

BRIEF UPDATE ON SEBI AND CORPORATE LAW



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SEBI

A. REGULATIONS

1. **Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2021**

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/12 dated March 23, 2021]

Stock Exchanges shall now be liable to pay the following to SEBI:

- (a) Annual Turnover Fees; and
- (b) 10% of Listing fees collected by Stock Exchanges.

2. **Securities And Exchange Board Of India (Merchant Bankers) (Amendment) Regulations, 2021**

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/13 dated March 30, 2021]

SEBI has amended the regulations to insert underwriting related provisions and agreements with clients in this regard.

3. **Securities and Exchange Board of India (Stock Brokers) Regulations, 1992 [Last amended on March 30, 2021]**

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/14 dated March 30, 2021]

SEBI has amended the regulations to insert underwriting related provisions and agreements with clients in this regard.

4. **Securities And Exchange Board Of India (Underwriters) (Repeal) Regulations, 2021**

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/15 dated March 30, 2021]

SEBI has repealed SEBI (Underwriters) Regulations, 1992 with effect from March 30, 2021 in light of the amendments carried out in SEBI (Merchant Bankers) Regulations, 1992 and SEBI (Stock Brokers) regulations, 1992.

B. CIRCULARS

1. **Review of delivery default norms**

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/CDMRD/DRMP/CIR/P/2021/35 dated March 23, 2021]

SEBI had received representations from market participants in the commodity derivatives segment for standardization of delivery default norms, strengthening the deterrent mechanism and ensuring adequate compensation to the non-defaulting counterparty. In view of the same, SEBI has prescribed the extant delivery default norms to act as a deterrent.

2. **Prior Approval for Change in control: Transfer of shareholdings among immediate relatives and transmission of shareholdings and their effect on change in control**

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/DOR/CIR/P/2021/42 dated March 25, 2021]

SEBI has prescribed the procedure for change in control of intermediaries under various circumstances like Transfer/transmission of

share holding in case of unlisted body corporate intermediary, Transfer / transmission of share holding in case of a proprietary firm type intermediary, etc.

3. **Transfer of business by SEBI registered intermediaries to other legal entity**

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO /MIRSD/ DOR/CIR/P/2021/46 dated March 26, 2021]

SEBI has been receiving various applications for change in control of businesses. In this regard, it laid down the procedure as to how the process for change in control will be taken up. Also, in some cases, the seller will have surrender the registration certificate and the buyer needs to re-apply for fresh registration.

4. **Circular on Guidelines pertaining to Surrender of FPI Registration**

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/ FPI&C/CIR/P/2021/045 dated March 30, 2021]

SEBI has laid down the procedure to be followed by Foreign Portfolio Investors ('FPIs') and Domestic Depository Participants ('DDPs'). In case of surrender of FPI Registraton.

5. **Reduction in unblocking/refund of application money**

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/CFD/DIL1/ CIR/P/2021/47 dated March 31, 2021]

Based on various consultations with the market participants it has been decided to reduce the timelines for refund of the moneys to the investors in various occasions to "four days".

6. **Circular on Regulatory Reporting by AIFs**

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/IMD-I/DOF6/CIR/2021/549 dated April 07, 2021]

Based on consultation with various stake holders and recommendation of Alternative Investment Policy Advisory Committee, SEBI has decided that all AIFs shall submit report on their activity as an AIF to SEBI on quarterly basis within 10 calendar days from the end of each quarter in the revised formats prescribed.

Further, Category III AIFs are also required to submit report on leverage undertaken, on quarterly basis in the revised formats prescribed.

AIFs shall submit these reports online through SEBI intermediary Portal.

Further, changes in terms of private placement memorandum and in the documents of the fund/scheme shall be intimated to investors and SEBI on a consolidated basis, within 1 month of the end of each financial year.

Such intimation shall specifically mention the changes carried-out in the private placement memorandum and the documents of the fund/scheme, along with the relevant pages of revised sections/clauses.

CORPORATE LAW

A. **Rules**

1. **Company (Accounts) amendment Rules, 2021**

[Issued by Ministry of Corporate Affairs vide Notification No. G.S.R. 205(E) dated March 24, 2021 & G.S.R. 247(E) dated April 01, 2021]

The Central Government directed all companies using accounting software for maintaining its books of accounts to use only such accounting softwares which has a feature of recording audit trail of each and every transaction, creating an

edit log of each change made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled.

The implementation of these provisions have been made effect from April 01, 2022.

