

ProXcel Advisory Services Private Limited

Delivering Professional Excellence

TAX NEWSLETTER

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Summary of Regulatory updates for Jan'2021



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Synopsis of Union Budget 2021

Finance Minister Ms. Nirmala Sitharaman has presented the Union Budget 2021-22 in Parliament, which is first budget of this decade and lay a vision for AatmaNirbhar Bharat. The budget proposals for 2021-22 are based on 6 pillars:

- Health and wellbeing
- Physical and Financial Capital and Infrastructure
- Inclusive Development for Aspirational India
- Reinvigorating Human Capital
- Innovation and R&D
- Minimum Government, Maximum Governance

Team Proxcel has summarized the key synopsis of Union Budget 2021. Please find below the link for the same:

https://www.proxcel.in/Synopsis-of-Union-Budget-2021_Proxcel.pdf

1. Direct Tax Updates

Notifications, Circulars, News & Orders:-

1.1. Clarification on Retrospective effect of Section for computation of Remuneration prescribed for eligible fund manager:

Finance Act, 2019 has amended section 9A(3)(m) which provides for payment of remuneration by an eligible investment fund to an eligible fund manager” in respect of fund management activity undertaken by him on its behalf not less than the amount calculated in such manner as may be prescribed under rule 10V of the Income-tax Rules, 1962 with effect from 01.04.2019

Considering the hardships being faced by eligible investment funds to comply with the aforesaid rule from retrospective effect, CBDT has clarified that:

- In FY 2019-20 and 2020-21, where the remuneration paid by eligible investment fund to the eligible fund manager is lower than the amount of remuneration prescribed under rule 10V(12) of Income Tax Rules,1962 but is at arm's length, then it shall be considered as sufficient compliance of Section 9A(3)(m) of the Income Tax Act, 1961.
- For the financial year 2021- 22:
 - a) It is stated that the remuneration to be paid to the eligible fund manager, shall be in accordance with rule 10V(12) of the Rules, and
 - b) The application for lower remuneration in terms of 2nd proviso Rule 10V(12), if any, may be filed not later than 1st February, 2021

_Circular No. 1 of 2021 dated 15th January 2021

1.2. UDIN which are to updated with respect to the audit report and certificates uploaded from 27th April, 2020 extended up to 15th February, 2021

_ Income Tax News dated 01.01.2021

1.3. Penalty cases assigned to National Faceless Penalty Centre to be disposed by National Faceless Assessment Centre: CBDT: The Central Board of Direct Taxes (CBDT) has directed that all the penalty cases, pending as well initiated subsequently, is assigned to the National Faceless Penalty Centre to be disposed by the National Faceless Assessment Centre (NeAC) in accordance with Faceless Penalty Scheme 2021. **However, penalty proceedings in cases assigned to Central Charges, International Tax Charges and TDS charges shall be excluded.**

_Circular No. F.NO. 187/4/2021-ITA-1 20-01-2021

- 1.4. CBDT launches e-portal for filing complaints regarding tax evasion/benami properties/foreign undisclosed assets. Taking another step towards e-governance and encouraging participation of citizen as stakeholders in curbing tax evasion, the Central Board of Direct Taxes has launched an automated dedicated e-portal on the e-filing website of the Department to receive and process complaints of tax evasion, foreign undisclosed assets as well as complaints regarding benami properties.

The public can now file a Tax Evasion Petition through a link on the e-filing website of the Department <https://www.incometaxindiaefiling.gov.in/> under the head "File complaint of tax evasion/undisclosed foreign asset/benami property". The facility allows for filing of complaints by persons who are existing PAN/Aadhaar holders as well as for persons having no PAN/Aadhaar. After an OTP based validation process (mobile and/or email), the complainant can file complaints in respect of violations of the Income-tax Act, 1961, Black Money (Undisclosed Foreign Assets and Income) Imposition of Tax Act, 1961 and Prevention of Benami Transactions Act (as amended) in three separate forms designed for the purpose.

Upon successful filing of the complaint, the Department will allot a unique number to each complaint and the complainant would be able to view the status of the complaint on the Department's website. This e-portal is yet another initiative of the Income-tax Department to bring about enhanced ease of interaction with the Department, while strengthening its resolve towards e-governance.

