

Manubhai & Shah LLP

Chartered Accountants

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NEWSLETTER

July 2020

Covering Updates for the Month of June'20

For private circulation and clients only



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INCOME TAX UPDATES

- 1 Extension of Due Dates Under Income Tax Act- Relief Measure Under The Lockdown:

The Ministry of Finance, had announced few relief measures under the Income Tax Act, to the assessee under the pandemic COVID-19 by extending certain due dates in the Taxation And Other Laws (Relaxation of certain Provisions) Ordinance, 2020 which was Promulgated by the President of India on 31.03.2020. Accordingly, the Ordinance had extended various due dates of compliances falling between 20.03.2020 to 29.06.2020 to 30.06.2020. In exercise of the power granted under the said Ordinance, The Ministry of Finance, in furtherance of the relief measure, has again extended various due dates of compliances under the Act vide CBDT Notification No. 35/2020 dated 24.06.2020.
- 2 As per the said Notification, various due dates of compliances falling between 20.03.2020 to 31.12.2020 has been extended to 31.03.2021 except in following cases where the due dates have been specified:
 - 2.1 Assessment Year 2019-20- Filing of Tax Returns

Filing of Original Tax Return u/s 139(1), belated Tax Return u/s 139(4) and Revised Tax Return u/s 139(5) is extended till 31.07.2020.
 - 2.2 Assessment Year 2020-21 Filing of Tax Returns

Filing of Tax Returns for all the assesses is extended till 30.11.2020.
 - 2.2 Assessment Year 2020-21 Filing of Tax Returns

Filing of Tax Returns for all the assesses is extended till 30.11.2020.
 - 2.3 Interest under section 234A

It is provided that interest is chargeable u/s 234A in case self-assessment tax liability of a taxpayer exceeds Rs.1 lakh. The interest will be charged from due dates of 31-07-2020 (non-audit) or 31-10-2020 till the date of filing of tax return. So, no interest will be charged u/s 234A if the self-assessment tax liability of a taxpayer does not exceed Rs.1 lakh and ITR is filed within the extended due date of 30.11.2020.
 - 2.4 E-filing of Audit Report under the Income Tax Act, i.e. u/s 44AB, 80IA/80IB/80IC, Transfer Pricing Report in Form 3CEB, etc and Audit Report for Trusts in Form No. 10B has been extended to 31.10.2020.

- 2.5 Date of filing of statement of TDS by PSUs, Central Government, State Government and other Government Authorities u/s 200(2A) (i.e. Form 24Q,26Q,27Q,etc) or statement of TCS U/sec 206C(3A) for the month of February or March, 2020, or for the quarter ending on the 31.03.2020, has been extended to 15.07.2020.
- 2.6 Date of filing of statement of TDS by any person other than Government Authorities, u/s 200(3) (i.e. Form 24Q, 26Q, 27Q, etc) or statement of TCS U/sec 206C(3), 206C for the month of February or March, 2020, or for the quarter ending on the 31.03.2020, has been extended to 31.07.2020.
- 2.7 Date of furnishing of TDS certificate in Form No. 16 /16A/16B/16C/16D/ and TCS Certificate in Form 27D for the financial year 2019-20, has been extended to 15.08.2020.
- 2.8 Date for making Investments or completing construction or purchase for claiming deduction from capital gains u/s 54 to 54GB arising during the Financial Year 2019-20 has been extended to 30.09.2020.
- 2.9 Date for making various tax saving- investments or payments for the Financial Year 2019-20 (u/s 80C to 80GGC) has been extended to 31.07.2020.
3. As per the notification due date for the following compliances and actions due between 20.03.2020 to 31.12.2020 have been extended till 31.03.2021:
 - 3.1 Sending an intimation u/s 143(1) for the tax return filed
 - 3.2 To issue Scrutiny assessment order u/s 143(3) and 144, for the A/Y 2018-19.
 - 3.3 Issuance of Notice u/s 148 for reassessment for AY 2013-14 onwards
 - 3.4 Filing of appeal before various income tax appellate authorities
 - 3.5 Filing of Statement of Financial Transactions (SFT) u/s 285BA for the Financial Year 2019-20 in Form 61A
 - 3.6 Linking of PAN with Adhar
4. Applicability of new procedure for approval, registration or notification of certain entities u/s 10(23C),12AB, 35 and 80G from 01.10.2020.
5. Application under Vivad se Vishwas Scheme extended till 31.12.2020 without any additional charge.



