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RESERVE BANK OF INDIA
SEBI
COMPANY LAW
DIRECT TAX
INDIRECT TAX

SYNOPSIS

RBI UPDATES

1. MONETARY POLICY, 2021
2. Asset Classification and Income Recognition following the expiry of Covid-19 regulatory package
3. Amendment of Gold Monetization Scheme (GMS), 2015

SEBI UPDATES

1. Reduction in unblocking/ refund of application money
2. Regulatory reporting by Alternative Investment Funds (AIF)
3. Amendments to provisions in SEBI Circular dated September 16, 2016 on Unique Client Code (UCC) and mandatory requirement of Permanent Account Number (PAN) in commodity derivatives segment
4. Review of Delivery Default Norms for Commodities Segment

COMPANY LAW UPDATES

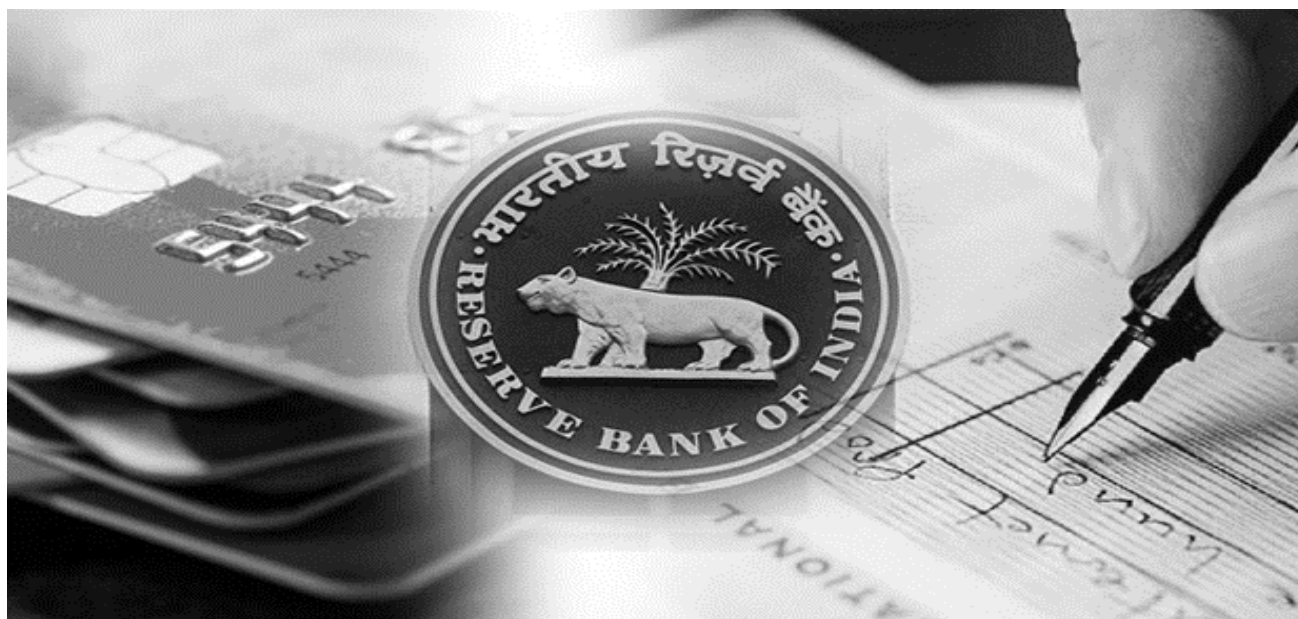
1. Amendments in Schedule III to the Companies Act with effect from 1st day of April, 2021
2. Amendments in Schedule-V of Companies Act 2013 – Appointment and Remuneration of Managerial Person
3. Commencement of Section 32 and Section 40 of Companies Amendment Act 2020
4. Formation of Central Scrutiny Centre
5. Companies (Audit and Auditors) Amendment Rules, 2021
6. Companies mandates to use software with audit trail of each transaction
7. Commencement of Section 23 and Section 45 of Companies (Amendment) Act, 2020

DIRECT TAX UPDATES

1. Finance Act 2021 Enacted
2. Indian Tax Tribunal Holds No Foreign Tax Credit Refund in Loss-Making Year but Deduction Allowed
3. Clarification on continuation of concessional rate of tax on certain interest income of the FPIs (Foreign Portfolio Investors)
4. Notification of Rule 29BA and Form No. 15E- Application for certificate u/s 195
5. Rule 10VA relating to Eligibility of an investment for the purposes of section 9A inserted
6. Revised Format for Form 12BA
7. Amendment of rule 114E of Income-tax Rules, 1962

INDIRECT TAX UPDATES

1. Notification No. 05/2021-Central Tax dt. March 8, 2021
2. Number of HSN digits required to be mentioned on tax invoice effective from April 01, 2021(Notification No. 78/2020 – Central Tax dt. October 15, 2020)
3. Circular No.147/03/2021 dt. March 12, 2021
4. Tax payers are free to utilize the Input tax credit available in their credit ledger as permissible by law to discharge their GST due for the month of March 2021. (Press Note Dt. March 21, 2021).



