

BRIEF UPDATE ON SEBI AND CORPORATE LAW



CA IP Neha Rajen Gada



CA IP Rajen Hemchand Gada

SEBI

A. REGULATIONS

1. **Securities and Exchange Board of India (Research Analysts) (Amendment) Regulations, 2021**

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/09 dated March 16, 2021]

SEBI has expanded the scope of list of qualifications and certification requirement. Now a person who has gained a professional qualification by completing a Post Graduate Program in the Securities Market (Research Analysis) from NISM of a duration not less than one year shall also be considered under eligibility criteria.

2. **Securities and Exchange Board of India (Portfolio Managers) (Amendment) Regulations, 2021**

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/10 dated March 16, 2021]

SEBI has now made NISM certification requirements mandatory for portfolio Managers in addition to the existing minimum qualifications and experience criteria.

3. **Securities and Exchange Board of India (Investment Advisers) (Second Amendment) Regulations, 2021**

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/11 dated March 16, 2021]

SEBI has expanded the scope of list of qualifications and certification requirement.

Now a person who has gained a professional qualification by completing a Post Graduate Program in the Securities Market (Investment Advisory) from NISM of a duration not less than one year shall also be considered under eligibility criteria.

B. CIRCULARS

1. **Extension of facility for conducting meeting(s) of unitholders of REITs and InvITs through Video Conferencing (VC) or through other audio-visual means (OAVM)**

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2021/21 dated February 26, 2021]

SEBI has extended the facility to conduct meetings of unitholders, through VC or OAVM for REITs/InvITs, as under:

- (a) Annual meetings of unitholders which becomes due in the calendar year 2021 to be conducted till December 31, 2021; and
- (b) For meetings other than annual meeting of unitholders till June 30, 2021.

2. **Circular on Mutual Funds**

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/ Df2/ CIR/P/2021/024 dated March 04, 2021]

Based on the amendments carried out to the Mutual fund Regulations, SEBI has issued this circular covering various aspects like gross exposure limits, investment pattern, procedure for change in control of AMC, Go Green Initiatives, filing of AIR by Mutual funds, etc.

3. Circular on Guidelines for votes cast by Mutual Funds

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/DF4/CIR/P/2021/29 dated March 05, 2021]

With effect from April 01, 2021, SEBI has made it compulsory for Mutual Funds to cast vote of following matter:

- (a) Corporate governance matters, including changes in the state of incorporation, merger and other corporate restructuring, and anti-takeover provisions;
- (b) Changes to capital structure, including increases and decreases of capital and preferred stock issuances;
- (c) Stock option plans and other management compensation issues;
- (d) Social and corporate responsibility issues;
- (e) Appointment and Removal of Directors; and
- (f) Any other issue that may affect the interest of the shareholders in general and interest of the unit-holders in particular; and
- (g) Related party transactions of the investee companies(excluding own group companies).

With effect from April 01, 2022, Mutual funds are compulsorily supposed to vote on matters not listed above.

SEBI has laid down the methodology of voting by Mutual fund managers in this regard.

4. Amendments to provisions in SEBI Circular dated September 16, 2016 on Unique Client Code (UCC) and mandatory requirement of Permanent Account Number (PAN)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/CDMRD/DNP/CIR/P/2021/30 dated March 08, 2021]

Pursuant to the announcement of instant PAN facility in Union Budget 2020, Income Tax Department has launched the facility of e-PAN which is generated instantly through Aadhaar based e-KYC. As such, SEBI has laid down the

pointers for requirement of Pan and e-PAN for members of exchanges having commodity derivatives segment and their members dealing in commodity derivatives.

5. Rollout of Legal Entity Template

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/DOP/CIR/P/2021/31 dated March 10, 2021]

Forms for Non-Individual i.e. Legal Entity have been released for KYC updating of client KYC on CRKYC portal. These will be effective from April 01, 2021.

6. Rollout of Legal Entity Template

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/DOP/CIR/P/2021/31 dated March 10, 2021]

Forms for Non-Individual i.e. Legal Entity have been released for KYC updating of client KYC on CRKYC portal. These will be effective from April 01, 2021.