MSME UPDATES

MSME New Classification

1. MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES issued notification no. S.O. 2119(E) dated 26th June,2020 which amended classification of enterprises and various other matters.

Existing MSME Classification			
Criteria: Investment in Plant and Machinery or Equipment			
Classification	Micro	Small	Medium
Manufacturing Enterprises	Investment < Rs. 25 lakhs	Investment < Rs. 5 crores	Investment < Rs. 10 crores
Service Enterprises	Investment < Rs. 10 lakhs	Investment < Rs. 2 crores	Investment < Rs. 5 crores

Revised MSME Classification			
Criteria : Investment and Annual turnover			
Classification	Micro	Small	Medium
Manufacturing and Service Enterprises	Investment < Rs. 1 Crore and Turnover < Rs. 5 Crores	Investment < Rs. 10 Crore and Turnover < Rs. 50 Crores	Investment < Rs. 50 Crore and Turnover < Rs. 250 Crores

2. Other important matters:

- All enterprises registered till 30th June,2020, shall be re-classified in accordance with this notification.
- The existing enterprises registered prior to 30 June,2020, shall continue to be valid only for a period up to the 31 March, 2021.
- The calculation of investment in plant and machinery or equipment will be linked to the Income Tax Return (ITR) of the previous years filed under the Income Tax Act, 1961. In case no previous ITR, it will be based on self-declaration.

- Information as regards turnover and exports turnover for an enterprise shall be linked to the Income Tax Act or the Central Goods and Services Act (CGST Act) and the GSTIN.
- If an enterprise crosses the ceiling limits specified for its present category in either of the two criteria of investment or turnover, it will cease to exist in that category and be placed in the next higher category but no enterprise shall be placed in the lower category unless it goes below the ceiling limits specified for its present category in both the criteria of investment as well as turnover.
- The turnover related figures of such enterprise which do not have PAN will be considered on self-declaration basis for a period up to 31st March,2021 and thereafter, PAN and GSTIN shall be mandatory.
- All existing enterprises registered under EM Part-II or UAM shall register again on the Udyam Registration portal on or after 1st July, 2020
- An enterprise having Udyam Registration Number shall update its information online in the Udyam Registration portal, including the details of the ITR and the GST Return for the previous financial year and such other additional information as may be required, on self-declaration basis.
- Based on the information furnished or gathered from Government's sources including ITR or GST return, the classification of the enterprise will be updated.
- Notification can be accessed on following link:

http://www.dcmsme.gov.in/IndianGazzate_0.pdf



SEBI UPDATES

- 1 Further extension of time for submission of financial results for the quarter / half year / financial year ending 31st March 2020
SEBI has Further extended the timeline for submission of financial results under Regulation 33 of the LODR Regulations, by a month, to July 31, 2020, for the quarter and the year ending 31st March 2020. Similarly, the timeline under Regulation 52 of the LODR for submission of half yearly and/or annual financial results for the period ending March 31, 2020 for entities that have listed NCDs, NCRPS', CPs, MDS' is also extended to July 31, 2020.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jun-2020/further-extension-of-time-for-submission-of-financial-results-for-the-quarter-half-year-financial-year-ending-31st-march-2020-due-to-the-continuing-impact-of-the-covid-19-pandemic_46924.html

- 2 Relaxation of time gap between two board / Audit Committee meetings of listed entities:
SEBI, vide circular No. SEBI/HO/CFD/CMD1/CIR/P/2020/38 dated March 19, 2020, had relaxed the requirement of the maximum stipulated time gap of 120 days between two meetings of the Board and Audit Committees of listed entities, as is required under Regulation 17(2) and 18(2)(a) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR Regulations'). This relaxation was provided for the meetings held/proposed to be held between the period December 1, 2019 and June 30, 2020, which is now extended till July 31, 2020.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jun-2020/relaxation-of-time-gap-between-two-board-audit-committee-meetings-of-listed-entities-owing-to-the-covid-19-pandemic_46945.html



COMPANY LAW UPDATES

1 Extension of Timeline in creation of DRR:

Timeline for creation of deposit repayment reserve of 20% u/s 73(2)(C) of the Companies Act 2013 and to invest or deposit 15% of amount of debentures has been extended from June 30, 2020 to September 30, 2020.

