TAX CONNECT

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The Bengal Chamber of Commerce & Industry

INCOME TAX

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EDITORIAL

Friends,

The Government vide **Press release dated 07.12.2018** has decided to extend the due date filing FORM GSTR-9, FORM GSTR-9A and FORM GSTR-9C till 31st March, 2019.

The Indirect Taxes Committee of The ICAI has also come up with FAQ on Form GSTR 9 – Annual Return. Let's look at some of them in a summarized manner:

- **Section 44(1) of CGST Act read with Rule 80(1) of CGST Rules** requires that every Registered person **<u>(irrespective of the Turnover)</u>** other than an Input Service Distributor, a person paying tax under section 51 (TDS) or section 52 (TCS)*, a casual taxable person and a non-resident taxable person shall furnish an annual return in **Form GSTR-9** by 31 December following the end of financial year.

- As per section 35(5) of CGST Act, every registered person **<u>whose turnover during a financial year exceeds the prescribed limit (Rs. 2 cr.) shall get his accounts</u>** audited by a chartered accountant or a cost accountant and submit a copy of the audited annual accounts, the reconciliation statement (GSTR-9C) u/s 44(2) and such other prescribed documents.

- **GSTR-9A** is Annual return for a supplier who was under **composition scheme** (anytime during the relevant financial year) as per **section 10 of CGST Act.** Taxpayers who have switched over from composition scheme and their status as on 31st March 2018 is a regular taxpayer shall be required to file GSTR-9A for the period he was registered as composition taxpayer and for the remaining financial year they shall be required to file GSTR-9

- **<u>*Person paying tax under section 52 (TCS) is required to file GSTR-9B but since, provision of section 52 is applicable from 01st October 2018 only, they are not required to file GSTR-9B for the year 2017-18.</u>**

- If the status of taxpayer is not registered as on 31st March 2018 but he was registered between July-17 to March-18, he shall be required to file GSTR-9 providing details for the period during which he was registered. Similarly, if a taxpayer had applied for cancellation of registration but the application was pending as on 31st March 2018, he shall be required to file GSTR-9.

- Taxpayer shall be required to file GSTR-9 even though he was having Nil Turnover during the year 2017-18. However, facility to file GSTR-9 on single click may be provided in such case.

- As per Notification No. 39/2018 dated 04th September 2018, only details for the period July 2017 to March 2018 are to be provided in GSTR-9. Transactions for the period April-17 to June-17 are not to be included in GSTR-9 for FY 2017-18.
- If a Taxpayer has obtained multiple GST Registrations whether in one state or more than one state, it shall be treated as a distinct person and GSTR-9 is required to be filed separately for each such GSTIN.
- GSTR-9 contains total 6 parts spread out within 19 Tables.

- Part-I: Basic information of Tax payer from Table 1 to 3
- Part-II: Details on which tax is to be paid in Table 4 & 5
- Part-III: Details of Input tax credit from Table 6 to 8
- Part-IV: Details of tax paid and payable in Table 9
- Part-V: Details of transactions of 2017-18 reported during April-18 to Sep-18 in Table 10 to 14
- Part-VI: Other information from Table 15 to 19

EDITORIAL

- Outward supplies and tax payable in the annual return are to be extracted from Form GSTR 1 only. Inward supplies, input tax credit and the net tax paid in cash are to be gathered from Form GSTR 3B.

- Some people have assumed that Form GSTR 3B and Form GSTR 1 are in consonance with each other which may not be always true. Hence, before filing GSTR-9, if there are any differences between the two, then the same must be adjusted to subsequent returns filed up to September-18 (as per circular 26/26/2017-GST dated 29th December 2017).

- **GSTR-9 is merely a compilation of data filed in GSTR-3B and GSTR-1.** Hence, **even if a taxpayer has identified data fed in GSTR-1 / GSTR-3B as incorrect, still the same data is to be taken for reporting in annual return. So, the intent of the form is not to allow rectification of data filed in the monthly/Quarterly returns but only aggregation of such data in respect of the financial year. If there is any additional liability missed to be reported in GSTR-1 / GSTR-3B pertaining to 2017-18, the same will be reported in subsequent GSTR-1 / GSTR-3B up to September 2018. If the same is missed, as of now there is no clarity provided by Government whether the same can be paid through GSTR-3B or DRC-03.**
- GSTR-9 being just a compilation will be auto-populated or not?
  Only the fields mentioned in the Form as 'auto' will be auto populated. The Government is yet to clarify regarding the auto-population of rest of the fields.

