

Manubhai & Shah LLP

Chartered Accountants

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NEWSLETTER



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Covering Updates for the Month of October' 23
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DIRECT TAX UPDATES

I. Circulars & Notifications

1. Condonation of delay in filing form no. 10-IC for A.Y. 2021-22

(C.B.D.T. Cir.No.19 of 2023 dated 23.10.2023)

With a view to avoid genuine hardship to the domestic companies in exercising the option u/s 115BAA of the Act, C.B.D.T. has directed to the Assessing Officer to condone the delay in filing of Form No. 10-IC as per Rule 21AE of the Income tax Rules, 1962 for A.Y. 2021-22 subject to following conditions are satisfied –

- i. The return of income for relevant assessment year has been filed on or before the due date specified under section 139(1) of the Act
- ii. The assessee company has opted for taxation u/s 115BAA of the Act in item (e) of "Filing Status" in "Part A-GEN" of the Form of Return of Income ITR-6; and
- iii. Form No. 10-IC is filed electronically on or before 31-1-2024 or 3 months from the end of the month in which this Circular is issued, whichever is later.

2. Extension of Due Date to File Audit Report in Form 56F

(C.B.D.T. Cir.No.18 of 2023 dated 20.10.2023)

In view of the difficulties experienced in filing audit report in Form 56F under section 10AA(8) r.w. section 10A(5) of the Income-tax Act, the C.B.D.T. has extended due date in filing audit report in Form 56F for Assessment Year 2023-24 from 31.10.2023 the date specified under section 44AB to 31.12.2023.

3. Assessment of Start-up companies involving application of section 56(2)(viib)

(C.B.D.T. Circular F. No. 173/149/2019 dated 10.10.2023)

The C.B.D.T. had issued notification no. 13/2019/F.No. 370142/5/2018-TPL(Pt.), dated 05.03.2019 notifying that the provisions of section 56(2)(viib) of the Act shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the said consideration has been received from a person, "being a resident", by a company which fulfils the conditions specified in para 4 of the notification no. G.S.R. 127(E), dated 19-2-2019 issued by DPIIT. The same was reiterated by the C.B.D.T. Circular No. 16/2019, dated 07.08.2019.

However, the Finance Act, 2023 has amended provisions of section 56(2)(viib) of the Act and the words "being a resident" have been omitted w.e.f. 01.04.2024

C.B.D.T. has now directed to the Assessing Officer in connection to the scrutiny cases of such Startup Companies having been picked up for scrutiny under CASS that :

- i. Where the case of such Startup Company is selected under scrutiny on the single issue of applicability of section 56 (2)(viib) of the Act, no verification on such issues shall be done by the Assessing Officers during the proceedings u/s 143(2) or u/s 147/143(2) of the Act and contention of such recognized Startup Companies on the issue will be summarily accepted.



- ii. Where the case of such Startup Company is selected under scrutiny with multiple issues including the issue U/sec56(2)(viib) of the Act, the issue of applicability of section 56(2)(viib) of the Act shall not be pursued during the assessment proceedings of such Startup Company. Due procedure be followed about other issues for which the case has been selected.

II. High Court Decision

Assessment Order invalid when no opportunity of hearing granted inspite of request under Faceless Proceedings

Studio Virtues V. Assessing Officer, National Faceless Assessment Centre [2023] 156 taxmann.com 94 (Gujarat)

Facts of the Case :

The assessee firm was under faceless reassessment proceedings for A.Y. 2017-18. The assessee requested a video conferencing hearing after receiving a show cause cum draft assessment order. However, without considering the request of assessee, order of reassessment was framed.

It was held by the Gujarat High Court :

“The order of reassessment passed by the respondent is in violation of principles of natural justice and in breach of procedure laid down under section 144B inspite the assessee sought for video conferencing and uploaded request on 28.03.2022. However, without providing the opportunity of hearing through video conferencing, the order of reassessment u/s 144 read with 144B was passed. The order of reassessment u/s 147 read with 144B dated 29.03.2022 for A.Y.2017-2018 is quashed and set aside.”