2. **Companies (Audit and Auditors) Amendment Rules, 2021**

[Issued by Ministry of Corporate Affairs vide Notification No. G.S.R. 206(E) dated March 24, 2021 & G.S.R. 248(E) dated April 01, 2021]

With the amendment in Rule 11 of Companies (Audit and Auditors) Rules, 2021, auditors will now also have to comment on the following:

- (a) Whether the Company under audit has, directly or indirectly **given moneys** whether by way of loans, investments or in any other form to another entity which will in turn lend or invest or provide and guarantee on behalf of the Company under audit;
- (b) Whether the Company under audit has, directly or indirectly **received moneys** whether by way of loans, investments or in any other form to another entity which will in turn lend or invest or provide and guarantee on behalf of the Company under audit;
- (c) That based on the audit procedures undertaken, nothing has come to their notice that has caused them to believe that the representations under sub-clause (a) and (b) contain any material misstatement the auditor has not come across any material;
- (d) Whether the dividend declared or paid during the year by the company is in compliance with section 123 of the Companies Act, 2013; and
- (e) Whether the audit trail requirements as mentioned in the clause have been undertaken. [This clause will now be effective for financial year commencing on or after April 01, 2022]

B. **NOTIFICATIONS**

1. **Amendment to Schedule III to the Companies Act, 2013**

[Issued by Ministry of Corporate Affairs vide Notification No. 207(E) dated March 24, 2021]

The Central Government has amended Schedule III relating to preparation of Balance Sheet and Statement of Profit and loss Account. These amendments shall be effective from April 01, 2021.

2. **Commencement notification dated 24.03.2021**

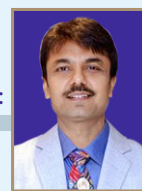
[Issued by Ministry of Corporate Affairs vide Notification No. 1303(E) dated March 24, 2021]

The Central Government has notified the penalty provisions in Section 124(7) of Companies Act, 2013 relating to non-compliance with regard to unpaid dividend account and levy of fine provisions in section 247(3) of Companies Act, 2013 relating to valuation by registered valuers.



FEMA UPDATES

Compiled by:



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Investment by Foreign Portfolio Investors (FPI): Investment Limits

A.P. (DIR Series) Circular No. 14 dated March 31, 2021

- a. Investment Limits for FY 2021-22 a. The limits for FPI investment in Corporate bonds shall remain unchanged at 15% of outstanding stock of securities for FY 2021-22. Accordingly, the revised limits for FPI investment in corporate bonds, after rounding off, shall be as under

(Table - 1)

Table - 1: Limits for FPI investment in Corporate bonds for FY 2021-22	
(₹ Crore)	
Current FPI limit	5,41,488
Revised limit for HY Apr 2021-Sep 2021	5,74,263
Revised limit for HY Oct 2021-Mar 2022	6,07,039

- b. The revised limits for FPI investment in Central Government securities (G-secs) and State Development Loans (SDLs) for FY 2021-22 will be advised separately. Till such announcement, the current limits (as in Table - 2), shall continue to be applicable.

Table - 2: Limits for FPI investments in G-Sec and SDL				
(₹ Crore)				
	G-Sec General	G-Sec Long Term	SDL General	SDL Long Term
FPI investment limits	2,34,531	1,03,531	67,630	7,100

FETERS – Cards: Monthly Reporting

A.P. (DIR Series) Circular No. 13 dated March 25, 2021

- It has been decided to collect more details of international transactions using credit card / debit card / unified payment interface (UPI) along with their economic classification (merchant category code – MCC) through a new return called 'FETERS-Cards', using the same web-portal (<https://bop.rbi.org.in>).
- Nodal offices of Authorised Dealers (ADs) may submit FETERS-Cards details on the web-portal in the following manner:**

A. For transactions through credit card / debit card / UPI:

- (i) Sale of forex by AD towards international transaction made by Indian resident (to be reported by the card issuing / transaction originating AD); and
- (ii) Purchase of forex by AD under transaction by foreign resident with Indian resident (to be reported by merchant acquirer AD).

B. The information shall be submitted in the following fixed format (details given in Annex):

- (i). For transactions using credit/debit card: MCC X Country X Currency X Amount (Payment / Refund) X Card Status (Present / Not present)
- (ii). For transactions through UPI: MCC X Country X Currency X Amount (Payment/Refund) X QR Code Scan (Yes/No)

3. AD Banks need to report all card transactions (e.g., through PoS terminals / ecommerce (online purchase) / for transferring funds to bank accounts).

4. Data submission by ADs:

- (I) ADs shall submit the FETERS-Cards data on the web portal (<https://bop.rbi.org.in>) by using the RBI-provided login-name and password, within seven working days from the last date of the month for which data are being reported. The web-portal provides detailed guidance and help material.
- (ii) FETERS-Cards reporting will be implemented for the transactions taking place from April 1, 2021. Hence, details of the transactions in April 2021 may be reported in the first week of May 2021.