7. Streamlining the process of IPOs with UPI in ASBA and redressal of investors grievances

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/CFD/DIL2/CIR/P/2021/2480/1/M dated March 16, 2021]

SEBI has issued this circular to streamline the process of IPO wherein the mode of payment opted is UPI in ASBA. There have been numerous complaints. Hence, with the streamlining of process investors would hopefully be saved of procedural pain and financial loss.

CORPORATE LAW

A. Rules

1. Companies (Incorporation) Third Amendment Rules, 2021

[Issued by Ministry of Corporate Affairs vide Notification No. G.S.R. 158(E) dated March 05, 2021]

MCA has added the option for Aadhar authentication option in Form INC-35 AGILE-PRO, part of SPICe+.

2. Companies (Management and Administration) Amendment Rules, 2021

[Issued by Ministry of Corporate Affairs vide Notification No. G.S.R. 159(E) dated March 05, 2021]

The Central Government has notified the provision of Section 32 and 40 of Companies (Amendment) Act, 2020 (29 of 2020) to be effective from March 18, 2021. These section deal remuneration to Independent director even in case the Company has no or inadequate profits.

B. NOTIFICATIONS

1. Commencement notification dt 05.03.2021

[Issued by Ministry of Corporate Affairs vide Notification No. 10665(E) dated March 05, 2021]

The Central Government has notified the provision of Section 23(i) of Companies (Amendment) Act, 2017 (1 of 2018) to be effective from March 05, 2021. These section deal remuneration to Independent director even

in case the Company has no or inadequate profits.

2. Commencement notification dt 05.03.2021

[Issued by Ministry of Corporate Affairs vide Notification No. 1255(E) dated March 18, 2021]

The Central Government has notified the provision of Section 32 and 40 of Companies (Amendment) Act, 2020 (29 of 2020) to be effective from March 18, 2021. These section deal remuneration to Independent director even in case the Company has no or inadequate profits.

3. Amendment to Schedule V of the Companies Act, 2013

[Issued by Ministry of Corporate Affairs vide Notification No. 1256(E) dated March 18, 2021]

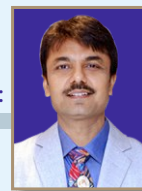
The Central Government has amended PART II "REMUNERATION" of Schedule V to Companies Act, 2013. Reference to "Other Directors" has been inserted in various clauses. Further, Table (A) has been substituted with the following:

	(1)	(2)	(3)
Sl.No.	Where the effective capital (in rupees) is	Limit of yearly remuneration payable shall not exceed (in Rupees) in case of a managerial person	Limit of yearly remuneration payable shall not exceed (in rupees) in case of other director
(i)	Negative or less than 5 crores. than 100 crores.	60 lakhs	60 lakhs
(ii)	5 crores and above but less than 100 crores.	84 lakhs	84 lakhs
(iii)	100 crores and above but less than 250 crores.	120 lakhs	120 lakhs
(iv)	250 crores and above.	120 lakhs plus 0.01% of the effective capital in excess of Rs.250 crores:	24 Lakhs plus 0.01% of the effective capital in excess of Rs.250 crores:]



FEMA UPDATES

Compiled by:



CA Manoj Chunilal Shah CA Viral Vinod Satra

Remittances to International Financial Services Centres (IFSCs) in India under Liberalized Remittance Scheme (LRS)

A.P. (DIR Series) Circular No. 11 dated February 16, 2021

With a view to deepen the financial markets in IFSCs and provide opportunities to resident individuals to diversify their portfolio, it has been decided to allow resident individuals to make remittances under LRS to IFSCs in India, subject to following conditions:

- i. The remittance shall be made only for making investments in IFSCs in securities, other than those issued by entities/companies resident (outside IFSC) in India.
- ii. Resident individuals may also open a non interest bearing Foreign Currency Account (FCA) in IFSCs, for making above permissible investments under LRS. Any funds lying idle in the account for a period up to 15 days from date of its receipt into account shall be immediately repatriated to domestic INR account of investor in India.
- iii. Resident individuals shall not settle any domestic transactions with other residents through these FCAs held in IFSCs.

