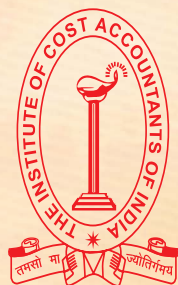


FEBRUARY, 2020

TAX Bulletin

★ ★ VOLUME - 57 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

www.icmai.in

Headquarters: CMA Bhawan, 12 Sudder Street, Kolkata - 700016

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Delhi Office: CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

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MISSION STATEMENT

“The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting.”

VISION STATEMENT

“The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.”

Objectives of Taxation Committees:

1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit representations to the Ministry from time to time for the betterment and financial inclusion of the Economy.
4. Evaluating opportunities for CMAs to make way for further development and sustenance of the opportunities.
5. Conducting and monitoring of Certificate Courses on Direct and Indirect Tax for members, practitioners and stake holders and also Crash Courses on GST for Colleges and Universities.

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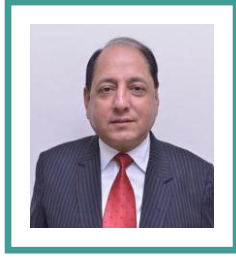
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CMA Rakesh Bhalla
Chairman, Direct Taxation Committee



CMA Niranjana Mishra
Chairman, Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Friends, Members and Professional Colleagues,

This time we would like to start of, by soliciting your active participation towards the observance of 'Budget Month' from the 1st of February, 2020 to 29th February, 2020. Members, Chapters, Regional Councils and all our stakeholders are requested to take active participation in the Seminars, Webinars and Discussion Sessions arranged in this regard.

The Examination of the 5th Batch of Certificate Course on GST has been conducted and we are happy to note that so many of the participants have cleared the exam with such glorious percentages. We wish you all the luck for your future.

With the sincere efforts and initiation of SIRC, Advanced Level GST Course is also being conducted for Senior Level Officers of Commercial Tax, Tamilnadu with more than 150 candidates. Next two batches would commence soon in Madurai and Coimbatore.

Admissions to all the Taxation Courses, the Certificate Course on GST, Advanced Certificate Course on GST, Certificate Course on Filing of Returns and Certificate Course on TDS are still active. We would like to ensure the incorporation of the changes brought in by Budget 2020-21.

We share the vision of working in lines with the directives of our Government and contribute constructively in building the Nation. We are optimistic that our Team Members, Resource Persons, Stakeholders would hold this vision in mind as their prime priority.

Jai Hind



(Rakesh Bhalla)

CMA Rakesh Bhalla
5th February 2020



CMA Niranjana Mishra
5th February 2020

TAXATION COMMITTEES 2019 - 2020

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3. CMA V. Murali
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CMA Biswarup Basu - Vice-President

Direct Taxation Committee

Chairman

CMA Rakesh Bhalla

Members

1. CMA P. Raju Iyer
2. CMA Niranjan Mishra
3. CMA V. Murali
4. CMA Paparao Sunkara
5. CMA (Dr.) Ashish P. Thatte
6. CMA Rakesh Sinha (Co-opted)
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ACKNOWLEDGEMENTS

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CA Saurabh Tibrewal	Practicing Chartered Accountant

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CA Neelesh Jain	-	Deputy Director - Tax Research
CMA Priyanka Roy	-	Assistant Director - Tax Research
Ms. Mukulika Poddar	-	Officer - Tax Research
CMA Debasmita Jana	-	Associate - Tax Research

SPECIAL ACKNOWLEDGEMENT

Mr. Dipayan Roy Chaudhuri	-	Graphics & Web Designer
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Articles on the Topics of Direct and Indirect Taxation are invited from readers and authors. Along with the article please share a recent passport-sized photograph, a brief profile and the contact details. The articles should be the author's own original.

Please send the articles to

trd@icmai.in / trd.ad1@icmai.in



E-INVOICE – THE TECHNICAL ASPECTS

CMA Bhogavalli Mallikarjuna Gupta

Product – Evangelist

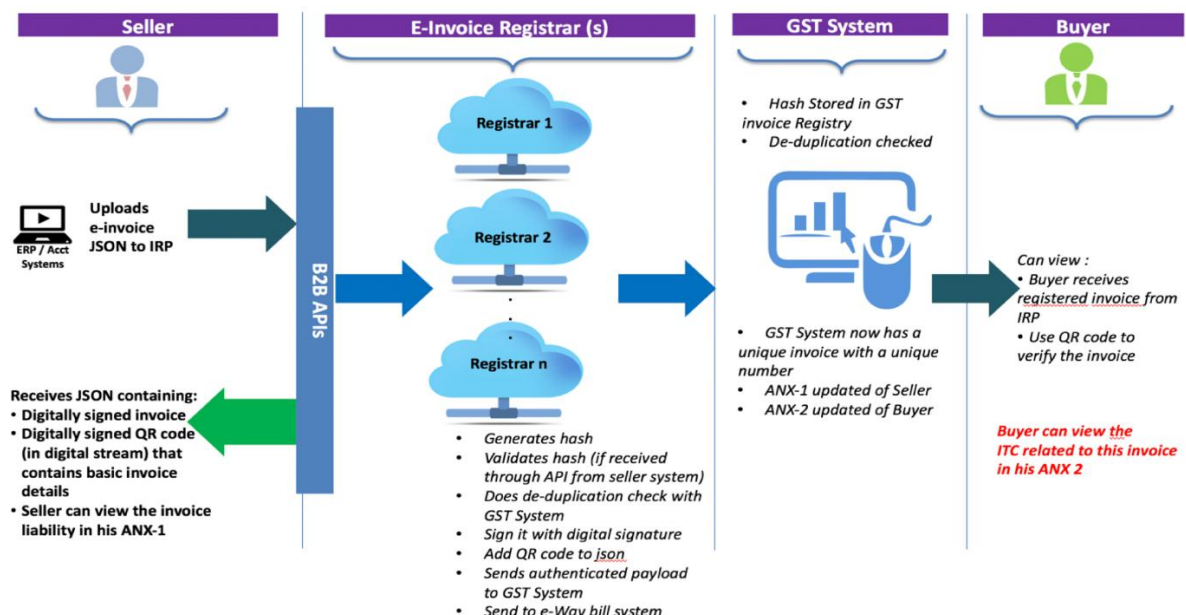
Logo Infosoft Business Technology Private Limited