RERA

UPDATES

Compiled by:



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MahaRERA has recently issued various circulars for clarification and standardisation of process pertaining to:-

- **Standardised format for Legal Title Report**
- **Procedures for Extension of Project U/s 7(3)**
- **Procedure for Alteration of Plan of the Project under Section 14(2)**
- **Disclosure of sold and unsold units by the Promoters**

In continuous efforts for better transparency and to protect the interest of homebuyer, the MahaRERA has issued the circular, **Circular No. 28/2021 dated 08.03.2021 No.29/2021 dated 09.04.2021.**

- The format of legal title report is standardised and summary report showing flow of title needs to be signed by Advocate. It intends to bring on record disclosure of title holders viz. Land Owner, Developer etc
- MahaRERA has standardised the format of application for taking the consent of allottee in case of extension of project is required as per section 7(3) of RERA, 2016. In this application the consent of 51% allottee is to be obtained and the details of all the allottee including name, flat/unit no and signature is to be obtained and uploaded.
- For alteration of approved plans of the project as per section 14(2) of RERA, 2016 the application for consent of 2/3 allottee is to be taken in a standard format wherein the details of the allottee, signature along with the details of consent taken from the allottee with respect of total unit sold is to be mentioned.
- Promoters are also required to upload list of sold and unsold units including date of registration of agreements so that prospective buyers can verify unit wise status while booking the apartment with the Promoter.
- The requisite formats can be downloaded from MahaRera portal.



DIRECT TAXES

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LAW UPDATE

- **DTAA between GOVERNMENT OF REPUBLIC OF INDIA and GOVERNMENT OF ISLAMIC REPUBLIC OF IRAN- Section 90 of Income Tax Act.**

The Central Government, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, vide NOTIFICATION S.O. NO. 1442(E) [NO.29/2021/F.NO.501/03/92-FTD-II], dated 1-4-2021 hereby notifies agreement between THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN for the avoidance of double Taxation and the prevention of fiscal evasion with respect to taxes on income .

- **Relaxation of certain provisions of Specified Act- Extension of due date for Completion of action under Specified Acts- - Readwith sections 139AA, 144C, 148, 149 and 151 Income tax Act and Section 168 of the Finance Act ,2016**

The Central Government vide NOTIFICATION S.O. 1432(E) [NO. 20/2021/F. NO. 370142/35/2020-TPL], DATED 31-3-2021 and in exercise of the powers conferred by section 3 (1) of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020and subsequent notifications issued under this Act, hereby extends the following due dates in view of the COVID-19 pandemic, certain time limits specified under the various tax and Benami laws

- The extended last date for intimating Aadhaar number for the purposes of linking Aadhaar with PAN is 31st March, 2021. Keeping in view the difficulties faced by the taxpayers, the Central Government has issued notification today extending the last date for the intimation of Aadhaar number and linking thereof with PAN to 30th June, 2021.
- The said notification also extended time-limits for issue of notice under section 148 of the Act, passing of consequential order under section 144C for direction issued by the Dispute Resolution Panel (DRP) and processing of equalisation levy statements to 30th April, 2021.
- **Tax Audit Report in form 3CD amended**

The Central Board of Direct Taxes exercise of the powers conferred by section 44AB read with section 295 of the Income-tax Act vide NOTIFICATION NO. G.S.R. 246(E) [NO. 28/2021/F. NO 370142/9/2018-TPL], DATED 1-4-2021 gives the Income-tax (eighth Amendment) Rules, 2021

It has amended the Tax Audit Report (TAR) in Form 3CD in order to incorporate the changes brought in the Income Tax Act by the Finance Act, 2021. These changes in Form 3CD shall be effective from the 1st day of April 2021 and shall apply for the assessment year 2021-22 are as under .

- **Revised Tax Audit Report in certain cases**

Rule 6G prescribes rules related to reporting of the audit of accounts to be furnished under section 44AB. For allowing filing of revised Tax Audit Report, Rule 6G is amended to insert a sub-rule (3) as mentioned below-

“The report of audit furnished under this rule may be revised by the person by getting revised report of audit from an accountant, duly signed and verified by such accountant, and furnish it before the end of the relevant assessment year for which the report pertains, if there is payment by such person after furnishing of report under subrule (1) and (2) which necessitates recalculation of disallowance under section 40 or section 43B.”

➤ **Changes in Clause 8A to report exercise of option under section 115BAC/115BAD**

The Finance Act 2020 has introduced two new concessional tax rate regime under section 115BAC for Individuals and HUF and section 115BAD for cooperative societies. The two provisions are applicable from AY 2021-22. Ans in order to incorporate the same in the Tax Audit Report, Clause 8a of Form 3CD is changed to include these two sections - section 115BAC and section 115BAD also.

➤ **Adjustment in WDV of Assets For exercising option under sections 115BAC/115BAD**

There was amendment in Form 3CD for the AY 2020-21 where in Clause 18(ca) was introduced to report the adjustment in WDV of the block of assets if lower tax regime under section 115BAA is exercised by the assessee. This clause was valid for AY 2021-22 only.