AD Banks shall ensure compliance including reporting requirements under the scheme.

If any person resident in India (PRI) outside IFSC, enters into any transaction with any person / entity in IFSC shall only be governed by rules/ regulation notified by RBI or GoI under FEMA, 1999. Further, compounding of any contravention of FEMA provision by such PRI shall be dealt with by RBI in accordance with the extant instructions/provisions on compounding of contraventions under FEMA.

Investment by Foreign Portfolio Investors (FPIs) in Defaulted Bonds - Relaxations

A.P. (DIR Series) Circular No. 12 dated February 26, 2021

Currently, FPI investments in corporate bonds are subject to a minimum residual maturity requirement provided under paragraph 4(b)(ii) of A. P. (DIR Series) Circular No. 31 dated 15th June 2018. Also, investor-wise limit has been prescribed under paragraph 4(f)(i) of the said circular.

However, FPI investments in security receipts and debt instruments issued by Asset Reconstruction Companies and debt instruments issued by an entity under the Corporate Insolvency Resolution Process as per the resolution plan approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 are exempt from these requirements.

It has now been decided to exempt investments by FPI in NCDs/bonds which are under default, either fully or partly, in the repayment of principal on maturity or principal instalment in the case of amortising bond from the aforesaid requirements.

FAQs on Compounding of Contraventions

The FAQs for Compounding of Contraventions under FEMA 1999 have been updated recently by Reserve Bank of India.

Following FAQs have been deleted –

Question No. 9 - What action is taken by the Reserve Bank on receipt of the application?

Question No. 11 - Who should classify the contravention as technical, material or sensitive?

Question No. 12 - When can a contravention be classified as technical?

Question No. 16 - Are Compounding orders made public?

Answers of following FAQs have been amended –

Question – Where should one apply for Compounding?

Question – What is criteria for calculation of Compounding amount?

The link for latest FAQs is –

https://rbi.org.in/scripts/FS_FAQs.aspx?Id=80&fn=5

Summary Information on few Compounding Orders issued after 1st March 2020

Sr. No.	Party Name	Nature of Contravention	Date of Order	Compounding Fees (Rs.)
1.	RICS India Private Limited	Contravention u/s 10(6) of FEMA for use of foreign exchange for purpose other than for which it was acquired or non surrender of foreign exchange or using it for purposes which is not permissible.	05-02-2021	6,89,838
2.	Accumetric Asia Pacific Limited	Regulation 6(i) of FEMA Notification 22 – undertaking activity by branch or a liaison office in India which are not permitted by RBI or not prescribed in Schedule I or Schedule II.	13-08-2020	6,19,256



RERA

UPDATES

Compiled by:



CA Ashwin Bhawanji Shah

Gujarat High Court - Whether Gujarat Real Estate Regulatory Authority is a person eligible to file 2nd Appeal before High Court?

Gujarat Real Estate Regulatory Authority Vs Satyam Infracon

Issues:

- Whether Hon'ble RERA Authority can challenge a decision of the Appellate Tribunal before the High Court under Section 58 of the RERA, 2016.
- Whether, Hon'ble RERA Authority falls under the definition of "Person" as defined under section 2(zg).

Relevant Provisions:

Section 58:- Appeal to High Court

"58(1) Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the High Court, within a period of sixty days from the date of communication of the decision or order of the Appellate Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908):

2(I) Authority

"Authority" means the Real Estate Regulatory Authority established under sub-section (1) of section 20.

2(o) :- Company

"company" means a company incorporated and registered under the Companies Act, 2013 and includes,

- (i) a corporation established by or under any Central Act or State Act;
- (ii) a development authority or any public authority

established by the Government in this behalf under any law for the time being in force

2(p) :- Competent Authority

"competent authority" means the local authority or any authority created or established under any law for the time being in force by the appropriate Government which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property.

