

BRIEF UPDATE ON SEBI AND CORPORATE LAW



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SEBI

A. REGULATIONS

1. Securities and Exchange Board of India (Portfolio Managers)(Second Amendment) Regulations, 2021

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/16 dated April 26, 2021]

Portfolio Managers, while undertaking the process of change in control, will now be required to obtain prior approval from SEBI in prescribed format.

2. Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2021

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/19 dated May 05, 2021]

The reference to 'Institutional Trading Platform' has been amended to 'Innovators Growth Platform' ('IGP'). Further, the takeover limit of 25% have been relaxed to 49% in case of securities listed on IGP. The continual disclosure limit is also relaxed to 10% instead of 5%.

3. Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2021

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/18 dated May 05, 2021]

References of 'Institutional Trading Platform'

have been amended to 'Innovators Growth Platform' ('IGP'). Further, reference to 'Accredited Investors' has been replaced with 'Innovators Growth Platform Investors' ('IGPI'). Also, SEBI has made certain listing related amendments regarding IGP.

4. Securities and Exchange Board of India (Intermediaries) (Second Amendment) Regulations, 2021

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/20 dated May 05, 2021]

SEBI has introduced new regulation 30A in relation 'Special procedure for action on expulsion from membership of the stock exchange(s) or clearing corporation(s) or termination of all the depository participant agreements with depository(ies)'. The regulation is a 1st step towards faceless proceedings. The highlight of this procedure is that no opportunity of personal hearing shall be granted while disposing of the proceedings under this regulation.

5. Securities and Exchange Board of India (Payment of Fees and Mode of Payment) (Amendment) Regulations, 2021

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/23 dated May 05, 2021]

SEBI has directed various intermediaries like Stock Brokers, Merchant Bankers, Registrars to an Issue and Share Transfer Agents, Debenture Trustees, Bankers to Issue, Credit Rating Agencies and Depositories and Participants to

pay fees by way of direct credit in the bank account through online payment using SEBI payment gateway.

6. Securities and Exchange Board of India (Alternative Investment Funds) (Second Amendment) Regulations, 2021

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/21 dated May 05, 2021]

SEBI has revised the investment limits by all 3 Categories of Alternate Investment Funds (AIFs) i.e. Categories I/II/III. SEBI has also substituted Regulation 20 relating to 'General Obligations' of AIFs bring in references to Code of Conduct of AIFs also thereby introducing Schedule Four - 'Code of Conduct for Alternative Investment Funds'.

7. Securities and Exchange Board of India (Intermediaries) (Second Amendment) Regulations, 2021

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021/20 dated May 05, 2021]

Amongst many changes, SEBI has introduced reference to feminine gender throughout the regulations. Further, it has replaced the reference of 'Institutional Trading Platform' to 'Innovators Growth Platform' ('IGP'). It has reduced the procedure for reclassification of promoters, business responsibility reporting, insolvency related reporting, etc.

B. CIRCULARS

1. Relaxations relating to procedural matters –Issues and Listing

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/CFD/DIL2/CIR/P/2021/552 dated April 22, 2021]

The relaxations provided by SEBI vide Circulars No. SEBI/HO/CFD/DIL2 /CIR/P/2020/78 dated May 6, 2020, as amended from time to time, with regard to rights issue by Listed Companies has been extended till September 30, 2021 subject to certain amendments.

2. Standardizing and Strengthening Policies on Provisional Rating by Credit Rating Agencies (CRAs) for Debt Instruments

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/ HO/ MIRSD/MIRSD_CRADT/ P/ CIR/ 2021/ 554 dated April 27, 2021]

SEBI has prescribed the rating procedure. Credit Rating Agencies will now have to assign the word 'provisional' as a prefix while providing any provisional rating for debt instruments. SEBI has laid the scenarios in which provisional ratings have to be issued, the period for which such ratings shall remain as provisional ratings, disclosures in the press release / rating rationale, steps to undertaken in case the provisional ratings are not accepted by the issuer.

3. Alignment of interest of Key Employees of Asset Management Companies (AMCs) with the Unitholders of the Mutual Fund Schemes

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/IMD-I/DOF5/P/CIR/2021/553 dated April 28, 2021]

The management of the risk return profile of the Mutual Funds schemes rests with the Asset Management Companies (AMCs) and the Key Employees. In order to align the interest of the Key Employees of the AMCs with the unitholders of the mutual fund schemes, it has been decided that a part of compensation of the Key Employees of the AMCs shall be paid in the form of units of the scheme(s).

SEBI has prescribed the quantum of compensation to be given in the form of units of respective

schemes, redemption of those specific units, clawback in the event of violation / negligence, oversight of the compliance of this circular and who would be termed as Key employees.

This Circular shall be effective from July 01, 2021.

