

SKJ iCAN

Newsletter

April 2021

DEAR READERS:

Greetings!!!

The new financial year has begun. As we send this communication to you, a new lockdown has been announced in Maharashtra. We need to make our resolve to fight this Pandemic stronger than ever before.

There are have been various announcements of the Govt, relating to spending and investments. Due to this, there will be a whole lot of changes in how you spend / invest your money. One will have to relook at how to spend money on Air Fares, insurance policies, ULIP Tax Benefits, buying a new pension cover and most important in Provident Fund Contributions. The new tax rules on Provident Fund are most likely to affect the high-income earners and High Net Worth Individuals (HNIs).

Cyber security and security breaches is cause of concern in view of increasing digital transactions and exchange of information. With the surge in digital transactions, users' data security and security compliance has become the focus point of the Central Bank. The recent cyber security attack on payment aggregator "Juspay" is a case in point. Allegedly the data of 100 million client customers was leaked and sold on the dark web for bitcoins. The RBI continues to tighten its norms over payment companies storing customer data by issuing new guidelines.

We look forward to your feedback on the contents of our Newsletter or you can send suggestions at itskj@khandelwaljain.com

Stay Safe and healthy!!!

Jai Hind

With Warm Regards

Team **SKJ iCAN**

"Not all of us can do great things. But we can do small things with great love - Mother Teresa "

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COMPLIANCE CALENDAR FOR MARCH 2021



**Extended Date for linking PAN and
Aadhar -30th June 2021**

INCOME TAX**1] CBDT issues Forms for individuals facing double taxation even after considering the relief provided by DTAA's**

In order to provide relief to individuals who had overstayed in India due to the lockdown imposed due to the Covid-19 pandemic, the CBDT had issued Circular No. 11 of 2020 dated 8th May 2020 providing certain relaxations in the residency provisions under the Income-tax Act, 1961 for the F.Y. 2019-20. Subsequently, representations have been received by the CBDT requesting to provide relaxations in determination of residential status for previous year 2020-21 from individuals who had come on a visit to India during the previous year 2019-20 and intended to leave India but could not do so due to suspension of international flights.

In this regard, the CBDT has issued a Circular outlining various reasons as to why the said relaxation is not required for the F.Y. 2020-21, in view of the DTAA's. It has also been provided in the said Circular that if any individual is facing double taxation even after taking into account the relief provided by the relevant DTAA, CBDT will examine the possible situations of double taxation on specific information being furnished by the person by latest by 31st March, 2021 in **Form -NR**.

[Source: CIRCULAR NO. 2 OF 2021 [F. NO. 370142/18/2020-TPL], DATED 3-3-2021]

2] CBDT issues clarifications under the Direct Tax Vivad se Vishwas Act, 2020

In order to facilitate the Assessing Officer to give consequential orders, the CBDT has clarified that where the Designated Authority has passed orders under sub-sections (1) and (2) of section 5 of the Direct Tax Vivad se Vishwas Act, 2020, the Assessing Officer shall pass consequential order under the Act.

[Source: CIRCULAR NO. 3/2020 [F.NO. IT (A)/1/2020-TPL], DATED 4-3-2021]

3] Instruction regarding selection of cases for issue of notice under section 148 of the Act

With an objective of streamlining the process of selection of cases for issue of notices under section 148 of the Act, CBDT has directed that the following cases will be considered as 'potential' cases for issue of notice under section 148 of the Act by 31st March, 2021 for the A.Y 2013-14 to A.Y 2017-18 by the Jurisdictional Assessing Officer:

- i. Cases where there are Audit Objections (Revenue/Internal) which require action under section 148 of the Act;
- ii. Cases of information from any other Government Agency/Law Enforcement Agency which require action under section 148 of the Act;

- iii. Potential cases including:—
 - a. Reports of Directorate of Income-tax(Investigation),
 - b. Reports of Directorate of Intelligence & Criminal Investigation,
 - c. Cases from Non-Filer Management System(NMS) & other cases as flagged by the Directorate of Income-tax(Systems) as per risk profiling;
- iv. Cases where information arising out of field survey action, requiring action under section 148 of the Act.
- v. Cases of information received from any Income-tax authority requiring action under section 148 of the Act with the approval of Chief Commissioner of Income Tax concerned.

It has also been specified that no other category of cases except the above, shall be considered for taking action under section 148 of the Act.

CBDT has clarified that the notice under section 148 of the Act should be issued after forming a reasonable belief that income chargeable to tax has escaped assessment and such 'reasons to believe' will be recorded and required sanction as per section 151 of the Act shall be obtained before issuing notice under section 148 of the Act.

Further, CBDT, on receipt of queries/ clarifications from various field formations have prepared and issued FAQs to address the queries/clarifications.