Link of the Circular:

https://www.mca.gov.in/Ministry/pdf/Circular24_20062020.pdf

2 Extension of timeline in filing of Form No. CHG-1 and Form No. CHG-9 with respect to charges created / modified by Company:

Where the date of creation / modification of charge:

- a is before 01.03.2020, but the timeline for filing such form had not expired under section 77 of the Act as on 01.03.2020, first day after 29.02.2020 shall be reckoned as 01.10.2020 for the purpose of counting the number of days within which the form is required to be filed.
- b falls on any date between 01.03.2020 to 30.09.2020 (both dates inclusive), first day shall be reckoned as 01.10.2020 for the purpose of counting the number of days within which the form is required to be filed.

Link of notification:

https://www.mca.gov.in/Ministry/pdf/Circular23_17062020.pdf

3 Board Meetings and Extraordinary General Meetings through Video Conferencing:

Time limit for convening Board meeting through video conferencing or other audio-visual means has been extended from June 30, 2020 to September 30, 2020.

Link of notification:

https://www.mca.gov.in/Ministry/pdf/Rule1_25062020.pdf

https://www.mca.gov.in/Ministry/pdf/Circular22_15062020.pdf



ARTICLE ON TAX DEDUCTION AND COLLECTION AT SOURCE

The Finance Act, 2020, has made several amendments in the sections dealing with Tax Deduction at Source (TDS) and Tax Collection at Source (TCS). These amendments have far reaching implications. Some of the sections provide for TDS/TCS from amounts which do not represent income of the assessee. These amendments are discussed below:

- 1. Sections 191 and 192:** Amendments in these sections are effective from A.Y. 2021-22 (F.Y. 2020-21). It is now provided that a company which is an eligible Start Up under section 80IAC will have to deduct tax at source on the prerequisite to an employee in the nature of ESOP shares within 14 days (i) After the expiry of 48 months from the end of the relevant assessment year in which the option is exercised, or (ii) from the date of sale of such ESOP shares by the employee or (iii) from the date on which an employee ceases to be the employee of the company, whichever is earlier. For this purpose, the tax rates in force for the F.Y. in which ESOP shares were allotted or transferred are to be considered. By this amendment the liability of employee of eligible Start Up company is deferred. Consequential amendments are made in sections 140 and 156.
- 2. Section 194 and 194K:** Section 194 now provides that dividend declared and paid by a company on or after 1.4.2020 to a resident shareholder shall be subjected to TDS of 10% if such dividend paid to the shareholder exceeds by Rs.5000/- in a Financial Year. In case of a non- resident shareholder, the rate of TDS is 20% u/s 195.

Similarly, a new section 194K provides for deduction of tax at source from income distributed by a M.F. to the unitholders, if the amount of such income distribution exceeds Rs.5000/- in any F.Y. The rate of TDS is 10% in case of resident unit holder and 20% in case of a non-resident unit holder u/s 196A.

- 3. Section 194LBA:** This section now provides that in respect of income distributed by a Business Trust to a Resident Unit holder, being Dividend received or receivable from a Special Purpose Vehicle (SPV) , the TDS rate shall be 10%. For non-resident unit holder, the TDS rate shall be 20%.
- 4. Section 196C:** In respect of Dividends on Bonds or GDRs purchased by a Non-resident in Foreign Currency tax at the rate of 10% will now be deductible at source.
- 5. Section 196D:** In respect of Dividends received by a FII or FPI tax at the rate of 20% will now be deductible at source.
- 6. Section 194A:** Effective from 1.4.2020, a Cooperative Society whose total sales, gross receipts or turnover exceeds Rs.50 Cr during the immediately preceding Financial Year, will now have to deduct tax at source at the rates in force from Interest paid as under :
 - i Payment by a Cooperative Society (other than a Cooperative Bank) to its members.

