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NEWSLETTER

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Covering Updates for the Month of August' 21
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DIRECT TAX UPDATES

1 Extension of due dates for Direct Tax Compliances

1.1 C.B.D.T. CIRCULAR No. 16 of 2021 dated 29.08.2021 -

The C.B.D.T. has further extended the due dates for e-filing of various forms, which were last extended vide Circulars No. 12/2021 dated 25.06.2021 and No.15/2021, dated 03.08.2021. Now, C.B.D.T. has decided to further extend the time limits of following compliances to provide relief to tax payers in view of the difficulties faced on the new portal of Income Tax Department and the prevailing pandemic of COVID:

Sr. No.	Particulars	Original Due Date	Last Extended Due date	Revised Extended Due Date
1	Application for Registration under section 10(23C), 12AB,35(1)(ii)/(iia)/(iii) and section 80G in Form No. 10A by Trusts/Institutions, etc.	30-06-2021	31-08-2021	31-03-2022
2	Application for Registration under section 10(23C), 12AB,35(1)(ii)/(iia)/(iii) and section 80G in Form No. 10AB by Trusts/Institutions, etc.	30-06-2021	31-08-2021	31-03-2022 (any due date falling upto 28-02-2022 is extended till this dt.)
3	Equalisation Levy Statement in Form No. 1 for F.Y. 2020-21	30-06-2021	31-08-2021	31-12-2021
4	Filing of Quarterly Statement in Form No. 15CC by authorized dealer in respect of remittances made for the quarter ending on - 30th June, 2021 30th September,2021	15-07-2021 15-10-2021	31-08-2021	30-11-2021 31-12-2021
5	E-filing of Form No. 15G/15H received by a tax deductor during Quarter ended on- 30th June, 2021 30th September,2021	15-07-2021 15-10-2021	31-08-2021	30-11-2021 31-12-2021
6	Intimation to be made by Sovereign Wealth Fund in respect of investments made by it in India in Form II SWF for the quarter ending on - 30th June, 2021 30th September,2021	31-07-2021 31-10-2021	30-09-2021	30-11-2021 31-12-2021
7	Intimation to be made by a Pension Fund in respect of each investment made by it in India in Form No. 10BBB for the quarter ending on - 30th June, 2021 30th September,2021	31-07-2021 31-10-2021	30-09-2021 -	30-11-2021 31-12-2021

8	Intimation in Form No. 3CEAC/ 3CEAD /3CEAE by a resident entity	30-11-2021		31-12-2021
9	Furnishing of statement in Form No. 64C by an Investment Fund under Section 115UB to unit holders in respect of income distributed during the previous year 2020-21	30-06-2021	31-07-2021	30-09-2021
10	Furnishing of statement in Form No. 64D of income paid or credited by an investment fund under Section 115UB to its unit holder for the Previous year 2020-21	15-06-2021	15-07-2021	15-09-2021

1.2 C.B.D.T. Circular No. 17 of 2021 dated 09.09.2021 –

The C.B.D.T. has further extended the due dates for e-filing of income tax returns and various audit reports (as per provisions of Income Tax Act, 1961), which were earlier extended vide Circular No. 09/2021 dated 20.05.2021. Now, C.B.D.T. has decided to further extend the time limits of following compliances to provide relief to tax payers in view of the difficulties faced on the new portal of Income Tax Department:

Sr. No.	Particulars	Original Due Date	Last Extended Due date	Revised Extended Due Date
1	Filing of income tax return by person not liable to audit under any law	31-07-2021	30-09-2021	31-12-2021
2	Filing of income tax return by person liable to audit under any law (including tax audit) other than transfer pricing audit	31-10-2021	30-11-2021	15-02-2022
3	Filing of income tax return by person liable to transfer pricing audit	30-11-2021	31-12-2021	28-02-2022
4	Filing of belated or revised income tax return by any person referred above	31-12-2021	31-01-2022	31-03-2022
5	Filing of tax audit report and any other report under the Income Tax Act, 1961 other than transfer pricing audit report	30-09-2021	31-10-2021	15-01-2022
6	Filing of transfer pricing audit report	31-10-2021	30-11-2021	31-01-2022