RBI UPDATES

1. MONETARY POLICY, 2021

Policy Highlights

- RBI kept the Repo rate unchanged at 4%
- Consequently, the Reverse Repo rate remained unchanged at 3.35%.
- Bank rate and Marginal Standing Facility (MSF) remain unchanged at 4.25%.
- CRR is maintained at 3.50% of NDTL.

Other Highlights

- RBI announced a secondary market G-Sec Acquisition Programme or G-SAP 1.0. Under this programme, the RBI will make an upfront commitment to purchase a specific amount of government securities through the open market. For Q1FY22, it announced a G-SAP of ₹ 1 trillion. The first purchase of government securities for an aggregate amount of ₹ 250 billion under G-SAP 1.0 will be conducted on April 15, 2021.
- Special refinance facilities have been extended to All India Financial Institutions (AIFIs) like NABARD, SIDBI, NHB, and EXIM bank to provide liquidity support of ₹ 500 billion for fresh lending during FY22. This includes an amount of ₹ 250 billion to NABARD, ₹ 100 billion to NHB, and ₹ 150 billion to SIDBI.
- Permitting Banks to On-lend through NBFCs: To enable credit availability to the last mile, bank lending to registered NBFCs (other than MFIs) for on-lending to Agriculture, MSME, and Housing was permitted to be classified as Priority Sector Lending (PSL). This dispensation, which was available till March 31, 2021, is now extended up to September 30, 2021.
- The aggregate Ways and Means Advance (WMA) limit of states and UTs has been enhanced by approximately 46% to ₹ 470 billion, from the current limit of ₹ 322.25 billion. Further, it has also been decided to continue the enhanced interim WMA limit of ₹ 515.60 billion granted by the RBI in the wake of the pandemic, for a period of six months, i.e., up to September 30, 2021.
- Real GDP growth estimate for FY22 is retained at 10.5% with growth for Q1FY22 estimated at 26.2%, Q2FY22 at 8.3%, Q3FY22 at 5.4%, and Q4FY22 at 6.4%.
- CPI inflation is now projected at 5.0% in Q4FY21; 5.2% in Q1FY22, 5.2% in Q2FY22, 4.4% in Q3FY22 and 5.1% in Q4FY22, with risks broadly balanced.

Policy Stance

The Monetary Policy Committee (MPC) of the RBI voted unanimously in favour of keeping the policy repo rate unchanged and agreed to continue with the accommodative stance for as long as necessary to revive growth on a durable basis and mitigate the impact of COVID-19 on the economy, while ensuring that inflation remains within the target going forward.

Outlook

RBI retained its FY22 GDP growth projection after taking into consideration the ongoing vaccination drive, fiscal stimulus provided in the Union Budget, and increased traction around the PLI scheme. However, it highlighted that the dip in consumer confidence due to the recent increase in COVID-19 case and localized lockdowns, can lend uncertainty to growth outlook.

In a bid to provide more certainty to bond markets, the RBI announced a secondary market G-SAP 1.0. For Q1FY22, it announced G-SAP of INR1 trillion. RBI is committing ex ante, to seemingly provide more comfort to the bond market in light of the government's elevated borrowing for this year. The G-SAP 1.0 will run alongside other instruments of the RBI, namely longer-term repo/reverse repo auctions, forex operations, operation twist, and other OMOs.

2. Asset Classification and Income Recognition following the expiry of Covid-19 regulatory package

The Hon'ble Supreme Court of India has pronounced its judgement in the matter of Small-Scale Industrial Manufacturers Association vs UOI & Ors. and other connected matters on March 23, 2021.

- Refund/adjustment of 'interest on interest'
 - i. All lending institutions shall immediately put in place a Board-approved policy to refund/adjust the 'interest on interest' charged to the borrowers during the moratorium period, i.e. March 1, 2020 to August 31, 2020
 - ii. Methodology for calculation of the amount to be refunded/adjusted for different facilities shall be finalised by the Indian Banks Association (IBA) in consultation with other industry participants/bodies, which shall be adopted by all lending institutions.
 - iii. The above reliefs shall be applicable to all borrowers, including those who had availed of working capital facilities during the moratorium period, irrespective of whether moratorium had been fully or partially availed, or not availed
 - iv. Lending institutions shall disclose the aggregate amount to be refunded/adjusted in respect of their borrowers based on the above reliefs in their financial statements for the year ending March 31, 2021.

- Asset Classification
 - i. In respect of accounts which were not granted any moratorium in terms of the Covid19 Regulatory Package, asset classification shall be as per the existing criteria laid out in the below master circular dated July 1st 2015 or other relevant instructions as applicable to the specific category of lending institutions (**IRAC Norms**).

[Master Circular - Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances dated July 1, 2015](#)

- ii. In respect of accounts which were granted moratorium in terms of the Covid19 Regulatory Package, the asset classification for the period from March 1, 2020 to August 31, 2020 shall be governed in terms of the Circular on Covid Regulatory Package. This Circular cover the following:
- Rescheduling of Payments
 - Easing of Working Capital Financing
 - Asset Classification
- [circular DOR.No.BP.BC.63/21.04.048/2019-20 dated April 17, 2020](#), read with [circular DOR.No.BP.BC.71/21.04.048/2019-20 dated May 23, 2020](#).
- iii. For the period commencing September 1, 2020, asset classification for all such accounts shall be as per the applicable IRAC Norms.

