

NEWSLETTER

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Manubhai & Shah LLP
Chartered Accountants

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Covering Updates for the Month of December' 22
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DIRECT TAX UPDATES

I. Circulars & Notifications

Partial relaxation with respect to electronic submission of Form 10F (CBDT Notification/Forms/2022/9227, Dated 12.12.2022)

CBDT vide Notification No. 3 Dated 16.07.2022, had specified that Form 10F shall be furnished electronically as provided under section 90(5) or section 90A(5) of the Income-tax Act, 1961. On consideration of the practical challenge being faced by non-resident taxpayers not having PAN and with a view to mitigate genuine hardship to such taxpayers, CBDT has notified that such category of Non-resident taxpayers who are not having PAN and not required to have PAN as per relevant provisions of the Income-tax Act, 1961, are exempted from mandatory electronic filing of Form 10F till 31st March, 2023 and can file Form 10F till 31st March, 2023 in manual form.

Clarification on provisions of Sec 269ST on cash receipt by a Co-operative Society from Distributors/dealers (CBDT Circular No. 25/2022 dated 30.12.2022)

CBDT has clarified that in respect of Co-operative Societies, amount received in cash on a bank holiday/closure of bank from its dealership/ distributors by itself may not constitute an event or occasion for the purposes of clause (c) of Section 269ST. Receipt related to such a dealership/distributorship contract by the Co-operative Society on any day in a previous year, which is within 'the prescribed limit' and complies with clause (a) as well as clause (b) of Section 269ST, may not be aggregated across multiple days for purposes of clause (c) of Section 269ST for that previous year.

- **Updated Income tax Return U/sec 139(8A) for A.Y. 2022-23**

C.B.D.T. has enabled Updated Income tax Returns U/sec 139(8A) on the Income tax portal for A.Y. 2022-23 Which can be filed within 24 months from end of assessment year, i.e. on or before 31.03.2025.

II. Landmark Decisions

- **Education Cess is not an allowable expenses**

JCIT v.Chambal Fertilisers & Chemicals Ltd. 145 taxmann.com 420 (SC)

It was held by the Supreme Court that the Education Cess paid by the assessee would not be allowed as an expenditure under Section 37 read with 40(a)(ii) of the Income Tax Act, 1961. in view of new Explanation 3 inserted in section 40(a)(ii) by the Finance Act, 2022 with retrospective effect from 1-4-2005.

Our Comment

CBDT Notification on Application for withdrawal of Claim of Surcharge or Education Cess in Form No. 69

Following the various judicial High Court decisions, many assessee revised their income tax returns claiming such education cess and surcharge as an expenses. In order to comply with insertion of Explanation 3 in section 40(a)(ii) by the Finance Act, 2022 with retrospective effect from 1-4-2005, the C.B.D.T. has inserted new Rule 132 vide Notification No. 111/2022 dated 28.09.2022 and also notified Form No. 69 to withdraw such claim as business expenses vide making an Application requesting for recomputation of total income of the previous year without allowing the claim for deduction of surcharge or cess, which was claimed and allowed as deduction under section 40 in the said previous year. Due date to file such Application is on or before the 31st day of March, 2023.

Taxability of Interest on NPAs on receipt basis

Pr.C.I.T. v Kangra Central Co-op Bank Ltd 145 taxmann.com 357 (HP)

It was held by the High Court that the assessee co-operative bank was required to be taxed on the interest on the sticky loans/NPAs on receipt basis even for AYs prior to 2018-19 also under section 43D of the Income tax Act as amendment by Finance Act, 2017 with effect from AY 2018-19 is to be treated as retrospective.



COMPANY LAW UPDATES

Clarification of holding of Annual General Meeting through Video Conference or other Audio Visual Means (OAVM):

It has been decided to allow the Companies whose AGMs are due in year 2023, to conduct their AGMs on or before 30th September, 2023 through Video Conference or other Audio Visual Means.

