

R.C.JAIN AND ASSOCIATES LLP

NEWSLETTER

August
2021

*“Every **Teacher** once was a **Student**
Every **Winner** once was a **loser**.
Every **Expert** once was a **Beginner**.
But all of them have crossed the bridge called
Learning”*
- APJ Abdul Kalam



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DIRECT TAX

Income Tax

Extension of Due Dates of Income Tax Return

Particular	Original Due Date	Extended Due Date	Further Extended Due Date
Return of Income AY 21-22 i.e. FY 20-21			
Regular Assesseees	31.07.2021	30.09.2021	31.12.2021
Tax Audit Assesseees	31.10.2021	30.11.2021	15.02.2022
Belated/Revised Return	31.12.2021	31.01.2022	31.03.2022
Assessee with TP Report	30.11.2021	31.12.2021	28.02.2022
Furnishing Tax Audit Report	30.09.2021	31.10.2021	15.01.2022
Transfer Pricing Report	31.10.2021	30.11.2021	31.01.2022

Extension of time lines for electronic filing of various Forms under the Income-Tax Act,1961

Particulars	Extended Due Date
Quarterly statement in Form No. 15CC by authorized dealer in respect of remittances for the quarter ending on 30th June, 2021.	On or before 30th November, 2021.
Equalization Levy Statement FY 20-21.	On or before 31st December, 2021.
Statement of Income paid or credited by an investment fund to its unit holder for the FY 20-21. (Form 64D).	On or before 15th September,2021
Statement of Income paid or credited by an investment fund to its unit holder for the FY 20-21. (Form 64C).	On or before 30th September, 2021.
Intimation to be made by a Pension Fund in respect of each investment made by it in India for the quarter ending on 30th June,2021.	On or before 30th November, 2021

Intimation to be made by a Pension Fund in respect of each investment made by it in India for the quarter ending on 30th September,2021.	On or before 31st December, 2021
Intimation to be made by Sovereign Wealth Fund in respect of investments made by it in India for the quarter ending on 30th June,2021.	On or before 30th November, 2021.
Intimation to be made by Sovereign Wealth Fund in respect of investments made by it in India for the quarter ending on 30th September,2021.	On or before 31 st December, 2021
Quarterly statement in Form No. 15CC by authorized dealer in respect of remittances for the quarter ending on 30th September, 2021.	On or before 31st December, 2021.
Application for registration or intimation or approval under Section 10(23C), 12A, 35(1)(ii)/(ia)/(iii) or 80G of the Act in Form No. 10A	On or before 31st March, 2022.
Application for registration or approval under Section 10(23C), 12A or 80G of the Act in Form No.10AB	On or before 31st March, 2022.
Uploading of the declarations received from recipients in Form No. 15G/15H during the quarter ending 30th June, 2021	On or before 30th November, 2021
Uploading of the declarations received from recipients in Form No. 15G/15H during the quarter ending 30th September, 2021.	On or before 31st December, 2021

Notification No. 84/2021/ F. No. 370142/13/2021-TPL (Part- 1)

The Central Government specifies the pension fund, namely, "Ontario Inc." as the specified person in respect of the eligible investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st March, 2024.

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Conditions:

- It shall file the return from the date investment made in India to the date on which investment is liquidated.
- The due date for the return is same as specified u/s 139 of the Income Tax Act 1961.
- It shall file Form 10BBB within one month from the end of each quarter. (Form 10BBB mentions the details of each investment made in India)
- It shall maintain a segmented account of income and expenditure in respect of such investment which qualifies for exemption under clause (23FE) of section 10 of the Act.
- It shall continue to be regulated under the law of the Government of Ontario, Canada.
- It shall not have any loans or borrowings directly or indirectly, for the purposes of making investment in India.

Notification No. 85 /2021 F. No. 300196/1/2021-ITA-I

The Central Government notifies 'National Council of Science Museums', Kolkata (PAN AAAAN2541C), an autonomous body established under the Ministry of Culture, Government of India, in respect of the following specified income arising to the Council, namely:

- Amount received in the form of grants-in-aid and subsidies from Government of India.
- Fees or subscription by sale of tickets.
- Charges for maintenance recovered for use of auditorium and other public facilities for scientific and educational purposes.
- Income arising or derived by way of interest received from investment.