3. Amendment of Gold Monetization Scheme (GMS), 2015

Some of the amendments made to this scheme are as follows:

- The criteria to be satisfied by Jewellers/ Refiners to be recognised as GMS Mobilisation, Collection & Testing Agent (GMCTA)
- While the Principal amount shall be determined in Gold, the interest amount shall be calculated in Indian Rupees with reference to the value of gold at the time of the deposit.
- Banks to have a Board approved policy in place for branches that can accept deposits under this scheme
- Conditions to lend the gold to other designated banks participating in the Scheme.
- The minimum deposit at any one time shall be 10 grams of raw gold (bars, coins, jewellery excluding stones and other metals). There is no maximum limit for deposit under the Scheme.
- The deposit will attract CRR and SLR requirements as per applicable instructions of RBI from the date of credit of the amount to the deposit account. However, the stock of gold held by banks in their books will be an eligible asset for meeting the SLR requirement.

GMS: Investors can make term deposits of their idle gold under GMS, which provides them safety and interest earnings. With gold deposited in GMS, investors save the storage cost for keeping their precious metal safe, while still benefiting from its capital appreciation. Gold can be deposited in any form — gold bars, coins or jewellery, and the depositor also has the option to either take cash or gold on redemption.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12067&Mode=0>



SEBI UPDATES

1. Reduction in unblocking/ refund of application money

- Presently, as per the SEBI(ICDR) Regulations, 2018, in case of non-receipt of minimum subscription, the issuer must refund all the application monies within a period of **15 days** from the closure of the issue.
- However now ASBA (Applications Supported by Blocked Amount) has been mandated for all applicants in public issues, the application money is not transferred but only blocked in the account of the investor and is debited only upon allotment and unblocked if there is no/part allotment.
- Further, upon introduction of UPI mechanism in public issues, unblocking of amounts in the ASBA Accounts must be done within **4 working days** from the bid/issue closing date.
- Thus, the time limit for unblocking the application amount in the SEBI(ICDR) Regulations, 2018 is being amended to 4 days.

2. Regulatory reporting by Alternative Investment Funds (AIF)

The following amendments have been made to the reporting by the AIF's:

- All AIFs shall submit a report on their activity as an AIF to SEBI on quarterly basis within 10 calendar days from the end of each quarter in the revised formats specified in the Annexure.
- Any changes in terms of private placement memorandum and in the documents of the fund/scheme shall be intimated to investors and SEBI, within 1 month of the end of each financial year in the form specified in the Annexure.

3. Amendments to provisions in SEBI Circular dated September 16, 2016 on Unique Client Code (UCC) and mandatory requirement of Permanent Account Number (PAN) in commodity derivatives segment

With the launch of e-PAN which is generated instantly through Aadhar based KYC, SEBI has amended its earlier circular to include the following:

- It shall be mandatory for the members of the exchanges having commodity derivatives segment to use Unique Client Code (UCC) for all clients transacting on the commodity derivative segment.
- Members shall verify and collect and maintain copies of Permanent Account Number (PAN) issued by the Income Tax (IT) Department, for all their clients.

4. Review of Delivery Default Norms for Commodities Segment

SEBI had received representations from market participants in the commodity derivatives segment for standardization of delivery default norms and to ensure adequate compensation for the non-defaulting party. SEBI has amended its earlier Circular SEBI/HO/CDMRD/DRMP/CIR/P/2016/90 dated September 21, 2016 as below:

- In agricultural commodities, the penalty for delivery default by seller shall now be 4% of the settlement price plus replacement cost.
- In non-agricultural commodities, the penalty for delivery default by seller shall remain at 3% of settlement price plus replacement cost.
- The provisions for levy of penalty on delivery default by buyer, shall be put in place by the Clearing Corporations.

https://www.sebi.gov.in/legal/circulars/mar-2021/review-of-delivery-default-norms_49610.html



COMPANY LAW UPDATES

1. Amendments in Schedule III to the Companies Act with effect from 1st day of April, 2021

The Ministry of Corporate Affairs, Government of India, issued notifications dated 24th March, 2021 to amend Schedule III to the Companies Act, 2013 (hereinafter referred to as 'the Act'); Companies (Accounts) Rules, 2014 and Companies (Audit and Auditors) Rule, 2014 to enhance the disclosures required to be made by the Company in its Financial Statements, Board Report and Audit Report. The aforementioned notifications shall come in effect from the 1st day of April, 2021.

Brief on amendments to Schedule III to the Act (for Companies whose financial statements are required to comply with the Accounting Standards):

- **Rounding Off:** For the purpose of rounding off the figures appearing in the Financial Statements the total income of the Company shall be considered as the basis.

