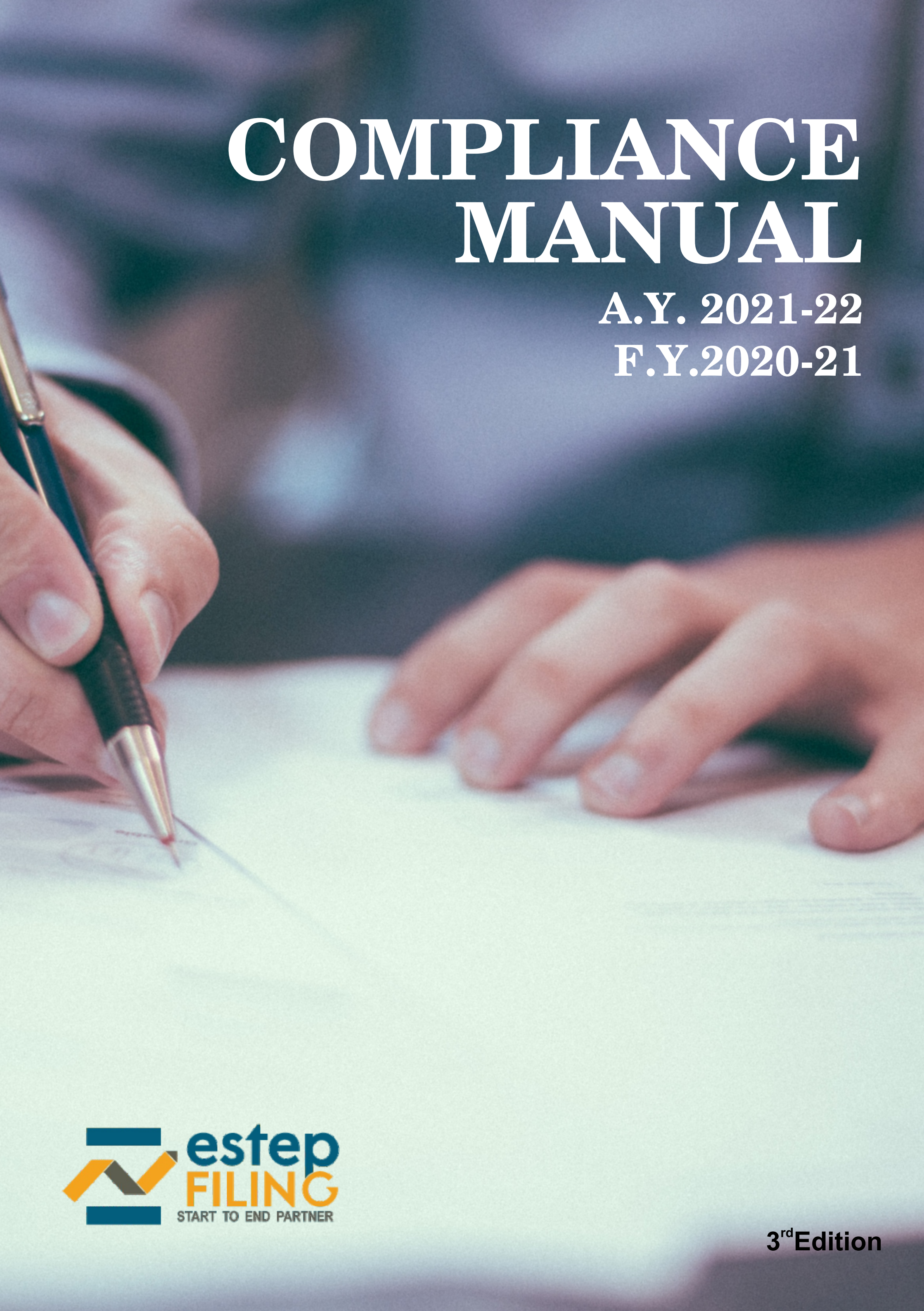

# COMPLIANCE MANUAL

## A.Y. 2021-22
## F.Y.2020-21

estep FILING
START TO END PARTNER

3rd Edition

**CA SAHIL GALA**
**CA RUCHI SANGHVI**
**CA PANKAJ LUNKAR**

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# PREFACE

This compliance book aims at helping and providing practical solutions and day to day compliance requirements to professionals, entrepreneurs and all small to large businesses as it has summarized provisions, charts and important notes with tables which can be easily understood.

# ACKNOWLEDGEMENT

We are thankful to CA SAHIL GALA for his contribution towards Income Tax.CA RUCHI SANGHVI and CA PANKAJ LUNKER for providing in depth knowledge towards areas of GST and for their efforts for contributing towards the making of compliance book. We are thankful to DIVINE INFOSERVICES PVT.LTD for design. We hope that our compliance manual will be useful to our readers and helps them to remain upto date with latest provisions and compliances. Also we will be glad and appreciate your views and suggestions and your valuable feedback for improving this compliance manual with their next editions.

# INDEX

# 1.1 Income Tax Slab Rate for AY 2021- 22

## [1] Individuals:

**1.1 Individual** (resident or non-resident), who is of the age of less than 60 years on the last day of the relevant previous year:

| Net income range | Income-Tax Rate* |
|---|---|
| Up to Rs. 2,50,000 | Nil |
| Rs. 2,50,000- 5,00,000 | 5% |
| Rs. 5,00,000 - 10,00,000 | 20% |
| Above Rs. 10,00,000 | 30% |

**1.2 Resident senior citizen**, i.e., every individual, being a resident in India, who is of the age of 60 years or more but less than 80 years at any time during the previous year:

| Net income range | Income-Tax Rate* |
|---|---|
| Up to Rs. 3,00,000 | Nil |
| Rs. 3,00,000 - 5,00,000 | 5% |
| Rs. 5,00,000 - 10,00,000 | 20% |
| Rs. Above Rs. 10,00,000 | 30% |

**1.3 Resident super senior citizen**, i.e., every individual, being a resident in India, who is of the age of 80 years or more at any time during the previous year:

| Net income range | Income-Tax Rate* |
|---|---|
| Up to Rs. 5,00,000 | Nil |
| Rs. 5,00,000 - 10,00,000 | 20% |
| Rs. Above Rs. 10,00,000 | 30% |

### Surcharge:

- 10% of income tax where total income exceeds Rs. 50 Lakhs uptoRs 1Crore.
- 15% of income tax where total income exceeds Rs. 1 Crore upto Rs 2 Crore.
- 25 % of income tax where total income exceeds Rs, 2 Crore upto Rs 5 Crore.
- 37% of income tax where total income exceeds Rs. 5 Crore (Note : For 25% or 37% of surcharge - Income excluding dividend income or Sec 111A & 112A)

### *Health and Education cess :

- 4% of income tax and surcharge.

Note: - A resident individual is entitled for rebate under section 87A if his total income does not exceed Rs. 5,00,000. The amount of rebate shall be 100% of income-tax or Rs. 12,500, whichever is less.

## [2] Income Tax Rate for Partnership Firm:

- A partnership firm (including LLP) is taxable at 30%*.

### Surcharge:

- 12% of tax where total income exceeds Rs. 1 crore.

### *Health and Education cess :

- 4% of income tax and surcharge.

## [3] Tax Rate for Companies:

### *Domestic Companies:*

| Particulars | Tax Rates |
|---|---|
| Total turnover or gross receipts during the previous year 2018-19 doesn't exceed Rs. 400 Crore | 25% |
| Companies which does not claim certain specified deductions or exemptions and also does not take benefit of carry forward of unabsorbed depreciation/loss (Sec 115BAA) | 22% |
| Manufacturing company (registered on or after 1.10.019 and commenced manufacturing on or before 31.03.2023) subject to certain conditions and which does not avail certain specified deductions or exemptions and also does not take benefit of carry forward of unabsorbed depreciation/loss not taken (115BAB) | 15% |
| Other than referred to in above | 30% |

### *Foreign Companies :*

The tax rate for foreign company is **40%**

**Surcharge:**

| Company | Net income | |
|---|---|---|
| | between Rs. 1Cr. – 10 Cr. | exceeds 10 Cr. |
| Domestic | 7% | 12% |
| Foreign | 2% | 5% |

Surcharge @ 10% for domestic companies opting for Sec 115BAA/115BAB irrespective of Income Level.

**Health and Education cess :**

- 4% of income tax and surcharge.

## [4] Income Tax Rate for HUF/AOP/BOI/Any other Artificial Juridical Person:

| Net income range | Income-Tax Rate |
|---|---|
| Up to Rs. 2,50,000 | Nil |
| Rs. 2,50,000- 5,00,000 | 5% |
| Rs. 5,00,000 - 10,00,000 | 20% |
| Above Rs. 10,00,000 | 30% |

**Surcharge:**

- 10% of income tax where total income exceeds Rs. 50,00,000.
- 15% of income tax where total income exceeds Rs. 1,00,00,000.

**Health and Education cess :**

- 4% of income tax and surcharge.

**Note :** Rebate u/s 87A as discussed above in case of the resident individual are not available to AOP BOI & HUF whether resident or not .

## [5] Income Tax Slab Rate for Co-operative Society:

| Net income range | Income-Tax Rate |
|---|---|
| Up to Rs. 10,000 | 10% |
| Rs. 10,000 - 20,000 | 20% |
| Above Rs. 20,000 | 30% |

**Surcharge:**

- 12% of tax where total income exceeds Rs. 1 crore.

**Health and Education cess :**

- 4% of income tax and surcharge.

## [6] Income Tax Slab Rate for Local Authority:

- A local authority is taxable at 30%.

**Surcharge:**

- 12% of tax where total income exceeds Rs. 1 crore.

**Health and Education cess :**

- 4% of income tax and surcharge.

## [7] Advance Tax :

*Below advance tax liability is For both individual and corporate taxpayers.*

*Due Date Advance Tax Payable ( For Assesse other than covered u/s 44AD/44ADA)*

| | |
|---|---|
| On or before 15th June | **15% of advance tax** |
| On or before 15th Sep. | **45% of advance tax** |
| On or before 15th Dec. | **75% of advance tax** |
| On or before 15th March | **100% of advance tax** |

***For taxpayers who have opted for Presumptive Taxation Scheme***

*Business Income ( Assesse covered u/s 44AD(1) & 44ADA(1) )*

***Due Date Advance Tax Payable Before 15th March 2021 100% of advance tax***

- Advance tax is not payable when the tax liability does not exceed Rs 10,000/-.
- Senior citizen not having any business or professional income is not required to pay advance tax.

# 1.2 INCOME TAX RATES (ALTERNATIVE)

## [1] Individuals & HUF (Alternate)

| Net Income Range | Income-Tax Rate* |
|---|---|
| Up to Rs. 2,50,000 | Nil |
| Rs. 2,50,000 - 5,00,000 | 5% |
| Rs. 5,00,000 - 7,50,000 | 10% |
| Rs. 7,50,000 - 10,00,000 | 15% |
| Rs. 10,00,000 - 12,50,000 | 20% |
| Rs. 12,50,000 - 15,00,000 | 25% |
| Above Rs. 15,00,000 | 30% |

### Surcharge :

- 10% of income tax where total income exceeds Rs. 50 Lakhs upto Rs 1Crore.
- 15% of income tax where total income exceeds Rs. 1 Crore upto Rs. 2 Crore.
- 25 % of income tax where total income exceeds Rs, 2 Crore upto Rs 5 Crore.
- 37% of income tax where total income exceeds Rs. 5 Crore (**Note** : For 25% or 37% of surcharge - Income excluding dividend income or Sec 111A & 112A)

### *Health and Education cess :

- 4% of income tax and surcharge.

### Note:

1. A resident individual is entitled for rebate under section 87A if his total income does not exceed Rs. 5,00,000. The amount of rebate shall be 100% of income-tax or Rs. 12,500, whichever is less.
2. In case of Individual/HUF having no business income , such option can be exercised in each previous year .
3. In case of Individual/HUF having business income , the option once exercised shall remain valid for all subsequent assessment years. Those individual/HUF opting for concessional rate of tax shall be entitled to withdraw the option only once and there after they shall never be able to exercise the option except when the cease to engage in the said business .
4. In case of Individual/ HUF opting for the new taxation regime under the newly inserted section 115BAC of the Act shall not be entitled to the ***following exemptions/ deductions***

### Following exemptions/deductions

- Leave travel concession
- House rent allowance
- Some of the allowance as contained in clause (14) of section 10 for example special allowances for performances of duites;
- Allowances to MPs/MLAs
- Allowance for income of minor
- Exemption for SEZ unit contained in section 10AA;
- Standard deduction, deduction for entertai-nment allowance and employment / professi-onal tax as contained in section 16;
- Interest under section 24 in respect of self-occupied or vacant property referred to in sub-section (2) of section 23. (Loss under the head income from house property for rented house shall not be allowed to be set off under any other head and would be allowed to be carried forward as per extant law);
- Additional deprecation under clause (iia) of sub-section (1) of section 32;
- Deductions under section 32AD, 33AB, 33ABA;
- Various deduction for donation or expenditure on scientific research contained in section 35;
- Deduction under section 35AD or section 35CCC;
- Deduction from family pension under clause (iia) of section 57;
- Any deduction under chapter VIA (like section 80C, 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80EE, 80EEA, 80EEB, 80G, 80GG, 80GGA, 80GGC, 80IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, etc). However, deduction under sub-section (2) of section 80CCD (employer contribution on account of employee in notified pension scheme) and section 80JJAA (for new employment) can be claimed.





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**The undermentioned Allowances u/s 10(14) of the Income Tax Act, will continue to remain allowable even under the New Regime of Personal Taxation.**

- Any Allowance granted to meet the cost of travel on tour or on transfer;
- Daily Allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty.

- Any Allowance granted to meet the cost of travel on tour or on transfer;
- Daily Allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty.