_Press Release, dated 12-1-2021

- 1.5. The Central Government has approved the 'Startup India Seed Fund Scheme (SISFS)' to provide financial assistance to startups for proof of concept, prototype development, product trials, market entry and commercialization. SISFS shall provide financial assistance to startups via corpus of Rs. 945 Crore that will be disbursed through selected incubators across India in 2021-25.

The scheme is sector-agnostic and will support startups across all sectors. The scheme shall have a central common application on Startup India portal for startups and incubators on an ongoing basis.

SISFS will be implemented by the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India.

The Guidelines of the above-mentioned scheme is available on the website of Startup India at <https://www.startupindia.gov.in/>

Notification No 414(E)/F No. P-38015/5/2020-21-01-2021

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2. Income Tax Case Laws

2.1 Principal Commissioner of Income Tax Act-4 vs Head Strong Services Private Limited (Delhi HC)

The Delhi High Court has held that the failure of the assessing officer in adhering to the “mandatory requirement” of Section 144C(1) of the Income Tax Act, 1961, will invalidate the final assessment order.

2.2 ITAT vs Chirakkal Service Cooperative Bank (Supreme Court)

Primary Agricultural Credit Society entitled to deduction U/s 80P Income Tax Act Even If they give loans to members for non-agricultural activities

The Supreme Court has held that Cooperative Societies registered as primary agricultural credit societies are entitled to deductions under section 80P(2)(i) of the Income Tax Act, even when they may also be giving loans to their members for non-agricultural activities.

2.3 Dell India (P.) Ltd. vs JCIT Bangalore (HC – Karnataka)

Oversight, inadvertence or mistake of Assessing Officer or error discovered by him on reconsideration of same material is mere change of opinion and does not give him power to reopen a concluded assessment

2.4 Nisharahemad Vajirkhan Pathan vs ITO (HC – Gujarat)

Just because partnership firm failed to file its return of income for relevant year, by itself, will not confer jurisdiction upon authority concerned to issue notice against individual partners of firm with respect to their individual return of income for relevant year in consideration

2.5 Maria Fernandes Cheryl vs ITO , (International Taxation), 2(3)(1) (Mumbai- ITAT)

Amendment in scheme of section 50C(1), by inserting third proviso thereto and by enhancing tolerance band for variations between stated sale consideration vis-à-vis stamp duty valuation from 5 per cent to 10 per cent, are curative in nature, and, therefore, these provisions, even though stated to be prospective, must be held to relate back to date when related statutory provision of section 50C, i.e. 1-4-2003

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3. Indirect Tax Updates

Notifications, Circulars, News & Orders:-

3.1 Restricting defaulter taxpayers from filing GSTR-1

The Central Government, on recommendations of the Council, has amended the CGST Rules, 2017 to insert the following provisions:

- a taxpayer filing GSTR-1 on monthly basis and has defaulted in filing GSTR-3B for preceding two months will not be allowed to file GSTR-1 for current period.
- a taxpayer filing GSTR-1 on quarterly basis and has defaulted in filing GSTR-3B for preceding month will not be allowed to file GSTR-1 for current period.
- a taxpayer (who is restricted from utilising 99% of their Electronic Credit Ledger balance while paying his liability) shall not be allowed to furnish details of outward supplies in GSTR-1 if he has not filed the GSTR-3B for the preceding period.

_Notification no. 01/2021 – Central Tax dated 1st January 2021

3.2 Taxpayers who have opted for quarterly filing of GSTR-1 & GSTR-3B have been provided with a newly introduced Invoice Furnishing Facility wherein taxpayers will be able to furnish details of B2B invoices along with credit notes and debit notes (registered). The option to upload details in IFF shall be available to the taxpayers till the 13th day of subsequent month.

3.3 Functionality for Aadhar authentication or e-KYC where Aadhar isn't available has been enabled on the GST portal. All regular taxpayers including casual taxpayers and SEZ units, ISD and Composition taxpayers will have this option.

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4. Companies Act Updates

4.1 Clarification on spending of CSR Funds for Awareness and Public outreach on Covid-19 Vaccination Program:

Ministry of Corporate Affairs (MCA) vide its General Circular no. 01/2021 have provided another clarification on the spending of CSR fund for carrying out awareness Campaigns/Program or public outreach campaigns on covid19 vaccination program is eligible CSR activity under schedule – VII of the Companies Act, 2013 relating to promotion of health care including preventive health care and sanitization, promoting education and disaster management.