It is also clarified by the said Circular that though the due date for filing of Income-tax Return for the Assessment Year 2021-22 has been extended, but interest shall be chargeable under section 234A if the tax liability exceeds Rs.1 lakh (except in case referred in subsequent paragraph). Thus, if self-assessment tax liability of a taxpayer exceeds Rs.1 lakh, the person would be liable to pay interest under section 234A from the original due date till the date of filing the return of income, if he avails the benefit of extended due date.

Further, as per section 207(2), a resident senior citizen who does not have any income from business or profession is not required to pay advance tax and said individual can pay the entire tax by way of self- assessment tax without any interest chargeable u/s. 234B and 234C. It is further clarified in above referred Circular and earlier issued Circular No. 09/2021 dated 20.05.2021, for computing the limit of Rs.1 lakh in case of such resident senior citizen, the self-assessment tax paid on or before 31-07-2021 shall be deemed to be the advance tax, which shall be reduced while computing the final tax liability. Accordingly, interest u/s. 234A will not be levied in case of such resident senior citizen if tax liability does not exceeds Rs. 1 lakh after deducting self-assessment tax paid upto 31.07.2021.

2 Extension Of Time Limit For Payment Of Taxes Under Vivad Se Vishwas Act:

C.B.D.T. Notification No. 94 / 2021 dated 31.08.2021"

In exercise of the powers conferred by section 3 of the Direct Tax Vivad se Vishwas Act, 2020, the CBDT, vide this Notification dated 31.08.2021, extends the due date of payment of tax determined. It is also provided that the designated authority shall allow the declarant to make payment without additional amount on or before 30th September from the last extended due date of 31st August, 2021 and with additional amount on or before 31st October, 2021 from the last extended due date of 30th September, 2021 vide Notification No.39/21 dated 27.04.2021.

3. Standard Operating Procedure(SOP) For Faceless Penalty Scheme, 2021

Letter F.No. AA (NAFAC)-1/2021-22/439, DATED 9-8-2021 –

CBDT has notified the Standard Operating Procedure under the Faceless Penalty Scheme -2021

Faceless Penalty Scheme, 2021 (FPS) has been notified vide CBDT Notification No. 2/2021 dated 12.01.2021 under section 274(2A) of the Income-tax Act. The Scheme mandates setting up of National Faceless Penalty Centre/Regional Faceless Penalty Centres (NFPC/RFPC) to conduct Faceless Penalty Proceedings and impose penalty in cases falling into its scope in a centralised manner similar to those of Faceless Assessment Scheme. It is provided that henceforth, National Faceless Penalty Centre (NFPC) may be read as National Faceless Assessment Centre (NaFAC); Faceless Penalty Unit or Penalty Unit may be read as Assessment Unit (AU) and Faceless Penalty Officer (FPO) may be read as Faceless Assessing Officer (FAO). The SOP for completion of penalty proceedings has been laid down in this Notification.

4. New Rules 21AI and 21AJ for Computation of income exempt U/sec 10(4D)

C.B.D.T. Notification No. 90 / 2021 dated 09.08.2021 –

Section 10(4D) of the Income tax Act, 1961, exempts income attributable to a non-resident unit holder which is accrued or received by a Specified Fund from specified sources. In this regard, CBDT has inserted new Rules 21AI and 21AJ by Income tax (Twenty Second Amendment), Rules, 2021 vide the said Notification which provides method of computation of the income attributable to such non-resident unit holder. These rules are as under-

- 4.1 **Rule 21AI** provides formula for computation of exempt income U/sec 10(4D) of a non-resident unit holder of a specified fund. It is also provided under this Rule that the specified fund shall furnish an annual statement of exempt income in Form No. 10-IG electronically under digital signature duly verified on or before the due date as provided in the Explanation 2 to section 139(1).
- 4.2 **Rule 21AJ** provides formula for computation of exempt income of capital gain U/sec 115AD(1A) of a non-resident unit holder of a specified fund. It is also provided under this Rule that the specified fund shall e-file digitally signed an annual statement of income eligible for concessional taxation in Form No 10IH on or before the due date as provided in the Explanation 2 to section 139(1), which is duly verified in the manner indicated therein.