4. Disclosure of the following only w.r.t schemes which are subscribed by the investor: (a) risk-o-meter of the scheme and the benchmark along with the performance disclosure of the scheme vis-à-vis benchmark and (b) Details of the portfolio

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/IMD-II DOF3/P/CIR/2021/555 dated April 29, 2021]

With effect from June 01, 2021, Mutual Fund/AMCs will have to, in addition to the existing disclosures, disclose risk-o-meter of the scheme and benchmark while disclosing the performance of scheme vis-à-vis benchmark. Mutual Funds/AMCs will further have to send the details of the scheme portfolio while communicating the fortnightly, monthly and half-yearly statement of scheme portfolio via email

5. Relaxation from compliance with certain provisions of the SEBI (Listing Obligations Disclosure Requirements) Regulations, 2015 due to the CoVID-19 pandemic

[Issued by the Securities and Exchange Board of India vide Circulars No. SEBI/HO/CFD/CMD1/P/CIR/2021/556 and SEBI/HO/DDHS/DDHS_Div1/P/CIR/2021/557 dated April 29, 2021]

SEBI has extended the due date for compliance till June 30, 2021 for the following compliances which fall within the purview of SEBI (Listing Obligations Disclosure Requirements) Regulations, 2015 like Annual Secretarial Compliance Report, Quarterly results / Annual Audited Financial Statements and Statement of Deviation or Variation in Use of Funds.

The relaxation with respect to filing of results on or before June 30, 2021 has been extended to entities which have debt instruments listed on stock exchanges.

6. Relaxation in timelines for compliance with regulatory requirements

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/559 dated April 29, 2021]

SEBI has provided a long list of activities undertaken Trading Members / Clearing Members / Depository Participants / KYC Registration Agencies for which the timelines for compliances have been extended to June 30, 2021 or July 30, 2021 and in some case upto 15 days after July 31, 2021.

7. Timelines for updation of Scheme Information Document (SID) and Key Information Memorandum (KIM)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/IMD-I DOF2/P/CIR/2021/0560 dated April 30, 2021]

SEBI vide circular no. SEBI/HO/IMD/DF2/CIR/P/2021/024 dated March 04, 2021 has prescribed the procedure for updation of SID and KIM of Mutual Funds schemes. It has now specified the timelines within which the MFs have to undertake this updation.

Further, for the period ended March 31, 2021, SEBI has granted an extension till May 31, 2021 for completion of the updation process.

8. Relaxation in timelines for compliance with regulatory requirements by Debenture Trustees due to the CoVID-19 pandemic

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/CRADT/CIR/P/2021/561 dated May 03, 2021]

SEBI vide circular no. SEBI/HO/IMD/DF2/CIR/P/2021/024 dated March 04, 2021 has prescribed the procedure for updation of SID

and KIMof Mutual Fundschemes. It has now specified the timelines within which the MFs have to undertake this updation.

9. Business responsibility and sustainability reporting by listed entities

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/CFD/CMD-2/P/CIR/2021/562 dated May 10, 2021]

Currently, top 1000 listed entities based on market capitalization (calculated as on March 31 of every financial year) are submitting Business Responsibility Report (BRR) alongwith their respective Annual Reports.

These top 1000 listed entities base on market capitalization will now have to provide Business Responsibility and Sustainability Report (BRSR) for FY 2022-2023 onwards. SEBI has prescribed necessary formats in this regard.

10. Procedure for seeking prior approval for change in control of SEBI registered Portfolio Managers

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/IMD-I/DOF1/P/CIR/2021/564 dated May 12, 2021]

On April 26, 2021, SEBI has amended the provision for change in control of SEBI Registered Portfolio Managers making it mandatory for seeking prior approval for change in control. SEBI has, vide this circular, laid down the procedure for seeking such prior approval.

11. Relaxation from compliance to REITs and InvITs due to the CoVID -19 virus pandemic

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS/DDHS_Div3/P/CIR/2021/563 dated May 14, 2021]

SEBI extended the due date for regulatory filings and compliances for InvITs and REITs for the period ending March 31, 2021 by 1(one) month over and above the time lines, prescribed under SEBI (Infrastructure Investment Trusts)

Regulations, 2014 (InvIT Regulations) and SEBI (Real Estate Investment Trusts) Regulations, 2014 (REIT Regulations) and circulars issued there under.

CORPORATE LAW

A. CIRCULARS

1. Clarification on spending of CSR funds for setting up temporary COVID Care facilities and makeshift hospitals-reg.

[Issued by Ministry of Corporate Affairs vide General Circular No. 05/2021 dated April 22, 2021]

MCA has clarified that spending of CSR funds for 'setting up of makeshift hospitals and temporary COVID Care facilities' is a. eligible CSR activity under item nos. (i) and (xii) of Schedule VII of Companies Act, 2013.