ACCOUNTING UPDATES

A. EAC Opinion:

Recognition of miscellaneous scrap items generated in the plant and scrapped assets awaiting disposal under Ind AS Framework

The relevant text of the Opinion is reproduced below:

“The Committee is of the opinion that:

(i) The practice followed by the Company to recognise miscellaneous scrap as inventory is not correct

(ii) Scrapped items of PPE and used spares which are treated as PPE should be continued to be carried in the books at their carrying amount under the net block of PPE unless these items are impaired as per the requirements of Ind AS 36 ‘Impairment of Assets’ and recoverable amount (which in case of these items, would normally be their fair value less costs of disposal rather than value in use) is less than the carrying amount. However, the Company should examine whether these scrapped items of PPE meet the classification and recognition criteria of ‘non-current assets held for sale’ as per Ind AS 105 ‘Non-current Assets Held for Sale and Discontinued Operations’, in which case, these should be accounted for as per the requirements of Ind AS 105. The scrapped items, such as, used spares that are not treated as PPE e.g., those used for repairs, used transformer oil, tyres, empty containers/bags etc., these are not to be valued or revalued at their fair value (reserved price or market value) or net realisable value.

(iii) At the time of sale of the scrapped items of PPE and used spares which are treated as PPE, these should be derecognised, with gain or loss on sale being recognised in the Statement of Profit and Loss. The gain arising on sale may be presented as ‘other income’ in the Statement of Profit and Loss. With regard to the scrapped items, such as, used spares not treated as PPE e.g., those used for repairs, used transformer oil, tyres, empty containers/bags etc., any income arising on sale of such scrap should be recognised as ‘other operating revenue’ in the Statement of Profit and Loss.

EAC Opinion can be accessed at:

<https://resource.cdn.icai.org/76909cajournal-nov2023-31.pdf>



B. Exposure Draft on Accounting Standards for Limited Liability Partnerships:

In India, there are three sets of Accounting Standards in place,

- (i) Companies (Accounting Standards) Rules, 2021 - IGAAP,
- (ii) Companies (Indian Accounting Standards) Rules 2015 – Ind AS, and
- (iii) Accounting Standards issued by ICAI for entities other than companies.

Presently, Accounting Standards issued by the ICAI and criteria prescribed by the ICAI for applicability of Accounting Standards to non-company entities are applicable to LLPs for the preparation and presentation of their financial statements.

Section 34A of the Limited Liability Partnership Act, 2008 prescribes that the Central Government may, in consultation with the National Financial Reporting Authority constituted under section 132 of the Companies Act, 2013, prescribe the standards of accounting as recommended by the Institute of Chartered Accountants of India constituted under section 3 of the Chartered Accountants Act, 1949, for a class or classes of limited liability partnerships.

In this regard, the Accounting Standards Board of Institute of Chartered Accountants of India invites comments on the Exposure Draft on Accounting Standards for Limited Liability Partnerships.

The downloadable version of the Exposure Draft is available at:

<https://resource.cdn.icai.org/76835asb61909.pdf>





SEBI UPDATES

A. SEBI (Listing Obligations and Disclosure Requirements) (Fifth Amendment) Regulations, 2023:

In the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, in regulation 30, the date of applicability of sub-regulation 11 in respect of confirm, deny or clarify any reported event or information in the mainstream media which is not general in nature and which indicates that rumours of an impending specific material event or information in terms of the provisions of this regulation are circulating amongst the investing public, for top 250 listed entities has been changed from April 1, 2024 to the date as may be specified by the Board.

The circular can be accessed at:

https://www.sebi.gov.in/legal/regulations/oct-2023/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-last-amended-on-october-09-2023-_78569.html

B. Relaxation from compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015:

The relaxation in respect of the Requirements of Regulation 58(1)(b) of the SEBI Listing Regulations, regulation 36(1)(b) of the LODR Regulations for Annual General Meetings (AGMs) and regulation 44(4) of the LODR Regulations for general meetings (in electronic mode) has been extended upto September 30, 2024.

The circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/oct-2023/limited-relaxation-from-compliance-with-certain-provisions-of-the-sebi-listing-obligations-and-disclosure-requirements-regulations-2015_77763.html

https://www.sebi.gov.in/legal/circulars/oct-2023/relaxation-from-compliance-with-certain-provisions-of-the-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-reg-_77781.html

C. Ease of doing business and development of corporate bond markets –revision in the framework for fund raising by issuance of debt securities by large corporates(LCs):

Regulation 50B of SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 (NCS Regulations) read with Chapter XII of the NCS Master Circular 2 on 'Fund raising by issuance of debt securities by large corporates' (LC Chapter), inter-alia, mandates LCs to raise a minimum 25% of their incremental borrowings in a financial year through issuance of debt securities which were to be met over a contiguous block of three years from Financial Year (FY)2022 onwards.