5 New Rule 10RB – Tax Relief under section 115JB(2D)

C.B.D.T. Notification No. 92 / 2021 dated 10.08.2021 –

- 5.1 Finance Act, 2021 has inserted sub-section (2D) to section 115JB which provides that, a Company shall make an application to the AO when there is an increase in book profit of the previous year due to income of past year or years on account of an advance pricing agreement entered into by a company under section 92CC or on account of secondary adjustment made under section 92CE, to recompute the book profit of the past year or years and tax payable, if any, by the company during the previous year, in such manner as may be prescribed. Now, the CBDT has inserted new Rule 10RB and inserted new Form No. 3CEEA by Income tax (Twenty Third Amendment), Rules, 2021 vide the said Notification which prescribes the method to compute the tax relief on such adjustment.

6. Taxation Laws (Amendment) Act, 2021- Withdrawal of retrospective amendment on Capital Gain Tax on indirect transfer of Capital Asset by Foreign Company

The Finance Act, 2012, amended section 9 with retrospective effect in order to overrule the Supreme Court decision in the case of Vodafone BV., to tax capital gain accrued to it on indirect transfer of shares of Indian Company. This had raised lot of criticism on International Platform which had impacted Foreign Investment in India. Therefore, in order to attract FDI, the Finance Minister has introduced Taxation Laws (Amendment) Bill, 2021, removing retrospective amendment to section 9 which will withdraw the huge tax demand raised on Vodafone BV and other companies.

The Bill was passed by both the Houses the Parliament and has received assent of the President of India on 13.08.2021 and has become Taxation Laws (Amendment) Act, 2021. Few important provisions of the Act are as under-

- i. The provisions of indirect transfer of assets in India shall not apply to the capital assets transferred before 28-05-2012 and accordingly there will be no capital gain tax payable on such transfers.
- ii. All pending assessments or rectification applications shall be deemed to have been completed without any additions for such income.

- iii. Any demand raised in concluded assessments or rectification orders for indirect transfer of Indian capital assets made before 28.05.2012 shall be deemed to be nullified on the fulfillment of specified conditions. Accordingly, all taxes paid by such persons against such demand shall be refunded without any interest. The specified conditions are-
- a. Such person shall either withdraw or give an undertaking in the prescribed form to withdraw all the appeals or Writ petitions filed before any Court.
 - b. Such person shall either withdraw or give an undertaking in the prescribed form to withdraw any proceedings for arbitration, conciliation or mediation filed within or outside India
 - c. Such person shall give an undertaking in the prescribed form for waiver of all his right to seek any remedy or any claim in relation to the said income which may otherwise be available to him under any law for the time being in force, in equity, under any statute or under any agreement entered into by India with any country or territory outside India, whether for protection of investment or otherwise.
 - d. Such other conditions as may be prescribed.



COMPANY LAW UPDATES

A. Exemption from provisions related to offering for subscription in the securities to the specified Companies:

Foreign companies and companies incorporated or to be incorporated outside India are exempted from provisions of sections 387 to 392, insofar as they relate to the offering for subscription in the securities, requirements related to the prospectus, and all matters incidental thereto in the International Financial Services Centres set up under section 18 of the Special Economic Zones Act, 2005.

Notification can be accessed at:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MzMzMjQ=&docCategory=Notifications&type=open>

B. Explanation on electronic based offering of securities:

It has been clarified that electronic based offering of securities, subscription thereof or listing of securities in the International Financial Services Centres set up under section 18 of the Special Economic Zones Act, 2005 shall not be construed as 'electronic mode' for the purpose of clause (42) of section 2 of the Act.