## [2] Co operative Society (Alternate)

**New optional simplified income tax rates for a resident Co-Operative society only under section 115BAD**

| | |
|---|---|
| Tax rate for resident co-operative society under section 115BAD | **22%** |
| Surcharge on a resident co-operative society if section 115BAD is opted | **10%** |
| Health & Education Cess | **4%** |

**Note 1:** No marginal relief is applicable under this option.

**To avail the benefit of lower or concessional rate of tax, the society has to forego the following deductions and exemptions-**

| Section | Particulars |
|---|---|
| **Section 10AA** | Exemption for newly established Units in Special Economic Zones |
| **Section 32(1)(iia)** | Additional Depreciation |
| **Section 32AD** | Deduction for Investment in new plant or machinery in notified backward areas in certain States. |
| **Section 33AB** | Deduction for deposit into Tea development account, coffee development account and rubber development account |
| **Section 33ABA** | Deposit into Site Restoration fund |
| **Section 35(2AA)** | Deduction for expenditure on scientific research |
| **Section 35(1)(ii)** | Deduction for expenditure on scientific research |
| **Section 35(1)(iia)** | Deduction for expenditure on scientific research |
| **Section 35(1)(iii)** | Deduction for expenditure on scientific research |
| **Section 35AD** | Deduction in respect of expenditure on specified business |
| **Section 35CCC** | Deduction for expenditure on agricultural extension project |
| **Deduction under Chapter VI-A Except section 80JJA** | Section 80C, Section 80P, etc. However, deduction under section 80JJA is available. |


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# 1.3 TDS CHARTS AND PROVISIONS FOR NRI

| Section | Nature of Payment | Threshold (Rs.) | TDS Rate (%) | |
|---|---|---|---|---|
| | | | Indv/HUF | Others |
| 192 | Salaries | – | Base on Slab | |
| 192 | A Premature withdrawal from EPF | 50,000 | 10% | – |
| 193 | Interest on Securities | 10,000 | 10% | 10% |
| 194 | Dividends | 5,000 | 10% | 10% |
| 194A | Interest (Banks): For Individual/ those who are 60 years or older, TDS will only be deducted if the interest income exceeds Rs.50,000 in a given financial year. | 40,000 / 50,000 | 10 % | 10% |
| 194A | Interest (Others) | 5,000 | 10% | 10% |
| 194B | Winning from Lotteries | 10,000 | 30% | 30% |
| 194BB | Winning from Horse Race | 10,000 | 30% | 30% |
| 194C | Contractor – Single Transaction | 30,000 | 1% | 2% |
| 194C | Contractor – During the F.Y. (including Transporter with more than 10 carriages) | 1,00,000 | 1% | 2% |
| 194C | Transporter (44AE) declaration with PAN (upto 10 Carriages) | - | - | - |
| 194D | Insurance Commission (15G – 15H allowed) | 15,000 | 5% | 10% |
| 194DA | Life Insurance Policy | 1,00,000 | 5% | 5% |
| 194E | Non-Resident Sportsmen or Sports Association | – | 20% | 20% |
| 194EE | NSS | 2,500 | 10% | 10% |
| 194F | Repurchase Units by Mfs | – | 20% | 20% |
| 194G | Commission – Lottery | 15,000 | 5% | 5% |
| 194H | Commission / Brokerage | 15,000 | 5% | 5% |
| 194I | Rent of Land and Building | 2,40,000 | 10% | 10% |
| 194I | Rent of Plant / Machinery / Equipment | 2,40,000 | 2% | 2% |
| 194IA | Transfer of certain immovable property other than agriculture land | 50,00,000 | 1% | 1% |
| 194IB | Rent by Individual / HUF (wef 01.06.2017) | 50000/PM | 5% | 0% |
| 194IC | Payment of monetary consideration under Joint Development Agreements | - | 10% | 10% |
| 194J | Professional Fees other than Technical Fees | 30,000 | 10% | 10% |
| 194J | Professional fees for technical services | 30,000 | 2% | 2% |
| 194J | Payment to Call Centre Operator (wef 01.06.2017) | 30,000 | 2% | 2% |
| 194K | **Section 194K:** Payment of any income in respect of **a)** Units of a Mutual Fund as per Section 10(23D) **b)** Units from the administrator **c)** Units from specified company | 5,000 | 10% | 10% |
| 194LA | Compensation on transfer of certain immovable property other than agricultural land | 2,50,000 | 10% | 10% |

| Section | Nature of Payment | Threshold (Rs.) | TDS Rate (%) | |
|---|---|---|---|---|
| | | | Indv/HUF | Others |
| 194M | Payment made by individual/HUF to contractor or professional for personal use(Even for unaudited assesse) | 50 Lakhs | 5% | 5% |
| 194N | Withdrawal of cash from Banks, Post office or Co-operative banks | 1 Crore | 2% | 1% |
| 194O | Applicable for E-Commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform. | 5 Lakhs (Only for Individual / HUF) | 1% | 1% |

**Note 1:** Surcharge & HEC is not deductible on payments made to residents, other than salary.

**Note 2:** Note 2: TDS Rate without PAN-20% Flat (if TDS Rate is lower than 20%)

**Note 3:** In case of non-resident, surcharge would be applicable on TDS

## Latest TDS Rate Chart FY 2019-20 (AY 2020-21) for NRIs

TDS on Interest on Non-Resident Ordinary Account (NRO) is of 30%
No TDS on Interest earned on Non-Resident External (NRE) accounts and Foreign Currency Non-Resident (FCNR) accounts.

NRI Investments in Shares / Mutual Funds attract TDS and below are the TDS rate applicable on MF redemptions by NRIs for FY 2019-20.

**Tax Deducted at Source (TDS) Rates for NRI Mutual Fund Investors for 2019-20**

| | STCG | LTCG |
|---|---|---|
| Equity Oriented Mutual Funds | 15% | 10% |
| Other than Equity Oriented Mutual Funds | 30% (Assuming Investor in highest tax bracket) | Listed-20% (With Indexation) and Unlisted-10% (without Indexation) |

**-: Note :-**
STCG and LTCG along with applicable surcharge, and Health and Education Cess will be deducted at the time of redemption of units in case of NRIs

Under Sec.195, when an NRI sells a property, the buyer is liable to deduct TDS @ 20% on Long Term Capital Gains. In case the property has been sold before 2 years (reduced from the date of purchase), a TDS of 30% shall be applicable (on Short Term Capital Gains).

# 1.4 TCS RATE CHART

## TCS Rate Chart for F.Y.2020-21 (A.Y.2021-22)

| Section | Nature of Payment | TCS Rate (%) |
|---|---|---|
| **206C** | Scrap | 1% |
| **206C** | Tendu Leaves | 5% |
| **206C** | Timber obtained under a forest lease or other mode | 2.5% |
| **206C** | Any other forest produce not being a timber or tendu leave | 2.5% |
| **206C** | Alcoholic Liquor for human consumption | 1% |
| **206C** | Parking Lot, Toll Plaza, Mining and Quarrying | 2% |
| **206C** | Minerals, being coal or lignite or iron ore (applicable from July 1, 2012) | 1% |
| **206C** | Sale of motor vehicle of the value exceeding Rs. 10 Lacs (wef 01.06.2016) Motor vehicle clause not applicable on Central Government, a State Government, an embassy, a High Commission, Legation, Commission, Consulate and the Trade Representation of a foreign State; Local Authority; a Public Sector Company which is engaged in the business of carrying passengers (wef 01.04.2017) | 1% |
| **206C** | TCS on foreign remittance through Liberalised Remittance Scheme (LRS) | 5%(10% for non PAN or Aadhaar cases) |
| **206C** | TCS on selling of overseas tour package | 5%(10% for non PAN or Aadhaar cases) |
| **206C** | TCS on sale of any goods [except goods on which TCS applicable as per Section 206C (1), 206C (1F) and 206C (1G)] | 5%(10% for non PAN or Aadhaar cases) |

**Note 1:** TCS Rates without PAN Double of TCS rates as above or 5%, whichever is higher

# 1.5 CAPITAL GAIN AND CII

## 1.4 | COST INFLATION INDEX

| Sl. No. | Financial Year | Cost Inflation Index | Sl. No. | Financial Year | Cost Inflation Index |
|---|---|---|---|---|---|
| 1 | 2001-02 | 100 | 11 | 2011-12 | 184 |
| 2 | 2002-03 | 105 | 12 | 2012-13 | 200 |
| 3 | 2003-04 | 109 | 13 | 2013-14 | 220 |
| 4 | 2004-05 | 113 | 14 | 2014-15 | 240 |
| 5 | 2005-06 | 117 | 15 | 2015-16 | 254 |
| 6 | 2006-07 | 122 | 16 | 2016-17 | 264 |
| 7 | 2007-08 | 129 | 17 | 2017-18 | 272 |
| 8 | 2008-09 | 137 | 18 | 2018-19 | 280 |
| 9 | 2009-10 | 148 | 19 | 2019-20 | 289 |
| 10 | 2010-11 | 167 | | | |

## Summary of Capital Gain Exemption

| Section | Exemption to | Sale of | Purchase of | Time Period of Purchase | Quantum of Deduction | Consequences if new assets sold within 3 years |
|---|---|---|---|---|---|---|
| **54** | Individual or HUF Only | Residential House (Long Term Capital Asset 2 years or more) | New Residential House* | If Purchased One year before or 2 years after sale date **or** If Constructed, Within 3 years | Amt Invested or LTCG which ever is less | STCG on Sale of New Asset (While Calculating Cost, Capital Gain exempt earlier will be reduced from COA |
| **54F** | Individual or HUF Only | Any LTCA except Residential house | New Residential House(Only 1 Residential House now allowed and that too in India due to amendment) | If Purchased One year before or 2 years after sale date **or** If Constructed, Within 3 years | Capital Gains* Amt Invested/net Consideration received. Deduction cant be more than amount of capital gains | STCG On Sale of New Asset + LTCG which was exempt earlier also taxable |

* **Note :** The amount of capital gain doesn't exceed Rs. 2 Crore, the assesse can construct or purchase 2 residential house properties from AY 2020-21. This concession is available only once in life time.

| Section | Exemption to | Sale of | Purchase of | Time Period of Purchase | Quantum of Deduction | Consequences if new assets sold within 3 years |
|---|---|---|---|---|---|---|
| **54B** | Individual or HUF Only | Agricultural Land used for 2 years immediately preceding the date of transfer for agriculture by assessee/ parent. (Both Long Term and Short Term Covered) | Purchase of New agricultural Land (Urban or Rural) | Within 2 years | Amt Invested or LTCG which ever is less | Rural Land No STCG Urban Land STCG on Sale of New Asset (While Calculating Cost, Capital Gain exempt earlier will be reduced from COA |
| **54D** | Any industrial Undertaking( Any factory) Compulsory Acquired | Land, Building used for 2 years prior to its acquisition for business of industrial undertaking | New Land or Building for industrial purpose | Within 3 years from date of receipt of compensation | Amt Invested or LTCG which ever is less | STCG on Sale of New Asset (While Calculating Cost,Capital Gain exempt earlier will be reduced from COA |
| **54G** | Any industrial Undertaking( Any factory) shifting from Urban Area to Non Urban Ares | Building or Plant Machinery land used for 2 years for business of industrial undertaking | New Land or Building,plan t or machine | Within 1 year before OR 3 years after | Amt Invested or LTCG which ever is less.(Amt Invested is Cost of Assets+ Cost of Shifitng) | STCG on Sale of New Asset (While Calculating Cost,Capital Gain exempt earlier will be reduced from COA |
| **54GA** | Any industrial Undertaking( Any factory) shifting from Urban Area to Special Economic Zone(SEZ) | Building or Plant Machinery land used for 2 years for business of industrial undertaking | New Land or Building, plant or machine | Within 1 year before OR 3 years after | Amt Invested or LTCG which ever is less.(Amt Invested is Cost of Assets+ Cost of Shifitng) | STCG on Sale of New Asset (While Calculating Cost,Capital Gain exempt earlier will be reduced from COA |





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| Section | Exemption to | Sale of | Purchase of | Time Period of Purchase | Quantum of Deduction | Consequences if new assets sold within 3 years |
|---|---|---|---|---|---|---|
| **54EC** | Any assessee | Any LTCA | Specified Bonds of NHAI or RECL(These bonds have maturity of 5 years or more) | Within 6 months from date of transfer of capital assets | Lower of 1. Amt Invested 2. 50 lacs 3. Capital Gains (Earlier Max deduction which could be claimed in 1 year So people used to claim 50 lacs before march and 50 lacs after march, now total 50 lacs could be claimed Max) | On sale of securities or loan taken on securities within 3 years, LTCG exempt earlier will be taxable. |

* **Note :** The cost of acquisition is the cost of owner or fair value of the asset as on 1st April 2001 at the option of the assesse . The fair value of asset as on 1sr April 2001 shold not exceed the stamp duty value as on 1st April 2001

| Assets | Duration of the Assets | | Tax Rate | |
|---|---|---|---|---|
| | Short Term | Long Term | STCG | LTCG |
| Immovable Property e.g. House property | Less than 2 year | More than 2 year | Income Tax Slab rate | 20.8% with Indexation |
| Movable Property e.g. Gold/Jewellery | Less than 3 year | More than 3 year | Income Tax Slab rate | 20.8% with Indexation |
| Listed Shares* | Less than 1 year | More than 1 year | 15.75% | Exempt |
| Equity Oriented Mutual Funds | Less than 1 year | More than 1 year | 15.75% | Exempt |
| Debt Oriented Mutual Funds | Less than 3 year | More than 3 year | Income Tax Slab rate | 20.8% with Indexation |

- (Tax rates mentioned above are excluding surcharge @10% on income between Rs 50 lakhs- to Rs1crore & 15% on income above Rs 1 crore)
- * Applicable only for the Shares sold through stock exchange in India on which Security transaction tax (STT) has been paid & Capital Gain Upto Rs. 1 Lakh.

# 1.6 REMUNERATION TO PARTNERS

- Remuneration is allowed only to working partners.
- It is not allowed if tax is paid on presumptive basis under section 44AD or section 44ADA.
- Remuneration should be within the permissible limits as mentioned below. Please note that this limit is for total salary to all partners and not per partner.