e-invoice is to be rolled out optional from 1st Jan 2020 and mandatory from 1st April 2020. It is already one month, and we need to work on the same if the same is not started as we are racing against time. The government has given access to the sandbox for the taxpayer to verify and test the same before rolling out to the production / actual use. E-invoice is being rolled as the Government has observed that there is a lot of tax evasion happening the system and tracking of the same is missing in the current system. Implementation of e-invoicing will provide tracking of the same, and at the same time, the Government will have a complete audit trail of the transactions, and evasion will be minimized. The benefits of e-invoicing are

- Lesser cost of invoice
- Reduced delivery time of invoice to suppliers
- Elimination or minimal cost for shipping of invoices to the customer (no courier costs)
- Reduction of usage of paper
- E-waybills to be autogenerated using e-invoice data
- Enabling filing of returns seamlessly by avoiding duplication of data entry and reconciliation issues
- Enabling digital tax administration

Unlike the rollout of GST, where the taxpayers have to make a lot many changes to their business process as well as for their IT Systems, implementation of e-invoice is simple, less time consuming, and huge budgets are not required. The sandbox for the e-invoice is being made available for the taxpayers who are having a turnover above Rs 500 crores in the previous financial year and for above Rs 100 Crores it will be made available from 1st of Feb 2020.

The tax invoice is still required to be generated from the existing ERP/Accounting/Billing system, but the data has to be transmitted to the IRP (Invoice Registration Portal) for the validation of the data and once it is validated, an IRN (Invoice Reference Number) will be generated and sent back to the taxpayer.



The following are to be considered while implementing the e-invoice

1. Requirements – Functional

It is proposed to have e-invoice in the 35th GST Council Meeting, and the same is decided in the 37th GST Council meeting. The basis on this it is notified wide Notification No. 70/2019 – Central Tax dated 13th Dec 2019 that e-invoice will be mandatory for all the taxpayers who are having aggregate turnover above Rs 100 crores in a financial year.

Quote

registered person, whose **aggregate turnover in a financial year exceeds** one hundred crore rupees, as a class of registered person who shall prepare invoice in terms of sub-rule (4) of rule 48 of the said rules in respect of supply of goods or services or both to a registered person.

Un Quote

From the said notification, it is clear that e-invoice is required to be issued by all the taxpayers in case of B2B (Business to Business) transactions for either supply of goods or services or both.

Normally in all the GST provisions, it is worded that during the previous financial year but in this notification, it is used as “In a financial year.” This raises the question, what will happen if the turnover has crossed during the financial year. In such a case, does the taxpayer need to issue the same from the beginning of the year or from the date on which it has crossed or from the invoice which has triggered the threshold limit? The taxpayers have to take a judicious call on this and take it forward accordingly.

There is also a requirement to issue a QR code with a cross-reference to the payment to be made in case of B2C transactions for the taxpayers who are having a turnover of Rs 500 crores. The same is notified wide Notification No. 72/2019 – Central Tax dated 13th Dec 2019. This means for all the transactions related to B2C the invoice has to be issued with a QR code and this is an additional requirement.

Quote

hereby notifies that an invoice issued by a registered person, whose aggregate turnover in a financial year exceeds five hundred crore rupees, to an unregistered person (hereinafter referred to as B2C invoice), shall have Quick Response (QR)code:

Provided that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code.

Un Quote

It means the existing retail billing solutions have to be modified for the same. This will impact all the franchise stores, retail supermarket chains etc., The existing Point of Sales devices may not be supporting the printing of the same or if also supported the changes in the billing software has to make. The impact on the same has to be considered as the QR code has to be generated from the ERP/Accounting/Billing solution directly or the invoice information has to be transmitted to the e-invoice portal and generated?

2. Impact Analysis

Detailed impact analysis of the existing business process, as well as the flow in the system, has to be analyzed, and the corresponding changes are required to be made to ensure that all the statutory requirements have adhered.

In the current architecture, the e-waybill may be generated using the APIs, but with the requirement of e-invoice, the Part – A of e-waybill is going to be auto-generated, in such a case if APIs are being used, is it required to continue using the same or make necessary changes there or stop using the same, a call has to be taken based on the impact analysis.

Most of the organizations are using the ASP solutions for the filing of returns, the impact on the same also has to be considered. The e-invoice data is expected to update the records in the Anx-1 in the proposed new returns.

Apart from these two, if there are any customizations, is there any impact on the customizations? If yes, what are they, and how they address them has to be decided?

For capturing the data in the system, are new tables required or new columns to be added, or any of the existing columns in the table can be used? This has to be considered.

Some changes are specifically required in the case of OEM's who issue invoices for supply of spares to their dealers in hundreds of lines. In the case of e-invoice, it is enabled only for 250 line items, companies which are in this category have to revisit their business process by having the validation of 250 lines only in the tax invoice.