2(zg) Person :-

"Person" includes,—

- (i) an individual;
- (ii) a Hindu undivided family;
- (iii) **a company;**
- (iv) a firm under the Indian Partnership Act, 1932 or the Limited Liability Partnership Act, 2008, as the case may be;
- (v) **a competent authority;**
- (vi) an association of persons or a body of individuals whether incorporated or not;
- (vii) a co-operative society registered under any law relating to co-operative societies;
- (viii) any such other entity as the appropriate Government may, by notification, specify in this behalf

Fact of the Case:

- Gujrat Real Estate Regulatory Authority has rejected the RERA registration application by raising the questions regarding authenticity and legality of the plans approved by the competent Authority.
- Hon'ble Chairman Gujarat Real Estate regulatory Authority has suggested to clarify/modify

the planning of the project for which development permission was granted by the competent Authority.

- The Gujarat Real Estate regulatory Authority rejected the application and directed the Surat Municipal Corporation to stay the construction work and re-verify the modified development permission granted to the developer being a promoter.
- Aggrieved with the order for rejection of registration application, promoter filed and appeal before the Appellate Tribunal.
- The Hon'ble Appellate Tribunal sought final report from the municipal corporation regarding the validity of the development permission and as per the report of municipal corporation the development permission was granted as per the applicable rules and regulations.
- On the basis of submission made by the Promoter and the Report of Municipal Corporation, Hon'ble Appellate Tribunal observed that RERA Authority has no jurisdiction to direct the municipal corporation to stay the construction and re-verify the development permission and accordingly order was passed by the Hon'ble Appellate Tribunal that RERA Authority shall grant the registration to the promoter and municipal corporation will vacate the stay on construction.
- Aggrieved with the Order, RERA Authority filed an appeal before the Hon'ble High Court challenging the order passed by the Hon'ble Appellate Tribunal.
- In the said Appeal, Promoter raised the Preliminary Objection that the scheme of the RERA Act does not envisage the Authority being empowered or authorized to prefer an appeal before the High Court against a decision passed by the Appellate Tribunal.
- In the objection, promoter contended that as per provision of the Section 58 of the RERA any aggrieved person can file the appeal before the

Hon'ble High Court and **RERA Authority is not the person as per provision of Section 2(zg).**

- Further, it is stated by the Promoter that the Authority and the competent Authority are different and it is submitted that in the definition of person includes a competent authority, but does not include "Authority".

Observation of Hon'ble Gujarat High Court :-

- Hon'ble High Court observed that word 'Person' as defined in Section 2(zg) of the Act does not directly refer to the 'Authority' as person.
- However reading of Section 2(o) of the Act, a completely different meaning can be culled out inasmuch as the Section 2(zg)(iii) states that the word 'Person' also includes 'a company'.
- In definition of the word "company" at Section 2(o) of the Act in addition to a company incorporated and registered under the Companies Act, 2013, the words "a development authority or any public authority established by the Government in this behalf" is also included.

Conclusion :

- Undoubtedly the Real Estate Regulatory Authority is a public authority established by the Government under the Real Estate (Regulation and Development) Act, 2016.
- Once the RERA Authority is made the party by the Promoter in the 1st Appeal filed before the Appellate Tribunal than, RERA Authority can also file 2nd Appeal before the Hon'ble High Court if it is aggrieved.
- The Authority would be included in the definition of 'Person' on a conjoint reading of section 2(zg) and 2(o) of the Act.

The Authority falling within the definition of the word 'Person' is therefore empowered to challenge a decision of the Appellate Tribunal before the High Court under Section 58 of the Act.



DIRECT TAXES

Compiled by:



CA Haresh Padamshi Kenia

LAW UPDATE

- **Computation methodology prescribed - Tax on income out of excess employer contribution to specified funds - Section 17(2)(viia) of the Act**

NOTIFICATION G.S.R. 155(E) [NO. 11/2021/F. NO. 370142/52/2020-TPL], DATED 5-3-2021

The Central Board of Direct Taxes vide Notification G.S.R. 155[E] dated 05.03.2021, in exercise of the powers conferred by Section 17(2)(viia) read with section 295 of the Income-tax Act, gives the Income-tax (1st Amendment) Rules, 2021. It amends the income tax rules by insertion of new Rule 3B. It come into force from the 1st day of April, 2021.