The finance Act 2020, introduced two new concessional tax rate regimes under section 115BAC for Individuals and HUF and section 115BAD for cooperative societies. The two provisions are applicable from AY 2021-22. In cases of section 115BAC and section 115BAD also, additional depreciation is not allowed and hence requires adjustment in WDV of the block of assets. Hence Clause 18(ca) is substituted with the new sub-clause (ca) which is applicable for AY 2021-22 only.

➤ **Higher safe harbour rule of 20% between actual sales consideration and stamp duty value under section 43CA and section 56(2)(x) - Amendment in Clause 17 of form 3CD**

In order to boost demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a rate lower than the Stamp duty rate and giving benefit to the home buyers, the finance Act 2021, has amended the provision of section 43CA and Section 56(2)(x) of the Act and it provides for increase the safe harbour from 10% to 20% under section 43CA for the period from 12th November 2020 to 30th June 2021 in respect of the only primary sale of residential units of value up to Rs. 2 crore.

Consequential relief by increasing the safe harbour from 10% to 20% was also allowed to buyers of these residential units under section 56(2)(x) for the said period. Therefore, for these transactions, the Stamp duty rate shall be deemed as a sale/purchase consideration only if the variation between the agreement value and the stamp duty rate is more than 20%.

These changes are now incorporated in Form 3CD from AY 2021-22. For this purpose, existing clause 17 is substituted with the new Clause 17 incorporating the above amendment.

➤ **Depreciation of Goodwill - Changes in Clause 18 of Form 3CD**

Finance Act, 2021 brought an amendment by which depreciation under section 32 on goodwill is denied. It is further provided that the block containing the goodwill as an asset shall be modified and depreciation on goodwill as appearing in that block at the WDV as of 1.4.2020 shall not be claimed from AY 2021-22 and such value of goodwill will be excluded from the block. The block

needs to be modified to that extent. Accordingly, Form 3CD has made the necessary changes in clause 18. A new sub-clause (cb) is inserted in Clause 18 of Form 3CD for reporting the adjustment in WDV of the block of assets -

➤ **Adjustment in brought forward of losses if option u/s 115BAC/115BAD is exercised - Changes in Clause 32 of form 3CD**

The new tax regime under section 115BAA, section 115BAC and section 115BAD do not allow certain deductions and if the option under these provisions is exercised then the brought forward losses need to be modified to the extent they are related to such restricted disallowed deductions. Similar to changes in clause 8a and clause 18, Clause 32 of the Form 3CD is also amended to include section 115BAC and section 115BAD in the reporting requirement

➤ **Clause 36 related to DDT Omitted**

Finance Act 2020 has abolished the Dividend Distribution Tax (DDT) and reverted the classic system of taxation of dividend income in the hands of the shareholders/recipients. Hence companies are not required to pay any dividend distribution tax from FY 2020-21. Accordingly, Clause 36 of the existing Form 3CD is omitted from reporting requirement from AY 2021-22.

● **New Income Tax Return Forms for AY 2021-22**

The Central Board of Direct Taxes In exercise of the powers conferred by section 139, read with section 295 of the Income-tax Act, vide NOTIFICATION G.S.R. 242(E) [NO. 21/2021/F.NO. 370142/5/2021-TPL], DATED 31-3-2021, gives the Income-tax (7th Amendment) Rules, 2021. It shall come into force from 01.04.2021. It notifies the Income Tax Return Forms (ITR Forms) ITR-1 to ITR-7 for the Assessment Year 2021-22.

The CBDT vide Press note dated 01.04.2021 indicated that , keeping in view the ongoing crisis due to COVID pandemic and to facilitate the taxpayers, no significant change have been made to the ITR Forms in comparison to the last year's ITR Forms. Only the bare minimum changes necessitated due to amendments in the Income-tax Act, 1961 have been made. Accordingly, the notified ITR forms do not contain any major amendments or changes compared to the preceding year except a few to incorporate the changes or amendments in the Finance Act of the relevant year.

CBDT has amended Rule 12 of the Income Tax Rules,1962 to incorporate the changes related to ITR forms for the AY 2021-22. There is no change in the manner of filing ITR Forms as compared to last year. The following changes are notified for the ITR forms ITR-1 to ITR-7 for the AY 2021-22

- In Rule 12(1), the year '2021' is replaced for the figure '2020' to make the changes applicable for AY 2021-22.
- ITR-1 cannot be used for return filing if the tax has been deducted under Section 194N. Thus, a person is ineligible to file his return of income in ITR-1 for AY 2021-22 if tax is deducted under section 194N.
- ITR-1 cannot be used for return filing if the tax has been deferred in respect of ESOPs allotted by an eligible start-up under section 191 (2) or section 192 (1C) of the Act.
- ITR-4 cannot be used for return filing if the tax has been deferred in respect of ESOPs allotted by an eligible start-up under section 191 (2) or section 192 (1C) of the Act