Total Income	Rounding Off
Less than 100 Crore Rupees	To the nearest hundreds, thousands, lakhs or millions or decimals thereof
100 Crore Rupees or more	To the nearest lakhs, millions or crores, or decimals thereof

- **Note on Share Capital:** The note on Share Capital in the Financial Statements shall mention details of the Shareholding of the Promotes along with changes, if any, during the Financial Year under review with effect from 1st April, 2021. The format of such disclosure shall be as follows:

Shares held by Promoters at the end of the year				% Change during the year
Sl No.	Promoter's Name	No of Shares	% of total shares	
Total				

- **Reclassification of Current Maturities of Long-Term Borrowings:** As per the Amendment Current Maturities of Long-Term Borrowings during the Financial Year are required to be disclosed separately under the head 'Short Term Borrowings' instead of 'Other Current Liabilities'.
- **Note on Trade Payables:** The note on Trade Payables due for payment by the Company shall consist of an ageing schedule as follows:
Trade Payables ageing schedule:

Particulars	Outstanding for following periods from due date of payment				Total
	< 1 year	1-2 years	2-3 years	> 3 years	
(i) MSME					
(ii) Others					
(iii) Disputed Dues - MSME					
(iv) Disputed Dues - Others					

- **Reclassification of Security Deposits:** Security Deposits maintained with the Company shall be reclassified as 'Other Non- Current Assets' instead of 'Long term loans and advances'.
- **Note on Property, Plant & Equipment:** The note on Property, Plant & Equipment (earlier Tangible Assets) shall additionally disclose the amount of change due to revaluation (if the change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment).
- **Note on Intangible Assets:** The note on Intangible Assets shall additionally disclose the amount of change due to revaluation (if the change is 10% or more in the aggregate of the net carrying value of each class of intangible assets).
- **Note on Long Term Trade Receivables:** The note on Long-Term Trade Receivables in Other non-current assets due for payment by the Company shall consist of an ageing schedule as follows:
Trade Receivables ageing schedule:

Particulars		Outstanding for following periods from due date of payment				Total
		< 6 months	6 months to 1 year	1-2 years	2-3 years	
(i) Undisputed Trade Receivables - Considered Good						
(ii) Undisputed Trade Receivables - Considered Doubtful						
(iii) Disputed Trade Receivables - Considered Good						
(iv) Disputed Trade Receivables – Considered Doubtful						

If no due date of payment is specified, the date of the transaction shall be considered for the purpose of this disclosure.

- **Note on Trade Receivables:** The note on Trade Receivables due to be received by the Company in the Balance Sheet shall consist of an ageing schedule as aforementioned.

- **Disclosure on utilization of borrowings:** Where the Company has not used the borrowings from banks and financial institutions for the purpose for which it was taken at the Balance Sheet date, the Company shall disclose the details of where they have been used.

Profit and Loss Account Items:

- **Undisclosed Income (Reconciliation of Income Tax and Companies Act):** The Company shall give details of any transaction not recorded in the books of accounts that has been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961, unless there is immunity for disclosure under any scheme and also shall state whether the previously unrecorded income and related assets have been properly recorded in the books of account during the year.
- **CSR Disclosure:** Where the company covered under section 135 of the Companies Act, the following shall be disclosed with regard to CSR activities: -
 - a. amount required to be spent by the company during the year,
 - b. amount of expenditure incurred,
 - c. shortfall at the end of the year,
 - d. total of previous years shortfall,
 - e. reason for shortfall,
 - f. nature of CSR activities,
 - g. details of related party transactions, e.g., contribution to a trust controlled by the company in relation to CSR expenditure as per relevant Accounting Standard,
 - h. where a provision is made with respect to a liability incurred by entering into a contractual obligation, the movements in the provision during the year should be shown separately.
- **Details of Crypto Currency or Virtual Currency:** Where the Company has traded or invested in Crypto currency or Virtual Currency during the financial year, the following shall be disclosed: –
 - a. profit or loss on transactions involving Crypto currency or Virtual Currency
 - b. amount of currency held as at the reporting date,
 - c. deposits or advances from any person for the purpose of trading or investing in Crypto Currency/virtual currency.

This amendment has mandated several disclosures required to be made in the Financial Statements of the Company which shall have a material impact on all the stakeholders of the Company and shall enable the Government to ensure closer vigilance on the financial transaction of the Company.

http://mca.gov.in/Ministry/pdf/ScheduleIIIAmendmentNotification_24032021.pdf

2. Amendments in Schedule-V of Companies Act 2013 – Appointment and Remuneration of Managerial Person

Where in any financial year, a company has no profits or its profits are inadequate, it may pay remuneration to the managerial person as per the limits prescribed under Schedule V of the Companies Act 2013.

In Sections I, II and III of Part II of Schedule V of the Companies Act 2013, which deals with appointment and remuneration of Managerial personnel, amendments have been made to also include directors under its scope. Table (A) has also been amended to provide the maximum remuneration payable by such companies to other directors (Other directors include non-executive directors and independent directors). There have been no amendments to the limits of yearly remuneration to managerial person.

The new Table (A) is as under:

Sl. No.	(1)	(2)	(3)
	Where effective capital (in rupees) is	Limit of yearly remuneration payable shall not exceed (in Rupees) in case of a managerial person	Limit of yearly remuneration payable shall not exceed (in Rupees) in case of other director
(i)	Negative or less than 5 crores	60 lakhs	12 lakhs
(ii)	5 crores and above but less than 100 crores	84 lakhs	17 lakhs
(iii)	100 crores and above but less than 250 crores	120 lakhs	24 lakhs
(iv)	250 crores and above	120 lakhs plus 0.01% of the effective capital in excess of Rs.250 crores	24 lakhs plus 0.01% of the effective capital in excess of Rs.250 crores

Above is as per the Notification No. 1/5/2013 dated March 18, 2021 and is effective from date of notification.

