of section 144C or issuance of notice under section 148 as per time-limit specified in section 149 or sanction under section 151 of the Income-tax Act the time limit was the 31st day of March, 2021, the date shall be extended till the 30th day of April, 2021
- compliance of any action referred to in clause (b) of sub-section (1) of section 3 of the said Act relates to intimation of Aadhaar number to the prescribed authority under sub-section (2) of section 139AA of the Income-tax Act, the time-limit for compliance of such action shall stand extended to the 30th day of June, 2021.
- the completion of any action referred to in clause (a) of sub-section (1) of section 3 of the said Act relates to sending an intimation under sub-section (1) of section 168 of the Finance Act was the 31st day of March, 2021, the date shall be extended till the 30th day of April, 2021

_Notification No. 20/2021/F. No. 370142/35/2020-TPL dated 31-03-2021

1.6. CBDT notifies updated ITR forms

<u>S. No</u>	<u>ITR No</u>	<u>Remarks</u>
<u>1</u>	<u>ITR-1 SAHAJ</u>	Return in Form ITR-1 can be filed by an ordinary resident individual (not HUF) having an income of up to ₹50 lakh. Total income for this purpose includes-- income from salary or pension, income from one house property, income from other sources such as interest from bank account
<u>2</u>	<u>ITR-2</u>	Individuals and HUFs having a total income of more than ₹50 lakh. The income should not be from profits and gains of business or profession. An individual having income from salaries, more than one house property, capital gains and income from other sources, having income from sources outside India and holding assets outside India. An individual holding directorship in a company may also file ITR-2
<u>3</u>	<u>ITR-3</u>	For Individual and HUF having income from business or profession, or an individual holding partnership in a firm may file ITR-3
<u>4</u>	<u>ITR-4</u>	For Individuals, HUFs and Firms (other than LLP) being a resident having total income upto Rs50 lakh and having income from business and profession which is computed under sections 44AD, 44ADA or 44AE. A person who is a director in a company or has invested in the unlisted equity shares or has any brought forward/ carry forward loss under house property income cannot file the ITR 4
<u>5</u>	<u>ITR-5</u>	Investment funds, Business trusts, Estate of insolvent, Estate of deceased, Artificial Juridical Person (AJP), Body of Individuals (BOIs), Associations of Persons (AOPs), LLPs, and firms must opt for ITR-5 form.

6	<u>ITR-6</u>	For any companies that are not claiming exemptions under Section 11, this form must be chosen. Companies that are filing returns under this section can only do it electronically.
7	<u>ITR-7</u>	<p>Individuals and companies that have furnished returns under Section 139(4A), Section 139(4B), Section 139(4C), Section 139(4D), Section 139(4E), or Section 139(4F) must opt for this form. Given below are the details of the returns that must be filed under each section:</p> <ul style="list-style-type: none"> ○ Section 139(4A): The returns must be filed by individuals who receive an income from a property that belongs to a trust or other legal obligations and the income that is generated is solely used for religious or charitable purposes. ○ Section 139(4B): Returns must be filed under this section by a political party if the total income that has been generated is more than the maximum amount. ○ Section 139(4C): Returns must be filed under this section by the below-mentioned entities: <ul style="list-style-type: none"> ▪ Scientific Research association ▪ Institutions or association that come under Section 10(23A) ▪ Medical institutions, hospitals, universities, funds, and other educational institutions. ▪ News agencies ▪ Institutions that come under Section 10(23B) ○ Section 139(4D): Any college, university, or other institutions that are not required to furnish any income or loss must file returns under this section. ○ Section 139(4E): Business trusts that are not required to furnish their income or loss must file their returns under this section. ○ Section 139(4F): Investment funds that are present under Section 115UB and are not required to furnish any income or losses must file returns under this section.

_Notification No. 21/2021/F. No. 370142/35/2020-TPL dated 31-03-2021

1.7. Form 12BA for FY 2021-2022 is being notified by the CBDT well in time

Notification No. 15/2021/F.No. 370142/04/2019-TPL

1.8. Prescribed Income-tax Authority u/s 143 (2) of the Act

In respect of returns furnished under section 139 authorises the Assistant Commissioner of Income-tax/Deputy Commissioner of Income-tax having head-quarters at Delhi, to act as the 'Prescribed Income-tax Authority' for the purpose of sub-section (2) of section 143 of the Act.

_Notification No. 25/2021/F. No. 370142/35/2020-TPL dated 31-03-2021

1.9. Amendment in Faceless Appeal Scheme 2020

National Faceless Assessment Centre" shall mean the National e-Assessment Centre set up under the scheme notified under sub-section (3A) of section 143 of the Act

_Notification No. 26/2021/F. No. 370142/35/2020-TPL dated 30-03-2021

1.10. Renaming of National e-Assessment Client

Notification released dated 25 september2020 the expression "National e-Assessment Centre" shall be substituted by "National Faceless Assessment Centre".