- **Deferment of reporting requirement under Clause 30C and Clause 44 of Tx Audit report in Form -3 CD- Section 119, read with section 44AB of Income tax Act.**

CBDT vide CIRCULAR NO. 5/2020 [F. NO. 370142/9/2018-TPL], DATED 25-3-2021 issued following instruction to Subordinate authorities

Section 44AB of the Income-tax Act, 1961 read with rule 6G of the Income-tax Rules, 1962 requires specified persons to furnish the Tax Audit Report along with the prescribed particulars in Form No. 3CD. The existing Form No. 3CD was amended vide Notification No. GSR 666(E) dated 20th July, 2018 with effect from 20th August, 2018. However, the reporting under clause 30C and clause 44 of the Tax Audit Report was kept in abeyance till 31st March, 2019 vide Circular No. 6/2018 dated 17-8-2018, which was subsequently extended to 31st March, 2020 vide Circular No. 9/2019. Vide circular no. 10/2020, dated 24-4-2020, it was further extended to 31st March, 2021.

In view of the prevailing situation due to COVID-19 pandemic across the country, it has been decided by the Board that the reporting under clause 30C and clause 44 of the Tax Audit Report shall be kept in abeyance till 31st March, 2022

- **Clarification on provision of Direct Tax VIVAD SE VISHWAS Act, 2020 - Faq No. 70 of Circular No. 21/2020 modified relating to Search cases.**

CIRCULAR NO. 4/2021 [F. NO. IT (A)/1/2020-TPL], DATED 23-3-2021

- Sections 10 and 11 of Vivad se Vishwas empower the Central Government/Central Board of Direct Taxes to issue directions or orders in public interest or to remove difficulties. In order to facilitate the taxpayers, clarifications under the said sections in form of answers to frequently asked questions (FAQs) were issued vide Circular No. 9/2020 dated 22nd April, 2020 (covering FAQ 1-55) and Circular No. 21/2020 dated 4th December, 2020 (covering FAQ Nos. 56-89).
- FAQ No. 70 of Circular No. 21/2020 clarified eligibility for search case under Vivad se Vishwas. It was clarified that if the assessment order has been framed in the case of a taxpayer under section 143(3)/144 of the Income-tax Act based on the search executed in some other taxpayer's case, it is to be considered as a 'search case' under Vivad se Vishwas
- Several representations have been received seeking further clarity with regard to the classification of a case as a 'search case' for the purposes of Vivad se Vishwas. The matter has been examined. In order to remove any uncertainty in this regard, and in exercise of powers under sections 10 and 11 of Vivad se Vishwas, it is hereby clarified that a 'search case' means an assessment or reassessment made under sections 143(3)/144/147/153A/153C/158BC of the Income-tax Act in the case of a person referred to in section 153A or section 153C or section 158BC or section 158BD of the Income-tax Act on the basis of search initiated under section 132, or requisition made under section 132A of the Income-tax Act. The FAQ No. 70 of Circular No. 21/2020 stands modified to this extent.

- **Amendment of Rule 10DA, Rule 10DB and Form No. 3CEAB relating to maintenance and furnishing of information and documents by constituent entity and furnishing of Report in respect of an international group**

The Central Board of Direct Taxes, in exercise of the powers conferred by sub-section (1) and sub-section (4) of section 92D and sub-section (8) of section 286, read with section 295 of the Income-tax Act,

vide NOTIFICATION G.S.R 250(E) [NO. 31/2021/F.NO.370142/19/2019-TPL], DATED 5-4-2021, gives the Income-tax (9th Amendment) Rules, 2021. It shall come into force on the 1st day of April, 2021 relevant to the Assessment Year 2021-22. It amends rule 10 DA , 10 DB and form 3CEAB.