3. Make or Buy

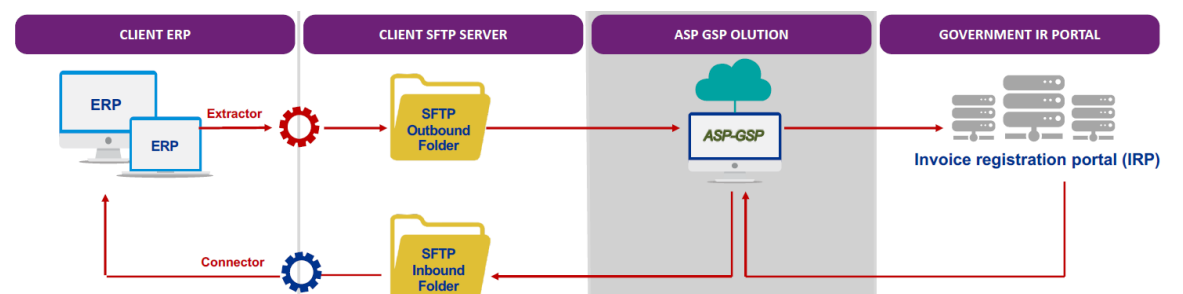
The next import point is to implement the same through inhouse or opt for the solution provided by the vendors like Oracle, Logo, SAP, etc.; the reason is there are not many changes to be made in the system only the API calls have to be made. The APIs can be accessed directly from the portal or through the GSP/ASP.

Typically some of the vendors charge for the same, and for the e-invoice, there is no additional requirement from a systems perspective but only on who to map the fields like IRN Number, ACK Number, ACK Date to name a few. They can be mapped using the existing CDF /DFD /GDFs in the product. Alternatively, if there is a discipline in the team, they can be captured in any of the existing fields or the remarks field.

The invoice print program in most of the cases is taxpayer specific, and they have to make necessary changes for the same in either of the approaches. It all depends on the IT policy of the organization.

4. Changes required in the System

Either the taxpayer can go for the in-house development or the software providers' solutions, some changes are required. As the database access cannot be given to the third party solutions or the external servers, it is required to create a separate file folder for sending the data to the GSP/ASP or the IRP portal and receiving it.



The data flow typically happens as in the given picture, and this will ensure that there is absolute data security, and at the same time, the statutory requirements are met.

If the number of transactions is small or very few like in the infra or turnkey based project companies, they can adapt the offline method, i.e., by using the Jason file provided.

5. Technical aspects of e-invoice

It is always good to know about some of the key technical aspects of e-invoice in GST in India.

Invoice Reference Number (IRN) – is issued for each tax invoice

The IRN issued will be 12 Characters ABX 99,99,99,999 A indicates the database identifier B indicates the year – A for 2019, B for 2020, C for 2021... X is a check digit 99999999 digits are running serial number, covers 100 Crore numbers A..99999999 provides more than 1000 Crores of IRN per year.

The IRN is generating using the most secure method so that it is valid for the lifetime, and anyone who has access to the same other than the intended user/authorized users cannot read the same. It is generated using the SHA 256, which is used in the DSCs.

Example

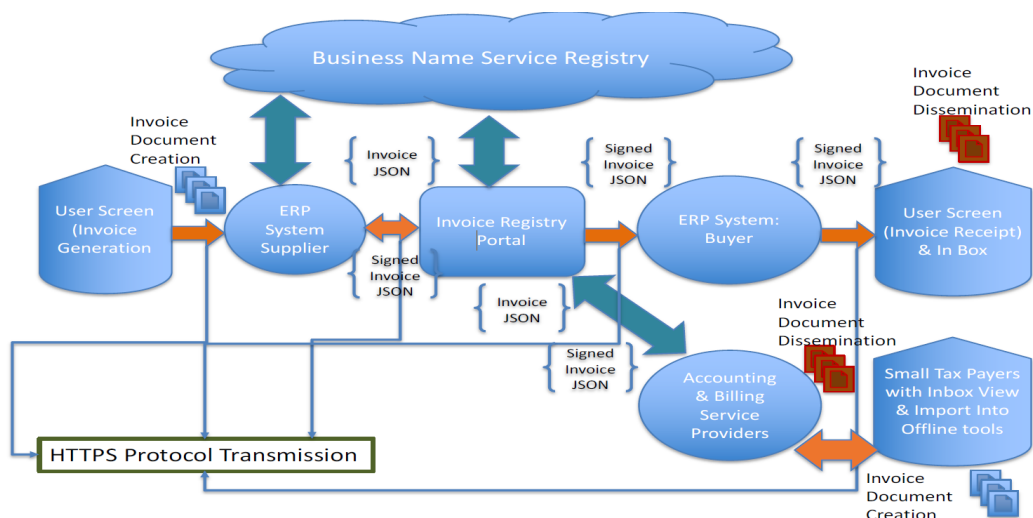
HASH of “01AAAAB1234C1Z02019-20INVAB1234” is
35054cc24d97033afc24f49ec4444dbab81f542c555f9d30359dc75794e06bbe

The Quick Responses (QR) code issued for each tax invoice will contain the following information

- GSTIN of supplier
- GSTIN of Recipient
- Invoice number as given by Supplier
- Date of the generation of invoice
- Invoice value (taxable value and gross tax)
- The number of line items.
- HSN Code of the main item (the line item having the highest taxable value)
- Unique Invoice Reference Number (hash)

The following are the APIs issued by the GSTN for e-invoice

- Authentication (POST)
- Generate IRN (POST)
- Cancel IRN (POST)
- Get e-Invoice by IRN (GET)
- Get GSTIN details (GET)
- Health Check API (GET)