Conditions:

- It shall not engage in any commercial activity.
- It shall file return of income in accordance with section 139 of the Income-tax Act, 1961.

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Notification No. 95/2021 [F. No. 370142/36/2021-TPL]

With an amendments passed in the Finance Act, 2021, government has take away the benefit of exemption from taxation (w.e.f financial year 01st April, 2021 and onwards) which was earlier available for an interest income earned by the taxpayers on their provident fund contribution.

As per this new Rule 9D, two Provident Fund accounts shall be maintained from the FY 2021-22 and onwards to calculate the portion of interest that is to be taxed for a contribution made above threshold limit which is Rs. 2.5 lacs for other than government employees and Rs. 5 lacs for government employees.

This Rule 9D also specifies the method of arriving the balance of both “Taxable” and “Non Taxable contribution” as follows:-

a) **Non Taxable Contribution** account shall be the aggregate of the following:

- i) Closing balance in the account as on 31st March, 2021.
 - ii) any contribution made by the person in the account during the previous year 2021-22 and subsequent previous years, which is not included in the taxable contribution account; and
 - iii) interest accrued on sub clause (i) and sub clause (ii) above.
- as reduced by the withdrawal, if any, from such account.

b) **Taxable Contribution account** shall be the aggregate of the following:-

- i) contribution made by the person in a previous year in the account during the previous year 2021-22 and subsequent previous years, which is in excess of the threshold limit as specified above.
 - ii) interest accrued on sub clause (i) above,
- as reduced by the withdrawal, if any, from such account.

Therefore, now if your contribution exceeds the threshold limit of Rs. 2.5 lacs / Rs. 5 lacs (as applicable) annually, the interest earned on such excess contributions will be now be taxable in your hands w.e.f Financial year 2021-22 and onwards.

-Compiled by Bhavesh Bang

Case Laws:

1) Issue Involved:

Whether discount given on sale of stamp paper would be treated as commission or Brokerage and would attract TDS u/s194H of IT Act ?

- **Relevant Case Law -Kerala State Stamp Vendors Vs. Office Of The Accountant General ... on 20 June, 2005**

GIST OF THE CASE

- 1) Kerala State Stamp Vendors were associations of stamp vendors in Kerala, the petitioners in all other writ petitions were individual stamp vendors. The challenge in all the writ petitions was against the demand made by the IT Department to the Treasury Officers to recover income-tax from the discount allowed to stamp vendors on the sale of stamp paper to them. The members of the two petitioner-associations and the other petitioners were licensed stamp vendors engaged in purchase of stamp paper from the Treasury and sale of the same in accordance with the Kerala Manufacture and Sale of Stamp Rules, 1960. Stamp papers were sold to the licensed vendors by the Treasury at a discounted price which varies from 1 per cent to 4.5 per cent depending on the face value of the stamp paper. The highest denomination stamp paper sold through stamp vendors was Rs. 10,000.
- 2) While the case of the IT Department was that the reduction given in the price of the stamp paper by the Treasury on sale of the same was "commission" which had to be subject to tax deduction at source in terms of Section194H of the IT Act, the case of the petitioners was that the reduction granted was only discount which did not come within the description of "commission" or "brokerage" covered bySection194H of the IT Act.

HELD :-

Provision of section 194H relevant extracts from which are as follows:

Commission or brokerage-Any person, not being an individual or an HUF, who is responsible for paying, on or after the 1st day of June, 2001, to a resident, any

DIRECT TAX

income by way of commission (not being insurance commission referred to in Section 194D) or brokerage, shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.

It was clear from Section 194H that what is subject to deduction of income-tax at source is only "commission" or "brokerage". In the decision above referred, the Court took the view that "commission" or "brokerage" arises only in an agency business and, therefore, the Court proceeded to examine whether the licensed stamp vendors are agents of the Government or not. After analysing the provisions of the Stamp Rules of Gujarat, the Court held that the stamp vendors are not "agents" of the Government, though under the Rules they have to be licenced and are subject to strict discipline in regard to purchase and sale of stamps from Government. 2.) Based on this finding the Court held that discount allowed to stamp vendors does not constitute "commission" or "brokerage" to attract TDS on it under Section 194H of the Act.

2) Issue Involved:

Whether the fine paid for belated payment of excise duty is an allowable business expenditure?