Taking into account prevailing market conditions and representations from market participants, the framework for fund raising by issuance of debt securities by LCs is revised as specified the circular.

The circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/oct-2023/ease-of-doing-business-and-development-of-corporate-bond-markets-revision-in-the-framework-for-fund-raising-by-issuance-of-debt-securities-by-large-corporates-lcs-_78237.html





COMPANY LAW UPDATES



A. Companies (Management and Administration) Second Amendment Rules, 2023:

In the said Rules, in Rule 9 regarding Declaration in Respect of Beneficial Interest in Any Shares, after sub-rule 3, five more sub-rules have been inserted. The rules inserted provide the framework in respect of designating a person responsible for furnishing and providing information with respect to beneficial interest in the shares of the Company.

Circular can be accessed at:

<https://www.mca.gov.in/bin/dms/getdocument?mds=IVo7Nz8E9SMEBo5r07okJw%253D%253D&type=open>

B. Limited Liability Partnership (Third Amendment) Rules, 2023:

In the said Rules, after Rule 22, Rule 22A and 22B has been inserted.

Rule 22A prescribes the provisions in respect of maintenance of Register of Partners to be maintained in Form 4A since incorporation of the LLP and to be kept at the Registered Office of the Company.

Rule 22B prescribes the provisions in respect of Declaration of Beneficial Interest in any Contribution by the Partners in Form 4B whereas any change in such Beneficial Interest to be intimated in Form 4C. The LLP on receiving any of the Form 4B or 4C is required to file a return in Form 4D within the prescribed time limit.

Circular can be accessed at:

<https://www.mca.gov.in/bin/dms/getdocument?mds=VYVpE7YcJovnhBqcW9gtsw%253D%253D&type=open>

C. Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023:

In the said Rules, Rule 9 shall be numbered as sub-rule (1) thereof, and after sub-rule (1) as so numbered, the sub-rules 2 and 3 shall be inserted wherein every public company which issued share warrants prior to commencement of the Companies Act, 2013 and not converted into shares shall comply with the requirements as prescribed.

Further, after Rule 9A of the said Rules, Rule 9B shall be inserted for issue of securities in dematerialised form by private companies other than small companies which as on last day of a financial year, ending on or after 31st March, 2023, is not a small company as per audited financial statements for such financial year, shall, within eighteen months of closure of such financial year, comply with the provisions of this rule.

Circular can be accessed at:

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



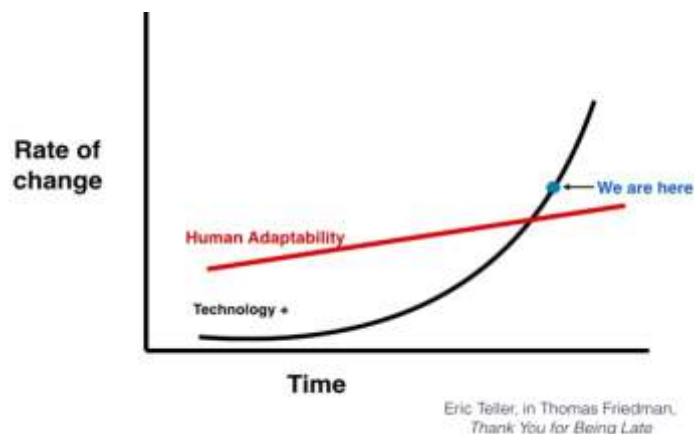


Article on Impact of Technology on the Accounting Profession

Thomas Friedman, in his 2016 book, *Thank you for Being Late*, goes into significant detail discussing consumers' ability to adapt to their environment, being a steady increase over time, as against that, the advancement of technology which is increasing, leaps and bounds.