The IT teams have to keep in mind the following

1. e-invoice is required only for these following document – tax invoice, credit notes, debit notes issued for B2B (Business to Business), B2G (Business to Government) and for exports
2. The ERP/Accounting system has to be updated for the same either through the patch given by the software provider or through customization
3. The GSPs or the Taxpayers should have SSL (Secure Socket Layer) or Transport Layer Security 2.0 (TSL)
4. If the taxpayer is not accessing through GSP's, he has to ensure that the GSP provides them access to the Production environment
5. It is recommended to have a staging or pre-production environment for testing
6. The authentication token is valid for 6 hours and is recommended to get a new token at least 10 minutes before the expiry of the token.
7. If e-waybills are being generated using the APIs, the same needs to be revisited as the IRP portal is expected to update the Part – A of the e-waybill basis of the data shared for the generation of IRN.
8. Taxpayers using GSP route will be given the API User Name and Password and who are accessing the IRP portal directly will be provided ClientId, ClientSecret, API UserName and Password
9. Taxpayers and GSPs are required to whitelist the Static IPs, and the system allows only Indian Static IPs.
10. In the initial stages, the Taxpayers and GSPs will be accessing the e-invoice system using the internet, and after a certain period, they will be allowed to access only through the MLPS.

The role of the CMAs is very vital, and they can do an analysis of all the requirements from a business perspective and tax perspective and share the inputs to their clients or where they are working.

The main reason for the introduction of e-invoicing is to curb tax evasion and also improve the rankings in the ease of doing business and for making payments. e-invoicing is implemented in about 75+ countries across the globe and we are not new for the same and most of the MNCs are aware of the same and they have started working in that direction based on the previous experience. The challenge comes only for the Indian companies who are new this process and they should try to implement the same using the inhouse team if they are capable of or engage the external consultants for the same so as the adaption is smooth and there is continuity of business. The invoicing process will work as it is, and only new additional data elements are captured. If planned and implemented properly the same can be rolled out by 1st April 2020 when it becomes mandatory else the business will be impacted.

Disclaimer

Any views or opinions represented above are personal and belong solely to the author and do not represent those of people, institutions or organizations that the author may or may not be associated with in professional or personal capacity unless explicitly stated. Any views or opinions are not intended to malign any religion, ethnic group, club, organization, company, or individual.



BUDGET 2020: MODIFICATION OF RESIDENCY PROVISIONS [SECTION 6]

CA Saurabh Tibrewal
Practicing Chartered Accountant

Section 6(1) of the Act provide for situations in which an individual shall be resident in India in a previous year. The individual shall be Indian resident in a year, if he,-

- i. has been in India for an overall period of 365 days or more within four years preceding that year, and
- ii. is in India for an overall period of 60 days or more in that year.

An Indian citizen or a person of Indian origin shall be Indian resident if he is in India for 182 days instead of 60 days in that year. This provision provides relaxation to an Indian citizen or a person of Indian origin allowing them to visit India for longer duration without becoming resident of India.

Further, section 6(6) states that an individual shall be not-ordinarily resident if an individual who has been non-resident-

- In 9 out of the 10 previous years preceding that year, or
- During the 7 previous years preceding that year been in India for an overall period of 729 days or less.

Now in the Finance Bill 2020, it has proposed that -

- a) the exception provided in section 6 for visiting India in that year be decreased to 120 days from existing 182 days.
- b) an individual or an HUF shall be said to be “not ordinarily resident” in India in a previous year, if the individual or the manager of the HUF has been a non-resident in India in 7 out of 10 previous years preceding that year. This is a new condition.
- c) An Indian citizen who is not liable to tax in any other country or territory shall be deemed to be resident in India.

According to the proposal, if an individual has been a resident in atleast 4 out of last 10 financial years, then the individual will qualify as an ordinarily resident. This is bad news for the taxpayers as they will be required to pay tax on their foreign income and report foreign assets in their income tax return (ITR) in India.

The Budget 2020 has proposed to remove the second condition that the individual should be physically present for more than 729 days in last 7 years to become ordinarily resident. Further, second condition has been tweaked. Currently, first condition says that a person becomes resident individual if he/she has been resident individual in atleast 2 out of last 10 years. It has been proposed to hike this 2 year to 4 years.

Further Budget 2020 also proposes that if an individual who is a citizen of India or person of Indian origin visits India for 120 days or more in a financial year and had spent more than 365 days in last four years, then such an individual will also become ‘resident’ in India.

Hence,

- Indian Citizens or Person of Indian origin living outside India: Residency test for individuals reduced to 120 days from 182 days in a fiscal year.
- Individuals: to qualify as ordinary resident if presence in India is 4 out of 10 fiscal years.
- Deemed Residency: Indian citizens deemed to be a resident in India if not liable to tax in any other country or territory by reason of their domicile, residence, etc.

Applicability: From 1st April, 2021 i.e. Assessment Year 2021-22

BUDGET 2020 HIGHLIGHTS

TEAM TRD

Finance Minister - Smt. Nirmala Sitharaman, on 1st February 2020 presented Budget for 2020-2021 with an aim at energizing the Indian economy through a combination of short-term, medium-term, and long term measures.

The Union Budget was structured on the overall theme of:

“Ease of Living”



Aspirational India

Better standards of living with access to health, education and better jobs for all sections of the society. Three components of Aspirational India are

- Agriculture, Irrigation, and Rural Development
- Wellness, Water, and Sanitation
- Education and Skills

Economic Development for all

“Sabka Saath, Sabka Vikas, Sabka Vishwas”

Caring Society

Both humane and compassionate; Antyodaya as an art.