Notification can be accessed at:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MzMzMjM=&docCategory=Notifications&type=open>

C. Annual report on the capacity building of independent directors:

It has been directed that the Institute maintaining databank of Independent Directors shall within sixty days from the end of every financial year send an annual report to every individual whose name is included in the data bank and also to every company in which such individual is appointed as an independent director in specified format.

Notification can be accessed at:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MzU0MTY=&docCategory=Notifications&type=open>

D. Exemption from passing online proficiency self-assessment test:

Following persons are not required to pass the online proficiency self-assessment test for qualifying to be appointed as director, if they are or have been, for at least ten years:

- a an advocate of a court; or
- b in practice as a chartered accountant; or
- c in practice as a cost accountant; or
- d in practice as a company secretary

Notification can be accessed at

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MzU0MTU=&docCategory=Notifications&type=open>

E. FAQs on Corporate Social Responsibility:

The Ministry has notified the amendments in Section 135 of the Act as well in the CSR Rules on 22nd January 2021 with an aim to strengthen the CSR ecosystem, by improving disclosures and by simplifying compliances. In response to such amendments, MCA has issued a set of FAQs along with response, for better understanding and facilitating effective implementation of CSR.

FAQs can be accessed at:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MzU0NzM=&docCategory=Circulars&type=open>



SEBI

SEBI UPDATES

A. Disclosure of shareholding pattern of promoter(s) and promoter group entities:

Regulation 31(4) of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR”) mandates that all entities falling under promoter and promoter group be disclosed separately in the shareholding pattern on the website of stock exchanges, in accordance with the format(s) specified by the Board.

Currently, the shareholdings of promoter(s) and promoter group entities are collectively disclosed under ‘Statement showing shareholding pattern of the Promoter and Promoter Group’. In the interest of transparency to the investors, all listed entities shall now provide such shareholding, segregated into promoter(s) and promoter group. Revised format of disclosure is also given under the Circular.

Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/aug-2021/disclosure-of-shareholding-pattern-of-promoter-s-and-promoter-group-entities_51847.html

B. Automation of Continual Disclosures under SEBI (Prohibition of Insider Trading) Regulations, 2015:

It is clarified that for listed companies who have complied with requirements of system driven disclosures, the manual filing of continual disclosures as required under Regulation 7(2) (a) & (b) of SEBI (Prohibition of Insider Trading) Regulations, 2015 is no longer mandatory.

Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/aug-2021/automation-of-continual-disclosures-under-regulation-7-2-of-sebi-prohibition-of-insider-trading-regulations-2015-system-driven-disclosures-ease-of-doing-business_51848.html

C. Tendering of shares in open offers, buy-back offers and delisting offers by marking lien in the demat account of the shareholders:

In consultation with Depositories, Clearing Corporations and Stock Exchanges, it has been decided that a lien shall be marked against the shares of the shareholders participating in the tender offers. Upon finalization of the entitlement, only accepted quantity of shares shall be debited from the demat account of the shareholders. The lien marked against unaccepted shares shall be released. The detailed procedure for tendering and settlement of shares under the revised mechanism is specified in the Annexure to the Circular.

Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/aug-2021/tendering-of-shares-in-open-offers-buybacks-and-delisting-offers-by-marking-lien-in-the-demat-account-of-the-shareholders_51849.html

D. Penalty for Repeated Delivery Default:

To strengthen the delivery mechanism and to ensure market integrity, it has been decided that in case of repeated default by a seller or a buyer, for each instance of repeated default, an additional penalty shall be imposed, which shall be 3% of the value of the delivery default. Repeated Default shall be defined as an event, wherein a default on delivery obligations takes place 3 times or more during a six months period on a rolling basis. The penalty levied shall be transferred to Settlement Guarantee Fund (SGF) of the Clearing Corporation.

Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/aug-2021/penalty-for-repeated-delivery-default_51902.html



RBI UPDATES

1. RBI has issued master direction for Cash Reserve Ratio (CRR) and Statutory Liquidity Ratio (SLR) on 20th July, 2021 and the same would be applicable to all SCBs, RRBs, SFBs, Payments Bank, LABs, UCBs, StCBs, DCCBs from the date they are published on official website of RBI.