3. Commencement of Section 32 and Section 40 of Companies Amendment Act 2020

Section 32 makes amendment in Section 149(9) of the Companies Act 2013 to allow independent directors to draw remuneration over and above the fees payable under section 197(5) but within the provision of the newly amended Schedule V of the Act as mentioned above.

Section 40 makes amendment in Section 197 to accommodate for changes in Schedule V to include non-executive directors and independent directors.

Above is as per the Notification dated March 18, 2021 and is effective from date of notification.

4. Formation of Central Scrutiny Centre

The Central Government has established a Central Scrutiny Centre (CSC) for carrying out scrutiny of Straight Through Processes (STP) e-forms filed by the companies under the Act and the rules made thereunder.

The CSC shall function under the administrative control of the e-governance cell of the Ministry of Corporate Affairs and shall scrutinize the aforesaid forms and forward findings if any, thereon or wherever required, to the concerned jurisdictional Registrar of Companies for further necessary action.

Above is as per the Notification dated March 18, 2021 and is effective from March 23, 2021.

5. Companies (Audit and Auditors) Amendment Rules, 2021

Matters to be included in Auditors Report w.e.f April 01, 2022

- Whether Management representation on whether funds have been **advanced, loaned or invested** in any person, entity (including foreign entities), with an understanding that they will lend or invest in other persons or entities or provide guarantee, security or the like on behalf of such other parties. (Other than those disclosed in the notes to the accounts)
- Whether Management representation on whether funds have been **received by the company** from any person, entity (including foreign entities), with an understanding that the company will lend or

invest in other persons or entities or provide guarantee, security or the like on behalf of such other parties. (Other than those disclosed in the notes to the accounts)

- Auditors to certify that based on audit procedures, nothing has come to their notice that caused them to believe that the representations under above clauses contain any material misstatements
- Whether dividend declared or paid is in compliance with section 123 of Companies Act, 2013
- Comment on:
 - a) the use and maintenance of accounting software by the company
 - b) whether the same has been used throughout the year
 - c) whether the audit trail feature has not been tampered with
 - d) whether the audit trail has been preserved by the company

http://www.mca.gov.in/Ministry/pdf/AuditAuditorsAmendmentRules_24032021.pdf

6. Companies mandates to use software with audit trail of each transaction

MCA has vide its notification dated 24.03.2021 [Companies (Accounts) Amendment Rules, 2021] notifies that for the financial year commencing on or after the 1st day of April, 2021, every company which uses accounting software for maintaining its books of account, shall use only such accounting software which has a feature of recording audit trail of each and every transaction, creating an edit log of each change made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled.

The analysis of pre and post amendment of the notification dated 24.03.2021 is as follows:

S. No.	Rule	Pre-Amendment	Post Amendment
1	Rule 3(1) of Companies (Accounts) Rules, 2014 : Manner of books of accounts to be kept in electronic mode.	The books of accounts and other relevant books and papers that are maintained in the electronic mode shall remain accessible in India so as to be usable for subsequent reference	The books of account and other relevant books and papers maintained in electronic mode shall remain accessible in India so as to be usable for subsequent reference. Provided that for the financial year commencing on or after the 1st day of April, 2021, every company which uses accounting software for maintaining its books of account, shall use only such accounting software which has a feature of recording audit trail of each and every transaction, creating an edit log of each change made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled.
2	Rule 8(5) of Companies (Accounts) Rules, 2014 : Matters to be included in Board's Report.	In Rule 8(5) of the Companies (Accounts) Rules, 2014, ten matters or clauses were specified which the Board report shall contain in addition to the information and details specified in sub-rule (4).	Two additional clauses has been inserted in Rule 8(5) of the Companies (Accounts) Rules, 2014, with effect from 01.04.2021 which are as follows: xi. The details of application made or any proceeding pending under the Insolvency and Bankruptcy Code, 2016 during the year along with their status as at the end of the financial year. xii. The details of difference between amount of valuation done at the time of one time settlement and the valuation done while taking loan from the banks or financial institutions along with the reasons thereof

Companies (Accounts) Second Amendment Rules, 2021 – MCA has postponed the applicability of software with Audit features for Companies from 01.04.2022 instead of 01.04.2021 notified earlier.

In exercise of the powers conferred by section 134 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Accounts) Rules, 2014, namely:

(1) These rules may be called the Companies (Accounts) Second Amendment Rules, 2021.

(2) They shall come into force with effect from the 1st day of April 2021.