_Notification No. 27/2021/F. No. 370142/35/2020-TPL dated 30-03-2021

2. Income Tax Case Laws

2.1 DCIT vs. Pepsi Foods Ltd.- 126 taxmann.com 69 (SC)

Third proviso to Section 254(2A), introduced by Finance Act, 2008, resulting in automatic vacation of a stay in proceedings relating to an appeal filed u/s 253(1), upon expiry of 365 days even if delay in disposing of appeal is not attributable to assessee.

- Consequently, the above mentioned third proviso to Section 254(2A) will now be read without the word "even" and the words "is not" after the words "delay in disposing of the appeal" i.e. Any order of stay shall stand vacated after the expiry of the period or periods mentioned in the section only if the delay in disposing of the appeal is attributable to the assessee.

2.2 HC: Determination of tax liability, involved in challenge to order u/s 241A, outside writ jurisdiction; Dismisses petition- TS-216-HC-2021(DEL)

Delhi HC dismisses assessee's write petition challenging order u/s 241A pursuant to intimation u/s 143(1) determining refund, holds that determination of tax liability falls under the statutory scheme and is beyond writ powers of the High Court. Highlights that Sec. 241A is in the nature of attachment before judgment which requires to go into the prima facie merits of the claim, remarks that the determination of tax liability is not in the domain of HC except when an appeal is preferred u/s 260A

2.3 Upholds corporate guarantee as international transaction with ALP @ 0.5%; Bank charges/ commission non-operating expense [TS-152-ITAT-2021(PUN)-TP]

Pune ITAT adjudicates on various grounds for an assessee engaged in manufacturing and trading of pharma packaging products for AY 2014-15: Rules corporate guarantee as international transaction, As regards corporate guarantee, rejects assessee's argument of shareholder activity and holds the furnishing of corporate guarantee (including performance guarantee which entails financial consequences) to be an international transaction; Relies on sec 92B, Rule 10TD(2), Delhi HC ruling in Redington India and OECD TP Guidelines; Qua performance guarantees, holds that if a performance guarantee entails financial consequences, then it cannot be placed at a pedestal different from the regular corporate guarantee; Remarks that in the instant case, performance guarantee are a specie of the genus of corporate guarantee;

2.4 Prestige Estates Projects Ltd. vs. ACIT Bangalore -ITAT -125 taxmann.com 127

Where assessee an Indian Company engaged in business of real estate development, entered into joint development agreements with 54 parties (land owners) and in terms of agreement, a certain sum had been paid by assessee to land owners as interest free 'refundable security deposit', said sum even though being an advance payment, it was not linked to transfer of immovable property as enumerated in section 194-IA, since condition laid down in section 2(47)(v) was not complied with within meaning of section 53A of Transfer of Property Act, so as to deduct TDS by assessee on said refundable security deposit, assessee could not be held as assessee in default under sections 201(1) and 201(1A)

2.5 Salsette Catholic Co-operative Housing Society Ltd. vs. ACIT- BHC- [2021] 125 taxmann.com 318 (Bombay)

After an order is passed by Commissioner(Appeals) under section 250, same has to be given effect to within a period of three months from end of month in which order is passed or period of three months from date of receipt of order by Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as case may be; therefore, where Commissioner (Appeals) passed an order in case of assessee on 20-3-2019 and this was brought to notice of Assistant Commissioner on 29-3-2019, impugned order passed on 11-8-2020 giving effect to such appellate order was clearly after a delay, thus, Principal Commissioner was to be directed to look into matter and decide afresh issue relating to giving effect to order of Commissioner (Appeals)

2.6 CIT- Chennai vs. Ambika Cotton Mills Ltd.- 125 taxmann.com 206 HC-Madras

In case of assessee carrying on business of power generation, proceeds received on sale of certified emission reduction credit (carbon credit) is a capital receipt and not business income as carbon credit is not an offshoot of business, but an offshoot of environmental concerns. No asset is generated in course of business, but it is generated due to environmental concerns. It was also found that carbon credit is not even directly linked with power generation and income is received by sale of excess carbon credits

2.7 Mohd. Farhan A. Shaikh v. DCIT Central Circle 1, Belgaum- taxmann.com 253 (Bombay) -HC

Where assessment order clearly records satisfaction for imposing penalty on one or other, or both grounds mentioned in section 271(l)(c), a mere defect in notice, not striking off irrelevant matter would vitiate penalty proceedings.