Imagine the smartphone that you hold in your hand today, can do so much more than what it could do yesterday. As per Statista.com, on average, in 2023, there were an average of 38,000 apps launched monthly on the app store, which roughly is 1,267 apps per day, this is how fast technology is growing. How can a human being adapt to this speed of change? This is the problem of the century, how do we stay relevant in times of exponential change.

We all heard the word 'resiliency' during the COVID-19 pandemic, so how do we stay resilient in the wake of such speed?



Whether you are shopping online for a new pair of sneakers or planning your next trip to Japan, you are being observed by a bot, which is working to enhance your online experience as much as increasing the chances of sale for the hosting business webpage. Bots are a very intricate part of our lives as we go about our routines, without us even slightly noticing them.

A recent CNBC International study found that Factories have been transformed by automation, with robots taking on a considerable proportion of jobs once done by people – lifting heavy loads, assembling parts and a whole lot more. A new concept of 'lights-out or dark production' has come up, which means that in such a setting, factories have near-total to full automation, with robots able to continue running overnight when humans are no longer there. 'Wootzano' a robot-powered food packer in the north-east of England is one example. The company is working to prepare and pack fruit with a line-up of robots that can operate with little to no supervision.

In a world where there is polarization in almost every aspect, the accounting world is no different. There are those who believe that newer technologies such as AI and bots will replace the need of accountants, whereas there are those who believe that nothing can replace the judgement which is placed by accountants in fulfilling their duties.



The Income Tax Department of India has already started exploring Artificial Intelligence to build regression models for the identification of deviations and errors in tax filing. Faceless Assessments, online grievance redressals are some of the technological improvements that the department has already made. Smaller simpler returns are already being prefilled directly on the Income Tax e-filings website, we are not far away from that day that the Income Tax Return will come fully prefilled with information which the Assessee's will only have to verify before submitting

Like the revenue departments, firms/accountants/practitioners will have to start embracing this change with open arms to ensure they are not left lagging behind.

AI vs RPA

The terms, artificial intelligence (AI) and bots are so widely used, that often, the real meaning doesn't come out of it, so let us understand the basics of these technologies.

Artificial Intelligence, in simple terms, involves a program that recognizes data patterns, learns from them, and then makes informed decisions based on the acquired knowledge. This concept extends to the business context, where established business process patterns can be leveraged by Artificial Intelligence to predict future behavior and identify deviations from expected behavior, whether in systems or individuals. Artificial Intelligence thus enhances analytics, which are core to any audit.

In contrast, Robot Process Automation (RPA) is typically employed in situations where decision-making isn't necessary for task execution. RPA relies on software programs, often referred to as "bots," which replicate human actions, encompassing tasks like sequential data collection, report generation, and the automation of repetitive, rule-based processes. RPA serves as a time-saving tool for regular report generation & repetitive cumbersome tasks not involving auditors' judgement or accountants' skills.

When asked about the impact of newer technologies, CIO of a top 100 US CPA Firm said that:

"Technology has always been there to make the business more efficient and effective. With these newer emerging technologies, we have seen repetitive and rule-based tasks get done by machines instead of staff. This is good all around. On one hand, staff will have the opportunity to work on higher value tasks to assist the firm or clients. On the other hand, the robot can work 24 hours a day 7 days a week and not make mistakes.

On embracing change, he also said that.

"The first step is to establish a culture of innovation within your organization. We make it clear that new ideas and technologies are welcomed and encouraged. Secondly, it is vital to address your clients' technology-related needs and concerns attentively. This can set us up to collaborate better and have the opportunity to learn from each other. Thirdly, a robust risk management framework is integral to all projects. We identify and evaluate potential risks associated with each project, encompassing aspects from change management to data privacy and security, developing comprehensive strategies to mitigate these risks. Lastly, diligent tracking of key performance indicators is essential. At the project's inception, we rigorously define the metrics of success. Something we ask at the beginning of each project is, "What does success look like?". This practice enables us to proactively steer projects back on course or make informed decisions about discontinuation should deviations from the defined objectives arise.

When we spoke to multiple industry leaders, they all said that the next five years will be challenging, fast moving and exciting.

Can accountants be replaced by bots?

It goes without saying that accounting firms need to look at automation technologies for various reasons as should any business leader, in current times. Automated processes, as they run in background, allow the auditors, accountants, or risk advisors to free their bandwidth and look at many more pertinent areas than they could do otherwise.