KEY HIGHLIGHTS OF BUDGET ON THE FOLLOWING SECTORS

INCOME TAX
TDS
GST
CUSTOMS, EXCISE
GOVERNANCE
MSMEs
STARTUPS
PUBLIC SECTOR BANKS (PSBS)
FINANCIAL SECTOR
AGRICULTURE
EDUCATION
WATER, WELLNESS AND SANITATION GOALS
INDUSTRY, COMMERCE AND INVESTMENT
SOCIAL WELFARE

DIRECT TAXATION

Income Tax

- **Income tax rates for Individual**

- Nil for income up to Rs. 2,50,000 lakhs
- 5% for income between Rs .2,50,001–Rs.5,00,000 lakhs
- 10% for income between Rs 5,00,001 – Rs. 7,50,000 lakhs
- 15% for income between Rs 7,50,001– Rs. 10,00,000 lakhs
- 20% for income between Rs 10,00,001– Rs. 12,50,000 lakhs
- 25% for income between Rs 12,50,001– Rs. 15,00,000 lakhs
- 30% for income more than Rs 15,00,001 lakhs onwards

- **Section 115BAC -**

Taxpayers have been provided with an option whether they want to pay taxes according to the new regime or if they want to continue paying taxes according to the existing regime.

[However, a few taxpayers may not be able to switch back to the existing tax slab once they opt to follow the new one.]

- To simplify the tax system and lower tax rates, around 70 of more than 100 income tax deductions and exemptions have been removed
- Even such taxpayers will also not be subject to AMT

The total income shall be calculated without any deduction and exemptions as follows:

Section	Deduction
Section 10(5)	Leave travel concession
Section 10(13A)	House rent allowance
Section 10(14)	Some other allowances except specified below Following allowances notified under section 10(14) of the Act to the Individual or HUF exercising option under the proposed section shall be allowed: <ol style="list-style-type: none"> 1. Transport Allowance granted to a divyang/handicapped employee to meet expenditure for the purpose of commuting between place of residence and place of duty 2. Conveyance Allowance granted to meet the expenditure on conveyance in performance of duties of an office; 3. Any Allowance granted to meet the cost of travel on tour or on transfer; 4. Daily Allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty
Section 10(17)	Allowances to MPs/MLAs
Section 10(32)	Allowance for income of minor
Section 10AA	Deduction for units established in Special Economic Zones (SEZ)
Section 16	Standard Deduction, Entertainment allowance and employment / professional tax
Section 17 rule 3	Free Food and Beverage through vouchers provided to the employee
Section 24(b)	Interest on House Loan
32(1)(iia)	Additional Depreciation
Section 32AD	Deduction for investment in new plant and machinery in notified backward areas
Section 33AB	Deduction in respect of tea, coffee or rubber business
Section 33ABA	Deduction in respect of business consisting of prospecting or extraction or production of petroleum or natural gas in India(site restoration fund)
Section 35(1)(ii)	Deduction for donation made to approved scientific research association, university college or other institutes for doing scientific research which may or may not be related to business
Section 35(1)(iia)	Deduction for payment made to an Indian company for doing scientific research which may or may not be related to business
Section 35(1)(iii)	Deduction for donation made to university, college, or other institution for doing research in social science or statistical research

Section 35(2AA)	Deduction for donation made to National Laboratory or IITs, etc. for doing scientific research which may or may not be related to business
Section 35AD	Deduction in respect of capital expenditure incurred in respect of certain specified businesses, i.e., cold chain facility, warehousing facility, etc.
Section 35CCC	Deduction for expenditure on agriculture extension project
Section 57(ia)	Deduction from family pension
Any Provision of Chapter VI-A	Any Deduction specified under this chapter except section 80CCD(2) [employer contribution in NPS] and section 80JJAA [for new employment]

The total income shall be calculated without set off any loss

- c/f depreciation u/s 32
- Loss under head house property. This means loss under the head house property can be set off against income under the head “House Property “ but can not be set off against income under the head in order to avail income tax rates u/s 115BAC
 - To boost power generation capacity, government has announced that **New power generation companies** will have to pay just **15% tax** under the new corporate tax regime.
 - Tax on **cooperative societies reduced to 22%** (plus 10% surcharge and 4% cess) without exemptions as against 30% at present.
 - Cooperative societies **exempted from Alternate Minimum Tax (AMT)** just like Companies are exempted from the Minimum Alternate Tax (MAT).
 - To amend I-T Act to allow **faceless appeals**.
 - To launch **new direct tax dispute settlement scheme** with a deadline of 30th June, 2020, to reduce litigations in direct taxes -- Vivaad se Vishwaas scheme.
 - **Interest and penalty will be waived** for those who wish to pay the disputed amount till March 31. Additional amount to be paid if availed after 31st March 2020
 - **Aadhaar-based verification of taxpayers** is being introduced to weed out dummy or non-existent units; instant **online allotment of PAN** on the basis of Aadhaar.
 - Registration of charity institutions to be made completely electronic, donations made to be pre-filled in IT return form to claim exemptions for donations easily.
 - **FPI limit in corporate bonds raised to 15% from 9%**.
 - Expand Exchange Traded Fund by floating a Debt ETF, consisting primarily of govt. securities.
 - Instant PAN to be allotted online through Aadhaar.
 - Unique registration number (URN) to be issued to all new and existing charity institutions.
- **Threshold limit of Tax Audit –**
Limit has been increased from Rs 1 crore to Rs 5 crore [subject to condition is that maximum 5% of all sales/receipts and all purchases/expenditure is made in cash.]

Payment made in the P.Y in cash does not exceed 5%. For such taxpayers, the due date for tax audit has been extended to the 31st of October from the 30th of September.

- **Section 80EEA-**

Tax holiday for affordable housing extended by 1 year. Additional deduction of Rs.1.5 lakh for interest paid on home loans will be allowed for the loans sanctioned till the 31st of March 2021.

- **Dividend Distribution Tax-**

DDT will not be applied to companies. Individuals are required to pay tax on such income at applicable rates. Deduction allowed for dividend received by holding company from subsidiary.