- ii Payment to any other Cooperative Society
- iii Payment on deposits with a Primary Agricultural Society, Primary Credit Society or a Cooperative Land Mortgage Bank.
- iv Payment on deposits (other than time deposits) with a Cooperative Society (other than mentioned in (iii) above) engaged in business of Banking.

If the total Interest payment in a Financial Year is less than Rs.50,000/- in the case of a Senior Citizen (above 60 years) or less than Rs.40,000/- in other cases, no tax will be required to be deducted by the Cooperative Society.

7. **Section 194C:** The definition of “work” in this section is now amended from 1.4.2020. under the amended definition the term “work” will also include material purchased from the Associate of the Customer. For this purpose, “Associate” means a person specified under section 40A (2)(b).
8. **Section 194J:** The amendment of this section effective from 1.4.2020 has reduced the rate of TDS from 10% to 2% in respect of TDS from Fees for Technical Services. The rate of TDS in respect of Professional Fees continues at 10%.
9. **Section 194LC:** The amendment of this section, effective from 1.4.2020 , provides that the eligibility of Borrowing under the loan agreement or by issue of long term Bonds for Concessional Rate of TDS is extended from 30.6.2020 to 30.6.2023. Further, it is now provided that interest on monies borrowed by an Indian Company from a source outside India by issue of long term Bonds or Rupee Dominated Bonds listed on a recognized Stock Exchange in any Financial Services Centre between 1.4.2020 and 30.6.2023 will be liable to TDS at 4%, against 5% in other cases.
10. **Section 194LD:** The amendment of this section from 1.4.2020 provides that the rate of TDS on Interest shall be 5% in the following cases :
 - a Interest payable from 1.6.2013 to 30.6.2023 by a person to FII or a Qualified Foreign Investor on Rupee Dominated Bonds of an Indian Company or Government Securities.
 - b Interest payable at specified rates on Municipal Debt Securities issues between 1.4.2020 to 30.6.2023.
- 11 **Section 194N:** This section was inserted in the Income Tax Act effective from 1.9.2019 by the Finance (No.2) Act, 2019. Now this section is replaced by a new section 194N effective from 1.7.2020 by the Finance Act, 2020. This new section provides as under:
 - i In respect of Cash Withdrawals in excess of Rs.1 Cr. in a Financial Year from Banks, Co-operative Banks, co operative societies engaged in the business of banking and Post office , there will be TDS at 2% as provided in the old section 194N.
 - ii In the case of account holder with Banks, Post office, etc., who has not filed Return of Income for all the three assessment years for which time for filing such Returns under section 139(1) has expired, the rate of TDS will be, (a) 2% of Cash Withdrawals from all accounts with Bank, Post Office etc., in excess of ₹20 Lakhs but not exceeding Rs.1 Cr in a Financial Year and (b) 5% of such Cash Withdrawals exceeding Rs.1 Cr.

It may be noted that section 194N does not apply to any cash withdrawal by the Government Bank, Cooperative Bank, Post Office, Banking Correspondent, White Label ATM Operators and such persons as may be notified by the Government.

Further, Section 198 provides that the amount deducted as TDS under section 194N shall not be treated as income of the assessee. The effect of this provision will be that credit for this TDS will not be available under section 199 read with Rule 37BA.