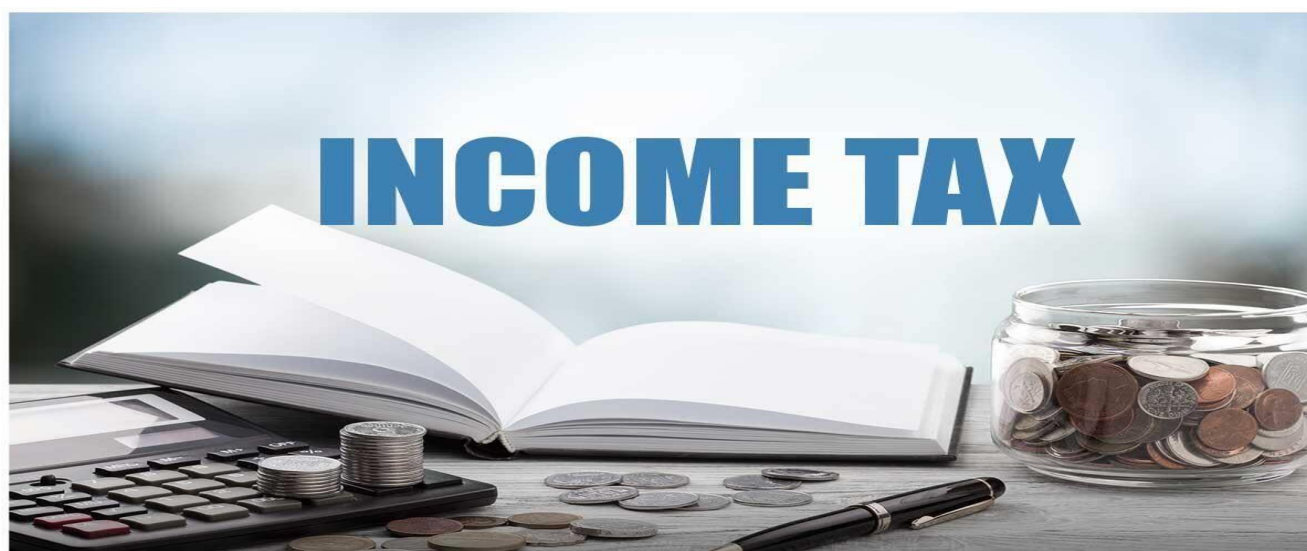
In the Companies (Accounts) Rules, 2014, in proviso to sub-rule (1) of rule 3, for the figures, letters and words “1st day of April 2021”, the figures, letters and words “1st day of April, 2022” shall be substituted.

7. Commencement of Section 23 and Section 45 of Companies (Amendment) Act, 2020

In exercise of the powers conferred by sub-section (2) of Section 1 of the Companies (Amendment) Act, 2020 (29 of 2020), the Central Government hereby appoints the 24th March, 2021 as the date on which the provisions of Section 23 and Section 45 of the said Act shall come into force:

S No.	Section of the Companies (Amendment) Act, 2020	Section of the Companies Act, 2013	Particulars
1	Section 23	Section 124(7)	Unpaid Dividend Account
2	Section 45	Section 247(3)	Valuation by Registered Valuers

Accordingly, with effect from 24.03.2021, penalty has been reduced under Section 124(7) and 247(3) for failure in complying with the provisions under Section 124 and contravention of the provisions of Section 247 or the rules made thereunder respectively.



DIRECT TAX UPDATES

1. Finance Act 2021 Enacted

The Finance Act received the assent of the president on 28 March 2021. Some of the main measures are summarized as follows:

- **Treatment of Goodwill:** Changes are made regarding the treatment of goodwill to provide that depreciation will no longer be allowed for goodwill, with transitional provisions for the treatment of goodwill carried forward from earlier years and the acquisition of goodwill, as well as the exclusion of goodwill from the definition of intangible assets;
- **Divestment of PSU's:** To promote divestment of public sector units (PSUs), conditions are relaxed for the carry forward of losses for disinvested PSUs in amalgamation and the transfer of assets by a PSU to the resulting company will be deemed as a tax neutral demerger, subject to certain conditions;
- **Real estate circle rate limit** (safe harbor) is increased from 10% to 20% for tax purposes during the period from 12 November 2020 to 30 June 2021, subject to certain conditions;
- **Slump Sales:** New rules are introduced regarding the value at which slump (lump-sum) sales are executed, including that:
 - (a) No benefit of indexation would be available, and
 - (b) The costs of acquisition and improvement shall be deemed to be the net worth of the undertaking or division transferred, and
 - (c) The fair market value of the capital assets on the date of transfer shall be deemed to be full value consideration received or accruing as a result of the transfer;
- **Start Ups:** The eligibility period for claiming the tax holiday for start-ups and for claiming the capital gains exemption for investments made in start-ups is extended by one year to 31 March 2022;
- **Dividend taxation relief** is provided, including:
 - (i) Introduction of exemption from tax deducted at source (TDS) on dividends paid to Real Estate Infrastructure Trusts or Infrastructure Investment Trusts (effective retrospectively from 1 April 2020);
 - (ii) Clarification is provided that the deduction of tax on income, including dividend income of Foreign Portfolio Investors, may be made at the applicable tax treaty rate;
- **Application of Equalization Levy on E-commerce operator:** Clarification is provided on the application of the 2% equalization levy on consideration received or receivable by an e-commerce operator from e-commerce supply or services with effect from 1 April 2020.