Notification can be accessed at:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjMxNjg0MTE1&docCategory=Circulars&type=open>

New Forms on MCA Portal:

MCA is launching the Second set of Company Forms covering 56 forms in two different lots on MCA21 V3 portal. 10 out of 56 forms will be launched on 9th January 2023 at 12:00 AM and the remaining 46 forms on 23rd January 2023. Following forms will be rolled-out on 9th January 2023, SPICe+ PART A, SPICe+ PART B, RUN, AGILE PRO-S, INC-33, INC-34, INC-13, INC-31, INC-9 and URC-1. To facilitate implementation of these forms in V3 MCA21 portal, stakeholders are advised to note the following points:

1. Company e-Filings on V2 portal will be disabled from 7th January 2023 12:00 AM to 8th January 2023 11:59 pm for 10 forms which are planned for roll-out on 9th January 2023.
2. Company e-Filings on V2 portal will be disabled from 7th January 2023 12:00 AM to 22nd January 2023 11:59 pm for 46 forms which are planned for roll-out on 23rd January 2023.
3. All stakeholders are advised to ensure that there are no SRNs in pending payment and Resubmission status.
4. Offline payments for the above 56 forms in V2 using Pay later option would be stopped from 28th December 2022 12:00 AM. You are requested to make payments for these forms in V2 through online mode (Credit/Debit Card and Net Banking).
5. In view of the upcoming launch of 56 Company forms, V3 portal will not be available from 7th January 2023 12:00 AM to 8th Jan 2023 11:59 pm due to 10 company forms roll-out and from 21st January 2023 to 22nd January 2023 for 46 company forms roll-out.
6. V2 Portal for company filing will remain available for all the forms excluding above mentioned 56 forms.

SEBI UPDATES



- **SEBI (Procedure for Board Meetings) (Amendment) Regulations, 2022:**

Member who intends to participate in a meeting through video conferencing or any other audio visual means, shall communicate the same, sufficiently in advance to the Chairperson or the Secretary of the Board and in such case, the procedure as specified in Regulation shall be followed.

Notification can be accessed at:

https://www.sebi.gov.in/legal/regulations/dec-2022/securities-and-exchange-board-of-india-procedure-for-board-meetings-amendment-regulations-2022_66207.html

ACCOUNTING UPDATES

1. EAC Opinion:

Expert Advisory Committee (EAC) of ICAI has provided an Opinion on Classification of PPE under refurbishment, depreciation thereon and its impairment

The relevant text of the Opinion is reproduced below:

“The Committee notes from the Facts of the Case that the querist has stated that NPK A and B plants/trains are not in operation for more than 15 years due to technical issues, non-availability of raw materials and shortage of manpower; and currently, are not in immediate use condition due to technical obsolescence arising from change in production process. The Company now, has a plan of refurbishing the NPK A and B trains in order to bring the viability of the said trains.

Therefore, the Company has withdrawn the assets belonging to NPK A and B trains from the Property, Plant and Equipment (PPE) with effect from 01st April 2020 and classified under Capital work in progress (CWIP). As per the querist, the same will be re-inducted to PPE once these are refurbished and in ready to use condition. Further, due to classification of the assets of NPK A and B train from PPE to CWIP, the Company has ceased the depreciation of the said assets from 01st April 2020 onwards.

The Committee notes that Ind AS 36 does not make any exception for the asset being idle or retired from active use. Further, availability of evidence of any obsolescence or the asset becoming idle or plans to restructure provide an indication of impairment. Since in the extant case, the assets (NPK A & B plants/trains) are not in operation for more than 15 years due to various technical issues and are not in immediate use condition due to technical obsolescence arising from change in the production process, the Committee is of the view that these provide indication that these assets may be impaired. Therefore, the same should be assessed by the Company for impairment of assets, as per the requirements of Ind AS 36. Further, these factors may also provide an indication of revision of useful lives of these assets, determined as per the requirements of Ind AS 16.

The Committee is of the following opinion on the issues raised:

- i. The accounting treatment followed by the Company with regard to classification of PPE under refurbishment as CWIP and cessation of depreciation is not correct.*
- ii. Since in the extant case, the assets (NPK A & B plants/trains) are not in operation for more than 15 years due to various technical issues and are not in immediate use condition due to technical obsolescence arising from change in the production process, these provide indication that these assets may be impaired. Therefore, the same should be assessed by the Company for impairment of assets, as per the requirements of Ind AS 36”*

EAC Opinion can be accessed at:

<https://resource.cdn.icai.org/72521cajournal-jan2023-8.pdf>

1. Inclusion of Goods Notification of new significant benchmark:

RBI with a view to regulate the financial system had issued “Financial Benchmarks Administrators (Reserve Bank) Directions, 2019 which were applicable to Financial Benchmark Administrators (FBA’s) who were responsible for administering significant benchmarks in the markets for financial instruments regulated by RBI. Benchmarks are prices, rates, indices, values or a combination thereof related to financial instruments that are calculated periodically and used as a reference for pricing or valuation of financial instruments or any other financial contract. Through this notification, RBI has administered one more significant benchmark. Thus, the updated list of significant benchmarks is as given below;