- Rule 10 DA prescribes the maintenance and furnishing of information and documents by constituent entity of an international group under section 92D in respect of an international group.
- Presently , rule 10DA(2) requires furnishing of the information in Form 3CEAA to the Joint Commissioner on or before the due date for furnishing the return of income as specified under sub-section (1) of section 139. The 9th Amendment Rules has substituted the word 'Commissioner' to 'Director'. Hence, now it requires furnishing of the information in Form 3CEAA to the Joint Director on or before the due date for furnishing the return of income as specified under sub-section (1) of section 139.
- Presently, rule 10DA(4) provides that where there are more than one constituent entities resident in India of an international group required to file the information and document under Rule 10DA(2), the Form 3CEAA may be furnished by any one constituent entity under the following circumstances-
 - (i) the international group has designated such entity for this purpose; and
 - (ii) the information has been conveyed in Form No. 3CEAB to the Joint Commissioner on this behalf thirty days before the due date of furnishing Form No. 3CEAA
- The 9th Amendment Rules, 2021 substituted the 'constituent entities resident in India of an international group' with 'constituent entities'. Hence, now it henceforth covers all the constituent entities whether are resident in India or not of the international group. Now, Form 3CEAA is required to be filed by any one of the entities designated in Form 3CEAB for both resident and non-resident entities. The Corresponding amendment is notified in Form 3CEAB to modify the heading of the form to omit the words 'resident in India'. Further, similar to sub-rule(1), the amendment in sub-rule (4) provides for the furnishing of information to the Joint Director in place of the Joint Commissioner
- It also amends rule 10DB which deals with the furnishing of Report in respect of an International Group under section 286 of the Act and it presently prescribes that the income-tax authority for the purposes of section 286 shall be the Joint Commissioner as may be designated by the Director-General of Income-tax (Risk Assessment). This is now substituted with a new sub-rule from 1-4-2021. The 9th Amendment Rules now substitutes the Joint Commissioner with the Joint Director and Director General of Income-tax (Risk Assessment) with Principal Director General of Income-tax (Systems) or the Director-General of Income-tax (Systems).
- Presently rule 10DB (6) provides that for the purpose of Section 286(7) an international group shall furnish the report if the total consolidated group revenue, as reflected in the consolidated financial statement for the accounting year preceding such accounting year does not exceed Rs 5500 crore. The 9th Amendment Rules now increased the limit to Rs. 6400 crore. Thus, for CbCR (Country-by-Country Reporting) related compliances to be applicable, the International group's consolidated group revenue shall have to exceed Rs. 6400 crore applicable from 1-4-2021.

- **Determination of Income for TDS on Payment to Non-residents u/s 195 – Insertion of Rule 29BA and Form 15E**

The Central Board of Direct Taxes , in exercise of the powers conferred by section 195, read with section 295 of the Income-tax Act, vide NOTIFICATION NO. G.S.R. 194(E) [NO. 18/2021 F. NO. 370142/24/2019-TPL], DATED 16-3-2021, gives the Income-tax (5th Amendment) Rules, 2021. It shall come into force with effect from the 1st day of April, 2021.

It inserts new Rule 29BA and Form 15E in the Income Tax Rules, 1962 for determining the sum chargeable to tax for the purpose of TDS on payments to non-residents as per section 195(2) of the Income Tax Act. This is the facility provided by the Income Tax department for online filing of applications seeking a determination of tax to be deducted at source on payment to non-residents.

Presently before this amendment ,under section 195(2) of the Act, if a person who is responsible for paying any sum to a non-resident which is chargeable to tax under the Act considers that the whole of such sum would not be income chargeable to tax in the case of the recipient, he can make an application to the Assessing Officer to determine the appropriate proportion of such sum chargeable. This provision is used by a person making payment to a non-resident to obtain a certificate/order from the Assessing Officer for lower or nil withholding tax. This process is manual. In order to use technology to streamline the process, which will not only reduce the time for processing of such applications but shall also help tax administration in monitoring such payments, Finance (No. 2) Act, 2019 has amended the provisions of section 195(2) to provide for filing of online applications for a lower or nil TDS certificate under section 195. After the amendment, a non-resident can apply online in electronic form for a lower or nil TDS certificate under section 195 from the sum payable to a non-resident. This was subject to the rules to be prescribed by the CBDT in this regard. It amended the provisions of section 195 (2) to allow for prescribing the form and manner of application to the Assessing Officer and also for the manner of determination of the appropriate portion of sum chargeable to tax by the Assessing Officer. Once such sum or income is determined after the application is filed online in the prescribed form, tax shall be deducted under section 195(1) only on that proportion of the sum which is chargeable to tax. A similar amendment was also made in section 195(7) which is applicable to a specified class of persons or cases.

- The application is required to be made in Form 15E electronically.
- Form 15E shall be verified by digital signature or through electronic verification code (EVC).
- The Assessing Officer after examining the application so made in Form 15E, shall determine the sum that is chargeable to tax in India.
- The Assessing Officer shall be required to issue a certificate mentioning the appropriate proportion of such sum chargeable to tax.
- The Assessing Officer shall take into consideration the followings while examining the application-
 - (i) tax payable on estimated income for the previous year in which application is filed
 - (ii) tax payable on preceding four previous year's income
 - (iii) outstanding demand under the Income Tax Act/Wealth Tax Act
 - (iv) advance tax, TDS/TCS for the previous year in which application is filed

- The certificate shall be valid only for the payment to non-resident named therein and for such period of the previous year as may be specified in the certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.
- The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall prescribe the procedures, formats and standards for online filing of the application in Form 15E.
- **Registration Procedure u/s 12AB for Trust and Others- Jurisdiction for Online Registration and Cancellation**

The Central Board of Direct Taxes vide NOTIFICATION NO. G.S.R. 212 (E) [NO. 19/2021/F. NO. 370142/4/2021-TPL], DATED 26-3-2021, gives the Income-tax (6th Amendment) Rules, 2021. It shall come into force on the 1st day of April, 2021. It notifies the new registration procedure for Charitable Trusts and other institutions under section 12AB and section 10(23C) through Income-tax (6th Amendment) Rules, 2021. It further notifies the procedure for furnishing the statement of donation received by NGOs/Trusts under section 80G(5).