2. Relaxation of time for filing certain forms under the Companies Act, 2013.

[Issued by Ministry of Corporate Affairs vide General Circular No. 06/2021 dated May 03, 2021]

Form which become due for filing between April 01, 2021 till May 31, 2021 can now be filed with any additional fees till July 31, 2021.

3. Relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013.

[Issued by Ministry of Corporate Affairs vide General Circular No. 07/2021 dated May 03, 2021]

This Circular is applicable to form CHG-1 and CHG-9 by a Company or a charge holder, where the date of creation / modification of charge:

- (a) is before 01.04.2021, but the timeline for filing such form has not expired under section 77 of Companies Act, 2013 as on 01.04.2021, or

(b) falls on any date between 01.04.2021 to 31.05.2021 (both dates inclusive).

In case of point (a) above the no. of days from 01.04.2021 till 31.05.2021 shall not be considered. The first day after 31.05.2021 shall be considered as 01.06.2021.

In case of point (b) the period 115on of charge to 31.05.2021 shall not be considered for counting the no. of days. The first day shall be considered as 01.06.2021.

4. Gap between two board meetings under section 173 of the Companies Act, 2013 (CS-13) – Clarification – reg.

[Issued by Ministry of Corporate Affairs vide General Circular No. 08/2021 dated May 03, 2021]

MCA has extended the interval of holding board meeting from 120 days to 180 days for quarter April to June 2021 and July to September 2021.

5. Clarification on spending of CSR funds for 'creating health infrastructure for COVID care', 'establishment of medical oxygen generation and storage plants' etc.

[Issued by Ministry of Corporate Affairs vide General Circular No. 09/2021 dated May 03, 2021]

It is clarified that spending of CSR funds for 'creating health infrastructure for COVID care', 'establishment of medical oxygen generation and storage plants', 'manufacturing and supply of Oxygen concentrators, ventilators, cylinders and other medical equipment for countering COVID-19' or similar such activities are eligible CSR activities under item nos. (i) and (xii) of Schedule VII of the Companies Act, 2013.

Further, item no. (ix) of Schedule VII of the Companies Act, 2013 permits contribution to specified research and development projects as well as contribution to public funded universities and certain Organisations

engaged in conducting research in science, technology, engineering, and medicine as eligible CSR activities.

MCA has urged Companies including Government companies to undertake the activities or projects or programmes using CSR funds, directly by themselves or in collaboration as shared responsibility with other companies, subject to fulfillment of Companies (CSR Policy) Rules, 2014 and the guidelines issued by this Ministry from time to time.

6. Clarification on offsetting the excess CSR spent for FY 2019-20

[Issued by Ministry of Corporate Affairs vide General Circular No. 08/2021 dated May 03, 2021]

Ministry has clarified that where a company has contributed any amount to 'PM CARES Fund' on 31.03.2020, which is over and above the minimum amount as prescribed under section 135(5) of the Companies Act, 2013 ("Act") for FY 2019-20, and such excess amount or part thereof is offset against the requirement to spend under section 135(5) for FY 2020-21 in terms of the aforementioned appeal, then the same shall not be viewed as a violation subject to the conditions that:

- (i) the amount offset as such shall have factored the unspent CSR amount for previous financial years, if any;
- (ii) the Chief Financial Officer shall certify that the contribution to "PM CARES Fund" was indeed made on 31st March 2020 in pursuance of the appeal and the same shall also be so certified by the statutory auditor of the company; and
- (iii) the details of such contribution shall be disclosed separately in the Annual Report on CSR as well as in the Board's Report for FY 2020-21 in terms of section 134 (3) (o) of the Act.



FEMA UPDATES

Compiled by:



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External Commercial Borrowings

A.P. (DIR Series) Circular No. 01 dated April 07, 2021

Parking of ECB proceeds domestically:

Presently ECB borrowers are allowed to park ECB proceeds meant for rupee expenditure in term deposits with AD Category I Bank in India for a maximum period of 12 months cumulatively. These term deposits should be kept in unencumbered position.

To provide relief to ECB borrowers affected by the COVID- 19 pandemic, as a one time measure, with effect from April 07, 2021, unutilised ECB proceeds drawn down on or before March 01, 2020 can be parked in term deposits with AD Category-I banks in India prospectively, for an additional period up to March 01, 2022.



RERA

UPDATES

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Land Mark Judgement from Appellate Tribunal, MahaRera in the matter of Dinesh R Humane Vs Piramal Estate Private Limited

Issues:

Whether allottee can withdraw from the project even before issuance of allotment letter ?

Whether reservation of flat by developer can curtail right of allottee to withdraw from the project?

Whether promoter can forfeit the token or booking amount, paid by the allottee, as per booking form namely request for reservation of flat?

Whether allottee can file complaint u/s 31 against Developer action for forfeiture?

Whether relief claimed by allottee can be challenged by Developer being “de horse” i.e beyond the provisions of the Act, Rules and Regulation?