- **Relevant case law- CIT Vs. Hoshiari Lal Kewal Krishan (2009) 311 ITR 336 (P&H)**

GIST OF THE CASE

1) The assessee claimed deduction of Rs. 31,433 paid as fine for belated payment of the excise duty instalment. This was disallowed by the Assessing Officer as well as the appellate authority but the Tribunal allowed it.

2) Further as the assessee's cross-objection is concerned, in the assessment order the Income Tax Officer himself had stated that from the scrutiny of record, it was found that the fine was incurred by the assessee for making belated payments of the said Excise Duty. Now making belated payments would indirectly benefit the assessee

DIRECT TAX

in as much as the money would remain available to the assessee and, therefore, any penalty levied on this count could be claimed as a legitimate business expenditure.

HELD :-

Provision of section 37(1) relevant extracts from which are as follows:

Any expenditure (not being expenditure of the nature described in sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 1. For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.

Explanation 2. For the removal of doubts, it is hereby declared that for the purposes of sub-section (1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 (18 of 2013) shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

1) The Supreme Court in *Prakash Cotton Mills P. Ltd. v. CIT [1993] 201 ITR 684*, observed that whenever any statutory impost paid by an assessee by way of damages or penalty or interest is claimed as an allowable expenditure under section 37(1) of the Income-tax Act, the assessing authority is required to examine the scheme of the provisions of the relevant statute providing for payment of such impost notwithstanding the nomenclature of the impost as given by the statute, to find whether it is compensatory or penal in nature.

2) The authority has to allow deduction under section 37(1) of the Income-tax Act, wherever such examination reveals the concerned impost to be purely compensatory in nature.

3) Hence, in the present case, the High Court held that it had been clearly found that though termed as fine, the payment was not in the nature of punishment but was by way of compensation. The payment was deductible.

-Compiled by Vishal Nayak

GST

Notifications

1) Notification No. 32/2021 – Central Tax, Dated 29th August, 2021

On the recommendations of the Council, government hereby makes the following amendment to the rules:

- A registered person shall be allowed to file returns in form GSTR-3B, GSTR-1 and IFF through EVC (Electronic Verification Code) until 31st October, 2021.
- The Government has provided relaxation for blocking of E-Way bill generation for movement of goods for the period of 01st May 2021 to 17th Aug-2021. The government has withdrawn the said relaxation w.e.f. 18th Aug-21, if any dealer fails to file the GSTR 3B, GSTR 1 or CMP-08 return for two consecutive periods, they will not be able to generate E-Way bill unless the returns has been filed.

2) Notification No. 33/2021 – Central Tax, Dated 29th August, 2021

In continuation to the Notification No. 19/2021, government has extended the timeline for calculation of late fee from 31st August to *30th day of November 2021* which means as follows:

“If the registered person failed to furnish the return in Form GSTR-3B for the month of July 2017 to April 2021 & furnishes the same between 1st June, 2021 to 30th November, 2021, the total amount of late fee shall stand waived which is in excess of Rs. 500 per act. Further, in case the return is nil, the total amount of late fees shall stand waived which is in excess of Rs. 250/-per act”

3) Notification No. 34/2021 – Central Tax, Dated 29th August, 2021

As per the given Notification, government seeks to extend the timeline of application for revocation of cancellation of registration to 30.09.2021, where the due date for filing such application falls between 01.03.2020 to 31.08.2021, in respect of following cases:

(a) Where a person paying tax under composition scheme has not furnished returns for three consecutive tax periods.

(b) Where any taxable person, other than composition dealer, has not furnished returns for a continuous period of six months.

-Compiled by Jay Gudhka

RBI

1. **RBI/2021-22/77**
DOR.CRE.REC.No.35/21.04.048/2021-22

Guidelines for Implementation of the circular on Opening of Current Accounts by Banks.

It is reiterated that:

- a) In case of borrowers **who have not availed of Cash Credit/Over draft facility from any bank**, there is no restriction on opening of current accounts by any bank if exposure of the banking system to such borrowers is less than ₹5 crore.
- b) In case of borrowers **who have not availed of Cash Credit/Over draft facility from any bank** and the exposure of the banking system is 5 crore or more but less than 50 crore, there is no restriction on lending banks to such borrowers from opening a current account. Even non-lending banks can open current accounts for such borrowers though only for collection purposes.
- c) **The restriction applies to borrowers in case they avail of Cash Credit/Over draft facility** since all operations that can be carried out from a current account can also be carried out from a **Cash Credit/Over draft** account as banks in a CBS environment.