The Companies may undertake the above activities for the fulfilment of Companies (CSR Policy) Rules, 2014.

Source: http://www.mca.gov.in/Ministry/pdf/CSR2021_13012021.pdf

4.2 Clarification on holding of Annual General Meeting through video conferencing (VC) or other Audio Visual means (OAVM).

MCA vide its General circular no. 02/2021 dated 13th January, 2021 has decided to allow the companies whose AGM were due to be held in the year 2020, or became due to be held in the year 2021 to conduct the AGM on or before 31.12.2021 through video conferencing and other Audio visual means in accordance with the requirements provided in para 3 & 4 of General Circular no. 20/2020.

Further, MCA have clarified that the same shall not be construed as an extension for companies to hold AGM under the Companies Act, 2013 and those companies which have not adhered to the relevant timelines shall remain subject to legal action under Companies Act, 2013.

Source: http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.02_14012021.pdf

4.3 Scheme for condonation of delay for companies restored on the Register of Companies between 01 December 2020 and 31 December 2020 under section 252 of the companies Act, 2013

On January 15, 2021, MCA has introduced a new Scheme to condone the delay in filing forms with the Registrar and spares payment of additional fees. Certain other terms are stipulated and are available in the Scheme document. The scheme will be in operation from 01st February 2021 and will be available for filing of any overdue e-forms by such companies till 31st March 2021.

The scheme is applicable for filing of all e-forms except for E-form SH-7 (where any increase in authorized share capital is involved) and Charge related documents i.e. CHG-1, CHG-4, CHG-8, and CHG-9. Further, every company to which this Scheme is applicable shall be required to pay normal filing fees on the date of filing and no additional fees shall be required to be paid.

Source:- http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.3_15012021.pdf

4.4 Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021

MCA has come up with significant amendments in existing Rules with introduction of various changes to the CSR framework including mandating Impact Assessment for big CSR projects and revamping the reporting formats of the Board report. Some of the key amendments include all CSR projects to be mandatorily registered from April 1 in new Form CSR-1. Further, any excess amount may be set off against the requirement to spend up to immediate succeeding 3 financial years subject to the conditions that the excess amount available for set-off shall not include the surplus arising out of the CSR activities, if any, in pursuance of sub-rule (2) of this rule and the Board of the company shall pass a resolution to that effect..

Several new norms have been introduced for carrying forward and set off of unspent CSR expenditure. The amended rules can be accessed as under:

Source:- http://www.mca.gov.in/Ministry/pdf/CSRAmendmentRules_22012021.pdf

4.5 Companies (Incorporation) Amendment Rules, 2021.

The Ministry of Corporate Affairs vide its notification dated 25th January, 2021 has made an amendment in the procedure of disposal of applications for conversion of Public company into Private Company as under:

Where an objection has been received or Regional Director on examining the application has specific objection under the provisions of Act, the same shall be recorded in writing and the Regional Director shall hold a hearing or hearings within a period thirty days as required and direct the company to file an affidavit to record the consensus reached at the hearing, upon executing which, the Regional Director shall pass an order either approving or rejecting the application along with reasons within thirty days from the date of hearing,

In case where no consensus is received for conversion within sixty days of filing the application while hearing or otherwise, the Regional Director shall reject the application within stipulated period of sixty days:

Provided that the conversion shall not be allowed if any inquiry, inspection or investigation has been initiated against the company or any prosecution is pending against the company under the Act.

Source: http://www.mca.gov.in/Ministry/pdf/CompaniesAmendmentRules_25012021.pdf

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5 SEBI Updates

Relaxation from compliance with certain provisions of the SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 due to the COVID -19pandemic

SEBI vide circular no: SEBI/HO/CFD/CMD2/CIR/P/2021/11 dated 15 January, 2021 has provided relaxation in respect of sending physical copies of annual report to shareholders and requirement of proxy for general meetings held through electronic mode, and extended the timelines for listed entities, till December 31, 2021 pursuant to the relaxations provided by MCA to companies to conduct their Extraordinary General Meeting (EGM) through Video Conferencing (VC) or through other audio-visual means (OAVM) Annual General Meeting (AGMs) of companies due in the year 2021.