- i. Overnight Mumbai Interbank Outright Rate (MIBOR)
- ii. Mumbai Interbank Forward Outright Rate (MIFOR)
- iii. USD/INR Reference Rate
- iv. Treasury Bill Rates
- v. Valuation of Government Securities
- vi. Valuation of State Development Loans (SDL)
- vii. Modified Mumbai Interbank Forward Outright Rate (MMIFOR) **(notified now)**

Notification dated 1st December, 2022

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12414&Mode=0%22Mode=0>

2. Update on Credit Information Data filed with CIC’s:

Banks/ Financial Institutions have been furnishing data of their borrowers in standard format prescribed by RBI to CIC’s through circular DBOD.No.CID.BC.127/20.16.056/2013-14 dated June 27, 2014. However, there was some ambiguity with respect to disclosure of certain specific cases under the said format. It is now clarified through this notification that cases of borrowers admitted with NCLT / NCLAT under the Insolvency and Bankruptcy Code, 2016 are also required to be reported under the suit-filed cases in reporting to CIC’s.

All the credit institutions shall ensure compliance with the above notification latest by 28.02.2023.

Notification dated 13th December, 2022

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12425&Mode=0%22Mode=0>

3. Disclosure of material items in Financial Statements of Commercial Banks:

RBI has issued Financial Statements – Presentation and Disclosures Directions in 2021 which are required to be followed by all applicable banking companies / banks for the purpose of preparation of their financial statements. The said directions are continuously modified to ensure transparency and adequate information about the financial performance and position to all the stakeholders.

Through this notification, it has been decided that

- a. Banks shall also disclose the particulars of all such items in the notes to accounts wherever any item under the Schedule 5(IV)-Other Liabilities and Provisions-“Others (including provisions)” or Schedule 11(VI)-Other Assets-“Others” exceeds one per cent of the total assets.
- b. Payments Banks shall also disclose particulars of all such items in the notes to accounts, wherever any item under the Schedule 14(I)-Other Income-“Commission, Exchange and Brokerage” exceeds one per cent of the total income.

Notification dated 13th December, 2022

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12426&Mode=0%22Mode=0>

ARTICLE ON ERP



ERP software is like any business technology - the tool on its own doesn't cause failure or success. The business environment, leadership, and end-users determine the ROI of an ERP system – along with the project planning, methodology, and implementation.

ERP projects are an investment of time and money, and the most successful ERP software implementations require:

- Alignment between the business and IT
- Executive sponsorship and support
- Internal team leaders
- Trusted external partners (consulting and software vendors)



Pros -

1. Business process improvement
2. Better data storage and cloud security
3. Cost saving
4. Enhanced business reporting
5. One stop solution

Cons -

1. Cost
2. Complex data conversion
3. Requires thorough training



The growth of remote work since the beginning of the COVID-19 pandemic has led to previously unimagined attack surfaces and risk. Ransomware and other external threats are taking over the most resilient organizations, and ERP systems are exposed like never before. Most of these security issues are nothing new, but they've grown exponentially. The first step to improving company security is acknowledging today's challenges.

ERP systems contain an organization's crown jewels—the sensitive information enterprises need to function on a daily basis. The business impact of an unsecured ERP system includes:

1. Steal personal identifiable information (PII) from employees, customers, and suppliers
2. Read, modify, or delete financial records
3. Change banking details
4. Administer purchasing processes
5. Disrupt critical business operations by corrupting data, shutting processes down completely, or deploying ransomware
6. Delete or modify traces, logs, and other files

What would be your first concern when you think about an ERP implementation? It is very common to have a number of worries. The prominent among them will be the finance and the data security of the ERP you are planning to use. We can list out a few major challenges.

1. **Unrestricted Access Rights** - This could be considered the most important challenge faced by an ERP user. Many ERP tools, especially those which are not updated frequently face this issue. In many ERP systems, the default setting permits access to all users.
2. **Out-dated ERP versions** - An ERP gets enhanced during every new version release of the software. Your older version may be operating efficiently to meet your requirements but a lack of enhancements will affect the security of the stored data. As security issues change with time, newer versions will be competent to address more security issues.
3. **Single Authentication** - As we know, many ERP systems use authentication to ensure safety. The authentication passwords are usually controlled with a single factor. But, as the situation is changing and security threats are increasing One Factor Authentication is not enough to ensure complete security to the data. Instead, a user can choose two- factor authentications which will improve the security of the system by strengthening password security.
4. **Lack of proper training for employees** - Data security cannot be managed by one person or by a group of persons. Instead, it requires the support of the whole organization to maintain data security. Adequate training to employees on security features and the dos and don'ts will help them comply with the security guidelines and work accordingly.
5. **Unknown vulnerabilities** - Many organizations haven't fully identified their security gaps, let alone addressed them. The most common ERP security problem is IT and security staff not knowing what they don't know.
6. **Web application-specific vulnerabilities** - Some web applications allow SQL injection and privilege escalation, and they possess business logic flaws that allow users to manipulate parts of the system that should otherwise be disallowed or blocked.
7. **Lack of issue flagging** - Employees must notify IT or other tech leaders immediately when an ERP security issue occurs. Educate employees about the importance of flagging problems so IT and other departments are aware of any potential issues before the problem becomes even bigger.
8. **Unclear employee expectations** - Many organizations have poorly documented security policies. And many employee handbooks barely mention employee tech expectations. Remote work can muddy the waters even further.