- **Section 6-(Change in provision of residential status)**

1. As of now a person will be treated as Resident in India if he fulfils either of the two conditions
 - *stay in India for 182 days or more during the financial year*
 - *stay in India for 60 days or more during the financial year and 365 days or more during the 4 previous financial years.*

Amendment in this Budget –

A person will be treated as Resident in India if he stays in India for 120 days or more during the financial year. Insert clause (1A) to provide that a citizen of India will be deemed to be a resident of India if he is not liable to pay tax in any country outside India on account of his domicile, residence, or any other criteria of a similar nature.

2. As of now a person who has been a non-resident for 9 out of 10 Financial Years preceding the relevant year or has stayed in India for less than 730 days during the seven Financial Years preceding the relevant year is regarded as ‘not ordinarily resident’ in India.

Amendment in this Budget –

Individual or a manager of a HUF who has been a ‘non-resident’ in India for 7 out of 10 preceding years will now be regarded as a ‘not ordinarily resident’

- **Section 234G**

Late fee amounting to Rs. 200 per day to be paid for default in furnishing statement or certificate under section 35 by research association, university, college, company or any other institution..

In addition to this fee, a penalty of INR 10,000 that may extend to INR 1,00,000 may be levied under section 271K for such failure.

- **Section 43CA**

If value adopted for the purpose of stamp duty **does not exceed 105% of the actual consideration received**, then consideration so received shall be deemed to be the full value of the consideration for computing profits and gains on transfer of such asset other than capital assets.

Amendment in this Budget –

If value adopted for the purpose of stamp duty **does not exceed 110% of the actual consideration received**, then consideration so received shall be deemed to be the full value of the consideration for computing profits and gains on transfer of such asset other than capital assets.

- **Section 50C**

In case of transfer of capital asset being land or building or both, if value adopted for the purpose of stamp duty **does not exceed 105% of the actual consideration received**, then consideration so received shall be deemed to be the full value of consideration for computing capital gains on transfer of such capital assets.

Amendment in this Budget –

In case of transfer of capital asset being land or building or both, if value adopted for the purpose of stamp duty **does not exceed 110% of the actual consideration received**, then consideration so received shall be deemed to be the full value of consideration for computing capital gains on transfer of such capital assets.

- **Impact on Real Estate Sector**

- Presently, for computing the income arising from transfer of land or building or both under the head business or profession, capital gains and income from other sources, the consideration for such transfer is deemed to be the value adopted for stamp duty purposes. If the sale consideration is less than the stamp duty valuation.
- The deeming provisions to substitute actual consideration with stamp duty valuation are not applicable, if the difference between actual sale consideration and stamp duty valuation does not exceed a safe harbor of 5%
- It is now proposed to expand the harbour of 5% to 10% by amending the provisions of Section 43CA, Section 50C and Section 56(2)(x).

TDS

- **Section 194J (fees for technical services)**

Rate of TDS has been reduced to 2% from 10%.

- **Section 194**

Dividend paid by Indian companies, to a shareholder, who is resident in India if the dividend amount exceeds Rs. 5000 during the FY

Rate of TDS -10%

- **Section 194K**

Dividend paid by Mutual Fund to a resident only if the dividend amount exceeds Rs. 5000 during the FY

Rate of TDS -10%

- **Section 194-O:**

The operator will be responsible to deduct TDS whenever the Payment made by E-commerce operator to the participant if the annual amount paid or credited exceeds Rs 5 lakh

Rate of TDS -1%

Non Furnishing of PAN - The operator will be responsible to deduct TDS whenever the Payment made by E-commerce operator to the participant if the annual amount paid or credited exceeds Rs 5 lakh

Rate of TDS - 5% [Previously it was 20%]

INDIRECT TAXATION

GST

- The person availed fake ITC shall be liable for penalty of 100% of the tax involved.
- It has been proposed to exclude from the ambit of the composition scheme, the following categories of taxable person, engaged in making:
 - Supply of services not leviable to tax; or
 - Inter-State outward supply of services; or
 - Outward supply of services through an e-commerce operator.
- The date of the debit note will be standalone considered for availing input tax credit, delinked from the date of invoice.
- Increase in period of issuance of removal of difficulty order by two years.
- Refund due to Inverted tax prevalent for tobacco products is barred with a retrospective effect from 1st July 2017.
- Ladakh has been included in the definition of Union Territory. J&K will have its appellate tribunal.
- Order for determining expense in special audit will not require the Board's approval.
- Provision to extend the time limit to return the inputs and capital goods from job worker.
- Powers provided to notify the time and manner of issuing an invoice for a specific category of supplies or services.
- The entry in Schedule II to the CGST Act on 'Transfer of business assets' will now exclude transactions done without consideration from it with retrospective effect from 01/07/2017
 - i. Dynamic QR-code capturing GST parameters proposed for consumer invoices.
 - ii. Simplified return with features like SMS based filing for nil return and improved input tax credit flow to be implemented from 1st April, 2020 as a pilot run.

CUSTOMS, EXCISE

Item	Present Customs Rate	Proposed Customs Rate in Budget
Footwear	25%	35%

Parts of footwear	15%	20%
Furniture	20%	25%
imports of news print and light-weight coated paper	10%(BCD)	5%(BCD)
Imported completely built units (CBUs) of commercial EVs	25%	40%
Semi knocked-down (SKD) forms of passenger EVs	15%	30%
Parts used to manufacture catalytic converters	5%	7.5%
CBUs of traditional commercial vehicles	30%	40%
SKD forms of electric buses, trucks and two-wheelers	15%	25%
Completely knocked-down (CKD) forms of passenger EVs, three-wheelers, two-wheelers, bus and trucks	10%	15%