Source:- https://www.sebi.gov.in/legal/circulars/jan-2021/relaxation-from-compliance-with-certain-provisions-of-the-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-due-to-the-covid-19-pandemic_48790.html

SEBI has notified the SEBI (Alternative Investment Funds) (Amendment) Regulations, 2021 to further amend the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012

The Amendment is brought under regulation 20 which specifies the general obligations in which the Manager shall be responsible for investment decisions of the Alternative Investment Fund. The Manager may constitute an Investment Committee, to approve investment decisions of the Alternative Investment Fund subject to the (i) The members of Investment Committee shall be equally responsible as the Manager for an investment decisions of the Alternative Investment Fund and (ii) The Manager and members of the Investment Committee shall jointly and severally ensure that the investments of the Alternative Investment Fund are in compliance with the provisions of these regulations and any other applicable law. It is now provided that the above two clauses shall not apply to an Alternative Investment Fund in which each investor other than the Manager, Sponsor, employees or directors of the AIF or employees or directors of the Manager, has committed to invest not less than seventy crore rupees (or an equivalent amount in currency other than Indian rupee) and has furnished a waiver to the Alternative Investment Fund in respect of compliance with the said clauses, in the manner specified by the Board.

Source: <https://www.sebi.gov.in/legal/regulations/jan-2021>

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6 RBI Updates

Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2021

RBI vide its notification no-FEMA 23(R)(4)/2021-RB dated January 08, 2021 has made the following amendments in the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015 as under:

“re-export of leased aircraft/helicopter and/or engines/auxiliary power units (APUs), either completely or in partially knocked down condition re-possessed by overseas lessor and duly de-registered by the Directorate General of Civil Aviation (DGCA) on the request of Irrevocable Deregistration and Export Request Authorisation (IDERA) holder under ‘Cape Town Convention’ or any other termination or cancellation of the lease agreement between the lessor and lessee subject to permission by DGCA/Ministry of Civil Aviation for such export/s.”

Source: <https://www.rbi.org.in>

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7 Monthly Compliance Calendar February'2021

<p>February 7,2021</p> <p>Due date of depositing TDS/ TCS and Equalization levy for previous month.</p>	<p>February 10,2021</p> <p>Due Date for filing GSTR-7 by person liable to deduct TDS under GST for previous every quarter. GSTR-7 is a return to be filed by the e-commerce operators who are required to deduct TDS (Tax deducted at source) under GST.</p>	<p>February 11,2021</p> <p>GSTR -1 Filing by registered person with aggregate turnover more than 5 crores or the person who is not opting for QRMP scheme having turnover up to 5 crores.</p>
<p>February 13,2021</p> <p>GSTR-6: Filing of return by Input Service Distributors for the month ending Jan'2021</p>	<p>February 15,2021</p> <p>Due date for payment of Provident fund and ESI contribution for Jan'21.</p> <p>Extended due date for filing ITR for FY 19-20 for taxpayers whose accounts are audited.</p> <p>Deadline for quarterly TDS Certificates to be filed with respect to tax deducted on income other than salaries for quarter ending Dec'20</p> <p>Filing of financial statement by Corporates with ROC (Extended Date)</p>	<p>February 20,2021</p> <p>Due date of filing GSTR-3B return for previous month having turnover of more than 5 crore</p> <p>Due date for filing of GSTR-5A by OIDAR service providers for January, 2021</p> <p>Due date for filing of GSTR-5 by Non- Resident Taxable Person for January, 2021</p>
<p>February 22,2021</p> <p>Due Date of filing GSTR 3B by taxpayers not opting for QRMP scheme having annual turnover up to 5 Crores for January, 2021 (Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil nadu, Telangana, Andhra Pradesh, Daman & Diu, and Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep)</p>	<p>February 21,2021</p> <p>Due date for filing GSTR-3B By taxpayer not opting for QRMP scheme having Annual Turnover up to 5 crores (Himachal Pradesh, Uttarakhand, Punjab, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha, Jammu& Kashmir, Ladakh, Chandigarh, Delhi)</p>	<p>February 28,2021</p> <p>Due date for filing Annual return of GST for FY 2019-2020.</p>

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 re- porting, 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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