- Difference between Legal Name and Trade Name is that Legal name is given by statue which is generally found in PAN and Trade name is a name from which entity is known generally brand name. Person may have legal name which is different from Trade name e.g. "Maggi" could be a trade name while its legal name is Nestle Limited. Legal name and trade name will be auto populated from GST Registration.

- No option for revision f GSTR – 9 has been provided till now.

- Late fee for belated filing of GSTR-9 is Rs.100 per day subject to maximum of 0.25% of turnover in a state/UT. Similar provision is there in SGST Act also. Hence, in total there will be late fee of Rs.200 per day subject to 0.50% of turnover in a state on late filing of GSTR-9.

- If one fails to file GSTR-9 then first late fees will be payable as discussed above. A notice may be issued u/s 46 requiring him to furnish such return within stipulated time.

FAQ with respect to information to be put in different tables of the form will be discussed in the next bulletin.

We do hope that this bulletin adds value to your professional sphere.

Just to reiterate that we remain available over telecom or e-mail.

Truly Yours

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SYNOPSIS

TAX CALENDAR

DUE DATE	FORM No	DESCRIPTION
10-Dec-18	GSTR-7 GSTR-8	GST-TDS & GST-TCS Return & Payment for the month of November 2018
10-Dec-18	GSTR-7 GSTR-8	GST-TDS & GST-TCS Return for the month of November 2018
11-Dec-18	GSTR-1	Details of outward supplies of goods or services for the month of November, 2018 for Persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year.
13-Dec-18	GSTR-6	Return for the month of November, 2018 applicable for input service distributors (ISD)
15-Dec-18	GSTR-7A	Issue of GST-TDS Certificate for the month of November 2018 for payment made and return filed on 10th December
15-Dec-18	Form 24G	Due date for furnishing of Form 24G by an office of the Government where TDS for the month of November, 2018 has been paid without the production of a challan
15-Dec-18	Challan 280	Due Date for 3rd installment of advance tax for the assessment year 2019-20.
15-Dec-18	Form 16B	Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of October, 2018
15-Dec-18	Form 16C	Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of October, 2018

GST: CGST/IGST/SGST/UTGST

NOTIFICATIONS/CIRCULARS

EXTENSION OF DUE DATE FOR FILING FORM GSTR-9, FORM GSTR-9A AND FORM GSTR-9C TILL 31.3.2019

OUR COMMENTS: The Government vide **Press release dated 07.12.2018** has decided to extend the due date filing **FORM GSTR-9, FORM GSTR-9A and FORM GSTR-9C till 31st March, 2019**. The requisite FORMs shall be made available on the GST common portal shortly.

(FORM GSTR-9 and FORM GSTR-9A have been notified vide notification No. 39/2018-Central Tax, dated 04.09.2018 while FORM GSTR-9C has been notified vide notification no. 49/2018-Central Tax, dated 13.09.2018 as part of the CGST Rules)

AUTHORITY FOR ADVANCE RULINGS, KARNATAKA M/S. COLUMBIA ASIA HOSPITALS PRIVATE LIMITED

OUR COMMENTS:

The Applicant is a private limited company engaged in:

- in providing health care services categorizing them as In-patient (IP) and Out-patient (OP) services.
- in supply of medicines (pharmacy) to in-patients and out-patients.

It also operates Restaurant / Canteen services in its premises which is used for supplying food and other eatable items to its patients and their attendants.

As per applicant, as per definition of "composite supply", the word "taxable supply" covers only such supplies which are subject to GST and not the exempt supplies. Hence, though two or more supplies are naturally bundled, i.e. healthcare services, being exempt supply, the same cannot be treated as composite supply and is discharging GST liability on supply of medicines and food provided to both in-patients and out-patients.

Simultaneously, the applicant is not availing input tax credit if GST paid on inputs or input services or capital goods used for providing such exempted (Healthcare) services.