The new rule 3B Inserted as under –

"3B. Annual accretion referred to in the sub-clause (viia) of clause (2) of section 17 of the Act. — For the purposes of sub-clause (viia) of clause (2) of section 17 of the Act, annual accretion by way of interest, dividend or any other amount of similar nature during the previous year (hereinafter in this rule referred to as the current previous year) to balance to the credit of the fund or scheme referred to in sub-clause (vii) of clause (2) of section 17 of the Act shall be the amount or aggregate of amounts computed in accordance with the following formula, namely:—

$$TP = (PC/2)*R + (PC_1 + TP_1)*R$$

Where,

TP= Taxable perquisite under sub-clause (viia) of clause (2) of section 17 of the Act for the current previous year;

TP₁ = Aggregate of taxable perquisite under sub-clause (viia) of clause (2) of section 17 of the Act for the previous year or years commencing on or

after 1st day April, 2020 other than the current previous year (See Note);

PC= Amount or aggregate of amounts of principal contribution made by the employer in excess of Rs. 7.5 lakh to the specified fund or scheme during the previous year;

PC₁= Amount or aggregate of amounts of principal contribution made by the employer in excess of Rs. 7.5 lakh to the specified fund or scheme for the previous year or years commencing on or after 1st day April, 2020 other than the current previous year (See Note);

$$R = I/F_{avg}$$

I=Amount or aggregate of amounts of income accrued during the current previous year in the specified fund or scheme account;

Favg = (Amount or aggregate of amounts of balance to the credit of the specified fund or scheme on the first day of the current previous Year + Amount or aggregate of amounts of balance to the credit of the specified fund or scheme on the last day of the current previous year)/2.

Explanation. — For the purposes of this rule, "specified fund or scheme" shall mean a fund or scheme referred to in sub-clause (vii) of clause (2) of section 17 of the Act.

Note: Where the amount or aggregate of amounts of TP₁ and PC₁ exceeds the amount or aggregate of amounts of balance to the credit of the specified fund or scheme on the first day of the current previous year, then the amount in excess of the amount or aggregate of amounts of the said balance shall be ignored for the purpose of computing the amount or aggregate of amounts of TP₁ and PC₁."

- **Extension of Various limitation dates relating to assessments, reassessments, imposition of penalty etc.**

Notification no. 10/2021 in S.O. 966 (E) dated 27/02/2021

Section 3 (1) the Taxation and other laws (Relaxation and Amendment of Certain Provisions) Act 2020 had extended various dates to 31 March 2021 which were falling between the period of 20 March 2020 to 31 December 2020.

CBDT vide notification no 10 / 2021 dated 27.02.2021 further extends various limitation dates.

- a) Date for passing of assessment or reassessment orders under the IT Act, that are getting time barred on 31st March, 2021 due to extension of limitation date by the notification dt 31st December, 2020 has been extended to 30th April, 2021.
- b) Date for passing assessment or reassessment orders (not covered by (a) above), that are getting time barred on 31st March, 2021, as per time limit specified in section 153 / 153B of the Income-tax Act, has been extended by 6 months i.e. to 30th September, 2021.
- c) Date for passing of penalty orders extended to 30th June, 2021. Date for issue of notice & passing of orders by Adjudicating Authority under the Benami Act extended to 30th September, 2021.

- **RESIDENTIAL STATUS Section 6 - RESIDENTIAL STATUS OF CERTAIN INDIVIDUALS UNDER THE ACT**

CIRCULAR NO. 2 OF 2021 [F. NO. 370142/18/2020-TPL], DATED 3-3-2021

Due to the declaration of the lockdown and suspension of international flights owing to the outbreak of COVID-19, many NRIs had to prolong their stay in India. Consequently, their stay has exceeded beyond the period of their visit and thus they may be regarded as

resident/not ordinarily resident. The Central Board of Direct Taxes (CBDT) has recently issued CIRCULAR NO. 2 OF 2021 [F. NO. 370142/18/2020-TPL], DATED 3-3-2021 to provide relaxation in the methodology of computing the 'number of days' of stay in India for the purpose of section 6 of the IT Act

The Central Board of Direct Taxes (CBDT) has received various representations requesting for relaxation in the determination of residential status for the previous year 2020-21 from individuals who had come on a visit to India during the previous year 2019-20 and intended to leave India but could not do so due to the suspension of international flights. The matter has been examined by the Board and following facts have emerged and same is discussed at length in the aforesaid circular.