Fact of the Case:

- Allottee booked the flat no 807 in the project called “Vaikunth Cluster-2” for a consideration of Rs 1,05,04,060/- on 29.01.2019 and paid the booking amount of Rs 1,12,393/- and after that amount of Rs 4,49,574/- was paid on 01.03.2019.
- later on, due to some medical reason, the allottee decided to cancel the booking and written an email on 18.05.2019 requesting the promoter to cancel the booking and return the amount paid i.e. Rs 5,61,967/- without the interest.
- However, the promoter replied vide email dated 20.05.2019 that amount paid by allottee

has forfeited due to cancellation of booking.

- 1 Aggrieved with the response from the promoter, allottee filed the complaint before MahaRERA Authority seeking refund of amount without interest.
- During the course of hearing the promoter raised the objection with regards to maintainability of the complaint but the MahaRERA Authority passed the order directing the promoter to refund the amount as per the booking form signed by the parties.
 - Aggrieved with the order of MahaRERA Authority, allottee filed the appeal before MahaRERA Appellate Tribunal for the reason of non clarification in maharera order for refund of booking amount with or without forfeiture clause mentioned in booking form signed by the allottee.

Observation of Hon'ble Appellate Tribunal :-

- The MahaRERA Appellate Tribunal observed that the order passed by the MahaRERA Authority is without considering the correct facts of the case. Tribunal observed that MahaRERA authority directed to refund in accordance with the “booking form signed by both the parties” however, there is nosuch documents exist on the records and the booking was made as per request form signed only by the allottee and not the promoter.
- Further, it is observed that agreement to sale is not executed between the allottee and promoter and only documents signed by the allottee i.e. request for reservation containing

the 33 terms and conditions and one of condition restrict the allottee to withdraw the request for reservation.

- The MahaRERA Appellate Tribunal observed that **“Allottees cannot be restrained from exercising their right of withdrawing the request. Right to make request for reservation of flat includes the right to withdraw such request for reservation of flat”**.
- Further, it is observed that unreasonable and unfair transaction with the one-sided favourable terms cannot be enforced and Promoter cannot take undue advantage of such one sided and unreasonable condition.

Order of Tribunal:-

- Promoter shall pay entire booking amount of Rs. 5,61,9671 /- (RupeesFive Lacs Sixty-One Thousand Nine HundredSixty-Seven) to Allottee though the claim of refund is not governed by any specific provision of RERA, it cannot be ignored that object of RERA is to protect interest of consumer on the conclusion that request to reserve a flat by the allottee includes the right to cancel the reservation.



DIRECT TAXES

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LAW UPDATE

□ **SECTION 119 OF THE INCOME-TAX ACT, 1961 - CENTRAL BOARD OF DIRECT TAXES - INSTRUCTIONS TO SUBORDINATE AUTHORITIES - NOTIFIED AUTHORITIES TO PASS REGISTRATION ORDER FOR TRUSTS, INSTITUTIONS AND FUNDS**

NOTIFICATION S.O. 1443(E) [NO. 30 /2021/F. NO. 370142/4/2021-TPL], DATED 1-4-2021

In exercise of the powers conferred by clause (i) of sub-rule (1), sub-rule (5) and sub-rule (6) of rule 2C of the Income tax Rules, 1962 ("the Rules"), sub-rule (1), sub-rule (5) and sub-rule (6) of rule 5CA of the Rules, clause (a) of sub-rule (1), sub-rule (5) and sub-rule (6) of rule 11AA of the Rules and clause (i) of sub-rule (1), sub-rule (5) and sub-rule (6) of rule 17A of the Rules, the Central Board of Direct Taxes hereby authorizes the Director of Income Tax (Centralized Processing Centre), Bengaluru and Commissioner of Income Tax (Exemption), Bengaluru, for the following purposes, namely,—

- (i) for receiving applications for provisional registration or registration or provisional approval or approval or intimation in Form 10A under clause (i) of sub-rule (1) of rule 2C of the Rules, sub-rule (1) of rule 5CA of the Rules, clause (a) of sub-rule (1) of rule 11AA of the Rules or clause (i) of sub-rule (1) of rule 17A of the Rules;
- (ii) for passing order granting provisional registration or registration or provisional approval or approval in Form 10AC under sub-rule (5) of rule 2C of the Rules, sub-rule (5) of rule 11AA of the Rules or sub-rule (5) of rule 17A of the Rules;
- (iii) for issuing Unique Registration Number (URN) to the applicants under sub-rule (5) of rule 2C of the Rules, sub-rule (5) of rule 5CA of the Rules, sub-rule (5) of rule 11AA of the Rules or sub-rule (5) of rule 17A of the Rules;
- (iv) for cancelling the approval granted in Form 10AC and Unique Registration Number (URN) under sub-rule (6) of rule 2C of the Rules, sub-rule (6) of rule 5CA of the Rules, sub-rule (6) of rule 11AA of the Rules or sub-rule (6) of rule 17A of the Rules.