The ruling: The two or more supplies of goods or services or both which are naturally bundled in which the principal supply is exempt and others are taxable can be treated as a composite supply of the principal supply if such principal supply is not a non-taxable supply as per sub-section (78) of section 2 of the Central Goods and Service Tax Act, 2017 and such composite supply with the principal supply being exempt supply would be treated as an exempt composite supply.

The applicant is eligible to claim ITC only on for such taxes paid on the inputs, input services and capital goods which are attributable to the supplies of goods or services which are taxable under the provisions of the Central Goods and Services Tax Act, 2017 and not attributable to exempt supplies of goods or services under the Central Goods and Services Tax Act, 2017.

INCOME TAX

NOTIFICATIONS/CIRCULARS

TDS DEDUCTION U/S 194A IN CASE OF SENIOR CITIZENS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 06/2018 dated 06.12.2018** has clarified that no TDS shall be deducted u/s 194A in the case of Senior Citizens where the amount of such income or, the aggregate of the amounts of such income credited or paid during the financial year does not exceed Rs 50,000.

The Department noticed that in case of Senior Citizens, some TDS deductors/Banks are making TDS deductions even when the amount of income does not exceed the prescribed limit of Rs 50,000.

The above has been clarified with respect to third proviso to sub-section 3 of section 194A

INCOME-TAX (13TH AMENDMENT), RULES, 2018

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **NOTIFICATION NO. 86/2018 dated 06.12.2018** has inserted sub- rule (4) in **Rule 8AA - Method of determination of period of holding of capital assets in certain cases,** as follows:

Capital asset which became the property of the Indian subsidiary on conversion of a branch of a foreign company as per section 115JG(1), there shall be included the period for which the asset was held by the said branch of the foreign company and by the previous owner, if any, who has acquired the capital asset by a mode of acquisition referred to in clause (i)/(ii)/(iii)/(iv) of section 49(1) or section 115JG(1).

TASK FORCE FOR DRAFTING A NEW DIRECT TAX LEGISLATION

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **F. No. 370149/230/2017 dated 26.11.2018** has reconstituted Task Force for drafting a New Direct Tax Legislation.

In order to review the existing Income-tax Act, 1961 and to draft a new direct tax law in consonance with economic needs of the country, this Task Force was constituted vide Office Order of even number dated November 22, 2017 under the Convenorship of the then Member (Legislation), CBDT, who has since superannuated from Government Service.

The Convenor is authorised to co-opt any person as a Member of the Task Force, if considered necessary.

The Task Force shall submit its report to the Government by February 28, 2019.

CUSTOMS

NOTIFICATIONS/CIRCULARS

REVISION OF EXCHANGE RATE OF FOREIGN CURRENCIES INTO RUPEE & VICE VERSA

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 96/2018-Customs (N.T.) dated 06.12.2018 & in supersession of Notification No. 93/2018-Customs (N.T.) dated 15.11.2018** has **revised the exchange rate of foreign currencies** specified in col.(2) of each of **Schedule I** and **Schedule II** annexed hereto, into Indian currency or vice versa, w.e.f. **07.12.2018** to be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SCHEDULE-I

Sl. No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	52.35	50.10
2.	Bahrain Dinar	194.20	182.15
3.	Canadian Dollar	53.85	52.00
4.	Chinese Yuan	10.50	10.15
5.	Danish Kroner	10.95	10.60
6.	EURO	81.95	78.95
7.	Hong Kong Dollar	9.25	8.90
8.	Kuwait Dinar	240.90	225.60
9.	New Zealand Dollar	50.05	47.65
10.	Norwegian Kroner	8.45	8.15
11.	Pound Sterling	91.85	88.60
12.	Qatari Riyal	20.10	18.85
13.	South Arabian Riyal	19.50	18.30
14.	Singapore Dollar	52.65	50.85
15.	South African Rand	5.25	4.95
16.	Swedish Kroner	8.05	7.75
17.	Swiss Franc	72.45	69.70
18.	UAE Dirham	19.95	18.70
19.	US Dollar	71.75	70.05

SCHEDULE-II

Sl. No	Foreign Currency	Rate of exchange of 100 units of foreign currency equv. to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	64.05	61.70