- Short stay will not result in Indian residency
- Possibilities of dual non-residency in case of general relaxation
- Tie breaker rule as per Double Taxation Avoidance Agreement (DTAA):
- Employment income taxable only subject to conditions as per DTAA:
- Credit for the taxes paid in other country:
- International Experience

The CBDT also discussed that OECD as well as most of the countries have clarified that in view of the provisions of the domestic income tax law read with the DTAA's, there does not appear a possibility of the double taxation of the income for PY 2020-21. It was clarified that the possibility of double taxation does not exist as per the provisions of the Income-tax Act, 1961 read with the DTAA's. However, in order to understand the possible situations in which a particular taxpayer is facing double taxation due to the forced stay in India, it would be in the fitness of things to obtain relevant information from such individuals. After understanding the possible situations of double taxation, the Board shall examine that, -(i) whether any relaxation is required to be provided in this

matter; and (ii) if required, then whether general relaxation can be provided for a class of individuals or specific relaxation is required to be provided in individual cases. The circular also provides that if any individual is facing double taxation even after taking into account the relief provided by the relevant Double Taxation Avoidance Agreement (DTAA), he/she may furnish the specified information by 31st March, 2021. The information has to be submitted in Form -NR and is to be submitted electronically to the Principal Chief Commissioner of Income-tax (International Taxation)

Reader may refer to full text of the Circular

• **INCOME ESCAPING ASSESSMENT- Section 148 - INSTRUCTION REGARDING SELECTION OF CASES**

INSTRUCTION F. NO. 225/40/2021/ITA-II, DATED 4-3-2021

1. The Central Board of Direct Taxes, in exercise of its powers under section 119 of the Income-tax Act, 1961, with an objective of streamlining the process of selection of cases for issue of notices under section 148 of the Act, hereby directs that the following categories of cases be considered as 'potential cases' for taking action under section 148 of the Act by 31.03.2021 for the A.Y 2013-14 to A.Y 2017-18 by the Jurisdictional Assessing Officer (JAO):
 - i. Cases where there are Audit Objections (Revenue/Internal) which require action under section 148 of the Act;
 - ii. Cases of information from any other Government Agency/Law Enforcement Agency which require action under section 148 of the Act;
 - iii. Potential cases including:—
 - (a) Reports of Directorate of Income-tax (Investigation),
 - (b) Reports of Directorate of Intelligence & Criminal Investigation,

(c) Cases from Non-Filer Management System (NMS) & other cases as flagged by the Directorate of Income-tax (Systems) as per risk profiling; iv. Cases where information arising out of field survey action, requiring action under section 148 of the Act. v. Cases of information received from any Income-tax authority requiring action under section 148 of the Act with the approval of Chief Commissioner of Income Tax concerned.

2. No other category of cases, except the above, shall be considered for taking action under section 148 of the Act by the JAO.
 3. It is clarified that action under section 148 of the Act shall be taken by the Assessing Officer in respect of the above categories of cases after forming a reasonable belief that income chargeable to tax has escaped assessment and 'reasons to believe' shall be recorded and required sanction as per section 151 of the Act shall be obtained before issuing notice under section 148 of the Act.
 4. These instructions shall not be applicable to the Central charges and International Taxation charges for which separate instructions are being issued
- **Deadline for filing under VsV extended to March 31**

The CBDT vide notification no 09/2021 in S.O. 964(E) dated 26/02/2021 extended the deadline for filing declarations and making payment under direct tax dispute resolution scheme Vivad Se Vishwas (VsV) till March 31 and April 30 respectively. As per a CBDT's notification, the date for payment of tax without additional interest under VSV changed to April 30, 2021.