*CALCULATION OF BOOK PROFIT

| | | |
|---|---|---|
| ***Profit as per Profit & Loss a/c –*** | | **XXX** |
| **Add :** Remuneration to partners if debited to Profit and loss a/c | **XXX** | |
| **Add :** Brought forward business loss, deduction under section 80C to 80U if debited to P&L a/c | **XXX** | |
| **Less :** Income under house property, capital gain, other sources if credited to profit and loss a/c | **XXX** | |
| ***Book Profits*** | | **XXX** |

| Book Profit* | Amount deductible as remuneration under section 40(b) |
|---|---|
| If book profit is negative | Rs. 1,50,000 |
| If book profit is positive- On first Rs. 3 lakh of book profit | Rs. 1,50,000 or 90% of book profit whichever is more |
| On the balance of book profit | 60% of book profit |

# 1.7 PRESUMPTIVE TAXATION

***Presumptive Computation Of Profit Of Business Of Resident Individual, Huf & Partnership Firms (only) :-***

**[1] FOR SMALL BUSINESSES (Section 44 AD)**

- [Not applicable on LLPs, profession referred u/s 44AA(1), commission/ brokerage income & agency business / Plying, Hiring, or Leasing goods carriage ]
- Turnover upto Rs. 2 Crore

- ***Deemed Profit –***

| Sr. No. | Rate of Tax | Conditions |
|---|---|---|
| 1 | 6% of Gross Receipts | Received by an account payee cheque or account payee bank draft or use of ECS through a banking channel during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year; |
| 2 | 8% of Gross Receipts | other than those covered in above |

**[2] FOR SMALL BUSINESSES (Section 44 ADA)**

[Applicable for Professionals engaged in Profession referred to u/s 44AA (1)]

| Sr. No. | Rate of Tax | Conditions |
|---|---|---|
| 1 | 50% of Gross Receipt | Gross Receipt should be upto Rs. 50 Lakhs |


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### Issues related to Presumptive Profit that need Attention

- An Eligible Assessee is allowed to declare profits in excess of the Deemed Profit;
- If an Eligible Person wants to declare profit, lower than the Deemed Profit prescribed u/s 44AD or 44ADA, then he is required to get his accounts audited in accordance with Income Tax Act, 1961.
- An eligible assessee needs to declare profit u/s 44AD/44ADA for 5 consecutive years , otherwise needs to get accounts audited u/s 44AB irrespective of turnover.
- For Partnership Firms declaring their presumptive profit u/s 44AD or 44ADA, the Partners Remuneration and Interest are not allowed to be deducted from the 'Deemed Profit' derived under the aforesaid sections. They are presumed to be part of the expenses.

### BENEFITS OF PRESUMPTIVE COMPUTATION OF PROFITS

- Exemption from the compliance burden of maintaining books of accounts.
- Exempted from advance tax and allowed to pay their entire tax liability before the due date of filling the return or actual date of filing their return whichever is earlier.

## 1.8 Who is mandatorily subject to tax audit?

**Following categories of taxpayers are required to get tax audit done:**

| Category of person | Threshold |
|---|---|
| Carrying on business (not opting for presumptive taxation scheme*) | Total sales, turnover or gross receipts exceed Rs 5 crore* |
| Carrying on business (opting presumptive taxation scheme under section 44AD) | Declares taxable income below the limits prescribed under the presumptive tax scheme and has income exceeding the basic threshold limit |
| Carrying on profession | Gross receipts exceed Rs 50 lakhs |
| Carrying on the profession eligible for presumptive taxation under Section 44ADA | Claims profits or gains lower than the prescribed limit under presumptive taxation scheme and income exceeds maximum amount not chargeable to tax |
| Carrying on the business and is not eligible to claim presumptive taxation under Section 44AD due to opting for presumptive taxation in one tax year and not opting for presumptive tax for any of the the subsequent 5 consecutive years | If income exceeds maximum amount not chargeable to tax in the subsequent 5 consecutive tax years from the tax year where presumptive taxation is not opted for |

| SR NO | TYPE OF TRANSACTION | DUE DATE | NON-COMPLIANCE |
|---|---|---|---|
| 1 | In case taxpayer has entered into an international transaction | 30th NOVEMBER of the subsequent year | If any taxpayer who is required to get tax audit done but fails to do so, lower of 0.5% of total sales, turnover or gross receipts or Rs 1,50,000 may be levied as penalty. However, if reasonable cause is established for non-compliance, no penalty would be imposed |
| 2 | Other than (1) above | 30th SEPTEMBER of the subsequent year | |

**Note : 1** In case of assesse following the presumptive taxation scheme the limit is uptoRs. 2 Crore.

**Note : 2** For the limit of 5 Crore in cases where : aggregate off all the receipts and payments in cash during the previous year do not exceed five percent of such receipts and payments .

**Note : 3** Due date for return filing for Audited Tax Payer :31st October and due date of tax audit one month prior of filing due date i.e 30th September.

# AUDIT PROVISION CHART

## TAX AUDIT APPLICABILITY FOR A.Y.20-21 ONWARDS
## BUSINESS ASSESSEE -INDVIDUAL/HUF/FIRM

| TURNOVER | CONDITIONS OF NET PROFIT % | CONDITONS OF CASH PAYMENT AND CASH RECEIPTS | AUDIT REQUIREMENT |
|---|---|---|---|
| UPTO 1 CRORE | > 8% OR 6% | N.A | NO |
| UPTO 1 CRORE | < 8% OR 6% | N.A | YES |

**NOTE :** If profits are not in accordance with 44AD(1) for the said AY then for next 5 AY audit is COMPULSORY u/s 44AD(e) .

| | | | |
|---|---|---|---|
| 2-5 CRORE | N.A. | IF CASH PAYMENTS & CASH RECEIPTS IS **MORE THAN 5%** | YES |
| 2-5 CRORE | N.A. | IF CASH PAYMENTS & CASH RECEIPTS IS **LESS THAN 5%** | NO |
| MORE THAN 5 CRORE | N.A. | N.A | YES |





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# 1.9 DEDUCTION

| Section | Particulars | Max. Deduction |
|---|---|---|
| **16** | Standard deduction in Salary | 50,000 |
| **24** | Home loan interest | 2,00,000 |
| **80C** | LIC / PPF / KVP / EPF / SSY / NSC / HOME LOAN PRINCIPAL / SCHOOL FEES/ ELSS/STAMP DUTY | 1,50,000 |
| **80CCD(1B)** | NPS | 50,000 |
| **80DD** | Exp of disabled dependent | 75,000 / 1,25,000 |
| **80U** | own Physical Disability | 75,000,/1,25,000 |
| **80TTA** | Interest on Savings Account. Only available to Persons other than Senior citizen / Very senior citizen | 10,000 |
| **80TTB** | Interest on Savings Account. and Interest on deposits with Post Offices, Banks, Co-operative bank. Only available to senior citizen & Very senior Citizen available to Persons other than Senior citizen / Very senior citizen | 50,000 |
| **80G** | Donation ( Only if paid by cheque/ Bank Mode ) available to any tax payer. | 100% or 50% of Donation or 10% adjusted Gross Total Income W.E.IS Lower |
| **80GG** | deduction for the rent paid (Available to all Individuals except to those who gets HRA from Employment). Eligibility will be least amount of the following :-<br>1) Rent paid minus 10 percent the adjusted total income.<br>2) Rs 5,000 per month<br>3) 25 percent of the adjusted total income | |
| **80D** | Mediclaim For self, spouse and dependent children ( Only if paid by cheque/ Bank Mode )<br>Up to Rs. 25,000 [ Rs. 50,000 if specified person is a senior citizen or very senior citizen | 25,000/50,000 |
| **80D** | Mediclaim For Parents<br>( Only if paid by cheque/ Bank Mode )<br>Upto Rs. 25,000 shall be allowed [Rs. 50,000 if parent is a Senior citizen / Very Senior Citizen | 25,000/50,000 |
| **80E** | Interest on loan taken for Higher Education | Entire Interest Paid. For Max 8 Years |
| **80GGB/ 80GGC** | Contribution given to political parties (other than cash) | Indian Companies any person other than Local Authority & Artificial Judicial Firm |
| **80EEA** | Interest on loan taken for a property purchased between 01/04/19 to 31/03/21 having stamp duty value upto Rs.45 Lakhs and assessee does not own any other house | **RS. 1,50,000** |
| **80EEB** | Interest on loan taken for purchase of Electronic Vehicle Purchased between 01/04/2019 to 31/03/2023 | **RS. 1,50,000** |


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# 1.10 CARRY FORWARD AND SET OFF LOSSES

| Sr. No. | Type of loss to be carried forward to next year(s) | Profits Against which loss can be set off in the same year | Profit Against which carried forward loss can be set off in next year(s) | For how many years loss can be carried forward | Is it necessary to submit return of loss in time |
|---|---|---|---|---|---|
| 1. | House property loss | Any income*# | Income under the head"Income from house property" | 8 Years | No |
| 2. | Speculations loss | Speculation Profits | Speculation profits | 4 Years | Yes |
| 3. | Non- Speculations business loss | | | | |
| (a) | Unabsorbed depreciation, capital expenditure on scientific research and family planning | Any income* | Any income, Not being salary income* | No time limit | No |
| (b) | Loss from a specified business under section 35AD | Income from a specified business under section 35AD | Income from a specified business under section 35AD | No time limit | Yes |
| (c) | Other remaining business loss | Any income, Not being salary income* | Any business profit (whether from speculation or otherwise) | 8 Years | Yes |
| 4. | Capital loss | | | | |
| (a) | Short-term capital loss | Short or long term capital gain | Any income under the head of "Capital gains" | 8 Years | Yes |
| (b) | Long-term capital loss | Long term capital gain | Long term capital gains | 8 Years | Yes |
| 5. | Loss from the activity of owing and maintaining race horses | Income from the activity of owing and maintaining race horses | Income from the activity of owing and maintaining race horses | 4 Years | Yes |

*Loss cannot be set off against winnings from lotteries, crossword puzzles, races including horse races, card games or any other games or from gambling or betting of any form.

# From A.Y. 2018-19 , it provides that set off of loss under the head " Income from House Property " against any other head of income shall be restricted to Rs. 2 lakh for any assessment year

Loss from a source can be set off only if its profit is taxable. If profits from a source are exempt then its loss cannot be set off.





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# 1.11 What is Gift tax in India?

***Is gift money taxable in India?***

- The following 5 categories of gift will attract tax in India as per the current tax laws.

### [1] Any amount of money (in cash, cheque or draft)

If the total amount of money received by an individual from one or more persons during a previous year exceeds Rs. 50,000/-, the whole of such amount will be chargeable to tax. If you receive Rs. 40,000 as gift from anybody, there is no tax liability, but if you receive another Rs. 20,000 in the same year, you have to pay tax on the entire Rs. 60,000, because you have exceeded the limit of Rs. 50,000.

### Gift Tax Rate in India

Now this Rs. 60000 will be added to your total income and taxed according to your tax slab. Suppose you are in 20% of tax slab and by adding Rs. 60000 you come in 30% tax slab, you would be taxed accordingly.

### [2] Gift Tax on Immovable property in India without consideration

If any immovable property (without any consideration) is received, the stamp duty value of which exceeds Rs. 50,000/-, then the stamp duty value will be chargeable to tax in each such transaction.

### [3] Immovable property for a consideration which is less than the stamp value

If any immovable property is received for a consideration which is less than the stamp value (stamp duty value exceeds 105% of consideration) of the property by an amount exceeding Rs. 50,000/-, then the difference between stamp duty value and consideration is chargeable to tax in every such transaction.

### [4] Gift Tax on Movable property in India without consideration

If aggregate fair market value of movable properties such as shares and securities, jewellery, archaeological collections, drawings, paintings or any work of art received without consideration during a previous year exceeds Rs. 50,000/-, the whole of aggregate fair market value of movable properties will be chargeable to tax.

### [5] Movable property for a consideration which is less than the fair market value

If movable property such as shares and securities, jewellery, archaeological collections, drawings, paintings or any work of art is received for a consideration which is less than the aggregate fair market value of the property by an amount exceeding Rs. 50,000/-, then the difference between aggregate fair market value and consideration is chargeable to gift tax.

## How much money can be given to a family member as a gift ?

***Gift tax India – Blood Relative and Family Exemptions***

### [1] Any amount / property received from a relative

Yes, you can receive any amount as gift from your relative without any tax liability. Income tax on gift received from parents is tax exempt. Can husband give gift to his wife? The following are the relatives considered for this exemption:

(a) Spouse of the individual
(b) Brother or sister of the individual
(c) Brother or sister of the spouse of the individual
(d) Brother or sister of either of the parents of the individual
(e) Any lineal ascendant or descendant of the individual
(f) Any lineal ascendant or descendant of the spouse of the individual
(g) Spouse of the person referred to in clauses (b) to (f)

## [2] Any amount / property received from a relative

The gifts received by bride and the groom from relatives, friends or anybody on the occasion of their marriage are free from any tax liability. The gift is exempt on the occasion of marriage and not on the day of marriage, hence gift received on tilak, tika and similar religious function prior to marriage day will also be exempt from tax.

## [3] Money/property received by way of a Will or inheritance

Any amount or property received by way of a Will or inheritance will be free from any gift tax in India.

## How to document the gift transactions for scrutiny by tax authorities?

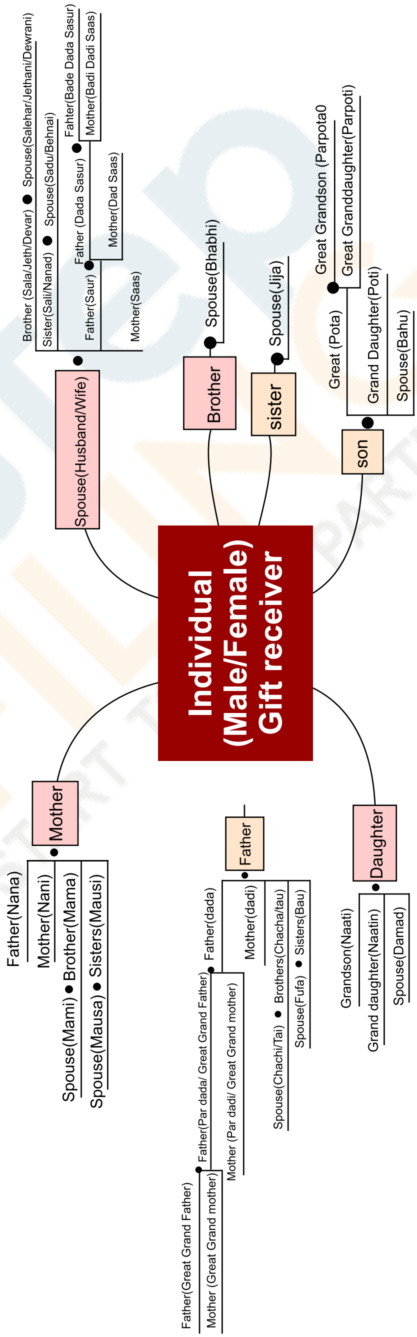
It is recommended that you keep documents for all the gifts received, so that in case of any scrutiny by tax officials, you can present the details. Gifts by way of movable property is required to be made in stamp paper and stamped. Registration of gift deed is not required in this case. But for making a gift of immovable property, the transfer must be effected by a registered gift deed. Gift of immovable property which is not registered is not valid as per law and cannot pass any title to the receiver.