[Source: INSTRUCTION F. NO. 225/40/2021/ITA-II, DATED 4-3-2021

INSTRUCTION F. NO. 225/40/2021/ITA-II, DATED 15-3-2021

INSTRUCTION F. NO. 414/132/2018-IT (INV.I) (PART I), DATED 9-3-2021]

4] Insertion of Rule 3B in the Income-tax Rules, 1962 relating to annual accretion referred to in section 17(2) (viia) of the Income-tax Act, 1961 ('the Act'):

CBDT has inserted Rule 3B of the Income-tax Rules, 1962, providing that the annual accretion by way of interest, dividend or any other amount of similar nature, for calculating the amount of perquisite under section 17(2)(viia) of the Act during the previous year should not exceed the aggregate of the amounts computed in accordance with the following formula:

$$TP = (PC/2) * R + (PC1 + TP1) * R$$

Where,

TP= Taxable perquisite for the current previous year;

TP1 = Aggregate of taxable perquisite for the previous year or years commencing on or after 1st day April, 2020 other than the current previous year;

PC= Amount or aggregate of amounts of principal contribution made by the employer in excess of Rs. 7.5 lakh to the specified fund or scheme during the previous year;

PC1= Amount or aggregate of amounts of principal contribution made by the employer in excess of Rs. 7.5 lakh to the specified fund or scheme for the previous year or years commencing on or after 1st day April, 2020 other than the current previous year;

$R = I / F_{avg}$;

I=Amount or aggregate of amounts of income accrued during the current previous year in the specified fund or scheme account;

$F_{avg} = (\text{Amount or aggregate of amounts of balance to the credit of the specified fund or scheme on the first day of the current previous Year} + \text{Amount or aggregate of amounts of balance to the credit of the specified fund or scheme on the last day of the current previous year}) / 2$.

[Source: NOTIFICATION G.S.R. 155(E) [NO. 11/2021/F. NO. 370142/52/2020-TPL], DATED 5-3-2021]

5] Amendment in Form 24Q (TDS return for salary) and Form 12BA (Statement showing particulars of perquisites, etc. with value thereof)

CBDT has amended Form 24Q to provide for reporting of whether the employee has opted for the new tax regime under section 115BAC of the Act.

Further, Form 12BA has been amended to provide for additional disclosure relating to certain perquisites. Consequential amendments have also been made in Form No. 16.

[Source: NOTIFICATION NO. G.S.R. 170 (E) [NO. 15/2021/F.NO. 370142/04/2019-TPL], DATED 11-3-2021]

6] Amendment in Rule 114E of the Income-tax Rules, 1962 (Statement of financial transactions)

In order to facilitate the pre-filing the return of income, CBDT has inserted a sub-rule 5A in rule 114E which provides for certain specified persons to file statement u/s 285BA of the Act providing for information relating to capital gains on transfer of listed securities or units of Mutual Funds, dividend income, and interest income.

[Source: NOTIFICATION NO. G.S.R 175(E) [NO. 16/2021/F.NO. 370142/03/2021-TPL], DATED 12-3-2021]

7] CBDT inserts Rule 29BA and Form No. 15E in the Income-tax Rules, 1962

CBDT has inserted Rule 29BA and Form 15E to facilitate making an application for a certificate under section 195(2) and 195(7) of the Act, which provide for appropriation of sum chargeable to tax in India in case of a non-resident, in electronic form.

[Source: NOTIFICATION NO. G.S.R. 194(E) [NO. 18/2021 F. NO. 370142/24/2019-TPL], DATED 16-3-2021]

GOODS AND SERVICE TAX

1] Turnover limit for GST e-invoicing further reduced to Rs. 50 Crores w.e.f. 1st day of April, 2021. Earlier it was fixed at Rs. 100 crores.

Implementation of e-invoicing for the taxpayers having aggregate turnover exceeding Rs.50 crores from 1st April 2021

The CBIC vide Notification No. 05/2021- Central Tax dated 08th March 2021 has further amended Notification No. 13/2020-CT dated 21st March, 2020 to implement e-invoicing for B2B transactions from **1st April 2021** for the taxpayers having **aggregate turnover exceeding Rs. 50 crores**. Earlier, e-invoicing for B2B transactions was to be made mandatory for taxpayers having aggregate turnover exceeding Rs. 100 crores.

