

ProXcel Advisory Services Private Limited

Delivering Professional Excellence

TAX NEWSLETTER

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Summary of Regulatory updates for Feb'2021



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1. Direct Tax Updates

Notifications, Circulars, News & Orders:-

- 1.1. The Central Government hereby Specifies Chief Executive Officer, Center for e- Government, Government of Karnataka for the purposes in connection with sharing of information regarding income tax assessee for identifying the eligible beneficiaries for implementing social security/ public welfare schemes with the help of entitlement Management system.

_Notification No. 5 of 2021 dated 11th Feb 2021

1.2. Procedure for Assessment under faceless assessment scheme:

The Central Government introduced the Faceless Assessment Scheme to provide greater transparency, efficiency and accountability in Income Tax assessments. All provisions introduced under Faceless Assessment, under the Income Tax Act, 1961, for conducting scrutiny through Faceless assessment of income tax returns (ITR).

Procedure for the assessment under this scheme has been specified by the Income tax department, please refer the link for reference:

https://www.incometaxindia.gov.in/communications/notification/notification_6_2021.pdf

_Notification No. 6 & 7 of 2021 dated 17th Feb 2021

1.3 CBDT has extended the date for making payment without additional amount under the Vivad-se-Vishwas Scheme:

CBDT empowers the Central Government to notify certain dates relating to filing of declaration and making of the payment. CBDT has amended following dates under the Vivad-se-Vishwas Scheme:

- **31st March 2021:** The declaration shall be filed to the designated authority.
- **31st March 2021:** The payment date of the amount of the disputed tax.
- **1st May 2021:** The payment date of the amount of the disputed tax with 10% additional amount.

_Notification No. 9/2021 dated 26th February, 2021

1.4 Seeking of Video Conferencing & adjournment:

CBDT has introduced the FAQs for seeking video conferencing & adjournment in case of income tax proceedings. Please refer the link for reference:

[https://www.incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF/VC and Seek adjournment FAQ.pdf](https://www.incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF/VC_and_Sseek_adjournment_FAQ.pdf)

2. Income Tax Case Laws

2.1 Mavilayi Service Co-operative Bank Ltd. vs Commissioner of Income Tax, Calicut (Supreme Court)

Limited object of section 80P(4) is to exclude co-operative banks that function at par with other commercial banks i.e. which lend money to members of the public; once section 80P(4) is out of harm's way, the Primary agricultural credit societies are entitled to the benefit of the deduction contained in section 80P(2)(a)(i), notwithstanding that they may also be giving loans to their members which are not related to agriculture.

2.2 Principal Commissioner of Income Tax vs Maithon Power Ltd. (Supreme Court)

SLP dismissed against High Court ruling that where assessee in respect of materials purchased paid excise duty to vendors in relevant assessment year and its project was not in operation during said year and it lodged a claim for refund of excise duty with Director General of Foreign Trade as deemed export benefits, since amount of excise duty related to cost of acquisition of capital assets/project, refund of excise duty would ultimately reduce cost of project and could not be treated as business income.

2.3 Deputy Commissioner of Income Tax, LTU vs. Asian Paints Limited (Supreme Court)

Where SLP was dismissed due to low tax effect against High Court ruling that initiation of reassessment proceedings on ground that sales promotion expenses claimed by assessee as deduction was capital in nature was unjustified as there was a complete disclosure of all primary material facts by assessee in course of assessment, since said order of Supreme Court did not suffer from any error apparent warranting its reconsideration, impugned review petition filed against same was to be dismissed

2.4 Principal Commissioner of Income Tax, Surat vs. Shreyansh Corporation (Supreme Court)

SLP dismissed on ground of delay against High Court ruling that where assessee had not accepted liability of 5 per cent trading expenses but offered to pay amounts in addition to amounts disclosed in applications under section 245C only to bring about a settlement it could not be said to be disclosure of any further amounts under that section.

2.5 Principal Commissioner of Income Tax, (Central III) vs. BPTP Ltd. (Supreme Court)

Reassessment proceedings initiated by Assessing Officer on ground that External Development Charges (EDC) paid by assessee to Haryana Urban Development Authority (HUDA) were subject to TDS under section 194 and in absence of TDS, amount would be subject to disallowance under section 40(a)(ia) without giving any basis for forming said opinion, deserved to be set aside; SLP dismissed.

3. Indirect Tax Updates

Notifications, Circulars, News & Orders:-

3.1 Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices issued by taxpayers having aggregate turnover more than 500 crores rupees, w.e.f. 01.12.2020.

This notification is not applicable to an invoice issued in following cases:

- (i) Where the supplier of taxable service is:
 - a) an insurer or a banking company or a financial institution, including a non-banking financial company;
 - b) a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage
 - c) supplying passenger transportation service;
 - d) supplying services by way of admission to exhibition of cinematograph in films in multiplex screens

- (ii) OIDAR supplies made by any registered person, who has obtained registration under section 14 of the IGST Act 2017, to an unregistered person.