## Gift tax in India – Conclusion

- The Gift Tax was introduced in India in 1958, but gift tax in India is now coming under the Income Tax Act.
- So, if you are receiving more than Rs. 50,000 in a year from anybody other than your relatives, please remember there is a tax on that gift.

## Do you have to pay tax on money given as gift on Cash ?

Cash Gifts above Rs 2 Lakh is subject to Penalty from 1st April, 2017, even if the gifts are from family members.



# 1.12 TRANSFER PRICING

Transfer pricing can be defined as the value which is attached to the goods or services transferred between related parties. In other words, transfer pricing is the price which is paid for goods or services transferred from one unit of an organization to its other units situated in different countries (with exceptions).

## Transactions subject to Transfer pricing

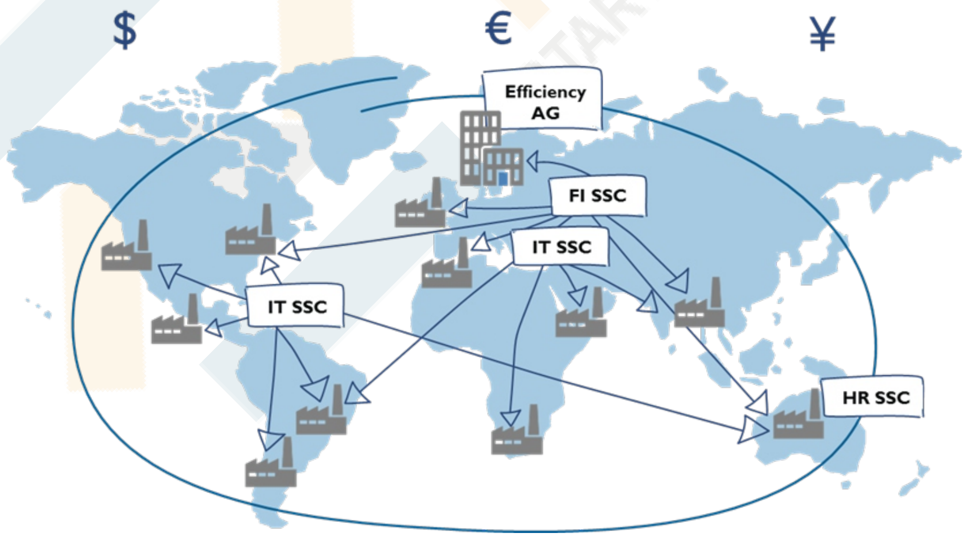
The following are some of the typical international transactions which are governed by the transfer pricing rules:

- Sale of finished goods
- Purchase of raw material
- Purchase of fixed assets
- Sale or purchase of machinery etc.
- Sale or purchase of Intangibles.
- Reimbursement of expenses paid/received
- IT Enabled services
- Support services
- Software Development services
- Technical Service fees
- Management fees
- Royalty fee
- Corporate Guarantee fees
- Loan received or paid

## Purposes of Transfer Pricing

***The key objectives behind having transfer pricing are:***

- Generating separate profit for each of the divisions and enabling performance evaluation of each division separately.
- Transfer prices would affect not just the reported profits of every center, but would also affect the allocation of a company's resources (Cost incurred by one centre will be considered as the resources utilized by them).





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# 1.13 INTEREST AND PENALTY

## Interest Rates under Income Tax:

| Description | Sec. | Period | Rate (per month or part of it) |
|---|---|---|---|
| **(A) Income Tax Return** | | | |
| Delay in submission | **234A** | From Due Date to Date of submission of return | 1% |
| Non-submission | **234A** | From Due Date to Date of completion of assessment u/s. 144/147 | 1% |
| **(B) Advance Tax** | | | |
| Failure to pay 90% of assessment. tax | **234B** | From 1st April of A.Y. to completion of assessment | 1% |
| Deferring Advance tax | **234C** | From Due Date to Due date of next instalment | 1% |
| **(C) TDS** | | | |
| Failure to deduct | **201(1A)** | From required date for deduction to actual date of deduction | 1% |
| Failure to deposit in time | **201(1A)** | From actual date of deduction to actual date of deposit | 1.5% |
| **(D) TCS** | | | |
| Failure to collect tax | **206C(7)** | From required date for collection to the actual date of collection | 1% |
| **(F) Late filing Fees** | | | |
| Delay in Furnishing of Return | **234F** | 1) Return file After due date but before 31st Dec.<br>2) Other cases<br>**Note : In case Total Income does not exceed Rs. 5 Lakhs. amount of late fees not exceeding Rs. 1,000/-** | Rs. 5000/-<br>Rs. 10,000/- |

## Appeal Fees:

| Particulars | CIT(A) u/s 249 | ITAT u/s 253 |
|---|---|---|
| **(A) Income assessed by AO :** | | |
| Upto Rs. 1 Lacs | **Rs. 250** | **Rs. 500** |
| Rs. 1 Lacs - 2 Lacs | **Rs. 500** | **Rs. 1500** |
| More than Rs. 2 Lacs | **Rs. 1000** | 1% of assessed income or Rs. 10,000 whichever is less |
| **(B) Any matter other than mentioned in (A)** | **Rs. 250** | **Rs. 500** |

**(C) Revision Petition to CIT u/s 264 fee Rs. 500**

| NATURE OF DEFAULT | MINIMUM PENALTY | MAX. PENALTY |
|---|---|---|
| Failure to pay whole or any part of income tax or interest or both. | Such amount as the assessing officer may impose. | Tax in arrears. |
| Penalty for under reporting and misreporting of income. | 50% of tax payable on under reported income and 200% in case of misreporting of income. | |
| Noncompliance with notice u/s. 142(1), 143(2), 115WD (2), 115WE (2) or non-compliance with directions issued u/s. 142(2A) as required by assessing officer. | Rs 10000* of each failure | Rs 10000** for each faliure |
| Case of partnership firm, if profits are not distributed as per partnership deed and thereby any partner returned his income below the real income. | Upto 150% of the difference between tax on partner's income assessed and tax as income returned. | 150% of such difference. |
| Failure to keep or maintain books of account documents etc. as required under section 44AA. | Rs 25000# | Rs 25000## |
| Failure to get accounts audited under section 44AB or furnish said report as required under section 44AB | 0.5% of total sales turnover or gross receipts | Rs 100000(Rs 150000 with effect from 01/04/2011) |
| Penalty for failure to collect TCS | Amt. of tax which a person has failed to collect. | |
| Taking or accepting any loan or deposit or specified sum (See note 1)in contravention of provision of section 269SS | Amount of loan/deposit so taken or accepted. | |
| Receiving an amount or Rs 2 lakh or more otherwise than by an account payee cheque/draft/use of electronic clearing system through a bank account in contravention of provision of section 269ST. | 100% of the amount of such receipt. | |
| Repaying any loan or deposit or (w.e.f 01/06/2015) specified advance (See note 1) referred to in section 269Totherwise than in accordance with the provision of section 269T. | Amount of deposit so repaid | |
| Failure to furnish annual information return(or statement of financial transaction or reportable account) under section285BA(1) | Rs 100(Rs 500 with effect from 01/04/2018) for each day default. | |
| Failure to furnish annual information return within period specified in notice under section 285BA(5)(Applicable from 01/04/2014) | Rs 500(Rs 1000 with effect from 01/04/2018) for each day of default commencing from the day immediately following the day on which the time specified in notice for furnishing the return expires. | |
| Failure to submit ( or furnishing incorrect statements in) quarterly TDS/TCS returns (applicable from 01/07/2012) | Rs 10,000 | Rs 1,00,000 |

NOTE 1-Specified advance or sum means any sum of money in the nature of an advance, by whatever name called, in relation to transfer of immovable property wheather or not the transfer takes place.

- * Rs 1000 Upto May 31 2001
- **Rs 25000 Upto May 31 2001
- #Rs 2000 Upto May 31 2001
- ## Rs 100000 Upto May 31 2001

# 1.14 RESTRICTION ON CASH TRANSACTION

| NATURE OF EXPENDITURE | I.T. SECTION | CEILING LIMIT | IN CASE OF VIOLATION |
|---|---|---|---|
| CAPITAL – Payment for Fixed Assets Purchase | **43** | 10000/- per day per asset | The expenditure shall not be included in the cost of asset. No Depreciation benefit. |
| Payment of Expenses on Specified Business | **35AD** | 10000/- per day per asset | No deduction shall be allowed in respect of such expenditure. |
| Payment of Business Expenses | **40A(3)** | 10000/- per day to a person | No deduction shall be allowed in respect of such expenditure. |
| Payment made for plying, hiring or leasing goods carriages | **Second Proviso to 40A (3A)** | 35000/- per day to a person | No deduction shall be allowed in respect of such expenditure. |
| ***Any Payment received:-*** (a) in aggregate from a person in a day; (b) in respect of a single transaction; or (c) in respect of transactions relating to one event or occasion from a person, | **269ST** | 2,00,000/- | Penalty u/s 271DA equal to the amount of such payment received by a person. |

# 1.15 DIVIDEND DISTRIBUTION TAX

- Removal of dividend distribution tax from companies and will be taxed to assesses receiving dividend based on their respective income tax bracket.
- No deduction other than interest expense shall be allowed from such dividend income and such deduction shall not exceed 20% of dividend income.
- TDS @5% (residents) and 10% (non-residents) will arise in the hands of companies paying dividends to its shareholders in excess of INR 5,000/-.
- To remove cascading effect, it has been proposed to introduce a new section 80M under the Income-tax Act, 1961 ('the Act') whereby a domestic company shall be eligible to deduct from the amount of dividend paid by it such dividend income received from any other domestic company. However, it is imperative to note that dividend received from foreign companies will still be taxed and no deduction shall be allowed.

# 1.16 RESIDENTIAL STATUS

| BEFORE ENFORCEMENT OF FINANCE ACT, 2020 | AFTER ENFORCEMENT OF FINANCE ACT, 2020 |
|---|---|
| **Individual is said to be resident of India if he**<br>▸ stays in India for 182 days or more in the relevant year or;<br>▸ stays in India for 60 days or more in the relevant year and 365 days or more in 4 years preceding to relevant year. | **NO CHANGE** |
| In case of Indian Citizen leaving India for employment or as a member of crew, 60 days specified in basic criteria shall be replaced with 182 days. | **NO CHANGE** |
| In case of Indian Citizen or Person of Indian Origin who being outside India, visits India, 60 days specified in basic criteria shall be replaced with 182 days. | ▸ In case of Indian Citizen or Person of Indian Origin who being outside India, visits India, 60 days specified in basic criteria shall be replaced with 182 days.<br>▸ In case of Indian Citizen or Person of Indian Origin having Indian Income up to Rs. 15 Lakhs in a year – No Change i.e. relaxation upto 182 days continues.<br>▸ In case of Indian Citizen or Person of Indian Origin having Indian Income Exceeding Rs. 15 Lakhs, 60 days shall be replaced with 120 days. i.e. relaxation reduced to 120 days from 182 days. (Note 1) |
| **Did Not Exist** | ▸ Individual being Indian Citizen,<br>▸ having Indian Income exceeding Rs. 15 Lakhs &<br>▸ not liable to tax in any other country for the reason of Domicile/ Residence etc,<br>▸ shall be deemed to be resident of India. |
| **An Individual resident in India shall be said to be "Not – Ordinarily Resident if –**<br>▸ shall be deemed to be resident of India.<br>▸ was non – resident for 9 out of 10 preceding years to the relevant year<br>▸ stayed in India for less than 730 days during 7 preceding years to the relevant year | **No Change** |

| BEFORE ENFORCEMENT OF FINANCE ACT, 2020 | AFTER ENFORCEMENT OF FINANCE ACT, 2020 |
|---|---|
| **Did Not Exist** | Clause (c) – Person of Indian Origin or Citizen of India who are classified as a resident due to reduction in limit of relaxation to 120 days from 182 days in clause (b) of explanation (1), shall be treated as "Not – Ordinarily Resident" (Note - 3) |
| **Did Not Exist** | Clause (d) – Indian Citizen who is classified as resident Indian under Section 6(1A) shall be treated as "Not – Ordinarily Resident". (Note – 3) |

# IMPLICATIONS

**Note 1 :** If Indian Citizen of Person of Indian Origin visiting India and having Indian Income exceeding Rs. 15 Lakhs, becomes Indian resident if stays in India for 120 days in a relevant year or more but less than 182 days and for 365 days in preceding four years to the relevant year.

**Note 2 :** Indian Citizen having Indian Income exceeding Rs. 15 Lakhs and not liable to pay tax in other countries by the reason of his residence/ domicile etc, shall be deemed to be resident Indian. Kindly note that this does not apply to Person of Indian Origin.

**Note 3:** cases referred to in Note 1 & Note 2 are treated "Not – Ordinarily Resident". Hence, in addition to their Indian Incomes, foreign income derived from business controlled from or profession set up in India, shall be submitted to tax in India. Their other foreign Incomes remain out of purview of Indian Income Tax. They also are not required to disclose the foreign assets in ITR form.

**Note 4 :** Above discussed amendments have potential to change the resdinetial status of certain Individuals from "Non – Resident" to "Not Ordinarily Resident". "Not – Ordinarily Resident" is a sub – category of "resident". Consequently, payment to such Individuals shall mean payment to a resident. Hence, provisions of Section 195 will not be attracted in such cases.

**Note 5 :** Individuals who are tax residents of other countries and are also becoming resident of India by virtue of above amendments, will always have option to resort to DTAA. Provided India has DTAA with such other country.

# 1.17 TRUST REGISTRATION

Till now the registration of trust under section 12 AA and approval to take donation u/s 80G was available in perpetuity.

