

ProXcel Advisory Services Private Limited

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TAX NEWSLETTER

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Summary of Regulatory updates for Dec'2020



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GLOBAL BUSINESSES
FOR TRADE IN INDIA

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1. Direct Tax Updates

1.1 Clarification on Vivad se Vishwas Scheme:

During the Union budget 2020, Vivad se Vishwas scheme was introduced to provide for dispute resolution in respect of pending income tax litigation. In this regard CBDT has released answers to few FAQs. Please find below the link to have an access to FAQs:

<https://www.incometaxindia.gov.in/communications/circular/circular-21-of-2020.pdf>

_Circular No. 21 dated 4th December'2020

1.2 The Central Board of Direct taxes (CBDT) Order for sharing of information with Citizen Resources Information Department (CRID), Haryana:

The CBDT hereby directs that Director General of Income-tax (Systems), New Delhi shall be the Specified Authority for furnishing information to Secretary, Citizen Resources Information Department, Government of Haryana for the purposes of section 138(1)(a)(ii) in which CBDT has the power to furnish information (received or obtained by income tax authorities) to any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess.

- The mechanism of sharing of information shall be:-
 - (a) Notified Authority of Government of Haryana shall share the PAN/Aadhaar Number along with the Assessment Year and income-threshold.
 - (b) Based on the input parameters, Specified Authority shall provide the response in the form of flags “Yes/No/Not Available” to indicate whether the Gross Total Income/Total Income as per the ITR for a particular Assessment Year is above or below the income-threshold.

_Notification No. 90/2020 dated 15th December, 2020

1.3 Central Government notifies “Yamuna Expressway Industrial Development Authority” in respect of the specified income arising to that Authority:

Central Government notifies ‘Yamuna Expressway Industrial Development Authority’ an authority constituted by the State Government of Uttar Pradesh, as a ‘class of authority’, in respect of the specified income under section 10(46) of the Income Tax Act, 1961, subject to the conditions that Yamuna Expressway Industrial Development Authority shall not engage in any commercial activity and the nature of the specified income shall remain unchanged throughout the financial years and shall file return of income in accordance with section 139 of Income Tax Act’ 1961 and audit report duly verified by accountant along with certificate from chartered accountant that the above conditions are satisfied.

This shall be deemed to have been applied for the assessment years 2014-15, 2015-16, 2016-17, 2017-18, 2018-19.

_Notification No. 91/2020 dated 24th December, 2020

1.4 Government notifies & extend due dates of Tax Audit/ITR for AY 2020-21:

Nature of Compliance	Existing Due Date	Extended Due Date
Tax Audit Report for FY 2019-20	31 st December'2020	15 th January'2021
Income Tax Return (In case of persons required to get audit done)	31 st January'2021	15 th February'2021
Income Tax Return (in case of others)	31 st December'2020	10 th January'2021
Filing of Declaration under Vivad se Vishwas Scheme	31 st December'2020	31 st January'2021

_Notification No. 92 & 93/2020 dated 31st December, 2020

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2. Indirect Tax Updates

Notifications, Circulars, News & Orders:-

2.1 8 Digit HSN Code for Specified Products

CBIC, on recommendations of the Council, made an amendment to the notification 12/2017 – Central Tax dated 28th June, 2017 so as to further insert a provision to specify a list of products wherein Tax Invoice shall have 8 digit HSN code. This list mainly involves “plastic & chemical items”.

—Notification no. 90/2020 – Central Tax dated 1st December 2020

2.2 Certain Section of Finance Act, 2020 will become effective from 1st January 2021

Central Government, has made applicable amendments in GST acts made by Finance act through sections 119, 120, 121, 122, 123, 124, 125, 126, 127 and 131 of Finance Act, 2020.

—Notification no. 92/2020 – Central Tax dated 22nd December 2020

2.3 Waiver of Late Fees for taxpayers located in Ladakh

Central Government, on recommendations of the Council, seeks to waive late fees for the period of 1st November, 2020 to 31st December, 2020 for taxpayers whose principal place of business lies in the union territory of Ladakh.

—Notification no 93/2020 – Central Tax dated 22nd December 2020

2.4 Highlights of Central Goods and Service Tax (Fourteenth Amendment) Rules, 2017:

➤ Amendment of rules relating to registration process

Sub-rule 4A of Rule 8 has been amended so as to require every application (unless the applicant is exempted under sub-section 6C of section 25) shall require biometric based Aadhaar authentication and taking a photograph, if the applicant has opted for authentication of Aadhaar number. And in case the applicant has not opted for Aadhaar authentication, he is required to submit biometric information, photograph and other KYC related documents as specified at the Facilitation centres as notified by the Commissioner.