- **Audit exemption turnover threshold** is increased from INR 50 million (5 crore) to INR 100 million (10 crore) for persons undertaking 95% of their transactions digitally;
- **"Faceless" schemes** introduced for assessment, appeals, and penalties are expanded with the introduction of a Faceless Income Tax Appellate Tribunal (ITAT) providing for all communication between the Tribunal and appellant to be made electronically, including hearings through video conferencing;
- **Dispute Resolution Committee** is established for small taxpayers with taxable income of up to INR 5 million (50 lakh) and disputed income up to INR 1 million (10 lakh); and
- Provisions are introduced for the creation of a new Board of Advance Rulings that will replace the existing Authority for Advance Rulings.
- Clause 29A inserted to Section 2 to define **Liable to Tax**:
"Liable to tax", in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force and shall include a person who has subsequently been exempted from such liability under the law of that country.
- **Rationalisation of provisions of Minimum Alternate Tax (MAT)**: For the purpose of computing book profit for MAT under section 115JB of the Act, the Finance Act, 2021 incorporates the following changes:
 - (i) in cases where past year income is included in books of account during the previous year on account of an APA or a secondary adjustment recompute the book profit of the past year(s) and tax payable, if any, during the previous year, shall be given effect to in the prescribed manner.
 - (ii) similar treatment to dividend as already there for capital gains on transfer of securities, interest, royalty and Fee for Technical Services (FTS) in calculating book profit for the purposes of section 115JB of the Act, so that both specified dividend income and the expense claimed in respect thereof are reduced and added back, while computing book profit in case of foreign companies where such income is taxed at lower than MAT rate due to DTAA.

This amendment will apply to the assessment year 2021-22 and subsequent assessment years.

2. Indian Tax Tribunal Holds No Foreign Tax Credit Refund in Loss-Making Year but Deduction Allowed

The Mumbai ITAT in a case regarding Bank of India issued its decision as below:

The bank in the year concerned paid foreign taxes on income earned from its foreign branches in several treaty and non-treaty jurisdictions.

- It also suffered a loss for the year and sought to claim a credit for the foreign tax paid as a refund. The claim was denied by the assessing officer.
- The Bank challenged the assessing officer's position, claiming that taxes paid to overseas tax jurisdictions, where the related profits are earned, should be given due credit in the computation of a refund
- In its decision, the Tribunal found that the assessing officer was correct to deny the Bank's claim for a refund for the foreign tax paid given that the foreign income was not taxable in India, due to the loss.
- However, the Tribunal also found that where no credit/refund is granted, the foreign tax paid should be allowed as a deduction in the computation of the business income of the Bank.

3. Clarification on continuation of concessional rate of tax on certain interest income of the FPIs (Foreign Portfolio Investors)

Section 115AD of the Income-tax Act, 1961 provides that tax shall be chargeable at the concessional rate of 5% on interest income referred to in section 194LD. It is hereby clarified that there is no change in the said concessional tax rate of 5% on interest income even after amendment of section 115AD.

4. Notification of Rule 29BA and Form No. 15E- Application for certificate u/s 195

As per Notification No. 18/2021 dated 16.03.2021 the CBDT has amended the Income Tax Rules w.e.f. April 1st, 2021.

Rule 29BA for Application for grant of certificate for determination of appropriate proportion of sum (other than Salary), payable to non-resident, chargeable in case of the recipients has been inserted. This application must be made online in Form 15E

[notification_18_2021.pdf \(incometaxindia.gov.in\)](#)

5. Rule 10VA relating to Eligibility of an investment for the purposes of section 9A inserted

- Section 9A and Rule 10VA relate to Investment funds.
- As per Section 9A certain activities will not constitute business connection in India. In the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.
- Under the newly inserted Rule 10VA an investment fund may at its option seek approval of the Board regarding its eligibility for the purposes of section 9A. The fund seeking approval may make an application in writing, enclosing relevant documents and evidence, to the CBDT.

6. Revised Format for Form 12BA

Refer to the format in the link below:

https://incometaxindia.gov.in/communications/notification/notification_15_2021.pdf

7. Amendment of rule 114E of Income-tax Rules, 1962

- Rule 114E refers to Section 285 of the Income Tax Act. This Section refers to Obligation to furnish statement of financial transaction or reportable account where an assessee must report any of the below specified transactions:
 - a) transaction of purchase, sale or exchange of goods or property or right or interest in a property; or
 - b) transaction for rendering any service; or
 - c) transaction under a works contract; or
 - d) transaction by way of an investment made or an expenditure incurred; or
 - e) transaction for taking or accepting any loan or deposit,
- For the purposes of pre-filing the return of income, a statement of financial transaction under subsection (1) of section 285BA of the Act containing information relating to capital gains on transfer of listed securities or units of Mutual Funds, dividend income, and interest income, a Format has been introduced in Rule 114E.

https://incometaxindia.gov.in/communications/notification/notification_16_2021.pdf



INDIRECT TAX UPDATES

1. Notification No. 05/2021-Central Tax dt. March 8, 2021

E-invoicing is mandatory for the taxpayers having aggregate turnover in any preceding financial year from 2017-18 onwards exceeds Rs. 50 Crores, effective from April 01, 2021.