Link for circular dated 7th July, 2021

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12131&Mode=0>

2. RBI had issued circular dated September 7, 2020 advising key ratios and their sector specific thresholds to be considered by lending institutions while finalising resolution plans of eligible borrowers under the Resolution Framework for Covid-19 related stress. In view of resurgence of Covid-19 pandemic and difficulties it may pose for the borrowers in meeting operational parameters, RBI has decided to defer the target date for meeting the specified thresholds in respect of 4 operational parameters to October 1, 2022. However, the target date for achieving the ratio TOL/ATNW as crystallised in resolution plan shall remain unchanged as March 31, 2022.

Link for notification dated 6th August, 2021

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12140&Mode=0>

3. RBI has consolidated all directions to Banks for presentation and disclosure of Financial Statements and issued one Master Direction on August 30, 2021 for ease of all stakeholders.

Link of master direction dated August 30, 2021

<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/83MDPRESENTATIONDISCLOSUREDADE5C12667549B5B123EC94C73FE5D1.PDF>



ARTICLE

AMENDMENTS IN THE LIMITED LIABILITY PARTNERSHIP ACT

1 BACKGROUND

The Limited Liability Partnership Act, 2008 (hereinafter referred to as 2008 Act) was introduced in 2009 to make provisions for the formation and regulation of limited liability partnerships. Since then, there were no amendments to the 2008 Act. With increasing number of formations of Limited Liability Partnerships (“LLP”) and Companies Act 2013 replacing the Companies Act 1956, there was a need to amend the 2008 Act. Recently, the Ministry of Law and Justice has amended the 2008 Act through The Limited Liability Partnership (Amendment) Act, 2021 (“hereinafter referred to as Act) which received the assent of president on 13th August, 2021. It shall come into force on such dates as Central Government may notify. It can appoint different dates for different provisions to come into effect.

2 AMENDMENTS

i Section 2(1)(e) – Business

The definition of business as per 2008 Act included every trade, profession, service and occupation. The amendment excludes any activity which the Central Government may notify.

ii New Section 2(1)(ta): Small Limited Liability Partnership

It means a limited liability partnership

- a. The contribution of which does not exceed Rs. 25 lakh or higher prescribed amount (not exceeding 5 Crore); and
- b. The turnover of immediately preceding financial year does not exceed Rs. 40 lakh or higher prescribed amount (not exceeding 50 Crore); Or
- c. which meets other prescribed requirements

iii Section 7 – Designated Partners

Every LLP is required to have 2 designated partners who are individuals and at least one of them should be resident of India. The 2008 Act defined resident of India as a person who has stayed in India for at least 182 days in immediately preceding one year. The amendment defines resident of India as a person who has stayed in India for at least 120 days in current financial year.

iv Section 17: Change of name of LLP

As per 2008 Act, the Central Government could either on application made by the existing LLP (section 18 of 2008 Act) or suo-moto direct the LLP to change its name if the same was identical or closely resembling with the name of existing LLP or body corporate or others. Through amendment, section 18 is now omitted and suo-moto powers of the Central Government are removed. Thus, only on application made by the existing LLP or body corporate to the Central Government asking the newly incorporated LLP to change its name, the CG would direct such LLP for changing the name.

Also, the amended section 17 requires the LLP which has been directed to change its name to give notice of change to Registrar along with order of Central Government within 15 days from date of such change who in turn would issue new certificate of incorporation with changed name within 30 days of such notice.

v Section 30: Unlimited Liability in case of fraud

As per 2008 Act, where any LLP carries on business with an intention to defraud creditors of LLP or any other person or for any other fraudulent purposes, every person who was knowingly a party to such carrying on of the business were punishable with imprisonment up to 2 years and fine of minimum Rs. 50,000/- and maximum Rs. 5 Lakh.