The new registration scheme for Charitable Trusts and others was first introduced in the statute by the Finance Act, 2020 and was made effective from 1st June 2020. However, due to the COVID-19 pandemic outbreak and consequent nation-wide lockdown, the registration procedure under new section 12AB was postponed and deferred to 1st October 2020. This was further deferred to 1st April 2021. Both the renewal of registration u/s 12A or section 12AA, as well as renewal of approval under section 80G, was deferred. Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 rationalized the procedure relating to approval/ registration/ notification of certain entities referred to in sections 10(23C), 12AA, 35 and 80G of the Act effective from 1st April 2021.

Under the new registration regime under section 12AB, it is provided that the registration will remain valid for a period of 5 years and shall be required to be renewed after every 5 years, unlike the present system of perpetual registration once granted.

- It amends Rule 5C and 5F
- It Substitutes Rule 2C, 11AA, 17A and Form no. 10A;
- It Substitutes Form No. 3CF for Form Nos 3CF-I, 3CF-II AND 3CF-III;
- It Inserts Rules 5CA & 18AB and Form Nos. 10AB, 10AC, 10AD, 10BD, and 10BE;
- It Omits Form no. 56

The notification no 19 / 2021 has also introduced various forms for approval and registration as detailed below. These forms for application for registration or approval are required to be furnished to the Principal Commissioner or Commissioner authorised by the Board in this behalf

Form Name	Related Rules	Purpose
Form 10A	Rules 2C or 5CA or 11AA or 17A	Application for registration or provisional registration or intimation or approval or provisional approval
Form 3CF	Rules 5C, 5D, 5E and 5F	Application for registration or approval
Form 10AB	Rules 2C or 11AA or 17A	Application for registration or approval
Form 10AC	Rules 2C or 11AA or 17A	Order for registration or provisional registration or approval or provisional approval
Form 10AD	Rules 2C or 11AA or 17A	Order for registration or approval or rejection or cancellation
Form 10BD	Rule 18AB	Statement of particulars to be filed by reporting person under section 80G(5)(viii) and section 35(1A)(i)
Form 10BE	Rule 18AB	Certificate of donation under section 80G(5)(ix) and under section 35(1A)(ii)

Amendment in Rule 5C

Rule 5C is amended which deals with filing of an application for the purpose of grant of approval for the exemption u/s 35(1)(ii)/(iii) for scientific research association or university etc. The amended Rule 5C has substituted Form No. 3CF-I and Form No. 3CF-II with a new Form 3CF for application for approval u/s 35(1)(ii)/(iii). Now Form No 3CF is required to be furnished online electronically and shall be verified by the person who is authorised to verify the return of income under section 140 of the Act with digital signature (DSC) or EVC. If the return of income of the applicant is required to be furnished under digital signature, then furnishing Form 3CF with DSC is compulsory else the forms can be furnished with EVC.

New Rule 5CA inserted

It inserts new rule 5CA for filing of application for intimation under 5th proviso to section 35(1). The application for intimation under the 5th proviso shall be made in Form 10A. The Certain documents are required to be submitted along with Form No. 10A. Readers are requested to refer to detailed notification for specified documents to be submitted. Form Nos. 10A is required to be furnished online electronically and shall be verified in the similar manner as provided under Rule 5C above. On receipt of an application in Form No. 10A, the Principal Commissioner or Commissioner shall issue a sixteen-digit alphanumeric Unique Registration Number (URN) to the applicants. If, at any point of time, it is noticed that Form No. 10A has not been duly filled in by not providing, fully or partly, or by providing false or incorrect information or documents or by not complying with the requirements of Rule 5CA(3) or (4), then the Principal Commissioner or

Commissioner after giving an opportunity of being heard, may cancel the Unique Registration Number (URN) so issued and such Unique Registration Number (URN) shall be deemed to have never been issued.

Amendment in Rule 5F

Rule 5C is amended which deals with filing of an application for the purpose of grant of approval for the exemption u/s 35(1)(ia) for a scientific research company. The amended Rule 5C has substituted Form No. 3CF-III with a new Form 3CF for application for approval u/s 35(1)(ia). Form No 3CF is required to be furnished online electronically. Form 3CF shall be verified by the person who is authorised to verify the return of income under section 140 of the Act with digital signature (DSC) or EVC. If the return of income of the applicant is required to be furnished under digital signature, then furnishing Form 3CF with DSC is compulsory else the forms can be furnished with EVC.