[Notification No. 05/2021- Central Tax dated 08th March 2021]

2] Clarification on Refund related issues

The CBIC vide **Circular No. 147/03/2021 GST dated 12th March, 2021** has clarified various refund related issues as described hereunder:

1. Clarification in respect of refund claim by recipient of deemed export supplies

Recipients of deemed exports were facing difficulties in claiming refund of tax paid in respect of such supplies since the system is not allowing them to file refund claim under aforesaid category unless the claimed amount is debited in the electronic credit ledger. It has been clarified that there is no restriction under 3rd proviso to rule 89(1) of the CGST Rules, 2017 on recipient of deemed export supply, claiming refund of tax paid on such deemed export supply, on availment of ITC on the tax paid on such supply. The said restriction has been placed by the *Circular No. 125/44/2019-GST dated 18.11.2019*. Therefore, **para 41 of Circular No. 125/44/2019-GST dated 18.11.2019** has been modified to remove the restriction of non- availment of ITC by the recipient of deemed export supplies on the invoices, for which refund has been claimed by such recipient.

2. Extension of relaxation for filing refund claim in cases where zero-rated supplies have been wrongly declared in Table 3.1(a)

The relaxation provided for filing refund claims where the taxpayer inadvertently entered the details of export of services or zero-rated supplies to a Special Economic

Zone Unit/Developer in table 3.1(a) instead of table 3.1(b) of FORM GSTR-3B has been extended till 31.03.2021 by modifying *Para 26 of Circular No. 125/44/2019-GST dated 18.11.2019*.

3. Manner of calculation of adjusted total turnover under sub-rule (4) of rule 89 of the CGST Rules, 2017

It has been clarified that for the purpose of rule 89(4), the value of export/ zero-rated supply of goods to be included while calculating “adjusted total turnover” will be same as being determined as per the amended definition of “Turnover of zero-rated supply of goods” in the said sub-rule. Thus, the restriction of 150% of the value of like goods domestically supplied, as applied in “turnover of zero-rated supply of goods”, would also apply to the value of “Adjusted Total Turnover” in rule 89 (4) of the CGST Rules, 2017.

Illustration: Suppose a supplier is manufacturing only one type of goods and is supplying the same goods in both domestic market and overseas. During the relevant period of refund, the details of his inward supply and outward supply details are shown in the table below:

Net admissible ITC = Rs. 270

Outward Supply	Value unit per	No of units supplied	Turnover	Turnover as per amended definition
Local (Quantity 5)	200	5	1000	1000
Export (Quantity 5)	350	5	1750	1500 (1.5*5*200)
Total			2750	2500

The formula for calculation of refund as per rule 89(4) is:

“Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover”

Turnover of zero-rated supply of goods (as per amended definition) = Rs. 1500 ,
Adjusted Total Turnover= Rs. 1000 + Rs. 1500 = Rs. 2500 [and not Rs. 1000 + Rs. 1750] , Net ITC = Rs. 270

Refund Amount = Rs. 1500*270/ 2500 = 162

Thus, the admissible refund amount in the instant case is Rs. 162.

[Circular No. 147/03/2021- GST 12th March, 2021]

3] CBIC amended Central Tax Notification 89/2020 dated November 29,2020 to extend the waiver of penalty leviable u/s 125 of CGST Act 2017 for non-compliance of provisions – Capturing of Dynamic QR Code in GST invoices) between the period December 1, 2020 to June 30, 2021, subject to the condition that the said person complies with provisions of the said notification from July 1, 2021

[Notification No. 06/2021–Central Tax, New Delhi, the 30th March, 2021]

CUSTOMS

1] Bill of Entry (Electronic Integrated Declaration & Paperless Processing) and Bill of entry (Forms) Amendment Regulations 2021

These changes facilitate pre-arrival processing and assessment of Bills of Entry (BE) by mandating their advance filing thus leading to a significant decrease in the Customs clearance time.

[Notification 34/2021 and 35/2021 dated 29th March 2021]

COMPANY LAW

1] Company incorporation form SPICe+ to include Aadhar authentication for GSTIN registration

G.S.R... (E).- In exercise of the powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the **Companies (Incorporation) Rules, 2014**, namely:

1. (1) These rules may be called the **Companies (Incorporation) Third Amendment Rules, 2021**.

(2) They shall come into force on the date of publication in the Official Gazette.

2. In the Companies (Incorporation) Rules, 2014,- in the Annexure, in Form INC 35 AGILE-PRO, part of SPICe+, in serial number 12, at the end of Table (A), the following shall be inserted, namely.-

“Do you wish to perform Aadhar authentication for GSTIN registration.

☐ Yes ☐ No

[MCA Notification Dated 5th March 2021]

2] MCA notifies date for applicability of amended Section 92 of Companies Act, 2013 related to Annual Return -

S.O. (E).- In exercise of the powers conferred by sub-section (2) of section 1 of the Companies (Amendment) Act, 2017 (1 of 2018), the Central Government hereby appoints **the day of 05th March, 2021** as the date on which the provisions of clause (i) of section 23 of the said Act shall come into force.