If the supplier has issued invoice having Dynamic QR Code for payment, the said invoice shall be deemed to have complied with Dynamic QR Code requirements.

If the cross reference of the payment made using such electronic modes of payment is made on the invoice, the invoice shall be deemed to comply with the requirement of Dynamic QR Code. However, if payment is made after generation / issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.

_Circulars of Central Tax dated 23rd Feb2021

3.2 Seeks to notify persons to whom provisions of sub-section (6B) apply:

Aadhaar number is made mandatory for fresh registration or sub-section (6C) for other than an individual the authentication will be by verification of Aadhaar number of partner, director, trustee, authorized representative, managing committee member or Karta of HUF of section 25 of CGST Act will not apply

_Notification of Central Tax dated 23rd Feb2021

4. Companies Act Updates

Notifications, Circulars, News & Orders:-

4.1 Companies (Compromise, arrangements and Amalgamation) amendment Rules, 2021

MCA vide its notification dated 1st February, 2021 has amended companies (compromises, arrangement and Amalgamation) Rules 2016 and have inserted a provision that two or more Start- up Companies or one or more start- up company with one or more small company can be entered into the scheme of merger and Amalgamation under Section 233 of the Companies Act 2013,

Source: http://www.mca.gov.in/Ministry/pdf/AmalgamationsAmndtRules_02022021.pdf

4.2 Companies (Specification of definitions Details) Rules, 2014

MCA vide its notification dated 1st February, 2021 has inserted the following clause that “the paid up capital and turnover of the small company shall not exceed rupees two crore and rupees twenty crore respectively.”

Source: http://www.mca.gov.in/Ministry/pdf/SpecificationAmndtRules_02022021.pdf

4.3 Companies (incorporation) second amendment rules, 2021

MCA vide its notification dated 1st February, 2021 has amended that one person company can be incorporated by a natural person who is an Indian citizen whether resident in India or otherwise and the person who has stayed in India for a period of not less than one hundred and twenty days during the immediately preceding Financial year will be considered as resident in India.

It has further been stated that the One person company can alter its memorandum and article by passing a resolution, in case of One person company, it shall be sufficient if the resolution is communicated by the member to the company and entered in the minutes-book required to be maintained under section 118 and signed and dated by the member. Accordingly, such date shall be deemed to be the date of the meeting for all the purposes under this Act.

Another key amendment has been that an OPC may be converted into a private company or public company other than a company registered other than section – 8 of the act by filling an application in e- form INC-6.

The aforesaid amendment is said to come into effect on 1st April, 2021.

Source: http://www.mca.gov.in/Ministry/pdf/CompaniesSecondAmndtRules_16022021.pdf

4.4 Producer companies (General Reserve) Rules, 2003

In supersession of the Producer Companies (General Reserve) Rules, 2003, MCA vide its notification dated 11th February, 2021 has notified the Producer Company Rules, 2021 wherein a Producer company has permitted to make investments from and out of its general reserves in any one or in combination of the following, namely:--

- a) in approved securities, fixed deposits, units and bonds issued by the Central Government or State Governments or co-operative societies or scheduled bank; or
- b) In a co-operative bank, State co-operative bank, co-operative land development bank or Central co-operative bank; or
- c) With any other scheduled bank; or
- d) In any of the securities specified in section 20 of the Indian Trusts Act, 1882
- e) In the shares or securities of any other inter-State co-operative society or any co-operative society; or
- f) In the shares, securities or assets of public financial institutions specified under clause (72) of section 2 of the Act.

Source: http://www.mca.gov.in/Ministry/pdf/ProducerCompaniesRules_16022021.pdf

4.5 Companies (Share capital and Debenture) Amendment Rules, 2021

MCA vide its notification dated 11th February, 2021 has made an amendment in Companies (Share Capital and Debentures) Rules, 2014 that the time period within which the offer shall be made for acceptance under section – 62, sub-clause (i) of clause (a) of sub-section (1) i.e. rights issue to its existing members, shall be not less than seven days from the date of offer.

Source: http://www.mca.gov.in/Ministry/pdf/CompaniesShareCapitalDebenturesRules_16022021.pdf

4.6 Companies (Specification of definitions details) Second Amendment Rules, 2021

MCA vide its notification dated 19th February, 2021 has amended the ‘Companies (Specification of definitions details) Rules, 2014’ by insertion of clause 2A Companies not to be considered as listed companies provided as under:

“For the purposes of the proviso to clause (52) of section 2 of the Act, the following classes of companies shall not be considered as listed companies, namely:-

- (a) Public companies which have not listed their equity shares on a recognized stock Exchange but have listed their –
 - (i) non-convertible debt securities issued on private placement basis in terms of SEBI (Issue and Listing of Debt Securities) Regulations, 2008; or
 - (ii) non-convertible redeemable preference shares issued on private placement basis in terms of SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013; or
 - (iii) Both categories of (i) and (ii) above.
- (b) Private companies which have listed their non-convertible debt securities on Private placement basis on a recognized stock exchange in terms of SEBI (Issue and Listing of Debt Securities) Regulations, 2008
- (c) Public companies which have not listed their equity shares on a recognized stock Exchange but whose equity shares are listed on a stock exchange in a jurisdiction as specified in sub-section (3) of section 23 of the Act.”