- **INCOME OF FOREIGN INSTITUTIONAL INVESTORS FROM SECURITIES OR CAPITAL GAINS ARISING FROM THEIR TRANSFER - TAXABILITY OF - CLARIFICA-**

TION ON CONTINUATION OF CONCESSIONAL RATE OF TAX ON CERTAIN INTEREST INCOME ON FPIs – Section 115AD r.w.s.194-LD

PRESS RELEASE, DATED 17-3-2021

Section 115AD of the Income-tax Act, 1961 (the 'Act') inter alia contains provisions for taxation of income of FPIs. Proviso to section 115AD(1)(i) provides that the tax shall be chargeable at the concessional rate of 5% on interest income referred to in section 194-LD.

There are reports in certain section of media that the said concessional tax rate of 5% has been withdrawn. It is hereby clarified that there is no change in the said proviso even after amendment of section 115AD vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and the concessional rate of tax of 5% shall continue to be applicable for interest income referred to in section 194-LD of the Act.

- **Statement of financial transaction containing information relating to capital gains on transfer of listed securities or units of Mutual Funds, dividend income, and interest income shall be furnished by specified persons**

- **Notification no 16/2021 dated 12 March 2021**

The Central Board of Direct Taxes vide notification no 16/2021 dated 12 march 2021, In exercise of the powers conferred by section 285BA read with section 295 of the Income- tax Act, 1961, gives the Income-tax (4th Amendment) Rules, 2021.

CBDT notifies, a statement of financial transaction containing information relating to capital gains on transfer of listed securities or units of Mutual Funds, dividend income, and interest income shall be furnished by specified persons at such frequency, and in such manner, as may be specified by the Principal Director General of Income Tax

It amends Rule 114E and inserts new sub rule 5A. The nature of Transactions and specified person are given below

Sl.No.	Nature of transaction	Class of person (reporting person)
(1)	(2)	(3)
	Capital gains on transfer of listed securities or units of Mutual Funds	(i) Recognised Stock Exchange; (ii) depository as defined in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996); (iii) Recognised Clearing Corporation; (iv) Registrar to an issue and share transfer agent registered under sub- section (1) section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).
2.	Dividend income	A company
3.	Interest income	(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898). (iii) Non-banking financial company which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934), to hold or accept deposit from public.

Readers are requested to refer to full text of notification



GST UPDATES

Compiled by:



CA Nitin Dhanji Kenia CA Bharat Kalyanji Gosar

NOTIFICATIONS - CENTRAL TAX:

- **Notification No. 03/2021 - Central Tax dated 23rd February, 2021.**

Authentication of aadhar number u/s 25(6B) or (6C) for application of registration shall not be applicable to a person who is not a citizen of India, a department or establishment of the Central Government or State government, a local authority, a statutory body, a public sector undertaking, any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries.

- **Notification No. 04/2021 - Central Tax dated 28th February, 2021.**

The notification Seeks to extend the time limit for furnishing of the annual return specified under section 44 of CGST Act, 2017 for the financial year 2019-20 till 31.03.2021.

- **Notification No. 05/2021 - Central Tax dated 8th March, 2021.**

Vide notification number 13/2020 - Central Tax dated 21st March, 2020 provision relating to E invoicing is made operation with effect from 01/10/2020. Vide this notification it is made applicable to a registered person whose aggregate turnover in respect of supply of goods or services or both or for exports in any preceding financial year from 2017-18 onwards exceeds 50 crore rupees. It is applicable from 01/04/2021.

CIRCULARS - CGST:

- **Circular No. 145/01/2021 - GST- dated 11th February, 2021**

Vide Notification No. 94/2020 - Central Tax dated 22nd December, 2020, Rule 21A (2A) was amended with effect from 22/12/2020 so as to provide that where there is significant difference between GSTR 3B vs GSTR 1 vs GSTR 1 filed by his suppliers then his registration shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled. This Circular provides Standard Operating Procedure (SOP) for implementation of the provision of suspension of registrations under Rule 21A(2A).

- **Circular No. 146/02/2021 - GST- dated 23rd February, 2021**

The Circular in detail gives clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020.

- **Circular No. 147/03/2021 - GST- dated 12th March, 2021**

The Circular has further given in detail Clarification on refund related issues.



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