This amendment will come into effect from the date of Notification in the Official Gazette.

□ **SECTION 3 OF THE TAXATION AND OTHER LAWS (RELAXATION AND AMENDMENT OF CERTAIN PROVISIONS) ACT, 2020 - RELAXATION OF CERTAIN PROVISIONS OF SPECIFIED ACT - EXTENSION OF DUE DATE FOR COMPLETION OF ACTION UNDER SPECIFIED ACTS**

NOTIFICATION S.O. 1703 (E) [NO. 38 /2021/ F. NO. 370142/35/2020-TPL], DATED 27-4-2021

In view of the severe Covid-19 pandemic raging unabated across the country and in view of requests received from taxpayers, tax consultants & other stakeholders that various time barring dates, which were earlier extended to 30th April, 2021 by various notifications, be further extended, the Central Government has decided to extend the time limits to 30th June, 2021 in the following cases where the time limit was earlier extended to 30th, April 2021 through various notifications issued under the Taxation and Other Laws (Relaxation) and Amendment of Certain Provisions Act, 2020, namely:-

- (i) Time limit for passing of any order for assessment or reassessment under the Income-tax Act, 1961 (hereinafter called 'the Act') the time limit for which is provided under section 153 or section 153B thereof;
- (ii) Time limit for passing an order consequent to direction of DRP under subsection (13) of section 144C of the Act;
- (iii) Time limit for issuance of notice under section 148 of the Act for reopening the assessment where income has escaped assessment;
- (iv) Time Limit for sending intimation of processing of Equalisation Levy under sub-section (1) of section 168 of the Finance Act 2016.

□ **SECTION 4, READ WITH SECTION 3 OF THE DIRECT TAX VIVAD SE VISHWAS ACT, 2020 - FILING OF DECLARATION AND PARTICULARS TO BE FURNISHED - NOTIFIED DUE DATE FOR FILING OF DECLARATION OF AMOUNT PAYABLE BY DECLARANT BEFORE DESIGNATED AUTHORITY - AMENDMENT IN NOTIFICATION NO. S.O. 3847(E) [NO. 85/2020, F. NO. IT(A)/1/2020-TPL], DATED 27-10-2020**

NOTIFICATION NO. S.O. 1704 (E) [NO. 39/2021/ F.NO. IT(A)/01/2020-TPL], DATED 27-4-2021

It has been decided that time for payment of amount payable under the Direct Tax Vivad se Vishwas Act, 2020, without an additional amount, shall be further extended to 30th June, 2021.

□ **SECTION 245B OF THE INCOME-TAX ACT, 1961 - INCOME-TAX SETTLEMENT COMMISSION - EFFECTIVE DATE OF CESSION OF OFFICE OF SETTLEMENT COMMISSION**

NOTIFICATION G.S.R. 302(E) [F. NO. 9-21013/1/2021-AAR], DATED 28-4-2021

In exercise of the powers conferred by the proviso to article 309 of the Constitution, the Central Government hereby notifies the date as 1st May 2021 on which the Chairman, Vice-Chairman or Member shall cease to hold office as provided in 3rd proviso of rule -7 of Settlement Commission (Income-tax and Wealth-tax) (Recruitment and Conditions of Service of Chairman, Vice-Chairmen and Members) Amendment Rules, 2021.

□ **SECTION 119 OF THE INCOME-TAX ACT, 1961 - CENTRAL BOARD OF DIRECT TAXES - INSTRUCTION TO SUBORDINATE AUTHORITIES - EXTENSION OF TIME LINES RELATED TO CERTAIN COMPLIANCES BY TAXPAYERS UNDER THE ACT**

CIRCULAR NO. 8 OF 2021 [F. NO.225/49/2021/1T A-II], DATED 30-4-2021

In view of severe pandemic, the Central Board of Direct Taxes, in exercise of its powers under section 119 of the Income-tax Act, 1961, provides following relaxation in respect of Income-tax compliances by the tax payers:

- (a) Appeal to Commissioner (Appeals) under Chapter XX of the Income-tax Act, 1961 for which the last date of filing under that Section is 1st April 2021 or thereafter, may be filed within the time provided under that Section or by 31st May 2021, whichever is later;
- (b) Objections to Dispute Resolution Panel (DRP) under section 144C of the Income-tax Act, 1961, for which the last date of filing under that Section is 1st April 2021 or thereafter, may be filed within the time provided under that Section or by 31st May 2021, whichever is later;
- (c) Income-tax return in response to notice under section 148 of the Income-tax Act, 1961, for which the last date of filing of return of income under the said notice is 1st April 2021 or thereafter, may be filed within the time allowed under that notice or by 31st May 2021, whichever is later;