➤ Change in limits for claiming ITC as per rule 36(4)

Rule 36(4) which earlier allowed taxpayers to avail 110% of Input Tax Credit available in GSTR 2B has now been reduced to 105% of Input Tax Credit available in GSTR 2B. Invoices filed in GSTR-1 after due date of filing will not be reflected in GSTR-2B of the same month.

➤ Limit introduced on Utilisation of ITC while paying off output tax

Rule 86B has been newly inserted to impose a limit on utilisation of ITC where the registered taxpayer whose value of taxable supply (other than exempt and zero-rated supply) other exceeds Rs. 50 Lacs during the month, now cannot use ITC in excess of 99% of output tax to discharge such tax liability.

➤ GSTR 1 to be blocked in case of default in filing GSTR 3B

Filing of GSTR-1 can now be blocked in case where a taxable person fails to file GSTR-3B for two succeeding months.

➤ **Cancellation of GSTIN by GST Department in certain cases**

Proper officer are now empowered to cancel the GSTIN of taxpayers where they have reasons to believe that the registration shall be cancelled in light of provision of rule 21(2). It has also been provided that taxpayers won't be provided with any opportunity of being heard.

- E-way bill now will be valid for 24 hours upto a distance of 200 KM, previously the limit was 100 KM.

_Notification no 94/2020 – Central Tax dated 22nd December 2020

2.5 Waiver from recording UIN on invoices for F.Y. 2020-21

The commissioner has provided a waiver from recording UINs on invoices issued by suppliers/retailers, pertaining to refund claims for the F.Y. 2020-21 in cases where the UIN entity has submitted copies of such invoices to the Jurisdictional Officer.

_Circular no. 144/14/2020-GST dated 15th December 2020

2.6 News & Updates

- Facility to file Annual Return in form GSTR-9 for the F.Y. 2019-20 has been made available on the GST portal.
- From November'20 onwards, the details of outward taxable supplies and Inter state supplies along with details of eligible Input shall be auto-populated on the basis of GSTR-1 & GSTR-2B on the common portal.
- To facilitate taxpayers, a facility has been enabled on the GST portal named “Communication between Taxpayers” for sending a notification to the concerned party regarding missing documents or any shortcoming in documents or any other issues relating to the same.
- For taxpayers issuing e-invoices from Invoice Registration Portal, details of such invoices shall be auto-populated in respective tables of GSTR 1.

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3. Companies Act Updates

3.1 Relaxation of additional fees and extension of last date of filing of CRA-4 (form for filing of cost audit report) for FY 2019-20 under the Companies Act, 2013:

The Ministry of corporate Affairs vide its circular no. 38/2020 dated December 01, 2020 has decided that the cost audit report for the Financial year 2019-20 if submitted by the cost auditor to the Board of directors of the company by 31st December, 2020, the same shall not be viewed as non – compliance of rule 6 (5) of Companies (Cost Records and Audit) Rules, 2014 and the cost audit report shall be filed in e- form CRA- 4 within 30 Days from the date of receipt of the Copy of the cost Audit report by the company.

Source: - http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.38_01122020.pdf

3.2 Clarification on passing of ordinary and special resolutions by companies under the Companies Act, 2013 read with rules made thereunder on account of COVID-19- Extension of time:

The Ministry of corporate Affairs vide its circular no. 39/2020 dated 31st December, 2020 has decided to allow the companies to conduct their EGMs through VC or OAVM or transact items through postal ballot in accordance with the framework provided in the previous Circulars up to 30th June, 2021.

Source:- http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.39_31122020.pdf

3.3 Extensions in the due dates for conducting Board Meetings through Video conference/OAVM for restricted items

The Ministry of Corporate Affairs (MCA) notified the Companies (Meetings of Board and its Powers) Fourth Amendment Rules, 2020. The government has relaxed the requirement of holding Board meetings with the physical presence of directors for approval of the annual financial statements, Board's report, etc. The meeting may be held through video conferencing or other audio-visual means by duly ensuring compliance of Rule 3 of the Companies (Meetings of Board and its Powers) Rules, 2014 till 30th June 2021.