- 12 Section 194-O and 206AA:** Section 194-O is a new section which has come into force from 1.4.2020. Section 206AA is amended effective from 1.4.2020. These sections provide as under :
- i An e-commerce operator (EO) facilitating sale of goods or provision of services of an e-commerce participant (EP) through its digital electronic facility or platform, is now required to deduct tax at source at the rate of 1% of the of the gross amount of sales or services of the EP.
 - ii The above provision does not apply if the payment is made to an EP who is an Individual or HUF who has furnished PAN/Aadhar Card No. the rate of TDS under section 206AA will be 5% instead of 1%.
- 13 Section 206-C:** This section dealing with TCS has been amended effective from 1.10.2020 as under :
- i An Authorized Dealer in Foreign Currency receiving Rs.7 Lakhs or more from any person, in a Financial Year, for remittance out of India under LRS of RBI, is liable to collect TCS at 5% from the person remitting such amount. If the remitter does not provide PAN/Aadhar Card No., the rate of TCS will be 10%.
 - ii In the above case, if the remittance in excess of Rs.7 Lakhs in a Financial Year is by a person who is remitting the Foreign Exchange out of education loan obtained from a specified Financial Institution, the rate of TCS will be 0.5%. However, if the remitter does not furnish PAN/Aadhar Card No. the rate of TCS will be 5%.
 - iii The seller of an overseas tour programme package, who receives any amount from a buyer of such package, is liable to collect TCS at 5% from such buyer. In such a case TCS provision will apply even if the amount is less than Rs.7 Lakhs. If the buyer does not provide PAN/Aadhar Card No. the rate of TCS will be 10%
 - iv The above provisions for TCS do not apply to following cases:
 - a If the remittance is to the seller of goods or services
 - b If the lawyer (remitter) is liable to deduct tax at source from the amount remitted.
 - c If the remitter is the Government, Embassy, Local Authority, etc. or any notified person.
 - v A seller of goods other than goods specified under sub-sections (1),(1F) or (1G) of section 206C is liable to collect TCS of 0.1% at the time of receipt of the Consideration in excess of Rs.50 Lakhs in a financial year. If the buyer does not provide PAN/Aadhar Card No. TCS will be 1%. This provision does not apply in the following cases :
 - a If the buyer is liable to deduct tax at source from the seller on the goods purchased and made such deduction.
 - b If the buyer is the Government, Foreign Embassy, Local Authority, a person importing the goods in India, etc. or for other notifies person.
 - c If the seller is a person whose sales, turnovers or gross receipts from the business in the preceding financial year does not exceed Rs.10 Cr.
- 14 Impact of COVID-19:** Government has issued a Press Release on 13.5.2020 to provide for certain relief during COVID-19 pandemic. It is announced that TDS and TCS Rates provided in various sections i.e. 193 to 194-O and 206C will be reduced by 25% during the period of 14.5.2020 to 31.3.2021. This reduction is given only in respect of TDS/TCS from payments/receipts from Residents. This concession is not applicable for TDS from salaries and TDS from payments to Non-Residents. Further, where higher TDS is provided under section 206CC for not furnishing of PAN/Aadhar Card No. this concession is not applicable.

Manubhai & Shah LLP

Chartered Accountants

CORPORATE OFFICE

G-4, Capstone, Opp. Chirag Motors,
Gujarat College Road, Ellisbridge,
Ahmedabad - 380 006, Gujarat, India.
Phone : +91 79 2647 0000
Email : info@msglobal.co.in

MUMBAI OFFICE

3C Marker Bhavan No II,
18, New Marine Lines,
Mumbai - 400 020, Maharashtra, India.
Phone : +91 22 6633 3668/59/60
Fax : +91 22 6633 3561/2203/7935
Email : infomumbai@msglobal.co.in

Unit No. 502,
5th Floor, Modi House,
Bajaj Cross Road, Kandivali (West),
Mumbai - 400 067,
Maharashtra, India,

NCR OFFICE

1F-CS-44B (First Floor) Ansal Plaza,
Vaishali, Ghaziabad (U.P.)-201010
Phone : +91 98187 84187

KNOWLEDGE PROCESSING CENTRE

2nd Floor, "D" Wing,
Shivalik Corporate Park,
Behind ICO Petrol Pump,
132ft. Ring Road, Satellite,
Ahmedabad - 380 015, Gujarat, India.

13th Floor, A Block,
Ratnakar Nine Square,
Opp. Keshav Baug party Plot,
Mansi Road, Vastrapur,
Ahmedabad - 380 015, Gujarat, India.

BRANCHES

RAJKOT UDAIPUR
BARODA GANDHINAGAR



info@msglobal.co.in