- (d) Filing of belated return under sub-section (4) and revised return under sub-section (5) of Section 139 of the Income-tax Act, 1961 for Assessment Year 2020-21, which was required to be filed on or before 31st March 2021, may be filed on or before 31st May 2021;
- (e) Payment of tax deducted under section 194-IA, Section 194-IB and Section 194M of the Income-tax Act, 1961 and filing of challan-cum-statement for such tax deducted, which are required to be paid and furnished by 30th April 2021 under Rule 30 of the Income-tax Rules, 1962, may be paid and furnished on or before 31st May 2021;
- (f) Statement in Form No. 61, containing particulars of declarations received in Form No. 60, which is due to be furnished on or before 30th April 2021, may be furnished on or before 31st May 2021.

□ **INCOME-TAX (THIRTEENTH AMENDMENT) RULES, 2021 - INSERTION OF RULE 11UD**

NOTIFICATION G. S. R. 314(E) [NO. 41 /2021/ F. NO. 370142/11/2018-TPL], DATED 3-5-2021

In exercise of the powers conferred by the clause (a) and clause (b) of Explanation 2A to sub-section (1) of section 9 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

Short title and commencement

1. (1) These rules may be called the Income-tax (13th Amendment) Rules, 2021.
(2) They shall come into force with effect from the 1st day of April, 2022.
2. In the Income-tax Rules, 1962, after rule 11UC, the following rule shall be inserted, namely:-

"11UD. Thresholds for the purposes of significant economic presence.—

- (1) For the purposes of clause (a) of Explanation 2A to clause (i) of sub-section (1) of section 9, the amount of aggregate of payments arising from transaction or transactions in respect of any goods, services or property carried out by a nonresident with any person in India, including provision of download of data or software in India during the previous year, shall be two crore rupees;
- (2) For the purposes of clause (b) of Explanation 2A to clause (i) of sub-section (1) of section 9, the number of users with whom systematic and continuous business activities are solicited or who are engaged in interaction shall be three lakhs. "

□ **INCOME TAX (FIFTEENTH AMENDMENT) RULES, 2021 - AMENDMENT IN RULE 2B**

NOTIFICATION G.S.R. 320(E) [NO. 50/2021/F. NO.370142/14/2021-TPL], DATED 5-5-2021

In exercise of the powers conferred by clause (5) of section 10 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

Short title and commencement

1. (1) These rules may be called the Income-tax (15th Amendment), Rules, 2021.
(2) They shall be deemed to have come into force from the 1st day of April, 2021.
2. In the Income-tax Rules, 1962, in rule 2B, after sub-rule (1), the following sub-rules shall be inserted, namely:—

"(1A) For the assessment year beginning on the 1st day of April, 2021, where the individual referred to in sub-rule (1) avails any cash allowance from his employer in lieu of any travel concession or assistance, the amount exempted under the second proviso to clause (5) of section 10 shall be the amount, not exceeding

thirty-six thousand rupees per person, for the individual and the member of his family, or one-third of the specified expenditure, whichever is less, subject to fulfilment of the following conditions, namely:-

- (i) the individual has exercised an option to avail exemption under the second proviso of clause (5) of section 10, in lieu of the exemption under clause (5) of section 10 in respect of one unutilised journey during the block of four calendar years commencing from the calendar year 2018;
- (ii) the payment in respect of the specified expenditure is made by the individual or any member of his family to a registered person during the specified period;
- (iii) the payment in respect of the specified expenditure is made by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or through such other electronic mode as prescribed under rule 6ABBA; and
- (iv) the individual obtains a tax invoice in respect of specified expenditure from the registered person referred in clause (ii).

Explanation 1- For the purpose of this sub-rule,-

- (i) 'tax invoice' means an invoice issued by the registered person under section 31 of the Central Goods and Services Tax Act, 2017 (No. 12 of 2017);
- (ii) 'registered person' shall have the meaning assigned to it in clause (94) of section 2 of the Central Goods and Services Tax Act, 2017 (No. 12 of 2017);
- (iii) 'specified expenditure' means expenditure incurred by an individual or a member of his family during specified period on goods or services, which are liable to tax at an aggregate rate of twelve per cent. or above under various Goods and Services Tax (GST) laws and goods are purchased or services procured from GST registered vendors or service providers;
- (iv) 'specified period' means the period commencing from the 12th day of October, 2020 and ending on the 31st day of March, 2021.

Explanation 2 For the removal of doubt, it is hereby clarified that if the amount received by or due to an individual, as per the terms of his employment, from his employer in relation to himself and member of his family, in connection with the specified expenditure is in excess of the thirty six thousand rupees per person, for the individual and the member of his family, the exemption under this sub-rule would be restricted to thirty-six thousand rupees per person, for the individual and the member of his family, or one-third of the specified expenditure, whichever is less.