Source: http://www.mca.gov.in/Ministry/pdf/FourthAmdtRules_30122020.pdf

4 SEBI Updates

4.1 Non-compliance with provisions related to continuous disclosures:

SEBI vide its circular SEBI/HO/DDHS/CIR/P/2020/231 dated November 13, 2020 has provided continuous disclosure norms for the issuers of listed Non-convertible Debt Securities, Non-convertible preference share and Commercial papers and to ensure effective enforcement of continuous disclosure obligations by the issuer laid down a uniform structure for imposing fine for non-compliance. An uniform action would be taken by the stock exchange in case entity is registered in more than one stock exchange. The fine realized shall be credited to the “Investor Education and protection fund” of the concerned recognized stock exchange.

Source:- https://www.sebi.gov.in/legal/circulars/nov-2020/non-compliance-with_provisions-related-to-continuous-disclosures_48171.html

4.2 Relaxation in timeline for compliance with the regulatory requirements:

SEBI vide its notification no- SEBI/HO/MIRSD/DOP/CIR/P/2020/235 dated December 01, 2020 has been decided to extend timeline for the compliance with the following regulatory requirement by trading members/ clearing Members due to the prevailing pandemic:-

S. no	Compliance requirement for which timelines are extended	Extended Timeline
1.	Internal Audit for half year ended on September 30, 2020	December 31, 2020
2.	System Audit for half year ended on September 30, 2020	December 31, 2020
3.	Half yearly net worth certificate as on September 30, 2020	December 31, 2020
4.	Cyber security and cyber resilience Audit for half yearly ended on September 30, 2020	January 31, 2020

The timeline for the compliance requirement with the following regulatory requirement by the Depository Participants is also extended:-

S. no	Compliance requirement for which timelines are extended	Extended Timeline
1.	Submission of half yearly internal Audit report by DP for the half year ended on September 30, 2020	December 31, 2020
2.	KYC application form and supporting documents of the clients to be uploaded on system of KRA within 10 working days	Period of exclusion shall be from March 23, 2020 till 31st December, 2020. A 15 day time period after December 31, 2020 is allowed. to Depository/DPs to clear the back log.
3.	System Audit on annual basis for the financial year ended march 31, 2020	December 31, 2020

Source:- https://www.sebi.gov.in/legal/circulars/dec-2020/relaxation-in-timelines-for-compliance-with-regulatory-requirements_48324.html

5 RBI Updates

5.1 Discontinuation of Returns/Reports under Foreign Exchange Management Act, 1999:

RBI vide its notification no. RBI/2020-21/66 dated November 13, 2020 have decided to reduce the cost of compliance, the existing forms and reports prescribed under FEMA, 1999, were reviewed by the Reserve Bank. Accordingly, it has been decided to discontinue the 17 returns/reports as listed below with immediate effect to ease the doing of business:-

S. NO	Name of the Report	Reporting entity	Frequency
1.	Category-wise transaction where the amount exceeds USD 5000 per transaction	AD Category-II	Monthly
2	Category-wise, transaction-wise statement where the amount exceeds USD 25,000 per transaction	AD Category- II	Monthly
3	Statement of Purchase transactions of USD 10,000 and above (including transactions of their franchisees)	FFMCs and AD Category- II	Monthly
4	Extension of Liaison Offices (LOs)	AD Category-I banks	As and when extension is granted
5	Extension of Project Offices (POs)	AD Category-I banks	As and when extension is granted
6	FII/FPI daily: Daily inflow/outflow of foreign fund on account of investment by FPIs	AD banks	Daily
7	FII/FPI Return (Monthly): Data relating to actual inflow /outflow of remittances on account of investments by Foreign Institutional Investors (FIIs) in the Indian Capital market	AD Category-I banks	Monthly
8	FVCI reporting: Inflows/outflows of remittances on account of investments by Foreign Venture Capital Investor (FVCIs) and Market value of Investments made by FVCIs	AD Category-I banks/Custodian banks	Monthly
9	Reporting of Inflow/Outflow details in respect of Mutual Fund by Asset Management Companies	Asset Management Companies	Quarterly
10	Market value of FII Investment in India on fortnightly basis	AD Category-I banks	Fortnightly
11	Market value of FII Investment in India on Monthly basis	AD Category-I banks	Monthly