2.8 UHDE India (P.) Ltd. v. Add.CIT, 10(3) 125 taxmann.com 281 (Mumbai - Trib.)

Whether where assessee engaged in business of supply of processes; designing, construction etc., was following consistent method of accounting to recognize revenue under these contracts and percentage of completion of project had been worked out as per total cost incurred on project to date vis-à-vis total budgeted cost and that fraction was applied to contract value for purpose of revenue recognition and similar formulae had been adopted by assessee in preceding two years which had been accepted by revenue, no case of revenue leakage having been established, additions made by revenue, under circumstances, would not be sustainable

2.9 Navnidhi Dyeing and Printing Mills (P) Ltd. v. ACIT Gujarat- HC-125 taxmann.com 365 (Gujarat)

For mere verification or for a fishing inquiry re-opening of assessment is not permissible, however, where there was tangible material as on date in hands of Assessing Officer that assessee had received shareholders' funds from shell companies, and Assessing Officer, after due application of mind, had recorded a satisfaction of his own that income had escaped assessment, reopening of assessment was justified.

3. Indirect Tax Updates

Notifications, Circulars, News & Orders:-

3.1 Implementation of e-invoicing from 1st April, 2021

In this notification Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs.50 Cr from 1st April 2021.

_Notification no. 05/2021 – Central Tax dated 08-03-2021

3.2 Due date relating to QR Code provisions extended

The due date for complying with provisions relating to QR code has been extended from 31st March 2021 to 30th June 2021. The provisions relating to QR Code are applicable on taxpayers having turnover exceeding Rs. 500 crores.

_Notification no. 06/2021 – Central Tax dated 30-03-2021

3.3 Opting-in for the Composition Scheme for the F.Y. 2021-22

Team GSTN has issued a press release stating the steps to be taken by the eligible taxpayers who want to opt in for the Composition scheme for the Financial Year 2021-22. The press release also states the pre-existing eligibility for the taxpayers to opt in for the Composition Levy scheme.

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4. Companies Act Updates

Notifications, Circulars, News & Orders:-

4.1 Companies (Incorporation) Rules, 2014:-

MCA vide its notification dated 5th March, 2021 has further amended the Companies (Incorporation) Rules, 2014 wherein it has provided an option for Aadhar authentication for GSTIN registration in form INC-35 AGILE-PRO part of Spice +. Accordingly, an applicant incorporating an entity through SPICE + will be required to choose and authorise Aadhar verification through which an OTP will be sent on the mobile number and email ID linked to the Aadhar card.

Source:http://www.mca.gov.in/Ministry/pdf/CompaniesIncorporation3rdAmndtRules_11032021.pdf

4.2 Companies (Management and Administration) Amendment Rules, 2021:-

MCA vide its notification dated 5th March, 2021 have further amended companies (Management and Administration) rules, 2014 thereby providing that henceforth a One Person Company and Small company(s) shall file its Annual return in form MGT-7A from the Financial Year 2020-21 and the company other than one person and small company shall file its Annual return in MGT-7. The detailed forms can be viewed under the link given.

Source:http://www.mca.gov.in/Ministry/pdf/CompaniesMgmtAdminAmndtRules_05032021.pdf

4.3 Companies (Accounts) Amendment Rules, 2014:-

MCA vide its notification dated 24th March, 2021 have amended the company (Accounts) Rules, 2014 to come into force with effect from 1st April, 2021, providing that for the Financial year commencing on and after 1st April, 2021, every company which uses an accounting software for maintaining its books of accounts, shall use only such accounting software which has following features:

- recording audit trail of each and every transaction,
- creating an edit log of each of each change made in books of accounts along with the date when such changes were made and ensuring that the audit trail cannot be disabled.

The ministry has deferred the implementation of these amendments to April 1st 2022 subsequently.

Further, the Board report shall also provide for compliances of the following clauses:-

- ❖ The details of application made or any proceeding pending under the Insolvency and Bankruptcy Code, 2016 (31 of 2016) during the year along with their status as at the end of the financial year.
- ❖ The details of difference between amount of the valuation done at the time of one time settlement and the valuation done while taking loan from the Banks or Financial Institutions along with the reasons thereof.