Automations ensures that an accounting firm can, while working with finite resources, be it manpower or time, ensure that greater value is given to their clients. Not just the clients, automation even helps ensuring the staff is given more meaningful work, while enhancing their work life integration, further leading to supporting staff retention.

Without a doubt, automation seems to be a key strategy to be adopted by all accounting firms at different levels. Its benefits are real and well documented. These benefits can be realized only by keeping in mind the bumps that one may face on the path of its implementation.

The most imperative aspect to be kept in mind is that automating tasks, which may need an auditor's skepticism, industry awareness, overall experience, may not be the right use of this technology. Never will an accountant's interpretation of a reporting standard or a section of law, be replaced by an automated tool. Even today any interactive AI like a ChatGPT will always ask you to consult a tax or accounting expert when you throw such a question at it.



Bots aren't humans and humans aren't bots. What humans can read from a handwritten note, a machine learning program can take multiple iterations to read. An automation wrongly configured can generate a misleading report leading to an incongruous decision. Expert human intervention is a must in configuring any automation to derive right end results. A proficient auditor can any day help develop a better programmed tool as compared to someone with lesser insights in the process and its desired outcome.

Technology needs to be thought of as a 'tool' to improvise the level of client service that accountants provide – just like excel became a better calculator and a calculator was a more efficient way to make calculations over manual calculations.

Would you as an accountant, auditor or advisor, start thinking of areas where tasks get done, reports get analyzed by automated tools, while you are sipping a cup of coffee and advising a client for a crucial business decision or an interpretation of law?

"LISTEN to ideas that make you think hard - not just opinions that make you feel good."

-Adam Grant, 'Think Again'





DUE DATES

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

S.No	Due Date	Act/Authority	Compliance Description
1.	07-11-2023	Income Tax	Deposit of Tax Deducted at Source (TDS) / Tax Collected at source (TCS) during the month of October - 2023
2.	10-11-2023	GST	GSTR-7 for the month of October - 2023 for persons required to deduct TDS
3.	10-11-2023	GST	GSTR-8 for the month of October - 2023 for e-commerce operator required to Collect TCS
4.	11-11-2023	GST	GSTR-1 for the month of October - 2023 for taxpayers having turnover more than Rs. 5 crores or opted to file Monthly Return
5.	13-11-2023	GST	GSTR-5 by Non-resident taxable person carrying out business in India for the month of October - 2023
6.	13-11-2023	GST	GSTR-6 for the month of October - 2023 for Input Service Distributor
7.	13-11-2023	GST	Filing of Invoice Furnishing Facility (IFF) for the month of October- 2023 for taxpayers who opted for Quarterly Return Monthly Payment (QRMP) option
8.	14-11-2023	Income Tax	Furnishing of challan-cum statement of tax deducted under 194-IA, 194-IB, 194M and 194S in the month of September - 2023
9.	15-11-2023	PF/ESIC	Payment of PF / ESIC for the month of October-2023
10.	20-11-2023	GST	Payment of GST & Filing of GSTR-3B for the month of October - 2023, for taxpayers having turnover of more than Rs.5 Crore in preceding financial Year
11.	20-11-2023	GST	GSTR-5A by Non-resident taxable OIDAR Service Provider for the month of October - 2023
12.	28-11-2023	MCA	Filing of Annual Return by all the Private Limited Companies and Public Limited Companies registered in India in Form 7/Form 7A
13.	30-11-2023	Income Tax	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M and 194S in the month of October, 2023
14.	30-11-2023	Income Tax	Return of income for the assessment year 2023-24 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s).
15.	30-11-2023	Income Tax	Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2022-23
16.	30-11-2023	Income Tax	Return of Income in Form ITR-7 for the Assessment Year 2023-24 in the case of assessee referred to in clause (a) of Explanation 2 to section 139(1). Note: The due date has been extended from October 31, 2023 to November 30, 2023 vide Circular no. 16/2023, dated 18-09-2023
17.	30-11-2023	GujRera	Due date for regularization of pending Quarter Compliance or pending Quarter End Compliances by making payment of additional fees under Voluntary Compliance Scheme (VCS-2023)



**“DON'T WATCH THE CLOCK;
DO WHAT IT DOES.
KEEP GOING”**

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