- 5% health cess to be imposed on the imports of medical devices, except those exempt from BCD.
- Lower customs duty on certain inputs and raw materials like fuse, chemicals, and plastics.
- Higher customs duty on certain goods like auto-parts, chemicals, etc. which are also being made domestically
- Excise duty proposed to be raised on Cigarettes and other tobacco products, no change made in the duty rates of bides
- Anti-dumping duty on PTA abolished to benefit the textile sector.
- It has been proposed to revise the social welfare surcharge by amending Notification No. 11/2018-Customs, dated the 2nd February, 2018 on specified goods (*New Notification 09/2020-CUSTOMS TARIFF dated 2nd February 2020*)

Governance

- 1) Laws, including Companies Act, to be amended to remove criminal liability for certain acts that are civil in nature. Enforcement of contracts is a priority, and the Contracts Act will be strengthened.
- 2) The New National Education Policy will be announced soon. The Government also proposes to allow FDI and foreign currency loans in the education sector.
- 3) A policy will be announced soon to enable the private sector to build Data Centre parks across the country.
- 4) New National Policy on Official Statistics to-
- 5) Promote use of latest technologies including AI.
- 6) Lay down a road-map towards modernised data collection, integrated information portal and timely dissemination of information.
- 7) Development of Union Territories of J&K and Ladakh

MSMEs

In this budget there are few proposals for facilitating growth of MSME enterprises –

- Amendments will be made to Factor Regulation Act, 2011 to enable non-banking financial companies (NBFCs) to extend invoice financing to the MSMEs through TReDS, which would enhance the economic and financial sustainability.
- Amendments to be made to enable NBFCs to extend invoice financing to MSMEs.
- Provision of subordinated debt for MSMEs by Banks which is guaranteed by Credit Guarantee Trust. The debt will count as quasi-equity.
- It has been proposed to introduce a scheme to provide subordinate debt for entrepreneurs of MSMEs to mitigate issue of Working Capital. This subordinate debt to be provided by banks would count as quasi equity and would be fully guaranteed through the Credit Guarantee Trust for the Medium and Small Entrepreneurs
- RBI has been asked to extend the debt restructuring window for MSME enterprises by a year to 31 March 2021
- An app-based invoice financing loans product will be launched to overcome the problem of delayed payments and consequential cash flow mismatches for the MSMEs

STARTUPS

Employees under Employee Stock Option Plans (ESOPs) may defer paying taxes up to 5 years from the time of exercise,
till the time they leave the startup }
or } Whichever is earlier
until they sell their shares }

Eligible startups with a turnover of up to **Rs 25 crore** is permitted to deduct 100% of its profits for three continuous assessment years of **7 years** if the overall turnover is under **Rs 25 crore**.

Amendment in this Budget –

Eligible startups with a turnover of up to **Rs 100 crore** is permitted to deduct 100% of its profits for three continuous assessment years of **10 years** if the overall turnover is under **Rs 100 crore**.

Public Sector Banks (PSBs)

- To help bank depositors, government increases **depositor insurance to Rs 5 lakh** from current Rs 1 lakh.
- Encourage PSBs to approach capital markets for fund raising.
- Banking Regulation Act to be amended to strengthen Cooperative banks

Financial Sector

- Deposit Insurance Coverage to increase from Rs 1 lakh to Rs 5 lakh per depositor
- Eligibility limit for NBFCs for debt recovery under SARFAESI Act proposed to be reduced to asset size of Rs 100 crore or loan size of Rs 50 lakh
- Separation of NPS Trust for government employees from PFRDAI
- Proposal to sell balance holding of government in IDBI Bank
- The Government proposes to devise a mechanism to support the liquidity constraints faced by NBFCs/ HFCs under the Partial Credit Guarantee Scheme formulated for NBFCs.
- New scheme of INR 1000 crore to be anchored by EXIM Bank together with SIDBI to boost exports by mid-size companies in certain sectors.
- It is proposed to divest part of the Government's holding in LIC by way of an IPO.

Agriculture

- Pradhan Mantri Kisan Urja Suraksha evam Utthan Mahabhiyan (PM KUSUM) to be expanded to provide 20 lakh farmers in setting up standalone solar pumps.
- Village storage scheme run by SHGs, which will provide holding capacity for farmers, women in villages can regain their status as Dhaanya Lakshmi
- Indian railways will set up Kisan rail through PPP arrangement, for transportation of perishable goods with refrigerated coaches for transportation of perishable goods to assist farmers
- Krishi UDAN will be launched by Ministry of Civil Aviation on international and national routes for improving value realization specially in North East and tribal districts
- Financing on Negotiable Warehousing Receipts to be integrated with e- National Agricultural Market
- For better marketing and export, supporting states will focus on one product for one district, so that high focus is given at district level for horticulture to gain momentum.
- NABARD Refinancing Scheme to be further expanded, agri credit target for the year 2020-21 has been set at 15 lakh crore rupees
- Milk processing capacity to be doubled from 53.5 million tonne to 108 million tonne by 2025.
- The fish production to be raised to 200 lakh tonnes by 2022-23
- Youth and fishery extension work to be enabled by rural youth as Sagar Mitras, forming 500 fish farmer producing organizations. The fish farmer producer organisation is a new development

- It has been proposed the balanced use of all fertilizers will be encouraged and necessary step will be taken to change the incentive regime which would encourage excessive use of chemical fertilizers.
- The government aims to double farmers' income by 2022
- Increasing coverage of artificial insemination to 70%. Presently the Same is 30%
- Jaivik Kheti Portal – online national organic products market to be strengthened.
- MGNREGS to be used to develop fodder farm.