How to protect your ERP data with access controls :

- ✓ **Categorize** – What is important is to categorize the records based on the level of security required.
- ✓ **Distribute access with user-based permission** – Designate ERP user access based on a combination of roles, permission, and document types.
- ✓ **Remain alert about IoT security** – As all ERP systems are now connected to many external devices which are a part of the Internet of Things, there should be a proper system to manage and monitor the security aspects of these devices. Such devices should be protected from hackers by a string firewall.
- ✓ **Make user admin timely and continuous** – Protect system integrity by adding new users, modifying existing users, and disabling inactive users as soon as possible.
- ✓ **Integrate identity management software** – Automate routine access control processes, monitor activity and generate unique passwords with third party softwares.
- ✓ **Identify vulnerabilities with access reviews** – Compel managers and team leaders to verify individual permissions and identify necessary changes.
- ✓ **Train** – Train the employees at all levels to manage or raise a red flag immediately to IT department. All teams should be informed about the privacy of the information in their job portfolio.
- ✓ **Practice strong password hygiene** – Require that all users create unique, hard to guess passwords and update them atleast once every 6 months.

DUE DATES



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

S.No	Due Date	Act/Authority	Compliance Description
1.	07-01-2023	GujRera	Quarterly Compliance In case of projects whose dynamic quarter completes in December-2022
2.	07-01-2023	Income tax	Deposit of Tax Deducted at Source (TDS) / Tax Collected at source (TCS) during the month of December-2022
3.	10-01-2023	GST	GSTR-7 for the month of December-2022 for persons required to deduct TDS under GST Regime
4.	10-01-2023	GST	GSTR-8 for the month of December-2022 for e-commerce operator required to Collect TCS
5.	11-01-2023	GST	GSTR-1 for the month of December-2022 for taxpayers having turnover more than Rs. 5 crores or opted to file Monthly Return
6.	13-01-2022	GST	Filing of GSTR-1 for the quarter ended December -2022 for taxpayers who opted for Quarterly Return Monthly payment(QRMP) Option
7.	13-01-2023	GST	GSTR-6 for the month of December-2022 for Input Service Distributor (ISD)
8.	13-01-2023	GST	Filling of Invoice Furnishing Facility (IFF) for the month of December- 2022 for taxpayers who opted for Quarterly Return Monthly Payment (QRMP) option
9.	15-01-2023	PF/ESIC	Payment of PF / ESIC for the month of December - 2022
10.	15-01-2023	Income tax	Filing of quarterly TCS return for the quarter ended on December-2022
11.	18-01-2023	GST	Filing of GST return CMP-08 for composition Dealer for the quarter ended on December-2022
12.	20-01-2023	GST	GSTR-5 & 5A by Non-resident taxable person & OIDAR for the month of December - 2022
13.	20-01-2023	GST	Payment of GST & Filling of GSTR-3B for the month of December-2022, for taxpayers having turnover of more than Rs.5 Crore in preceding financial Year
14.	22-01-2023 24-01-2023	GST	Payment of GST & Filling of GSTR-3B for taxpayers having turnover upto Rs.5 Crore in preceding Financial year for the month of December-2022 depending on place of business(State)
15.	25-01-2023	GST	Payment of GST in form GST PMT-06 for the month of December-2022 for taxpayers who opted for Quarterly Return Monthly payment(QRMP) Option
16.	28-01-2023	GST	Filing of GSTR-11- Statement of Inward Supplies for the month of December-2022 by persons having Unique Identification Number
17.	30-01-2023	Income tax	Furnishing of challan-cum statement of tax deducted under 194-IA,194-IB and 194M in the month of December-2022
18.	31-01-2023	Income tax	Filing of quarterly TDS return for the quarter ended on December-2022

QUALITY MEANS DOING IT RIGHT WHEN NO ONE IS LOOKING

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BRANCHES

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