But from the financial year 2020-21 the summary of new provisions related to registration of charitable and religious trusts is ***as follows :***

| Sr. No | Type of Entity | Timeline to make Application for Registration | Applicability of exemption u/s 11. & 12 | Validity of Registration | Time limit to grant Registration |
|---|---|---|---|---|---|
| 1 | Trust registered under Section 12A or 12AA before relevant provisions of Finance Bill, 2020 comes into force | Within 3 months from the date on which this clause has come into force i.e. by 31.08.2020 | From the assessment year from which such trust or institution was earlier granted registration | Registration shall be granted for a period of 5 years. | Within 3 months from the end of the month in which the application is received. |
| 2 | Trust registered under the proposed section 12AB and the period of the said registration is due to expire. | At least 6 months prior to expiry of the said registration period | From the assessment year immediately following the financial year in which such application is made. | Registration shall be granted for a period of 5 years after satisfying about the conditions of the section. | Within 6 months from the end of the month in which the application is received. |
| 3 | Trust provisionally registered under section I2AB | Atleast 6 months prior to expiry of period of the provisional registration or within 6 months of commencement of its activities, which-ever is earlier | From the first of the assessment years for which it was provisionally registered | Registration shall be granted for a period of 5 years after satisfying about the conditions of the section. | Within 6 months from the end of the month in which the application is received. |
| 4 | In any other case | At least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought. | From the assessment year immediately following the financial year in which such application is made. | Provisional registration shall be granted for a period of 3 years from the assessment year from which the registration is sought. | Within 1 month from the end of the month in which the application is received. |

# 2.1 INPUT TAX CREDIT (ITC)

| Sr.No | Conditions |
|---|---|
| 1 | Must possess a Tax Invoice / Debit or Credit Note / Supplementary Invoice issued by the supplier |
| 2 | Must have received the goods / services |
| 3 | Must have filed returns (GSTR 3) |

| Sr.No | Conditions |
|---|---|
| 4 | Must ensure that the tax charged has been paid to the government by the supplier. |
| 5 | Must have completed invoice matching and would have arrived at the final ITC post reversals |

**NOTE-1 :** A taxpayer filing GSTR-3B can claim provisional Input Tax Credit (ITC) only to the extent of 10% of the eligible credit available in GSTR-2A. The amount of eligible credit is arrived upon those invoices or debit notes, the details of which have been uploaded by the suppliers in the GSTR-2A only. The new percentage applies from 1 Jan 2020 onwards only. The ITC claim was earlier restricted to 20% for the period from 9 Oct 2019 till 31 Dec 2019.

**NOTE-2 :** Refer COVID-19 Relaxation Rules for details

## Ineligible ITC/Reversal of ITC 2.4A Ineligible ITC u/s17 (5)

| SR. NO | CONDITIONS |
|---|---|
| 1 | Motor vehicles and conveyances other than used for :<br>A. For making taxable supply of:<br>(a) Further supply of such motor vehicles and conveyances (Reselling)<br>(b) Transport of passengers<br>(c) Used for imparting training on driving, flying, navigating such vehicle or conveyances<br>B. For transportation of goods |
| 2 | Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except used for providing same category of output services. |
| 3 | Membership in a club, health, fitness center. |
| 4 | Rent-a-cab, health insurance and life insurance except where it is obligatory for employers to provide the same to employees or used for providing same category of output services. |
| 5 | Travel benefits extended to employees on vacation such as leave or home travel concession. |
| 6 | Construction of an immovable property except plant & machinery on own account. |

| SR. NO | CONDITIONS |
|---|---|
| 8 | Goods or services or both on which Tax has been paid under composition scheme. (to the extent capitalized) |
| 9 | Goods or services or both used for personal purpose. |
| 10 | Goods or services or both received by anon-resident taxable person except for any of the goods imported by him. |
| 11 | Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. |
| 12 | ITC will not be available in the case of any tax paid due to non-payment or short tax payment, excessive fund or ITC utilized or availed by the reason of fraud or will ful mis- statements or suppression of facts or confiscation and seizure of goods. |

### Reversal of ITC:

| Transactions |
|---|
| For **inputs & input services** when used for non-business purpose or effecting Exempt, Nil rated or non GSTsupplies. |
| For **capital goods** when used for non-business purpose or effecting Exempt, Nil rated or non GSTsupplies. |

# 2.2 WHAT IS E- INVOICING

'E-invoicing' or 'electronic invoicing' is a system in which B2B invoices are authenticated electronically by GSTN for further use on the common GST portal.

Under the proposed electronic invoicing system, an identification number will be issued against every invoice by the Invoice Registration Portal (IRP) to be managed by the GST Network(GSTN).

All invoice information will be transferred from this portal to both the GST portal and e-way bill portal in real-time.

Therefore, it will eliminate the need for manual data entry while filing ANX-1/GST returns as well as generation of part-A of the e-way bills, as the information is passed directly by the IRP to GST portal.

## Benefits from E-Invoice

- Realtime tracking of Invoices
- Substantial reduction in input credit verification issues
- One time reporting on B2B invoice data, to reduce reporting in multiple formats (one for GSTR 1 or ANX 1 and the other for e-way bill)
- E-Way bill can also be generated using e-Invoice data

## E-Invoice Portal [Invoice Registration Portal – (IRP)]

*E-Invoice Portal [Invoice Registration Portal – (IRP)] is going to perform the following-*

- Generate a unique Invoice Reference Number (IRN)
- Digitally sign the e-invoice
- Generate a QR code
- Send the signed e-invoice to the recipient of the document on the email provided in the e-invoice

## E-Invoicing Under GST Time Period with Business Turnover Conditions

Turnover 500 Crore or More – Voluntary and Trial Basis start from 1st January 2020

Turnover 100 Crore or More – Voluntary and Trial Basis start from 1st February 2020

*Following would be Common GST Electronic Portal to be used for the purpose of preparation of the E-invoice*

| | |
|---|---|
| www.einvoice1.gst.gov.in | www.einvoice6.gst.gov.in |
| www.einvoice2.gst.gov.in | www.einvoice7.gst.gov.in |
| www.einvoice3.gst.gov.in | www.einvoice8.gst.gov.in |
| www.einvoice4.gst.gov.in | www.einvoice9.gst.gov.in |
| www.einvoice5.gst.gov.in | www.einvoice10.gst.gov.in |

## Misconception About E-Invoice Under GST

- Biggest misconception is that, E-Invoice means, preparing Tax invoice on GST Portal. Many people think that e-invoice will be generated from governments tax portal. However, this is incorrect. Invoices will continue to be generated using an Accounting or billing software. Under E-Invoice, Invoice is prepared on ERP software and then JSON file from software will be created and that is required to be uploaded on portal.
- Another misconception about E-invoice is that, it is applicable to all GST Registered person. However, it will be applicable
  - To Registered person whose aggregate turnover in a financial year exceeds Rs 100 Crore and
  - In respect of supply of Goods/Services to Registered Person (B2B)

## Other Important points of E-Invoices under GST

- **Signature on E-invoice – E** : invoice generated is not required to be signed again.
- The e-invoice will be digitally signed by the IRP after it has been validated. Once it is registered on IRP/GST System, it will not be required to be signed by anyone else.
- **E-invoice Currency**: Default currency of E-Invoice will be INR. Seller can display the currency in E-invoice.
- **Line item of E-Invoices** : The maximum number of line items per e-invoice is 100.
- **Printing** : E-invoice can be printed. It is valid only if it has IRN.
- **Cancellation of E-Invoice** : The e-invoice mechanism enables invoices to be cancelled. This will have to be reported within 24 hours. Any cancellation after 24hrs could not be possible, however one can manually cancel the same on GST portal before filing the returns.
- **E Way Bill** : E-Invoice will not replace E-way bill. For transportation of goods, the e-way bill will continue to be mandatory

# 2.3 PENAL PROVISIONS

| NO | | Type of Default | Default Charges | |
|---|---|---|---|---|
| [A] | | **Late Fees on Delayed Filing of Returns*** | | |
| | | **Type of Return** | **CGST** | **SGST** |
| | 1 | Nil Return | Rs. 10/- | Rs. 10/- |
| | 2 | Others | Rs. 25/- | Rs. 25/- |
| [B] | | **Interest on Delayed Payment of Tax** | | |
| | 1 | Tax paid after due dates | 18% P. A. | |
| | 2 | Excess ITC Claimed or Undisclosed Output Tax | 24% P. A. | |
| [C] | | **Penalty for certain cases** | | |
| | 1 | Supply of Goods or Services or both without issue of invoice or false invoice | Rs. 10,000 **or** an amount equivalent to the tax evaded. | |
| | 2 | Amount collected but not paid within 3 months of due date of its payment to government. | | |
| | 3 | Failure to collect tax or less collection of tax | | |
| | 4 | Takes or utilizes ITC without actual receipt of goods or services or both either fully or partially. | | |
| | 5 | Obtains Refund of tax fraudulently | | |
| | 6 | Liable to register under this Act but fails to obtain registration or gives false information while applying for registration | | |
| | 7 | Transports taxable goods without documentation | | |
| | 8 | Fails to furnish any information or documents called by the Officer or gives false information | | |
| | 9 | Issues invoices or documents by using GSTIN of other registered person | | |
| | 10 | Issues an invoice without supply of goods and/or services | | |
| | 11 | Fails to maintain proper books of account | | |



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# 2.4 WHAT IS GSTR-9 & 9C


- GSTR 9 form is an annual return to be filed once in a year by the registered taxpayers under GST.
- It consists of details regarding the supplies made and received during the year under different tax heads
- i.e. CGST, SGST and IGST. It consolidates the information furnished in the monthly or quarterly returns during the year.
- Auditor need to reconcile the GSTR -9 with E-WAY bills and TDS as shown the return.

***All the registered taxable persons under GST must file GSTR 9 form. However, the following***

| Sr.no. | Persons are not required to file GSTR 9 |
|---|---|
| 1. | Casual Taxable Person |
| 2. | Input service distributors |
| 3. | Non-resident taxable persons |
| 4. | Persons paying TDS under section 51 of GST Act. |
| 5. | It is optional for assessee having turnover of Rs. 2 Crore or below |

**Forms covered under GSTR-9**

| Forms | Description |
|---|---|
| GSTR -9 | Taxable assessee who are filing GSTR-1, GSTR-2 and GSTR-3 |
| GSTR -9 A | By composition registered dealers |
| GSTR -9 A | E-commerce operators who have filed GSTR-8 during the financial year |
| GSTR -9 A | Taxpayers whose annual turnover exceeds INR 2 crores during the financial year. |

## Forms covered under Annual Returns

- GSTR-9 due date is on or before 31st December of the subsequent financial year.
- For FY 2018-19, the due date for filing GSTR 9 is 30th June 2020
- For FY 2018-19, the due date for filing GSTR 9C having turnover of Rs 5 Crore and above is 30th June 2020

## Penalty for Non filing of GSTR 9

- Late fees for GSTR 9 after the due date is Rs 100 under CGST & 100 under SGST, the total penalty is Rs 200 per day of default up to a maximum of an amount calculated at a 0.25% of the taxpayer turnover in the state or union territory. There is no late fee on IGST.
- Interest will be paid @ of 18% per annum. It will be calculated by the taxpayer on amount of outstanding tax to be paid.

# Important Point

Return once filed can not be revised.


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# 2.5 NEW RETURNS (SAHAJ& SUGAM)

**TYPES OF RETURNS**

- NORMAL RETURN RET-1
- SAHAJ RETURN RET-2
- SUGAM RETURN RET-3

**TYPES OF TAX PAYERS**

**LARGE TAX PAYERS**

- Tax payers whose turnover is more then 5 Crores in the previous year.
- Liable to file Monthly Returns.
- Liable to file Normal Returns only.
- No option of Sahaj and Sugam.

**SMALL TAX PAYERS**

- Tax Payers with turnover of 5 Crore or below in the previous financial year.
- Has option to file quarterly return.
- Option to file GST RET-1/ RET-2 (Sahaj)/RET-3 (SUGAM).

**Note :** New returns are applicable from 1st October , 2020.

## UNDERSTANDING ASPECT

| CONDITIONS | NORMAL (MONTHLY) | NORMAL (QUARTERLY) | SAHAJ RET-2 | SUGAM RET-3 |
|---|---|---|---|---|
| Filing Period | Monthly | Quarterly | Quarterly | Quarterly |
| Turnover above 5Cr | Yes | No | No | No |
| Turnover below 5Cr with only B2C transactions | Yes | Yes | Yes | No |
| Turnover below 5Cr with only B2C and B2B transactions | Yes | Yes | No | Yes |
| Turnover below 5Cr with B2C, B2B, export transactions | Yes | Yes | No | No |
| Allow inward transactions with RCM | Yes | Yes | Yes | Yes |
| E-commerce transactions | Yes | Yes | No | No |
| ITC against missing Invoices | Yes | Yes | No | No |
| Nil, Non-GST, Exempted transactions | Yes | Yes | Yes | Yes |
| HSN Code (6 Digits) | Mandatory | Optional | Optional | Optional |

## SWITCH OVER CONDITIONS OF RETURN FILING

| Return | Switch over to | Conditions |
|---|---|---|
| Normal (Quarterly) | SUGAM or SAHAJ | Only once in a Financial Year at the beginning of any quarter. |
| SUGAM | SAHAJ | Only once in a Financial Year at the beginning of any quarter. |
| SAHAJ | Sugam or Quarterly (Normal) | More than once in a Financial Year at the beginning of any quarter. |
| SUGAM | Quarterly (Normal) | More than once in a Financial Year at the beginning of any quarter. |

# 2.6 SET OFF RULES

The order of utilization of input tax credit will be as per the order (of alphabets) ***given below***:

| Input tax credit on account of | Output liability on account of Integrated tax | Output liability on account of Central tax | Output liability on account of State tax |
|---|---|---|---|
| Integrated tax | **[ A ]** | **[ B ]** In any order in any proportion | |
| **[ C ]** Input tax credit on account of Integrated tax to be completely exhausted mandatorily | | | |
| Central tax | **[ E ]** | **[ D ]** | Not permitted |
| State tax/Union Territory tax | **[ G ]** | Not permitted | **[ F ]** |

**Note :** It is mandatory to utilise the entire IGST available in electronic credit ledger before utilising ITC on CGST or SGST. The order of setting off ITC of IGST can be done in any proportion and any order towards setting off the CGST or SGST output after utilising the same for IGST output.

### Form PMT-09 is available on GST portal

Form PMT-09 enables taxpayer to transfer amount from one minor head/ major head to another minor head/major head. For instance, taxpayer has paid ₹5,000 under interest of CGST. Now by filing PMT-09, he can shift that amount to late fess of SGST also.

### Key Points to consider before filing PMT-09

1. If the wrong tax has already been utilized for making any payment, then this challan is not useful. In other words, it will be able to handle only one situation and that is when payment is done in the wrong head and not utilized.
2. This challan only allows shifting of the amounts that are available in the electronic cash ledger.
3. The amount once utilized and removed from cash ledger cannot be reallocated.
4. Major head refers to- Integrated tax, Central tax, State/UT tax, and Cess.
5. Minor head refers to- Tax, Interest, Penalty, Fee and Others.