The amendment has increased the punishment of imprisonment up to 5 years keeping the fine unchanged.

vi New section 34A – Accounting and auditing standards

As per the newly inserted section 34A, the Central Government may in consultation with NFRA constituted under section 132 of Companies Act 2013 prescribe accounting standards and auditing standards as recommended by ICAI for class or classes of LLP.

vii Section 39 – Compounding of offences

The section is substituted by new section 39 which prescribes detailed procedure for compounding of offence. Additionally, it states that if the similar offence is committed within 3 years from date of compounding of such last offence, then the provisions of compounding under section 39 would not apply.

viii Section 62 – Amalgamation of Limited Liability Partnership

The Section specifies procedure for facilitating reconstruction or amalgamation of LLP. A new explanation is added for section 62 which states that a LLP shall not be amalgamated with a Company.

ix New sections 67A, 67B and 67C – Establishment of Special Courts

The new sections gives powers to Central Government for the purpose of speedy trial of offences to establish or designate as many special courts as may be necessary for each area. Till such time, special courts notified under section 435 of Companies Act 2013 shall be deemed to be special courts. Section 67B specifies the procedure and powers of the Special Court. Section 67C specifies process of appeal and revision by the High Court.

3. TO SUM UP:

It is noticed that amendments are done mainly

- i To give references of Companies Act 2013 and its section where sections of Companies Act 1956 were referred to.
- ii To amend the penal provisions mainly to replace the fines with penalties in order to reduce the litigation before courts, also lowering the amounts of penalties in some instances but at the same time they have introduced daily penalties applicable to LLP's and designated partners for continuing failure which was not there in 2008 Act.
- iii Lastly, to bring in mechanism and procedure for effective resolution and disposal for offences by setting up additional special courts and giving specific powers to such courts.

DUE DATE

Due dates of various compliances falling in the month of September 2021

S.No	Due Date	Act/Authority	Compliance Description
1	07-09-2021	GujRera	In case of projects whose dynamic quarter completes in August-2021
2	07-09-2021	Income Tax	Deposit of Tax Deducted at Source (TDS) / Tax Collected at source (TCS) during the month of August-2021
3	10-09-2021	GST	GSTR-7/GSTR-8 for the month of August-2021 for persons required to deduct TDS
4	10-09-2021	GST	GSTR-8 for the month of August -2021 for e-commerce operator required to Collect TCS
5	11-09-2021	GST	GSTR-1 for the month of August-2021 for taxpayers opted to file Monthly Return
6	13-09-2021	GST	Filing of Invoice Furnishing Facility (IFF) for August- 2021 for taxpayers who opted for Quarterly Return Monthly Payment (QRMP) option
7	13-09-2021	GST	GSTR-6 for the month of August-2021 for Input Service Distributor(ISD)
8	15-09-2021	PF/ESIC	Payment of PF / ESIC for the month of August-2021
9	15-09-2021	Income Tax	Payment of 2nd Instalment of Advance Tax for the Financial year 2021-2022
10	20-09-2021	GST	Payment of GST & Filing of GSTR-3B for the month of August-2021, for taxpayers having turnover of more than Rs.5 Crore in preceding financial Year
11	20-09-2021	GST	GSTR-5 & 5A by Non-resident taxable person & OIDAR for the month of August-2021
12	25-09-2021	GST	Payment of GST for the month of August-2021 for Tax payers who opted for QRMP Option
13	30-09-2021	GujRera	Filing of Audit Report in Form 5
14	30-09-2021	Income Tax	Linking of Aadhar with PAN
15	30-09-2021	Income Tax	Filing of Income Tax Return for the financial year 2020-21 for all assessee other than (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or (d) an assessee who is required to furnish a report under section 92E
16	30-09-2021	Income Tax	Furnishing of Challan-cum-Return for Tax Deducted (TDS) u/s 194IA, 194IB and 194M during the month of July-2021
17	30-09-2021	Income Tax	Payment of Tax without additional interest under Direct Tax Vivad Se Vishwas Act, 2020

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BRANCHES

RAJKOT UDAIPUR
BARODA GANDHINAGAR