12	FII holdings as percentage of floating stock	AD Category-I banks	Monthly
13	Form DRR for Issue/transfer of sponsored/unsponsored Depository Receipts (DRs)- Hardcopy@	Custodian	At the time of issue/transfer of depository receipts
14	ADR/GDR Movement Report-two way fungibility	AD Category-I banks	Monthly
15	Repatriation of Sales proceeds of underlying shares represented by FCCBs/GDRs/ ADRs	Custodian	Monthly
16	GDR/ADR underlying shares issued, re deposited and released monthly reporting	Custodian	Monthly
17	Monitoring of disinvestments by Overseas Corporate Bodies	AD banks	Monthly
15	Repatriation of Sales proceeds of underlying shares represented by FCCBs/GDRs/ ADRs	Custodian	Monthly

The hard copy filling of form DRR that has been discontinued. The domestic custodian may continue to report the form DRR on FIRMS application in terms of Regulation 4 (5) of FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019.

Source: - <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11994&Mode=0>

5.2 Establishment of Branch Office (BO) / Liaison Office (LO) / Project Office (PO) or any other place of business in India by foreign law firms:

RBI vide its notification RBI/2020-21/69 dated November 23, 2020 have decided that no fresh permissions/ renewal of permission shall be granted by the Reserve Bank/AD Category-I banks to any foreign law firm for opening of Liaison Office in India, till the policy is reviewed based on, among others, final disposal of the matter by the Hon'ble Supreme Court.

While disposing the case by the Hon'ble Supreme Court held that advocates enrolled under the Advocates Act, 1961 alone are entitled to practice law in India and that foreign law firms/companies or foreign lawyers cannot practice profession of law in India. As such, foreign law firms/companies or foreign lawyers or any other person resident outside India, are not permitted to establish any branch office, project office, liaison office or other place of business in India for the purpose of practicing legal profession. Accordingly, AD Category – I banks are directed not to grant any approval to any branch office, project office, liaison office or other place of business in India under FEMA for the purpose of practicing legal profession in India. Further, they shall bring to the notice of the Reserve Bank in case any such violation of the provisions of the Advocates Act comes to their notice.

Source: - <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11997&Mode=0>

6 Monthly Compliance Calendar January'2021

January 7, 2021 Depositing of TDS/ TCS/ Equalisation Levy for the month of December, 2020	January 10, 2021 Due date of filing GSTR-7 and GSTR-8 Due date for filing of Income tax Return for individual and non-corporate assessee [who are not subject to tax audit] for the Previous Year 2019-2020.	January 13, 2021 Due Date for filing GSTR-6 by Input Service Distributors for December, 2020
January 14, 2021 Last date for filing of form ADT-1 for the companies whose AGM is held on 31.12.2020	January 15, 2021 Due Date for payment of Provident fund/ESI for the month of December, 2020. Due Date for filing of Quarterly statement of TCS deposited for the quarter ending 31st December, 2020 Due date of filing of tax audit report/filing of report of international/specified domestic transactions under Income tax act for the Previous Year 2019-2020.	January 18, 2021 Due date for filing CMP-08 By Composition Dealer for the Quarter ending December, 2020
January 20, 2021 Due date for filing of GSTR-3B by Tax-payers having Annual Turnover of more than 5 Crores for December, 2020 Due date for filing of GSTR-5A by OIDAR service providers for December, 2020 Due date for filing of GSTR-5 by Non Resident Taxable Person for December, 2020	January 22, 2021 Due Date for filing GSTR of 3B by taxpayer having Annual Turnover up to 5 Crores for December, 2020 (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)	January 24, 2021 Due Date for filing GSTR – 3B by taxpayer having Annual Turnover up to 5 Crore for December, 2020 (Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha, Jammu and Kashmir, Ladakh, Chandigarh, Delhi)
January 25, 2021 Due date for filing of Return ITC 04 by registered manufacturers for the quarter ending December, 2020.	January 29, 2021 Due date of filing of Form AOC-4 for the Financial Year 2019-2020 (if AGM is held on 31st December, 2020)	January 31, 2021 Due date for filing of TDS Returns for the quarter ending December, 2020. <u>Due date for filing of GSTR-1 for December, 2020 by the taxpayers</u> <ul style="list-style-type: none"> • having an aggregate turnover upto 1.5 Crores in preceding financial year or current year is <u>31st Jan, 2021</u> • having an aggregate turnover exceeds 1.5 Crores in preceding financial year or current year is <u>11st January, 2021</u>

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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