### HOW TO ACCESS PMT-09 on GST common portal?

1. Login to GST portal at gst.gov.in
2. Click on Services Ledgers
3. Click on Electronic Cash Ledger and
4. Now, you can file a fresh Form PMT-09 for transfer of amount or filed GST PMT-09.

## 2.7 CASUAL TAXABLE PERSON

"Casual taxable person" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.

**FOLLOWING POINTS TO BE TAKEN CARE IN CASE OF CASUAL TAXABLE PERSON**

1. A casual taxable person (other than those making supply of specified handicraft goods) making taxable supply in India has to compulsorily take registration.
2. Casual Taxable persons making supply of specified handicraft goods need to register only if their aggregate turnover crosses Rs. 20 Lakh (Rs. 10 lakh for in case of Special Category States, other than the State of Jammu and Kashmir.).
3. A casual taxable person cannot exercise the option to pay tax under composition levy.
4. He has to apply for registration at least five days prior to commencing his business in India.
5. There is no special form to register as a casual taxable person. The normal FORM GST REG-01 which is used by other taxable persons can be used for obtaining registration by casual taxable person also.
6. Advance tax is to be paid based on estimated turnover while taking the registration.
7. The certificate of registration shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier.
8. A casual tax person shall not be required to file any annual return as required by a normal registered taxpayer.
9. A casual taxable can make payment from DRC-03 in case of any liability arises after the expiry of the period of registration .

## 2.8 RESTRICTION CLAIMING ITC U/S 36(4)

1. Earlier, all taxpayers claimed ITC on a self-declaration basis in Table 4(a) of GSTR-3B. This means that they declared the summary figure of eligible tax credits under IGST, CGST, and SGST. There was no compulsion to reconcile the ITC figure with the GSTR-2.

2. Even if the GSTR-2A reflected less ITC than the books of account, taxpayers could still make their ITC claim in full in the GSTR-3B, and the unreflectedamount was treated as provisionalcredit.

3. After the implementation of this rule, the provisional ITC amount will be restricted only to the extent of 10% of the eligible ITC value already reflected in the GSTR-2A for that period. Apart from the 10% of eligible ITC which a taxpayer can claim as provisional credit, the balance tax liability will need to be paid incash.
4. This new rule could affect the working capital of a taxpayer, as the assessee will be required to make GST payments in cash, despite having paid his supplier for the tax invoice raised to him and having eligible ITC in hisbooks.

## EXAMPLE HOW PROVISIONAL CREDIT WILL BE CALCULATED

| SR.NO | PARTICULARS | BEFORE | AFTER |
|---|---|---|---|
| A | Eligible ITC available in the Purchase Register | 1,00,000 | 1,00,000 |
| B | Eligible ITC available in the GSTR-2A | 60,000 | 60,000 |
| C | ITC that can be claimed as provisional credit | 40,000 | 6,000 (60,000*10%) |
| D= B+C | Total ITC that can be claimed in the GSTR-3B | 1,00,000 | 66,000 |
| E=A-D | ITC not allowed in the GSTR-3B | Nil | 34,000 |

## HOW THE BALANCE ITC CAN BE CLAIMED

| SR.NO | PARTICULARS | CASE-1 | CASE-2 |
|---|---|---|---|
| A | Provisional ITC claimed (as per example given) | 6,000 | 6,000 |
| B | Provisional ITC remaining to be claimed (as per example given) | 34,000 | 34,000 |
| C | Eligible ITC uploaded by suppliers in next month | 30,000 | 35,000 |
| D=C*10% | Provisional ITC which can be claimed for the this month | 3,000 (30,000*10%) | 3,500 (35,000*10%) |
| E=C+D | Total ITC that can be claimed (ITC reported by suppliers + provisional ITC) | 33,000 | 34,000* |

* Provision ITC cannot exceed the total eligible ITC available

# 2.9 CONSIGNMENT SALE

Consignment sale is a trade arrangement in which seller sends the goods to a buyer or reseller who pays the seller as and only when the goods are sold., the reseller or third-party work on commission basis.

As per Rules of the GST Valuation Rules when goods are stock transferred from one place to another of the same business the value of such supplies shall be transaction value.

### In case of Inter State Transaction

Where goods are transferred from one place of business to another place of the same business or from the principal to an agent or from an agent to the principal, **whether or not** situated in the same State, the value of such supply shall be the transaction value.

### In case of Intra State Transaction

Stock transfer within the state between the distinct persons is not liable to GST. If the taxable person is transferring any goods or services from one

If the taxable person is transferring any goods or services from one branch to another branch in the same state having the same GST registration Number then the taxable person is not required and will not be liable to pay GST on such transactions.

### What are the difficulties faced for continuing consignment sale under GST??

Working capital blocked for the consignor as the tax needs to be paid at the time of sending goods to consignee on consignment basis.

Consignee should avail the credit of GST paid by the consignor even though those goods are not accounted as purchases in the books of consignee. This could pose accounting difficulties for consignee.

### To overcome above alternative for consignment sale is " Sale on approval"

Section 31 (7) of CGST Act specifies that where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

In the case of sale on approval basis, consignor can send the goods by issuing delivery challan instead of tax invoice and without charging GST on the same. Consignee should charge GST when the goods are sold to end customer.

If the goods are not approved within 6 months, the said goods would be treated as the sale of goods and tax invoice needs to be raised by Consignor. Another alternative would be to return the goods to consignor.

# 2.10 PRESUMPTIVE SCHEME

## [1] What is PRESUMPTIVE SCHEME under GST?

- It is a new scheme in which a tax payer has been allowed to pay GST on a presumptive basis at the rate of 6% (3% CGST and 3% SGST/UTGST).
- This new scheme has been introduced by the CBIC (Central Board of Indirect Taxes and Customs)
- Consequently, it has been inferred that this 'Presumptive Scheme' is similar to the existing composition scheme but is not a composition scheme.
- This scheme can be taken by eligible registered persons on or after April 1, 2019
- Only in respect of Intra-State supplies of goods or services or both the benefit under this scheme can be taken

## [1] Following are the conditions to be followed to claim benefits under presumptive scheme.

The turnover in preceding financial year does not exceed Rs. 50 lakhs. Thus, the supplier who wish to opt for this scheme in the Financial Year 2019-20 should not have the turnover of more than Rs. 50 lakhs during the Financial Year 2018-19. **Turnover limit of Rs. 50 lakhs shall be calculated on PAN basis.**

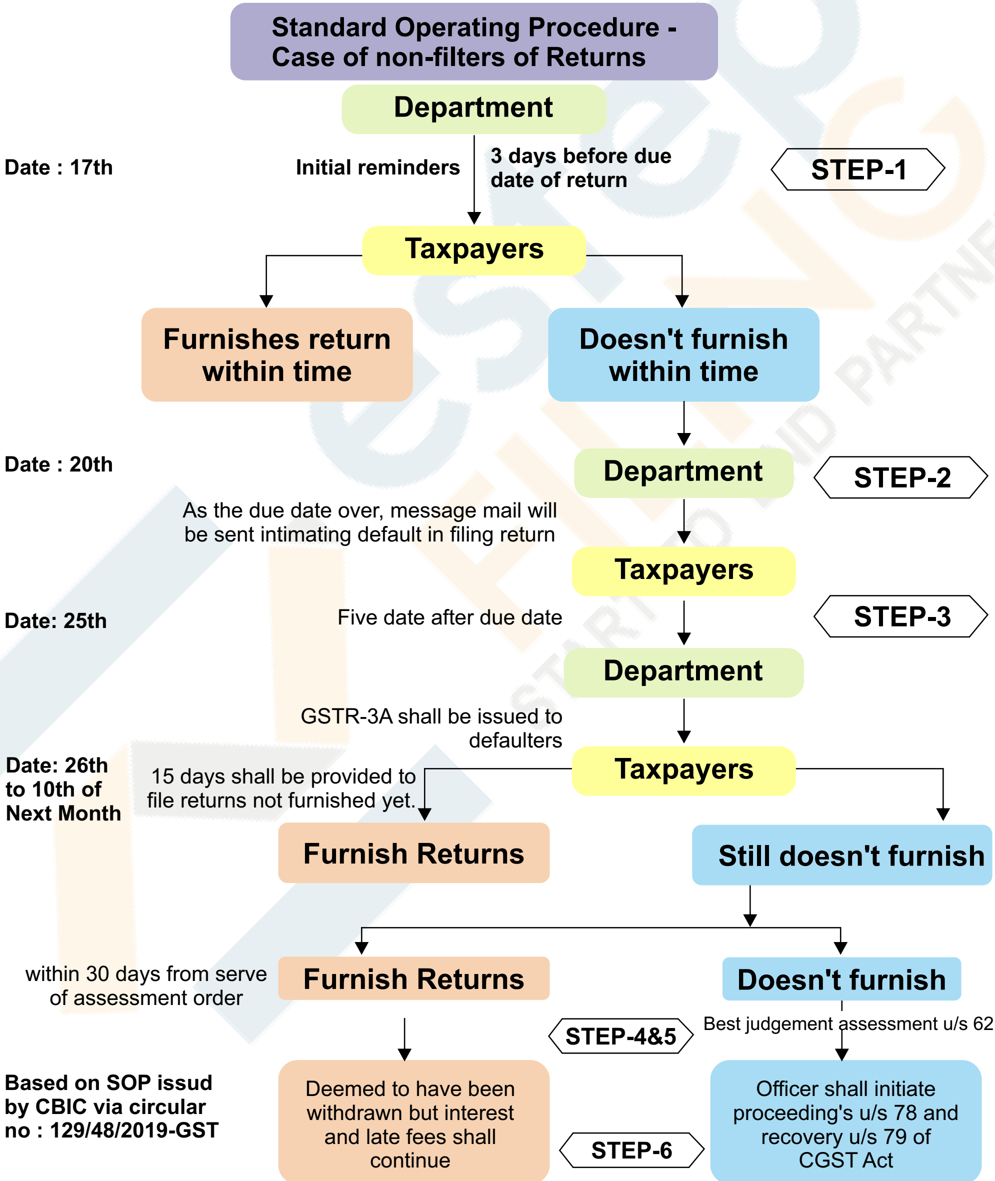
1) He is not eligible to pay tax under composition scheme governed by Section 10 of the CGST Act
2) He is not engaged in the business of making any supplies on which GST is not leviable underthis Act (i.e., petro products or alcoholic liquor).
3) He is not engaged in the business of supply of ice cream and other edible ice (HSN 21050000) or pan masala (21069020) or tobacco and manufactured tobacco substitutes (HSN Chapter 24)
4) He is not making any Inter-State outward supplies.
5) He is neither a casual taxable person nor a non-resident taxable person.
6) He is not making any supply through e-commerce operator (ECO) on which TCS applies

### Rate of tax composition scheme vs presumptive Scheme

| Types Of Supplies | Composition Scheme | Presumptive Scheme |
|---|---|---|
| Goods | **1%** | **-** |
| Restaurant or Catering Services (other than from serving liquor) | **5%** | **-** |
| Goods & Services (deemed ascomposite Supply) | 1%<br>Provided turnover of services does not exceed<br>10% of total turnover in preceding year or Rs. 5lakhs, whichever is higher | - |
| Goods or Services or both(deemed as mixed supplies) | - | **6%** |

# 2.11 SOP FOR ON FILERS OF RETURN

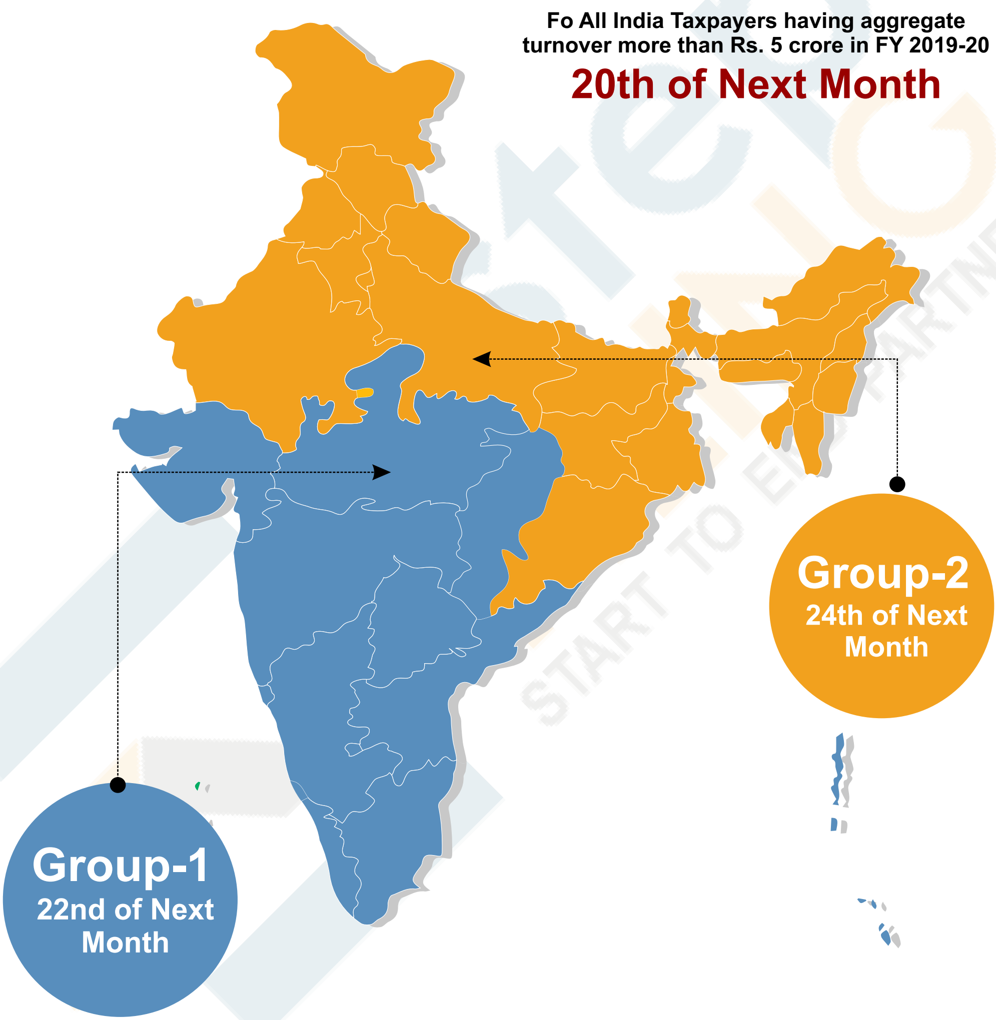
## SOP TO BE FOLLOWED IN CASE OF NON-FILERS OF RETURNS



# 2.12 GST RETURN FILING DUE DATE

| Form No. | Particulars | Due Date |
|---|---|---|
| **(1) Regular Returns** | | |
| **GSTR-1** | Outward Supplies (Sales) Turnover up to ₹1.5 Cr Quarterly filing | Last day of the month succeeding quarter |
| | Turnover above ₹1.5 Cr Monthly filing | 11th of next month |
| **GSTR-3B** | Summary return for Payment of Tax | Refer the annexure |
| **GSTR-9** | Annual Return (Yearly) | 31st December of next financial year |
| **(2) Composition Scheme Returns** | | |
| **CMP-08** | Composition Tax Payer (Quarterly) | 18th of the month succeeding quarter |
| **GSTR-4** | Annual Return for Composition Tax Payer | 30th April following the financial year. |
| **(3) Special Returns** | | |
| **GSTR-5** | Return for Non resident foreign taxable person | 20th of next month |
| **GSTR-6** | Return for Input Service distributor | 13th of next month |
| **GSTR-7** | Return for authorities deducting tax at source | 10th of next month |
| **GSTR-8** | E-commerce operators who are required to deduct TCS (Tax Collected at Source) | 10th of next month |
| **GSTR-10** | Final Return (At the time of Cancellation) | Within 3 months of later of cancellation or order of cancellation |
| **GSTR-11** | Details of inward supplies to be furnished by a person having UIN and claiming refund | 28th of the month following the month for which statement is filed |