[MCA Notification dated 5th March 2021]

3] MCA constitutes Central Scrutiny Centre (CSC) for scrutiny of Straight through Processes e-forms filed by companies on MCA Portal

The CSC shall function under the administrative control of the e-governance Cell of the Ministry of Corporate Affairs.

The CSC shall carry out scrutiny of the aforesaid forms and forward findings thereon, wherever required, to the concerned jurisdictional Registrar of Companies for further necessary action under the provisions of the Act and the rules made thereunder.

The CSC shall be located at the Indian Institute of Corporate Affairs (IICA), Plot No. 6, 7, 8, Sector 5, IMT Manesar, District Gurgaon (Haryana), Pin Code-122050.5.

This notification shall come into force from the 23rd March, 2021.

[Notification dated 18th March 2021]

4] MCA amends Schedule III of Companies Act 2013 - Additional Disclosures to be made in Balance Sheet with effect from 1st day of April, 2021

MCA has made amendments in **Schedule III to the Companies Act 2013** with effect from 1st day of April, 2021.

Schedule III of the Companies Act 2013 contains the general instructions for preparation of Balance Sheet and Statement of Profit and Loss of a Company.

Broadly, changes have been made to align the Schedule III with recent changes and to make it more meaningful and speaking. Notable changes are as under:

Amendments to Schedule III of Companies Act 2013

- (i) Now companies have to round off the figures appearing in the financial statements, hitherto it was optional. Further, the criteria for rounding off shall be based on “total income” in place of “turnover”.
- (ii) Company shall disclose Shareholding of Promoters.
- (iii) Current maturities of Long term borrowings shall be disclosed separately.
- (iv) Trade Payables ageing schedule to be given.
- (v) Trade Receivables ageing schedule to be given.
- (vi) The company shall provide the details of all the immovable property (other than properties where the Company is the lessee and the lease agreements are duly executed in favour of the lessee) whose title deeds are not held in the name of the company in format given below and where such immovable property is jointly held with others, details are required to be given to the extent of the company's share.
- (vii) Disclosures to be made where Loans or Advances in the nature of loans are granted to promoters, directors, KMPs and related parties.
- (viii) For Capital-work-in progress ageing schedule shall be given
- (ix) Intangible assets under development aging schedule to be given.
- (x) Disclosure of any proceedings initiated or pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 to be made.
- (xi) Where a company is a declared willful defaulter by any bank or financial Institution or other lender, details to be given.
- (xii) Disclosure of any transactions with companies struck off
- (xiii) Where any charges or satisfaction yet to be registered with Registrar of Companies beyond the statutory period, details and reasons thereof shall be disclosed.

(xiv) Following **Ratios to be disclosed**:

(a) Current Ratio,(b)Debt-Equity Ratio,(c)Debt Service Coverage Ratio, (d) Return on Equity Ratio,(e) Inventory turnover ratio,(f)Trade Receivables turnover ratio, (g) Trade payables turnover ratio, (h) Net capital turnover ratio, (i) Net profit ratio, (j)Return on Capital employed, (k) Return on investment

(xv) Disclosure of utilisation of borrowed funds and share premium to be given

[MCA Notification dated 24th March 2021]

“My effort should never be to undermine another's faith but to make him a better follower of his own faith- Mahatma Gandhi”

COMPLIANCE CALENDAR FOR MARCH 2021

Due Date	Particulars
	INCOME TAX
7	TDS/TCS Deposit by the Office of the Government- for the month of March 2021
14	Issue of TDS Certificate for tax deducted u/s 194IA/IB/N in Feb 21
15	Quarterly Statement – foreign remittances by Authorised Dealers for quarter ended March 2021
30	Furnishing of challan-cum-statement in respect of tax deducted u/s 194-IA & 194IB in month of March 21
30	TDS/TCS Deposit for the month of March 2021
30	E-filing of declarations in Form 61 containing particulars of Form 60- quarter ended March 2021
30	Furnishing/uploading of Declarations in Form 15H during the quarter March 2021
	PF/ESI
15	EPF Contribution –March Month
15	ESI Contribution- March Month
25	PF Return filing for March Month
	MVAT
21	Due date for furnishing Monthly Return & Payment
	GOODS & SERVICE TAX
10	GSTR 7 for the month of March 2021
10	GSTR 8 for the month of March 2021
11	GSTR 1 for the month of March 2021 (Monthly Returns)
13	GSTR 6 for the month of March 2021
13	GSTR 1- Quarterly Return- (January – March 2021)
18	CMP-08- For January –March 2021
20	GSTR 3B for the month of March 2021
20	GSTR 5 & 5A for the month of March 2021
22	GSTR 3B of January – March 2021 (if opted for QRMP)
25	ITC-04- January –March 2021
30	GSTR-4 for FY 20-21