Explanation 3 It is hereby clarified that the clarification issued by the Department of Expenditure, Ministry of Finance, vide OM F. No 12(2)/2020-EII (A) Dated 12th October, 2020 and any subsequent clarifications, if any, issued in this regard shall apply mutatis mutandis to the exemption under this sub-rule.

(1B) Where an exemption under the second proviso to clause (5) of section 10 is claimed and allowed, sub-rule (2) shall have effect as if for the words 'two journeys', the words 'one journey' has been substituted."

- ❑ **SECTION 269ST OF THE INCOME-TAX ACT, 1961 - DEPOSITS - MODE OF UNDERTAKING TRANSACTIONS - NON-APPLICATION OF SAID SECTION TO SPECIFIED PERSONS OR CLASS OF PERSONS PROVIDING COVID TREATMENT TO PATIENTS ON RECEIPT OF PAYMENT IN CASH DURING 1-4-2021 TO 31-5-2021 ON OBTAINING PAN OR AADHAAR**

NOTIFICATION S.O. 1803(E) [NO. 56/2021/F. NO. 225/58/2021-ITA.II], DATED 7-5-2021

AS CORRECTED BY NOTIFICATION S.O. 1839(E)[NO. 59/2021/F.NO. 225/58/2021-ITA.-II], DATED 10-5-2021

The Central Government, in exercise of powers conferred by clause (iii) of Proviso to Section 269ST of the Income-tax Act, 1961, hereby specifies Hospitals, Dispensaries, Nursing Homes, Covid Care Centres or similar other medical facilities providing Covid treatment to patients for the purpose of Section 269ST of the Income-tax Act, 1961 for payment received in cash during 1-4-2021 to 31-5-2021, on obtaining the PAN or AADHAAR of the patient and the [payer] and the relationship between the patient and the [payer] by such Hospitals, Dispensaries, Nursing Homes, Covid Care Centres or similar other medical facilities.

- ❑ **LAUNCH OF NEW E-FILING PORTAL OF THE INCOME TAX DEPARTMENT - NON AVAILABILITY OF E-FILING SERVICES FROM 1-6-2021 TO 6-6-2021**

LETTER D.O.F. NO. PR. DGIT (S)/486-2020-21, DATED 19-5-2021

The Income-tax Department is going to launch its new E-filing portal on June 7th, 2021. In preparation for this launch and for migration activities, the existing portal of the Department at www.incometaxindiaefiling.gov.in would not be available for a brief period of 6 days from 1st June to 6th June 2021.

All Officers may be directed to fix any hearing or compliances only from June 10th onwards to give taxpayers time to respond on the new system. If they have already scheduled any hearing or compliance which requires submissions online during this period, they may prepone or adjourn the hearing and reschedule the work items after this period, etc.

□ EXTENSION OF TIME LIMITS OF CERTAIN COMPLIANCES TO PROVIDE RELIEF TO TAXPAYERS IN VIEW OF THE SEVERE PANDEMIC

CIRCULAR NO 9 DATED 20TH MAY 2021 F. NO. 225/49/2021-ITA-II

Sr No	Compliance	Original/Extended Due Date	Further Extended Due Date
1	Filing of Statement of Financial Transactions (SFT) return for the FY 2020-21	31-May-2021	30-June-2021
2	Filing of Statement of Reportable Account for Calendar year 2020 u/r 114E	31-May-2021	30-June-2021
3	Q4 TDS return for FY 2020-21	31-May-2021	30-June-2021
4	Statement of deduction of Tax from contributions paid for superannuation fund for FY 2020-21	31-May-2021	30-June-2021
5	Issue of Form 16 to employees for FY 2020-21	15-June-2021	15-July-2021
6	TDS/TCS book adjustment in form no 24G for month of May 2021	15-June-2021	30-June-2021
7	Statement of Income paid/credited by investment fund in Form No 64C for FY 2020-21	30-June-2021	15-July-2021
8	Due date of filing ITR for non-tax audit cases (including individuals) for AY 2021-22	31-July-2021	30-September-2021
9	Due date for furnishing tax audit report for non-TP cases for AY 2021-22	30-September-2021	31-October-2021
10	Due date of filing ITR for tax audit and non TP cases for AY 2021-22	31-October-2021	30-November-2021
11	Due date for furnishing of tax audit report and Transfer Pricing Report for AY 2021-22	31-October-2021	30-November-2021
12	Due date of filing ITR for TP Cases for AY 21-22	30-November-2021	31-December-2021
13	Due date of Filing ITR for AY 2021-22 for others	30-November-2021	31-December-2021
14	Due date of filing belated/revised return for AY 2021-22	31-December-2021	31-January-2022

Note:

- 234A will be applicable where tax liability exceeds 1 Lakh
- For the above, Self Assessment Tax paid by Resident Individual within due date (without extension under this circular) shall be deemed to be advance tax.