CHANGE IN TV OF EDIBLE OIL, BRASS, POPPY SEED, ARECA NUT, GOLD AND SLIVER

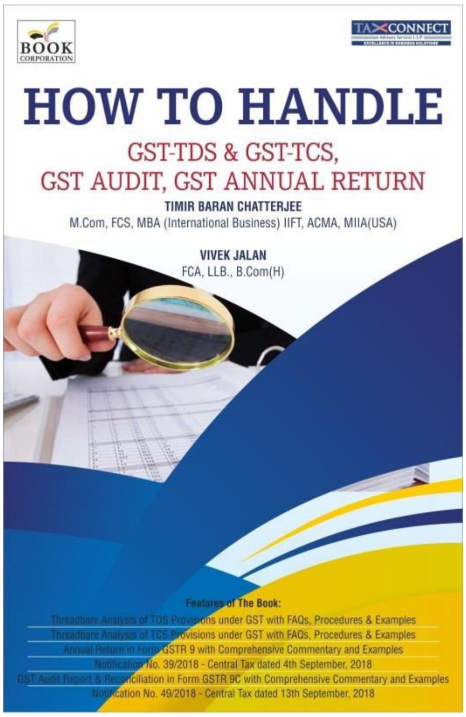
OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 94/2018-CUSTOMS (N.T.) dated 30th November, 2018** hereby makes amendments in the **Notification No. 36/2001-Customs (N.T.), dated 3rd August, 2001**, regarding Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver. For further information kindly refer the above mentioned notification.

CHANGE IN TV OF EDIBLE OIL, BRASS, POPPY SEED, ARECA NUT, GOLD AND SLIVER

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 95/2018-CUSTOMS (N.T.) dated 6.12.18 has** determined the rates of drawback (refer Schedule) subject to specified notes and conditions.

STOP PRESS

HOW TO HANDLE GST-TDS & GST-TCS, GST AUDIT, GST ANNUAL RETURN



ABOUT THE BOOK: This book provides an insight into the following:

1. **Threadbare Analysis of TDS Provisions under GST with FAQs, Procedures & Examples**
2. **Threadbare Analysis of TCS Provisions under GST with FAQs, Procedures & Examples**
3. **Annual Return in Form GSTR 9 with Comprehensive Commentary and Examples**
4. **Notification No. 39/2018 – Central Tax dated 4th September, 2018**
5. **GST Audit Report & reconciliation in Form GSTR 9C with Comprehensive Commentary and Examples**
6. **Notification No. 49/2018 – Central Tax dated 13th September, 2018**

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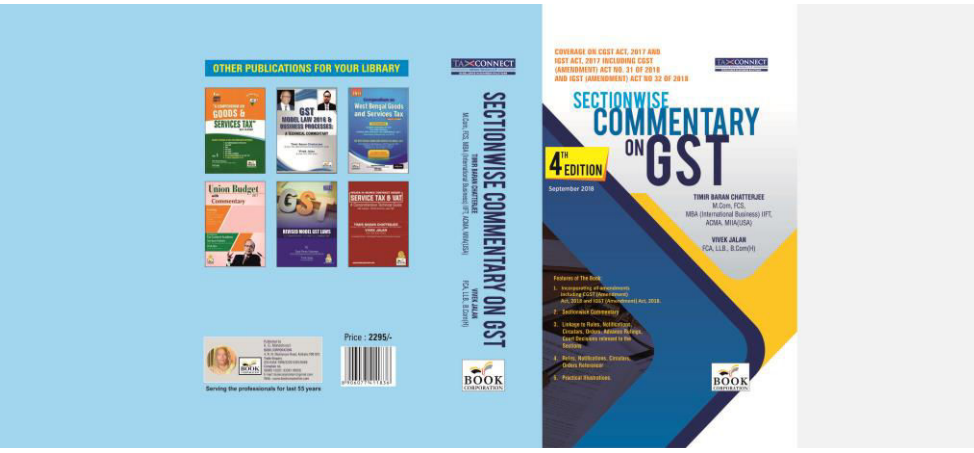
IN STANDS

SECTION WISE COMMENTARY ON GST UPDATED TILL DATE



ABOUT THE BOOK: **This book provides an insight into the following:**

1. **Incorporating all amendments**
2. **Section wise commentary**
3. **Linkages to Rules, Notifications, Circulars, Orders, Advance Rulings, Court Decisions relevant to the Sections**
4. **Rules, Notifications, Circulars, Orders Referencer**
5. **Practical Illustrations**

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