

Manubhai & Shah LLP

Chartered Accountants

Ahmedabad • Mumbai • NCR • Rajkot • Jamnagar • Baroda • Gandhinagar • Udaipur



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Covering Updates for the Month of April' 23
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CONTENTS

Direct Tax Updates

Accounting Updates

Company Law Updates

RBI Updates

Due dates of various compliances falling in
the month of May 2023



DIRECT TAX UPDATES

I. CIRCULARS & NOTIFICATIONS

1 Cost Inflation Index U/sec 48 for F.Y. 2023-24

(C.B.D.T. Notification No. 21/2023 dated 10.04.2023)

Cost Inflation Index for the purpose of indexation of cost U/sec 48 is notified by C.B.D.T. as "348" for the F.Y.2023-24.

2. Clarification regarding deduction of TDS U/section 192 w.r.t. section 115BAC(1A)

(C.B.D.T. Circular No. 4 dated 05.04.2023)

CBDT has clarified in regard to tax deduction U/sec 192 by an employer for F.Y. 2023-24 and onwards that an employer shall seek information from each of its employees having income under section 192 of the Income tax Act regarding their intended tax regime, and upon intimation, the employer shall compute his total income, and deduct tax at source thereon according to the option exercised by the employee.

In the absence of any such intimation by the employee, it shall be presumed that the employee continues to be in the default tax regime, i.e. new tax regime. Accordingly, in such a case, the employer shall deduct TDS on income U/sec 192 of the Act, in accordance with the rates provided under section 115BAC (1A) of the Act.

This circular is in supersession of CBDT Circular No. C1 of 2020, dated 13.04.2020.

• TDS U/sec 193 on interest payable on listed securities in dematerialized form

Finance Act,2023 has amended section 193. Upto 31st March 2023, no TDS was required to be deducted under clause (ix) of the Proviso to section 193 on interest payable to a resident on any securities issued by a company, where such securities are listed on a recognized stock exchange and also are in dematerialized form.

Finance Act,2023 has omitted the said clause(ix) and therefore, such companies shall now be liable to deduct TDS U/sec 193 at the applicable rate on interest payable on such securities from F.Y. 2023-24 and onwards.

• **Landmark Decisions**

Claim of Loss out of offence of Law not allowable U/sec 37 of the Income tax Act

CIT v. Prakash Chand Lunia (D) Thr. Lrs 149 taxmann.com 416 (SC)

Facts :

Assessee was carrying on an otherwise legitimate silver business and in an attempt to make larger profits, he indulged into smuggling of silver, which was an infraction of law. The Assessing Officer disallowed claim of the Assessee for such loss as business expenditure U/sec 37 of the Income tax Act.

Held by the Hon'ble Supreme Court that:

The word "any expenditure" mentioned in Section 37 of the Income Tax Act takes in its sweep the loss occasioned in the course of business being incidental to it, "any loss incurred by way of an expenditure by an assessee for any purpose which is an offence or which is prohibited by law is not deductible in terms of Explanation 1 to Section 37 of the Act". A penalty or a confiscation is a proceeding in rem, and therefore, a loss in pursuance to the same is not available for deduction regardless of the nature of business, as a penalty or confiscation cannot be said to be incidental to any business



ACCOUNTING UPDATES

A. EAC Opinion:

Expert Advisory Committee (EAC) of ICAI has provided an Opinion on Preparation of Statement of Profit and Loss in a non-revenue generating organisation.

The relevant text of the Opinion is reproduced below:

“The Committee is of the view that since there is no specific exemption or relaxation for preparation of the Statement of Profit and Loss on the ground that the entity is not a revenue generating entity or is a loss-making entity, non-preparation of Statement of Profit and Loss is not appropriate. Merely because there were only expense items being recognised in the Statement of Profit and Loss and thereby portraying the picture of Corporation being the loss-making organisation cannot be the basis of not preparing the Statement of Profit and Loss. Thus, the contention raised by the querist that as the enterprise is not a revenue generating one, the question of making either profit or loss does not arise, is not tenable. Moreover, the Statement of Profit and Loss captures not only revenue, but also the expenses. Accordingly, the Committee is of the view that the Corporation is required to prepare Statement of Profit and Loss in every financial year irrespective of whether it is earning profits or losses and that there is no revenue or income being recognised in the Statement of Profit and Loss.”