2. Number of HSN digits required to be mentioned on tax invoice effective from April 01, 2021(Notification No. 78/2020 – Central Tax dt. October 15, 2020)

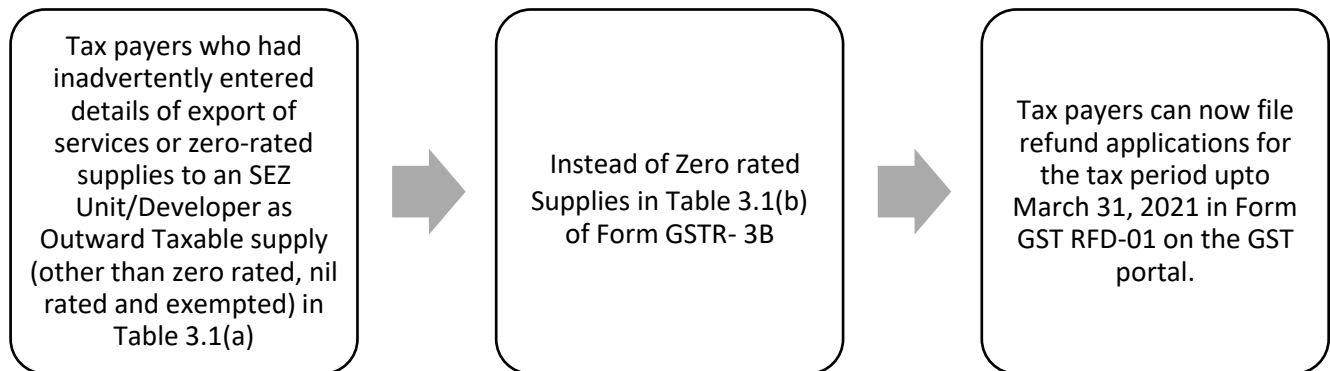
Sl. No	Aggregate Turnover in the preceding Financial Year	Number of digits of HSN Code	
		B2B Invoice	B2C Invoice
1.	Up to rupees five crores	4	Not Required
2.	More than rupees five crores	6	6

3. Circular No.147/03/2021 dt. March 12, 2021

i. Clarification in respect of refund claim by recipient of Deemed Export Supply.

Para No.	Misinterpretation	Clarification
Para 41 of Circular no.125/44/2019-GST dated 18.11.2019	The recipient of deemed export supplies filing for refund shall submit an undertaking stating that the refund is claimed for invoices which have been mentioned in statement 5B for the tax period for which refund is being claimed and that he has not availed input tax credit on such invoices	The recipient of deemed export supplies filing for refund shall submit an undertaking stating that the refund is claimed for only those invoices which have been mentioned in statement 5B for the tax period for which refund is being claimed and the amount does not exceed the amount of Input tax credit availed in return filed for the said tax period.

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



Subject to the condition that the amount of refund claimed shall not be more than the aggregate amount of Integrated tax/cess in Table under columns 3.1(a) [outward taxable supplies (other than zero rated, nil rated and exempted)], 3.1(b) [outward taxable supplies (Zero rated) and 3.1(c) [Other outward supplies (Nil rated, exempted)] of form GSTR-3B filed for the tax period for which refund is claimed.

iii. Clarification on the manner of calculation of Adjusted Total Turnover under sub-rule (4) of Rule 89 of CGST Rules, 2017.

Sl. No.	Issues	Clarification
1	Whether the restriction on turnover of zero-rated supply of goods to 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier would also apply for computation of “Adjusted Total Turnover” in the formula given under Rule 89 (4) of CGST Rules, 2017 for calculation of admissible refund amount.	<p>It is therefore clarified that the same value of zero-rated/ export supply of goods, as calculated at 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier to be taken into consideration while calculating “adjusted total turnover” for the purpose of sub-rule (4) of Rule 89</p> <p>Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover.</p> <p>Due to this, eligible refunds may increase.</p>

4. Tax payers are free to utilize the Input tax credit available in their credit ledger as permissible by law to discharge their GST due for the month of March 2021. (Press Note Dt. March 21, 2021).

Case Law:

In the Case of	Date of ruling	Matter Related to	GIST of the case
Deepak Print Vs Union of India (Gujarat High Court)	March 09, 2021	Rectification of GSTR 3B	The Applicant inadvertently, wrongly uploaded entries in GSTR 3B for May 2019, sought relief for revision of returns. It was held that, in view of judgement of Delhi High Court in Bharti Airtel Ltd Vs Union of India order dt. May 05, 2020, applicant was to be permitted to rectify Form GSTR 3B in respect of relevant period.

Advance Ruling:

Ruling No	In the Case of	Ruling
GUJ/GAAR/R/106 OF 2020 (Gujarat)	M/s Baroda Medicare (P) Ltd	Supply of Medicines, surgical items, consumables and other allied items provided by hospital through their hospital in-house pharmacy used in course of providing healthcare services as well as supply of food and room on rent to in-patients admitted to hospital for diagnosis, or medical treatment or procedures is a composite supply of in patient healthcare service & is exempted from CGST as per Notification No. 12/2017-Central Tax (Rate) Dt. June 28, 2017.
AAR UTTARPRADESH	M/s Dwarikesh Sugar Industries Ltd	<p>Expenses incurred by company to comply with Corporate Social Responsibility (CSR) are eligible for ITC. Applicant company engaged in business of manufacture and sale of sugar and allied products undertakes some activities in order to company with Corporate Social Responsibility (CSR) in terms of section 135 of Companies Act</p> <ul style="list-style-type: none"> Applicant is compulsorily required to undertake CSR activities in order to run its business and accordingly, it becomes an essential part of his business process as a whole. Therefore the said CSR activities are to be treated as incurred "in the course of business". Free supply of goods as a part of CSR activities is not treated as gift, as it is obligatory and regular in nature and ITC credit is not restricted under Section 17(5) of the CGST Act. ITC on goods and services used for construction of school building is available if it is not capitalized in the books of accounts.

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