# GSTR 3B Filing Due Dates (Annexure)




For Taxpayers having aggregate turnover upto Rs. 5 Crore in F.Y. 2019-20

For Taxpayers having aggregate turnover upto Rs. 5 Crore in F.Y. 2019-20

# 3.1 COMPANY ACT

## Incorporation Related Forms:

| Description | Form No. | |
|---|---|---|
| | Public & Private Companies | OPC |
| DIN Application | DIR-3 | DIR-3 |
| Reservation of Name | RUN | RUN |
| Application for Incorporation of Company | SPICE (INC-32) | SPICE (INC-32) |
| Nominee consent form | - | INC-3 |
| Form for submission of documents with the registrar | GNL-2 | GNL-2 |
| Notice of Situation or Change of Situation of Registered Office | INC-22 | INC-22 |
| Appointment of Directors and key managerial personnel and changes among them | DIR-12 | DIR-12 |

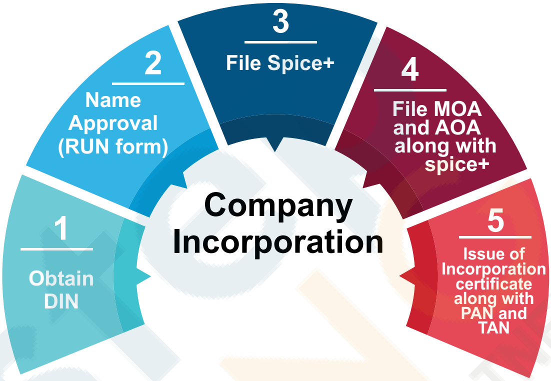
## Incorporation Related Forms:

| No. | Events | Form No. | Due Date (From date of event) |
|---|---|---|---|
| 1 | Application for DIN | DIR-3 | Any Time |
| 2 | Intimation of change in particulars of Director to be given to the Central Government | DIR-6 | 30 Days |
| 3 | Appointment of Directors and key managerial personnel and changes among them | DIR-12 | 30 Days |
| 4 | Return of appointment of MD/WTD/Manager | MR-1 | 60 Days |
| 5 | Notice of resignation of a director to the Registrar | DIR-11 | 30 Days |
| 6 | Application for surrender of Director Identification Number | DIR-5 | Any time |
| 7 | Notice of appointment of auditor by the company | ADT-1 | 15 Days |
| 8 | Application for removal of auditor(s) from his/their office before expiry of term | ADT-2 | 30 Days |
| 9 | Notice of Resignation by the Auditor | ADT-3 | 30 Days |
| 10 | Form for filing annual return by a company | MGT-7 | 60 Days |
| 11 | Form for filing Financial Statement and other documents with the registrar | ADT-3 | 30 Days |

## Other Important Forms (contd.)

| No. | Events | Form No. | Due Date | |
|---|---|---|---|---|
| 1 | Notice of Situation or Change of situation of registered office | INC-22 | 15 Days (For Existing Co.) | 30 Days (For New Co.) |
| 2 | Application to Regional Director for approval to shift the Registered Office from one state to another state or from jurisdiction of one Registrar to another Registrar within the same State | INC-23 | 30 Days | |
| 3 | Notice to Registrar of any alteration of share capital | SH-7 | 30 Days | |
| 4 | Application for registration of creation, modification of charge (other than those related to debentures) | CHG-1 | 30 Days | |
| 5 | Particulars for satisfaction of charge thereof | CHG-4 | 30 Days | |
| 6 | Filing of Resolutions and agreements to the Registrar | MGT-14 | 30 Days | |

## Basic Process of Incorporation of a Private Limited Co.




## Depreciation Chart

| No. | Block of Assets | I. Tax WDV% | Companies Act Useful life (Years) |
|---|---|---|---|
| 1 | Factory building - Non Residential | 10 | 30 |
| 2 | Other Building:- | | |
| | (a) Building RCC frame structure | 10 | 60 |
| | (b) Building other than RCC frame structure | 10 | 30 |
| 3 | Furniture & Fixture (General) | 15 | 15 |
| 4 | Motor Cycles, scooters, other mopeds & motor cars | 15 | 10* |
| 5 | Motor buses, motor lorries and taxies used in the business of running them on hire | 30 | 6 |
| 6 | Computer and data processing units:- | | |
| | (a) Servers and networks | 40 | 6 |
| | (b) End user devices such as desktops, laptops,printers etc. | 40 | 6 |

- In case of double shift depreciation will be increased by 50% and in case of triple shift depreciation will be increased by 100% for that period for the single shift asset.
- For Amortisation of Intangible Assets as per Companies Act 2013, the provisions of accounting standards shall apply except in case of BOOT and BOT projects.
- ***The useful life of Motor Car as per Companies Act is 8 years.***

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# 3.2 COMPANY FRESH START SCHEME 2020

***The Ministry of Corporate Affairs ('MCA') has introduced Companies Fresh Start Scheme,2020 ('CFSS Scheme')***

## Important Definitions under the Scheme :

***"Defaulting company"*** means a company defined under the Companies Act, 2013, and which has made a default in filing of any of the documents, statement, returns, etc. including annual statutory documents (AOC-4 & MGT- 7) on the MCA-21 registry on due time.

***"Inactive Company"*** means a company which has not been carrying on any business or operation, or has not made any significant accounting transaction during the last two financial years, or has not filed financial statements and annual returns during the last two financial years;

The basic thumb rule of the scheme is that the ***"Immunity will be provided to defaulting companies only in case of belated filings by waiving off additional fees however where proceedings involving interest of any shareholder or its director, or key managerial person or any other person belonging to the company than immunity shall not be provided".***

## Following are the Features of CFSS 2020

1. All necessary documents including annual documents of the company can be filed with normal fees only, as additional fees are waived off.
2. Inactive company can also take status of "Dormant Company u/s 455" by filing simple application in form MSC-1 or can also apply for striking off the name by filing e-form STK-2 with normal fees.
3. The Scheme grants immunity to the companies in relation to proceeding for imposing an additional penalty is only against delayed filings in MCA registry and it doesn't provides immunity to any proceedings involving interests of shareholders or any other person qua the company or its Directors or KMP means not against any substantive violation of law.
4. It further clarifies that where penalties were imposed by an adjudicating officer due to delayed filing, and no appeal has been made before the Regional Director then

(i) If last date for filing the appeal falls between March 01 to May 31, 2020, additional 120 days shall be allowed for filing the appeal, and

(ii) During this additional period no prosecution shall be initiated against the company or its officers, insofar as it relates to delay in filing.

## CFSS 2020 will not apply to the following :

- Where action for striking-off has already been initiated by the Designated Authority or STK-2 for strike off of Company with ROC has been filed by the companies;
- Companies which have amalgamated;
- Companies which has already filed application for obtaining dormant status;
- To Vanishing Companies;
- Where any increase in authorized capital is involved (Form SH-7) and all charge related documents (CHG-1, CHG-4, CHG-8 and CHG-9);
- In the matter of any appeal pending before the court of law and in case of management disputes of the company pending before any court of law or tribunal;
- In case any court has ordered conviction in any matter or an order imposing penalty has been passed by an adjudicating authority under the Act and no appeal has been preferred.

## Key Features of the Scheme :

1. Immunity will be Granted only for those defaulting companies who file forms in the period starting from April 01, 2020 to September 30, 2020:
2. The Scheme shall not have any 'Retrospective Effect'
3. To avail the benefit of the scheme existing directors of defaulting companies compulsorily have to file form "DIR 3 KYC";
4. Only the companies whose status is "Active" will be eligible to take the benefit of the scheme. If, the status of the Company is not Active then company have to file form 'INC-22A' at the earliest;
5. The Ministry has uploaded the list of 76 "Eligible Forms" in the public domain which waives off additional fees for belated filings which comprises of eforms under the Companies Act 2013, Companies Act 1956 .
6. On completion of scheme, the company shall file e-form CFSS-2020 (yet to be deployed) with no fee and obtain immunity certificate.

# 4.1 LIST OF IMPORTANT FORMS OF LLP

| Sr. no. | Purpose of the FORM | FORM NO |
|---|---|---|
| 1 | Details in respect of designated partners and partners of Limited Liability Partnership | **Form 2A** |
| 2 | Notice of appointment, cessation, change in name/ address/designation of a designated partner or partner. and consent to become a partner/designated partner | **Form 4** |
| 3 | Notice of appointment, cessation, change in particulars of a partners | **Form 4A** |
| 4 | Notice for change of name | **Form 5** |
| 5 | Statement of Account & Solvency | **Form 8** |
| 6 | Annual Return of Limited Liability Partnership (LLP) | **Form 8** |
| 7 | Form for intimating other address for service of documents | **Form 12** |
| 8 | Notice for change of place of registered office | **Form 15** |
| 9 | Application and statement for conversion of a firm into Limited Liability Partnership (LLP) | **Form 17** |
| 10 | Application and Statement for conversion of a private company/ unlisted public company into limited liability partnership (LLP) | **Form 18** |
| 11 | Notice of intimation of Order of Court/ Tribunal/CLB/ Central Government to the Registrar | **Form 22** |
| 12 | Application for direction to Limited Liability Partnership (LLP) to change its name to the Registrar | **Form 23** |
| 13 | Application to the Registrar for striking off name | **Form 24** |
| 14 | Application for reservation/ renewal of name by a Foreign Limited Liability Partnership (FLLP) or Foreign Company | **Form 25** |
| 15 | Form for registration of particulars by Foreign Limited Liability Partnership (FLLP) | **Form 27** |
| 16 | Return of alteration in the incorporation document or other instrument constituting or defining the constitution; or the registered or principal office; or the partner or designated partner of limited liability partnership incorporated or registered outside India. | **Form 28** |
| 17 | Notice of (A) alteration in the certificate of incorporation or registration; (B) alteration in names and addresses of any of the persons authorised to accept service on behalf of a foreign limited liability partnership (FLLP) (C) alteration in the principal place of business in India of FLLP (D) cessation to have a place of business in India | **Form 29** |
| 18 | Application for compounding of an offence under the Act | **Form 31** |
| 19 | Form for filing addendum for rectification of defects or incompleteness | **Form 32** |
| 20 | Form for intimating to Registrar of Firms about conversion of the firm into limited liability partnership (LLP). *(To be filled in physical form and submitted to Registrar of Firms) | **Form 14** |





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# 4.2 LLP FRESH START SCHEME

The Central Government has decided to introduce a scheme namely **"LLP Settlement Scheme, 2020"**, by allowing a **One-time condonation of delay** in filing statutorily required documents with the Registrar.

The aforesaid scheme is applicable to **Defaulting LLP**: Any **"defaulting LLP"** is permitted to file belated documents, which were due for filing till 31st August, 2020 in accordance with the provisions of this Scheme. i.e. Forms that are due till 31st August, 2020 only be considered for the said scheme.

"Defaulting LLP" means LLP registered under the Limited Liability Partnership Act, 2008 which has made a default in filing of documents on the due date(s) specified under the LLP Act, 2008 and rules made there under.

The defaulting LLPs may file form still **30th September,2020**, till then No Additional fees will be charged to file forms.