EAC Opinion can be accessed at:

<https://resource.cdn.icai.org/73863cajournal-may2023-7.pdf>



COMPANY LAW UPDATES

I. MCA Updates

Amendment in Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016:

As per the said Amendment, the application for removal of name of a Company under Section 248(2) of the Companies Act, 2013 in Form STK-2 shall now be made to the Registrar, Centre for Processing Accelerated Corporate Exit instead of the concerned Registrar of Companies.

Accordingly, format of Form STK-2, STK-6 and STK-7 have also been amended.

Circular can be accessed at:

<https://www.mca.gov.in/bin/dms/getdocument?mds=ab6Q0qvTuxNB7D4lj6zO7Q%253D%253D&type=open>



RBI UPDATES

RBI simplifies the application process for registration of Core Investment Companies

In a recent press release, the Reserve Bank of India (RBI) announced the simplification of the application process for registration of Core Investment Companies (CICs). Accordingly, the application form for CIC is amended and the number of documents to be provided along with the application form has been reduced from the set of 52 documents to 18, which has been done in an endeavor to make the process user-friendly. This move is aimed at making the registration process smoother, user-friendly, and hassle-free for applicants.

<https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR44B58139AF7AA24B019F4441B603873088.PDF>

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

Indian residents can remit funds to IFSCs under the LRS framework. They are allowed to open a foreign currency account (FCA) in IFSC. Until now, any funds lying idle in FCA for up to 15 days had to be repatriated to the domestic rupee account. Now, the condition of repatriating any funds lying idle in the foreign currency account for a period up to 15 days from the date of its receipt is withdrawn with immediate effect. It will be governed by the provisions of the scheme as contained in the aforesaid master direction on LRS. The master direction on LRS allows to retain / reinvest the funds for a period of 180 days.

https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=12494&fn=5&Mode=0

DUE DATES

Due dates of various compliances falling in the month of May 2023

S.No	Due Date	Act/Authority	Compliance Description
1.	07-05-2023	Income tax	Deposit of Tax Deducted at Source (TDS) / Tax Collected at source (TCS) during the month of April-2023
2.	10-05-2023	GST	GSTR-7 for the month of April-2023 for persons required to deduct TDS under GST Regime
3.	10-05-2023	GST	GSTR-8 for the month of April-2023 for e-commerce operators required to Collect TCS
4.	11-05-2023	GST	GSTR-1 for the month of April-2023 for taxpayers having turnover more than Rs. 5 crores or opted to file Monthly Return
5.	13-05-2023	GST	GSTR-5 by Non-resident taxable person carrying out business in India for the month of April-2023
6.	13-05-2023	GST	GSTR-6 for the month of April-2023 for Input Service Distributor (ISD)
7.	15-05-2023	Income tax	Filing of TCS returns for the quarter ended March 31, 2023
8.	15-05-2023	PF/ESIC	Payment of PF / ESIC for the month of April-2023
9.	20-05-2023	GST	Payment of GST & Filing of GSTR-3B for the month of April -2023, for taxpayers having turnover of more than Rs.5 Crore in preceding financial year or who have opted to file Monthly Return
10.	20-05-2023	GST	GSTR- 5A by Non-resident taxable OIDAR service provider for the month of April-2023
11.	25-05-2023	GST	GST Challan Payment if no sufficient Input Tax Credit for the month of April - 2023 for taxpayers opted for quarterly return monthly payment (QRMP)
12.	30-05-2023	LLP Act	Filing of Annual return by Limited Liability Partnership (LLP) for the financial year 2022-2023
13.	30-05-2023	Income tax	Furnishing of challan-cum statement of tax deducted under 194-IA,194-IB ,194M and 194S in the month of April-2023
14.	31-05-2023	Income tax	Filing of TDS returns for the quarter ended March 31, 2023
15.	31-05-2023	Income tax	Furnishing details of reportable transactions for the financial year 2022- 2023 in form 61A And 61B

BELIEVE YOU CAN AND YOU'RE HALFWAY THERE!

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