Source:http://www.mca.gov.in/Ministry/pdf/AccountsAmendmentRules_24032021.pdf

4.4 Companies (Audit and Auditors) Amendment Rules, 2021:-

MCA vide its notification dated 24th March, 2021 have further amended companies (Audit and Auditors) Amendment Rules, 2021 which shall come into force with effect from 1st April, 2021. As per the amendments, the Auditor's report shall include the following clauses:-

- ❖ Whether the management has represented that, to the best of its knowledge and belief, other than as disclosed in the notes to the accounts, no funds have been advanced or loaned or invested (either from borrowed funds or share premium or any other sources or kind of funds) by the company to or in any other person(s) or entity(ies), including foreign entities ("Intermediaries"), with the understanding, whether recorded in writing or otherwise, that the Intermediary shall, whether, directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company ("Ultimate Beneficiaries") or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries;
- ❖ Whether the management has represented, that, to the best of its knowledge and belief, other than as disclosed in the notes to the accounts, no funds have been received by the company from any person(s) or entity(ies), including foreign entities ("Funding Parties"), with the understanding, whether recorded in writing or otherwise, that the company shall, whether, directly or indirectly, lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party ("Ultimate Beneficiaries") or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries; and
- ❖ Based on such audit procedures that the auditor has considered reasonable and appropriate in the circumstances, nothing has come to their notice that has caused them to believe that the representations under sub-clause (i) and (ii) contain any material mis-statement.
- ❖ Whether the dividend declared or paid during the year by the company is in compliance with section 123 of the Companies Act, 2013.
- ❖ Whether the company has used such accounting software for maintaining its books of account which has a feature of recording audit trail (edit log) facility and the same has been operated throughout the year for all transactions recorded in the software and the audit trail feature has not been tampered with and the audit trail has been preserved by the company as per the statutory requirements for record retention.

Source:http://www.mca.gov.in/Ministry/pdf/AuditAuditorsAmendmentRules_24032021.pdf

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5. Monthly Compliance Calendar April'2021

<p>April 7,2021</p> <p>Due date of depositing TDS/ TCS and Equalization levy for previous month.</p>	<p>April 10,2021</p> <p>Due date for filing GSTR-7 by taxpayer liable to deduct TDS under GST for previous every quarter</p> <p>Due date for filing GSTR-8 to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST</p>	<p>April 11,2021</p> <p>Due date for filing of GSTR-1 for March,2021 for taxpayers:</p> <ul style="list-style-type: none"> • having an aggregate turnover exceeding 5 Crores in preceding financial year or current year, or • who have not opted for the QRMP scheme.
<p>April 13,2021</p> <p>GSTR 6 return filing due date</p> <p>Due date for filing of GSTR-1 for March 2021 for taxpayers who have opted for the QRMP scheme</p>	<p>April 20,2021</p> <p>GSTR 3B return filing due date for taxpayers having turnover more than 5 crores and not opted for the QRMP scheme.</p>	<p>April 20,2021</p> <p>GSTR 5 to be filed by Non-Resident Taxable Person furnishing details of outward taxable supplies and tax payable</p> <p>GSTR 5A to be filed by OIDAR furnishing details of outward taxable supplies and tax payable</p>
<p>April 22,2021</p> <p>GSTR 3B return filing due date</p> <ul style="list-style-type: none"> • Registered person who have opted for the QRMP scheme and located in the states of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana and Andhra Pradesh, the Union territories of Daman and Diu, Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep 	<p>April 24,2021</p> <p>GSTR 3B return filing due date</p> <p>Registered persons who have opted for the QRMP scheme and located in the states of States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi</p>	<p>April 30,2021</p> <ul style="list-style-type: none"> • DIR 3 KYC: Director KYC submission for DIN holders as on 31 March 2021. Every person who has a DIN allotted and the status of the DIN is Approved • FORM MSME: All MSME should file a half yearly return with the registrar for outstanding payments to Micro or small enterprises • Challan cum Statement for TDS u/s 194IA: Due date for filing TDS for taxpayers deduction TDS u/s 194IA • Annual Return to be filed in Form GSTR 4 for taxpayers opting for Composition Scheme

About Us

Proxcel Advisory Services Private Limited is a specialized financial, tax and management consulting company based in India. Proxcel offers range of integrated professional services to help entrepreneurs set up businesses and constantly grow by leveraging all opportunities smoothly through advising them on the right financial and legal strategies for expansion.

Our Services include business set up services in India and outside India, business valuations for merger & acquisitions and in line with global regulatory compliance, financial reporting, corporate law advisory, international taxation, direct and indirect tax advisory, internal and external audit etc.

Our Expert Team while sharing a common vision, belong to diverse technical, business and legal backgrounds and comprise of Chartered accountants, Chartered financial Analysts (US), Company Secretaries, Cost Accountants, Lawyers and Engineers. We deploy specialized and multidisciplinary teams to serve assignments requiring specific skills. This enables us to work proactively and closely with clients and respond effectively to their needs in a highly focused manner, which in today's fast changing business environment is quite crucial to a client's success.

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