Banks will be permitted time till October 31, 2021 to implement the provisions of the circular. This extended time line shall be utilised by banks to engage with their borrowers to arrive at mutually satisfactory resolutions within the ambit of the circular.

2. **RBI/2021-22/82**
DOR.RET.REC.36/12.01.001/2021-22

Section 24 of the Banking Regulation Act, 1949 - Maintenance of Statutory Liquidity Ratio (SLR) - Marginal Standing Facility (MSF) - Extension of Relaxation

Marginal Standing Facility (MSF), wherein the banks were allowed to avail of funds under the MSF by dipping into the Statutory Liquidity Ratio (SLR) up to an additional one per cent of their net demand and time liabilities (NDTL), i.e.,

cumulatively up to three per cent of NDTL. This facility, which was initially available up to June 30, 2020 which was later extended up to September 30, 2021.

However, in order to provide comfort to banks on their liquidity requirements, banks are allowed to continue with the MSF relaxation for a further period of three months, i.e., up to December 31, 2021.

3. **RBI/2021-22/83**
FIDD.GSSD.CO.BC.No.09/09.01.003/2021-22

Enhancement of collateral free loans to Self Help Groups (SHGs) under DAY-NRLM from ₹10 lakh to ₹20 Lakh

There has been an amendment in paragraph 7.4 of RBI Master Circular FIDD.GSSD.CO.BC.No.04/09.01.01/2021-22 (on DAY-NRLM) dated April 01, 2021 which stands as:

7.4 Security and Margin:

7.4.1 For loans to SHGs up to ₹10.00 lakh, no collateral and no margin will be charged. No lien should be marked against savings bank account of SHGs and no deposits should be insisted upon while sanctioning loans.

7.4.2 For loans to SHGs above ₹10 lakh and up to ₹20 lakh, no collateral should be charged and no lien should be marked against savings bank account of SHGs. However, the entire loan (irrespective of the loan outstanding, even if it subsequently goes below ₹10 lakh) would be eligible for coverage under Credit Guarantee Fund for Micro Units (CGFMU)."

4. All other provisions of the Master Circular remain unchanged.

4. **RBI/2021-22/90**
FIDD.CO.LBS.BC.No.14/02.08.001/2021-22

Formation of new district in the State of Punjab -

Assignment of Lead Bank Responsibility

The Government of Punjab vide Gazette Notification No.7767 dated June 10, 2021 had notified the formation of a new district in the State of Punjab. It has been decided to assign the lead bank responsibility of the new district as under:

Sr No	Newly Carved District	Erstwhile District	Sub-Division/ Tehsil under newly created District	Lead Bank Responsibility assigned to	District Working Code allotted to new district
1	Malerkotla	Sangrur	Malerkotla Amargarh and Ahemedgarh	State Bank of India	00T (to be read as "zero zero T")

5. **RBI/2021-22/91**
DOR.FIN.REC.No.41/03.10.136/2021-22

Certain criteria have been prescribed for HFCs as 'Financial Institution' under Section 2(1)(m)(iv) of the SARFAESI Act.

In this connection, Government of India (GoI) has, vide its Gazette Notification No. S.O. 2405(E) dated June 17, 2021 notified the Housing Finance Companies (HFCs) registered under Section 29A(5) of National Housing Bank Act, 1987 and having assets worth ₹100 crore & above, as 'Financial Institution' under Section 2(1)(m)(iv) of SARFAESI Act, 2002. In view of revision of the criteria for notification as 'Financial Institution' as per the abovementioned Gazette notification of GoI, the criteria prescribed under Para 105 of the aforesaid Master Direction are withdrawn with immediate effect.

6. RBI/2021-22/93
DCM (CC) No.97527/03.41.01/2021-22

Review of incentive and other measures to enhance distribution of coins

a) Revised scheme of incentive for distribution of coins

(i) With effect from September 01, 2021, an incentive of ₹65/- per bag for distribution of coins (instead of ₹25/- as earlier) will be paid on the basis of net withdrawal from currency chest (CCs), without waiting for claims from banks. Currency chest branch will have to pass on the incentive to the linked bank/branches for coins distributed by them on a pro-rata basis within one week from the receipt of incentives from RBI.