## SCHEME APPLICABLE FOR FOLLOWING FORMS ONLY

| NO | FORMS | SCHEME |
|---|---|---|
| 1 | **Form-3** | Information with regard to limited liability partnership Initial agreement and changes, if any, made therein. |
| 2 | **Form-4** | Notice of appointment, cessation, change in name/ address/designation of a designated partner or partner and consent to become a partner/designated partner; |
| 3 | **Form-8** | Statement of Account & Solvency (Annual or Interim) |
| 4 | **Form-11** | Annual Return of Limited Liability Partnership (LLP). |
| 5 | **Form-15** | Notice for change of place of registered office. |
| 6 | **Form-5** | Notice for Change of Name. |
| 7 | **Form-12** | Form for intimating other address for Service of Documents. |
| 8 | **Form-22** | Notice of intimation of Order of Court/ Tribunal/CLB/ Central Government to the Registrar |
| 9 | **Form-31** | Application for Compounding of an offence. |
| 10 | **Form-23** | Application for direction to Limited Liability Partnership (LLP) to change its name to the Registrar. |
| 11 | **Form-29** | Notice of (A) alteration in the certificate of incorporation or registration; (B) alteration in names and addresses of any of the persons authorized to accept service on behalf of a foreign limited liability partnership (FLLP) (C) alteration in the principal place of business in India of FLLP (D) cessation to have a place of business in India |

| | |
|---|---|
| **Scheme not Applicable to** | LLPs that made an application in Form 24 to the Registrar, for striking off its name from the register as per provisions of Rule 37(1) of the LLP Rules, 2009. |



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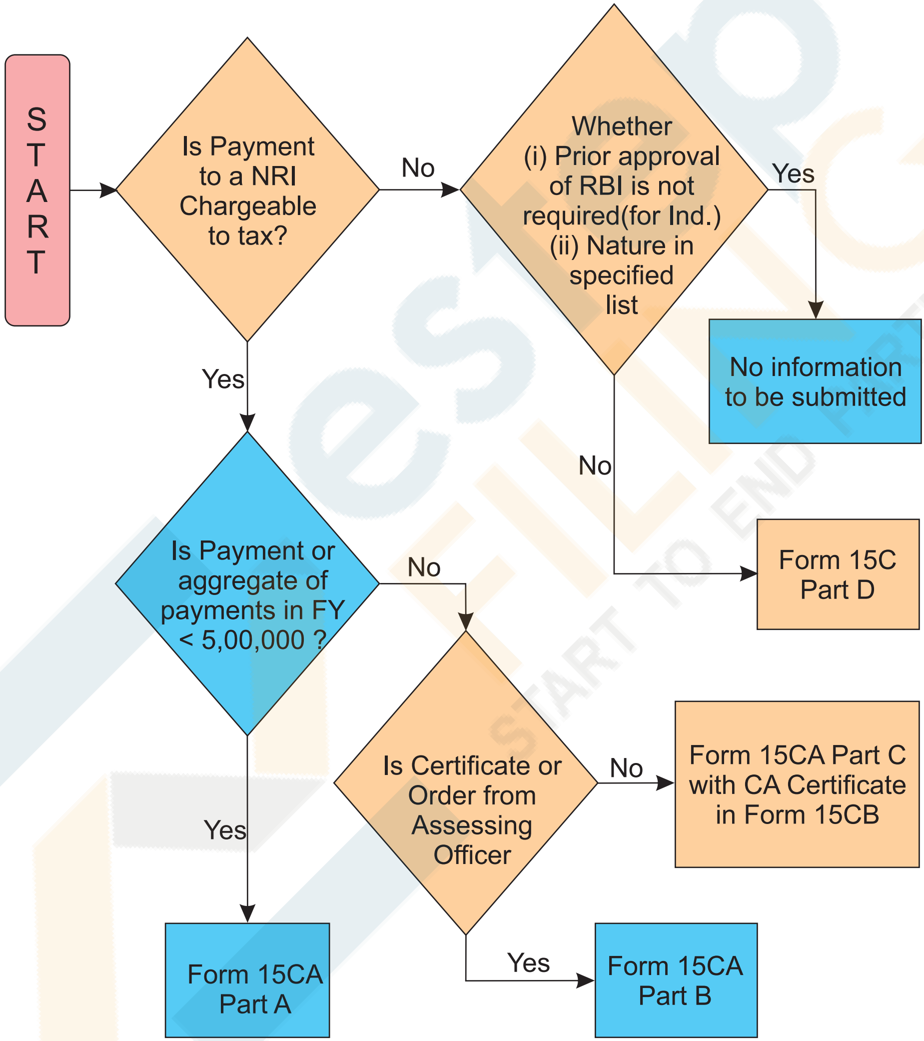
# 5.1 15CA/CB PROCEDURE





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# 6.1 RELIEF MEASURES DUE TO COVID -19

## INCOME TAX

1. Extension of last date of filing of original as well as revised income-tax returns for the FY 2018-19 (AY 2019-20) to 30th June, 2020.
2. Extension of Aadhaar-PAN linking date to 30th June, 2020.
3. The date for making various investment / payment for claiming deduction under Chapter-VIA-B of IT Act which includes Section 80C (LIC, PPF, NSC etc.), 80D (Mediclaim), 80G (Donations), etc. has been extended to 30th June, 2020. Hence the investment/payment can be made up to 30.06.2020 for claiming the deduction under these sections for FY 2019-20.
4. The date for making investment / construction / purchase for claiming roll over benefit / deduction in respect of capital gains under sections 54 to 54GB of the IT Act has also been extended to 30th June 2020. Therefore, the investment/ construction/ purchase made up to 30.06.2020 shall be eligible for claiming deduction from capital gains arising during FY 2019-20.
5. The date for commencement of operation for the SEZ units for claiming deduction under deduction 10AA of the IT Act has also extended to 30.06.2020 for the units which received necessary approval by 31.03.2020.
6. The date for passing of order or issuance of notice by the authorities under various direct taxes&Benami Law has also been extended to 30.06.2020.
7. It has provided that reduced rate of interest of 9% shall be charged for non-payment of Income-tax (e.g. advance tax, TDS, TCS) Equalization Levy, Securities Transaction Tax (STT), Commodities Transaction Tax (CTT) which are due for payment from 20.03.2020 to 29.06.2020 if they are paid by 30.06.2020. Further, no penalty/ prosecution shall be initiated for these non-payments.
8. Under Vivad se Vishwas Scheme, the date has also been extended up to 30.06.2020. Hence, declaration and payment under the Scheme can be made up to 30.06.2020 without additional payment.
9. The revised timelines to furnishTDS/TCS statement for the 4th quarter for financial year 2019-20 isJune 30th , 2020.
10. For Assessee holding a Nil Lower deduction certificate, such certificate shall remain valid till 30 th June, 2020 unlessa new certificate is issued.
11. If the assesse has submitted the valid forms of 15G/H to the banks or other institutions for the F.Y.2019-20 , then this forms would be valid up to 30th June, 2020.

## GST/INDIRECT TAX

1. Date for opting for composition scheme is extended till the last week of June, 2020. Further, the last date for making payments for the quarter ending 31st March, 2020 and filing of return for 2019-20 by the composition dealers will be extended till the last week of June, 2020.
2. Date for filing GST annual returns of FY 18-19, which is due on 31st March, 2020 is extended till the last week of June 2020.
3. Due date for issue of notice, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents, time limit for any compliance under the GST laws where the time limit is expiring between 20th March 2020 to 29th June 2020 shall be extended to 30th June 2020.
4. Payment date under SabkaVishwas Scheme shall be extended to 30th June, 2020. No interest for this period shall be charged if paid by 30th June, 2020.
5. Taxpayers are also provided relief from Rule 36(4)-110% of GSTR-2A. The cumulative compliance is for the period February, March, April, May, June, July and August, 2020 and adjustment have to be furnished in the return in FORMGSTR-3B of September, 2020 for the cumulative period.
6. Due date has been extended for CMP-08 till 7th July 2020 and GSTR-4 till 15th July 2020.
7. Extension also has been given to Taxpayer for opting composition scheme for FY 2020-21 till 30th June 2020
8. The option to file GSTR-3B by EVC instead of DSC is made available on GSTN portal.

# DUE DATES FOR GST RETURN FILING

## GSTR-1 DUE DATES

| Periodicity | Period | Due Date | Last Date@Nil | | Last Date of Any Benefits |
|---|---|---|---|---|---|
| | | | From | To | |
| MONTHLY | Feb-20 | 10-03-20 | N.A | N.A. | 10-03-20 |
| | Mar-20 | 10-04-20 | 11-04-20 | 30-06-20 | 30-06-20 |
| | Apr-20 | 11-05-20 | 12-05-20 | 30-06-20 | 30-06-20 |
| | May-20 | 11-06-20 | 12-06-20 | 30-06-20 | 30-06-20 |
| QUARTERLY | Mar-20 | 30-04-20 | 01-05-20 | 30-06-20 | 30-06-20 |
| | Jun-20 | 31-07-20 | N.A. | N.A. | 31-07-20 |

## GSTR-3B DUE DATES

| Turnover (in P.Y) | Period | Due Date | Interest @ Nil | | Interest @ 9% | | Late Fee@ Nil | | Last Date of Any Benefits |
|---|---|---|---|---|---|---|---|---|---|
| | | | From | To | From | To | From | To | |
| >Rs.5Cr | Feb-20 | 20-03-20 | 21-03-20 | 04-04-20 | 05-04-20 | 24-06-20 | 21-03-20 | 24-06-20 | 24-06-20 |
| | Mar-20 | 20-04-20 | 21-04-20 | 05-05-20 | 06-05-20 | 24-06-20 | 21-04-20 | 24-06-20 | 24-06-20 |
| | Apr-20 | 20-05-20 | 21-05-20 | 04-06-20 | 05-06-20 | 24-06-20 | 21-05-20 | 24-06-20 | 24-06-20 |
| | May-20 | 27-06-20 | N.A. | N.A. | N.A | N.A. | N.A. | N.A. | 27-06-20 |
| >Rs.1.5Cr to Rs.5Cr | Feb-20 | 20-03-20 | 21-03-20 | 29-06-20 | N.A. | N.A. | 21-03-20 | 29-06-20 | 29-06-20 |
| | Mar-20 | 20-04-20 | 21-04-20 | 29-06-20 | N.A. | N.A. | 21-04-20 | 29-06-20 | 29-06-20 |
| | Apr-20 | 22-05-20 | 23-05-20 | 30-06-20 | N.A. | N.A. | 23-05-20 | 30-06-20 | 30-06-20 |
| | May-20 | 12-07-20 | N.A. | N.A. | N.A | N.A. | N.A. | N.A. | 12-07-20 |
| Upto Rs.1.5Cr | Feb-20 | 20-03-20 | 21-03-20 | 30-06-20 | N.A. | N.A. | 21-03-20 | 30-06-20 | 30-06-20 |
| | Mar-20 | 20-04-20 | 21-04-20 | 03-07-20 | N.A. | N.A. | 21-04-20 | 03-07-20 | 03-07-20 |
| | Apr-20 | 22-05-20 | 23-05-20 | 06-07-20 | N.A. | N.A. | 23-05-20 | 06-07-20 | 06-07-20 |
| | May-20 | 12-07-20 | N.A. | N.A. | N.A | N.A. | N.A. | N.A. | 12-07-20 |

# CUSTOMS

1. 24X7 Custom clearance till end of 30th June, 2020
2. Due date for issue of notice, notification, approval order, sanction order, filing of appeal, furnishing applications, reports, any other documents etc., time limit for any compliance under the Customs Act and other allied Laws where the time limit is expiring between 20th March 2020 to 29th June 2020 shall be extended to 30th June 2020.

# FINANCIAL SERVICES

1. Relaxations for 3 months
2. Debit cardholders to withdraw cash for free from any other banks' ATM for 3 months
3. Waiver of minimum balance fee
4. Reduced bank charges for digital trade transactions for all trade finance consumers





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## CORPORATE AFFAIRS

1. No additional fees shall be charged for late filing during a moratorium period from 01st April to 30th September 2020, in respect of any document, return, statement etc., required to be filed in the MCA-21 Registry, irrespective of its due date, which will not only reduce the compliance burden, including financial burden of companies/ LLPs at large, but also enable long-standing non-compliant companies/ LLPs to make a 'fresh start';
2. The mandatory requirement of holding meetings of the Board of the companies within prescribed interval provided in the Companies Act (120 days), 2013, shall be extended by a period of 60 days till next two quarters i.e., till 30th September;
3. Applicability of Companies (Auditor's Report) Order, 2020 shall be made applicable from the financial year 2020-2021 instead of from 2019-2020 notified earlier. This will significantly ease the burden on companies & their auditors for the year 2019-20.
4. As per Schedule 4 to the Companies Act, 2013, Independent Directors are required to hold at least one meeting without the attendance of Non-independent directors and members of management. For the year 2019-20, if the IDs of a company have not been able to hold even one meeting, the same shall not be viewed as a violation.
5. Requirement to create a Deposit reserve of 20% of deposits maturing during the financial year 2020-21 before 30th April 2020 shall be allowed to be complied with till 30th June 2020.
6. Requirement to invest 15% of debentures maturing during a particular year in specified instruments before 30th April 2020, may be done so before 30th June 2020.
7. Newly incorporated companies are required to file a declaration for Commencement of Business within 6 months of incorporation. An additional time of 6 more months shall be allowed.
8. Non-compliance of minimum residency in India for a period of at least 182 days by at least one director of every company, under Section 149 of the Companies Act, shall not be treated as a violation.
9. Due to the emerging financial distress faced by most companies on account of the large-scale economic distress caused by COVID 19, it has been decided to raise the threshold of default under section 4 of the IBC 2016 to Rs 1 crore (from the existing threshold of Rs 1 lakh). This will by and large prevent triggering of insolvency proceedings against MSMEs. If the current situation continues beyond 30th of April 2020, we may consider suspending section 7, 9 and 10 of the IBC 2016 for a period of 6 months so as to stop companies at large from being forced into insolvency proceedings in such force majeure causes of default.

## PM CARES FUND

1. A special fund "Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)" has been set up for providing relief to the persons affected from the outbreak of Corona virus. the donation made to the PM CARES Fund shall be eligible for 100% deduction under section 80G of the IT Act. Further, the limit on deduction of 10% of gross income shall also not be applicable for donation made to PM CARES Fund.
2. As the date for claiming deduction u/s 80G under IT Act has been extended up to 30.06.2020, the donation made up to 30.06.2020 shall also be eligible for deduction from income of FY 2019-20. Hence, any person including corporate paying concessional tax on income of FY 2020-21 under new regime can make donation to PM CARES Fund up to 30.06.2020 and can claim deduction u/s 80G against income of FY 2019-20 and shall also not lose his eligibility to pay tax in concessional taxation regime for income of FY 2020-21.

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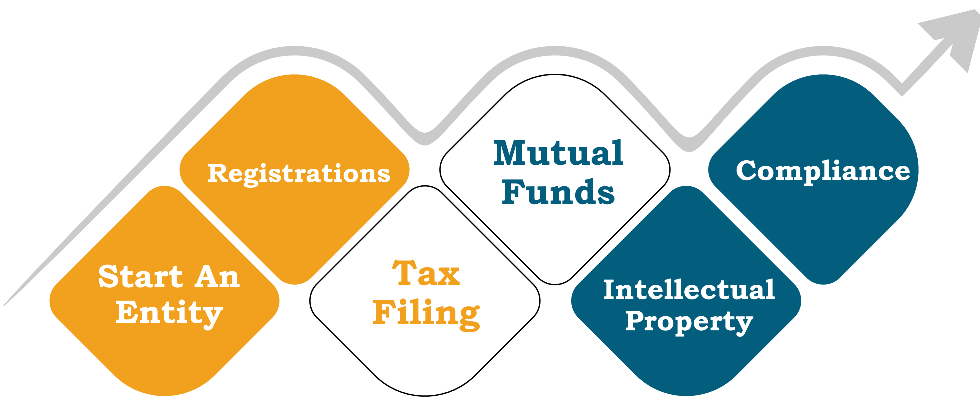
## OUR SERVICES



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