The aforesaid amendment is said to come into effect on 1st April, 2021.

5 SEBI Updates

5.1 Revised disclosure formats under Regulation 7 of SEBI (Prohibition of Insider Trading) Regulations, 2015

SEBI vide its circular no SEBI/HO/ISD/ISD/CIR/P/2021/19 dated- February 09, 2021 has revised the specified formats for disclosures under Regulation 7 of SEBI (prohibition of insider trading) Regulations 2015 in the light of effecting the inclusion of member of the promoter group, and designated person in place of employee, in Regulation 7 of PIT Regulations.

Source: https://www.sebi.gov.in/legal/circulars/feb-2021/revised-disclosure-formats-under-regulation-7-of-sebi-prohibition-of-insider-trading-regulations-2015_49068.html

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6 RBI Updates

6.1 Margin for Derivative Contracts:-

RBI vide its notification RBI/2020-21/98 dated February 15, 2021 have allowed posting and collection of margin for permitted derivative contracts between a person resident in India and a person resident outside India into their own account or on behalf of their customers, for a permitted derivative contract entered into with a person resident outside India in the form of:

- ❖ Indian currency;
- ❖ Freely convertible foreign currency;
- ❖ Debt securities issued by Indian Central Government and State Governments;
- ❖ Rupee bonds issued by persons resident in India which are:
 - Listed on a recognized stock exchange in India; and
 - Assigned a credit rating of AAA issued by a rating agency registered with the

Securities and Exchange Board of India. If different ratings are accorded by Two or more credit rating agencies, then the lowest rating shall be reckoned.

From the person outside India in the form of:-

- ❖ Freely convertible foreign currency; and
- ❖ Debt securities issued by foreign sovereigns with a credit rating of AA- and above Issued by S&P Global Ratings / Fitch Ratings or Aa3 and above issued by Moody's Investors Service. If different ratings are accorded by two or more credit rating agencies, then the lowest rating shall be reckoned.

Source:- <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12028&Mode=0>

7 Monthly Compliance Calendar March'2021

<p>March 7,2021</p> <p>Due date of depositing TDS/ TCS and Equalization levy for previous month.</p>	<p>March 10,2021</p> <p>Due date for filing GSTR-7 by person liable to deduct TDS under GST for previous every quarter.</p> <p>Due date for filing GSTR-8 by E-commerce operator who are required to collect TCS under GST</p>	<p>March 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>Due date for filing ITC-4 for Q4 of the FY 2020-21</p>
<p>March 13,2021</p> <p>GSTR-6: Filing of return by Input Service Distributors for the month ending Jan'2021</p> <p>Details of Invoice furnishing facility (Outward supply) is available for registered persons having turnover less than INR 5 Crores and opted for quarterly filing of return.</p>	<p>March 15,2021</p> <p>Due date for payment of Provident fund and ESI contribution for Jan'21.</p> <p>Due date of payment of fourth installment of advance tax for FY 2020-21</p>	<p>March 20,2021</p> <p>Due date of filing GSTR-3B return for taxpayer not opted for QRMP scheme & having turnover of more than 5 crores & for the taxpayer opted for monthly filing of return under QRMP having turnover less than 5 Crores.</p> <p>Due date for filing of GSTR-5A by OIDAR service providers for February, 2021</p> <p>Due date for filing of GSTR-5 by Non- Resident Taxable Person for February, 2021</p>
<p>March 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 February, 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>March 24,2021</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>March 31,2021</p> <p>Extended Due date for filing Annual return of GST for FY 2019-2020.</p> <p>Due date for linking PAN with Aadhaar</p> <p>Due date for payment of final amount of advance tax for FY 2020-21</p> <p>Extended Due date of payment under Vivad se Vishwas Scheme</p> <p>Extended due date of filing of quarterly statement of TDS/TCS deposited for Q-1 & Q-2 of FY 2020-21</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.

Editorial Board: CA Ajay Jain, CA Naveen Goyal, Manuj Singhal CFA, CA Chandan Rajgadhia, CS Sakshi Goyal, Apoorv Singhal, CA Nikita Aggarwal

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Contact Details

Proxcel Advisory Services
Private Limited

26, GF, JMD Megapolis,
Sector-48, Sohna Road,
Gurgaon-122018

Suite No 307 SG Mall DC
Chowk Rohini Sector -09 New
Delhi-110085

Kocreate, 3rd Floor, Tapasya
Corp Heights, Tower A,
Noida-Greater Noida Expy,
Sector 126, Noida, Uttar
Pradesh 201303

Phone: 0124-421-9460

Web: www.proxcel.in

E-mail: contact@proxcel.in

Naveen Goyal

M: +9911095297

E: naveen.goyal@proxcel.in

Ajay Jain

M: +9899987124

E: ajay.jain@proxcel.in

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AND DOMESTIC START-UPS IN INDIA