(ii) An additional incentive of ₹10/- per bag would be paid for coin distribution in rural and semi-urban areas on the submission of a CA / Auditor certificate to this effect.

For more details, refer the website rbi.org.in.

-Complied by Piyush Motwani

ROC

1. In the Companies (Appointment and Qualification of Directors) Rules, 2014, in rule 6, in sub-rule (4), in the first proviso, for clause (B), the following clause shall be substituted, namely:-

Compliances required by a person eligible and willing to be appointed as an independent director. –

- a) In the pay scale of Director or equivalent or above in any Ministry or Department, of the Central Government or any State Government, and having experience in handling, –(i) the matters relating to commerce, corporate affairs, finance, industry or public enterprises; or (ii) the affairs related to Government companies or statutory corporations set up under an Act of Parliament or any State Act and carrying on commercial activities.”
 - b) The second proviso, the following proviso shall be inserted, namely: –
“Provided also that the following individuals, who are or have been, for at least ten years: –
 - a. An advocate of a court; or
 - b. In practice as a chartered accountant; or
 - c. In practice as a cost accountant; or
 - d. In practice as a company secretary,
Shall not be required to pass the online proficiency self-assessment test.”
2. In the Companies (Creation and Maintenance of databank of Independent Directors) Rules, 2019, after rule 5, the following rule shall be inserted, namely:-
“Rule 6. Annual report on the capacity building of independent directors: The institute shall within sixty days from the end of every financial year send an annual report to every individual whose name is Included in the data bank and also to every company in which such individual is appointed as an Independent Director in format provided in the Schedule to these Rules.
 3. In exercise of the powers conferred by section 435 of the Companies Act, 2013 (18 of 2013),the Central Government, with the concurrence of the Chief Justice of the High Court of Jharkhand hereby designates the Court of Sub-Divisional Judicial Magistrate at Ranchi as Special Court for the purpose of providing speedy trial of offences.

4. In the Companies (Registration of Foreign Companies) Rules, 2014, in clause (c) of sub-rule (1) of rule 2, the following explanation shall be inserted, namely:-
“Explanation.- For the purposes of this clause, electronic based offering of securities, subscription thereof or listing of securities in the International Financial Services Centers set up under section 18 of the Special Economic Zones Act, 2005 shall not be construed as ‘electronic mode’ for the purpose of clause (42) of section 2 of the Act.”

5. The Central Government hereby exempts, from the provisions of sections 387 to 392 (both Inclusive), the following:-
 - (a) Foreign companies;
 - (b) Companies incorporated or to be incorporated outside India, whether the company has or has not established, or when formed may or may not establish, a place of business in India,
in so far as they relate to the offering for subscription in the securities, requirements related to the Prospectus, and all matters incidental thereto in the International Financial Services Centers set up under section 18 of the Special Economic Zones Act, 2005.
Section 387 to 392 of the Companies Act 2013 deals with dating of prospectus and provisions as to experts consent and allotment, the registration of prospectus, offer of India depository receipts and the punishment for contravention.

6. Limited Liability Partnership (Amendment) Act, 2021:
 - a. Pursuant to this amendment Act, a new concept of small LLP is added in the LLP Act, 2008.
Accordingly a LLP shall be considered as Small LLP if it falls within the following threshold criteria:-
 - (i) the contribution does not exceed twenty-five lakh rupees or such higher amount not exceeding five crore rupees
and
 - (ii) the turnover of the immediately preceding financial year, does not exceed forty lakh rupees or such higher amount, not exceeding fifty crore rupees; or

CORPORATE LAW

(iii) which meets such other requirements as may be prescribed, and fulfils such terms and conditions as may be prescribed, if any.

- b. The LLP (Amendment) Act, 2021 amended the Section 7(1) of the LLP Act, 2008 by substituting the words “eighty-two days during the immediately preceding one year” by “twenty days during the financial year”.

Accordingly, now a person who is a Resident in India for 120 days during the financial year can act as a Designated Partner in an LLP.

-Compiled by Devika Gangapuram

#HUNAAR HAAT

“सर्वप्रथम राष्ट्र नंतर गुरू मग पालक मग देव सर्वप्रथम स्वतःकडे नाही तर राष्ट्रकडे पहा.”

Presenting you all a Portrait made by Sagar Mohite.....



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