GST UPDATES

Compiled by:



CA Nitin Dhanji Kenia CA Bharat Kalyanji Gosar

NOTIFICATIONS - CENTRAL TAX:

- **Notification No. 07/2021 - Central Tax dated 27th April, 2021.**

Following Rule is amended in The Central Goods and Service Tax Rules, 2017. Rule is effective from 30/03/2021.

Rule 26(1):By adding forth proviso, all registered Companies are allowed to furnish return in Form GSTR-3B and the details of outward supplies in Form GSTR-1 using IFF through electronic verification code (EVC) for the period from 27/04/2021 to 31/05/2021.

- **Notification No. 08/2021 - Central Tax dated 1st May, 2021.**
- **Notification No. 01/2021 -Integrated Tax dated 1st May, 2021.**

The Notification seeks to provide relief by lowering the interest rate for a prescribed time for delay in payment of tax for month March, 2021, April, 2021 and the for quarter ending on March, 2021.

- **Notification No. 09/2021 - Central Tax dated 1st May, 2021.**

Late fee is waived for fifteen days from the due date of furnishing return of the return in Form GSTR 3B for the month March, 2021 and April, 2021 for taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year. However, for taxpayers having an aggregate turnover upto rupees 5 crores in the preceding financial year, late fee is waived for 30 days from the due date of furnishing return. Similarly, for quarterly return filer also late fee is waived for 30 days from the due date of furnishing such quarterly return.

- **Notification No. 10/2021 - Central Tax dated 1st May, 2021.**

The Notification seeks to extend the due date for filing annual return in Form GSTR4 for composition dealers for financial year 2020-21 to 31/05/2021

- **Notification No. 11/2021 - Central Tax dated 1st May, 2021.**

The Notification seeks to extend the due date for furnishing of statement in Form ITC04 for the period January to-March, 2021 till 31/05/2021.

- **Notification No. 12/2021 - Central Tax dated 1st May, 2021.**

The Notification seeks to extend the due date of furnishing of return in Form GSTR-1 for April, 2021 till 26/05/2021.

- **Notification No. 13/2021 - Central Tax dated 1st May, 2021.**

Following Rules are amended in The Central Goods and Service Tax Rules, 2017. Rules are effective from 01/05/2021.

Rule 36(4):As per this Rule, maximum cap of 5 % of eligible ITC as per GSTR 2A has been put on a registered tax payers for claiming ITC for which suppliers have not uploaded invoices/ debit notes. Now, it is provided that the said condition shall apply cumulatively for the period April, 2021 and May, 2021 and the return in Form GSTR3B for the tax period May, 2021 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition stated above.

Rule 59(2): Facility of furnishing details of outward supply using Invoice furnishing facility for the month of April 2021 will be available from 01/05/2021 till 28/05/2021.

- **Notification No. 14/2021 - Central Tax dated 1st May, 2021.**

The Notification seeks to extend specified compliances falling between 15.04.2021 to 30.05.2021 where completion or compliance of such action has not been made within such time, then the time limit for completion or compliance of such action is upto 31/05/2021.

- **Notification No. 15/2021 - Central Tax dated 18th May, 2021.**

Following Rules are amended in The Central Goods and Service Tax Rules, 2017. Rules are effective from 18/05/2021.

Rule 23(1): A registered person has to submit an application for revocation of cancellation of registration in Form GST REG-21 to the proper officer within a period of 30 days from the date of the service of the order of cancellation of registration. Now by amending this Rule, powers are given to the Additional Commissioner or the Joint Commissioner or the Commissioner to allow such application to be submitted within extended time period.

Rule 90(3): Where any deficiencies are noticed in refund application of taxpayer, then the proper officer is required to communicate the deficiencies to the applicant in Form GST RFD03. It is now provided that the time period, from the date of filing of the refund claim in FORM GST RFD01 till the date of communi-

cation of the deficiencies in FORM GST RFD-03 by the proper officer, will be excluded from the period of two years as specified in Section 54(1) in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.

Rule 90(5)& (6): Newly inserted Rule provides for withdrawing the application for refund by filing an application in Form GST RFD01W. On submission of such an application, any amount debited by the applicant from electronic credit ledger or electronic cash ledger, as the case may be, while filing application for refund in Form GST RFD01, shall be credited back to the ledger from which such debit was made.

Form RFD 07: This Form regarding Order for withholding the refund / Order for release of withheld refund is now replaced by new Form RFD 07.

Form GST RFD01 W: New Form is introduced for making an application for Withdrawal of Refund Application.

CIRCULARS - CGST:

- **Circular No. 148/04/2021 - GST- dated 18th May, 2021**

The Circular prescribed Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration U/s 30 of the CGST Act, 2017 and Rule 23 of the CGST Rules, 2017.



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