Substitution of Rule 11AA

Rule 11AA is substituted with new rule. Rule 11AA deals with requirements for approval of an institution or fund under section 80G(5)(vi). An application under clause (i) or clause (iv) of the first proviso to section 80G(5) for the grant of approval of a fund or institution shall be made in Form 10A. Where application is made under clause (i) or clause (iv) of the first proviso to section 80G(5), the application shall be made in Form 10AB. The Certain documents are required to be submitted along with Form Nos. 10A or 10AB. Readers are requested to refer to detailed notification for specified documents to be submitted. Form Nos. 10A/10AB is required to be furnished online electronically and shall be verified in the same manner as rule 5C above. The procedure as regard issue and cancellation of Unique Registration Number (URN) are also similar to as provided under rule 5CA above.

Where an application for approval is made by a new institution or fund under clause (iv) of first proviso to section 80G(5), the provisional approval shall be effective from the date of order in Form 10AC. Where an application is made in Form 10AB, the order of approval or rejection or cancellation shall be in Form 10AD and in case approval is granted, sixteen digit alphanumeric number Unique Registration Number (URN) shall be issued, by the Principal Commissioner or Commissioner.

Substitution of Rule 17A

Rule 17A is substituted with new rules. Rule 17A deals with application for registration of charitable or religious trusts, NGOs, etc. under sub- clause (i) or sub-clause(ii) or sub-clause(iii) or sub-clause(iv) or sub-clause(v) or sub-clause(vi) of clause (ac) of sub-section (1) of section 12A. An application under clause (i) or clause (vi) of section 12A(1)(ac) for the grant of approval of a fund or institution shall be made in Form 10A. Where application is made under clause (ii)/(iii)(iv) or clause (v) of section 12A(1)(ac), the application shall be made in Form 10AB. The certain documents are required to be submitted along with Form Nos. 10A or 10AB. Readers are requested to refer to detailed notification for specified documents to be submitted. electronically and shall be verified in the same manner as rule 5C above. The procedure as regard issue and cancellation of Unique Registration Number (URN) are also similar to as provided under rule 5CA above.

Where an application for approval is made by a new Trust under section 12A(1)(ac)(vi) during previous year beginning on 1st day of April, 2021, the provisional registration shall be effective from the assessment year beginning on 1st day of April, 2022. Where an application is made in Form 10AB, the order of registration or rejection or cancellation shall be in Form 10AD and in case registration is granted, sixteen digit alphanumeric number Unique Registration Number (URN) shall be issued, by the Principal Commissioner or Commissioner.

Insertion of New Rule 18AB

Rule 18AB is inserted in relation to Furnishing of Statement of particulars and certificate under section 80G(5)(viii)/(ix) or under section 35(1A). It requires furnishing of statement of donation received and issue of donation certificates to the donors for claiming deduction from the gross total income. This notification has framed the rules for furnishing such statements and certificates of donation to donors. Such statements are required to be filed electronically from the financial year 2021-22. Statement of particulars required to be furnished by any research association, university, college or other institution or company or fund ("reporting person") under clause (viii) of sub-section (5) of section 80G or under clause (i) to sub-section (1A) of section 35 shall be furnished in respect of each financial year, beginning with the financial year 2021-2022, in Form No. 10BD and shall be verified in the manner indicated therein. The reporting person shall report the aggregate amount of donation received from each person in the financial year for which the statement is furnished. Where donation is received from more than one person, the proportionate amount of each person shall be reported. Where no proportion is specified by the donors, the same shall be proportioned equally. The statement of donation in Form 10BD is required to be furnished online electronically. Form No. 10BD shall be verified by the person who is authorised to verify the return of income under section 140 of the Act with digital signature (DSC) or EVC.

If the return of income of the applicant is required to be furnished under digital signature, then furnishing Form 10BD with DSC is compulsory else the forms can be furnished with EVC. The reporting person is required to furnish a certificate of donation (as referred to in clause (ix) of sub-section (5) of section 80G or in clause (ii) to sub-section (1A) to section 35), to the donor in Form No. 10BE specifying the amount of donation received during financial year from such donor, beginning with the financial year 2021-2022. The certificate of donation in Form 10BE is required to be generated and downloaded from the income tax portal to be implemented by the Pr. DGIT/DGIT (Systems). The certificate of donation is required to be furnished to the donor on or before the 31st May, immediately following the financial year in which the donation is received. The statement of donations received in a financial year shall be required to be furnished by 31st May, immediately following the financial year in which the donation is received.

Readers are requested to read the detailed notification referred here in above.



GST UPDATES

Compiled by:



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NOTIFICATIONS - CENTRAL TAX:

- **Notification No. 06/2021 - Central Tax dated 30th March, 2021.**

An invoice issued by a specified registered person, whose aggregate turnover in a financial year exceeds five hundred crore rupees to an unregistered person shall have Dynamic Quick Response (QR) code. It is also provided that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code. This Notification seeks to waive penalty payable for non-compliance of this provisions between 01/12/2020 to 31/03/2021 subject to the condition that the said person comply with the provisions of the said Notification from 01/07/2021.



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