Education

- In this budget it has been proposed to set up a National Recruitment Agency (NRA) as an independent, professional, specialist organisation for conduct of a computer-based online Common Eligibility Test for recruitment to non-gazetted posts.
- To boost employability, the Budget proposed apprenticeship embedded degree/diploma courses by March 2021 in about 150 higher educational institutions.
- Urban local bodies across the country would provide internship opportunities to fresh engineers for a period up to one year.
- The Budget proposes to start degree level full-fledged online education programme. This shall be offered only by institutions who are ranked within top 100 in the National Institutional Ranking framework.
- Under “Study in India” programme, Ind-SAT is proposed to be held in Asian and African countries. It shall be used for benchmarking foreign candidates who receive scholarships for studying in Indian higher education centres.
- Special bridge courses to be designed by the Ministries of Health, and Skill Development: To fulfill the demand for teachers, nurses, para-medical staff and care-givers abroad.
- A medical college to be attached to a district hospital in PPP mode, viability gap funding to be set up for setting up such medical colleges.
- To launch 2 new National science scheme
- National Police University and National Forensic Science University proposed for policing science, forensic science, and cyber-forensics.
- It is proposed to soon announce a new education policy. A draft of the national education policy had earlier been circulated for public comments in May 2019.
- To meet financing needs of the sector for improving quality, measures will be introduced to attract FDI and allow raising of foreign currency loans by education institutions.
- It is proposed to increase the allocation of funds for digital connectivity in Government Schools under the Bharatnet program.

Water, Wellness and Sanitation Goals

- More than 20, 000 empanelled hospitals under PM Jan Arogya Yojana
- “TB Harega Desh Jeetega” campaign launched to end TB by 2025
- Expansion of Jan Aushadhi Kendra Scheme to all districts by 2024
- Focus on liquid and greywater management along with waste management

Industry, Commerce and Investment

NIRVIK (Niryat Rin Vikas Yojana) Scheme

NIRVIK (Niryat Rin Vikas Yojana) scheme has been announced to provide enhanced insurance cover given to banks and reduce premium for small exporters and to achieve higher export credit disbursement achieve higher export credit disbursement

Benefit of NIRVIK Scheme

- It will provide high insurance coverage
- It will reduce the amount of premium for small exporters
- This scheme will simplify procedures for claim settlements

Tax reimbursement scheme for Exporters

A scheme for exporters will be launched this year to digitally refund duties levied at the centre, state, and local levels to reimburse taxes and duties [VAT, electricity duties and fuel used for transportation, which are not getting exempted or refunded under any other existing mechanism] paid by them

Investment Clearance Cell

- Setting up of **Investment Clearance Cell** has been proposed to provide “**end to end**” **facilitation and support to create more opportunities to youth and remove roadblocks.**
- **Proposal for imposition of nominal health cess @ 5%** by way of a duty of customs, **on the imports of medical equipment** keeping in view that these goods are now being significantly made in India. The proceeds from this cess shall be used for creating infrastructure for health services in the aspirational districts.
- **To incentivise the investment by the Sovereign Wealth Fund of foreign governments** in the priority sectors, a proposal has been given **to grant 100% tax exemption** to their interest, dividend and capital gains income in respect of investment made in infrastructure and other notified sectors before 31st March, 2024 and with a minimum lock-in period of 3 years.
- To make available foreign funds at a lower cost, proposal to extend the period of concessional **withholding rate of 5% under section 194LC** for interest payment to non-residents in respect of moneys borrowed and bonds issued **up to 30th June, 2023.**
- A proposal has been given **to extend the period up to 30th June, 2023 for lower rate of withholding of 5% under section 194LD** for interest payment to Foreign Portfolio Investors (FPIs) and Qualified Foreign Investors (QFIs) in respect of bonds issued by Indian companies and government securities.
- A proposal has been given also to further consolidate the gains in order to make India more attractive Foreign Direct Investment (FDI), destination
- 100 % FDI will be permitted for insurance intermediaries and local sourcing norms will be eased for FDI in single brand retail sector.

GIFT city

- International Bullion exchange(s) proposed to set up in in GIFT City, as an additional option for trade by global market participants.
- Rupee derivatives have been permitted by the Government and the RBI to be traded in the IFSC at GIFT City.
- Government has indicated that GIFT City has the potential to serve as a centre for high-end data processing.

Social Welfare

Women & Child, Social Welfare

More than 6 lakh Anganwadi Workers will be equipped with smart phones.

Culture and Tourism

- Proposal has been given for establishing Indian Institute of Heritage and conservation
- 5 archaeological sites will be developed as iconic sites
 1. Rakhigarhi (Haryana)
 2. Hastinapur (Uttar Pradesh)
 3. Shivsagar (Assam)
 4. Dholavira (Gujarat)
 5. Adichanallur (Tamil Nadu)
- A museum on Numismatics and Trade to be established
- Proposal for Tribal museum in Ranchi
- Maritime museum to be set up at Lothal.

Environment and Climate Change

Encouragement to states implementing plans for cleaner air in cities above 1 million.

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

CGST Notifications

Notification No.06/2020

Date – 3rd February

Seeks to extend the last date for furnishing of annual return/reconciliation statement in FORM GSTR-9/FORM GSTR-9C for the period from 01.07.2017 to 31.03.2018

Sl. No.	Registered person, whose principal place of business is in	Due date for furnishing return under section 44 of the said Act read with rule 80 of the said rules for the FY 2017-18
<u>1</u>	Chandigarh, Delhi, Gujarat, Haryana, Jammu and Kashmir, Ladakh, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand.	5 th February, 2020
<u>2</u>	Andaman and Nicobar Islands, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Dadra and Nagar Haveli and Daman and Diu, Goa, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Puducherry, Sikkim, Telangana, Tripura, West Bengal, Other Territory	7 th February, 2020.

CGST Circulars

Circular No.131/1/2020

Date – 23rd January 2020

Standard Operating Procedure (SOP) to be followed by exporters– regarding

The instance of fraudulently obtained ITC or ineligible credit through refund of Integrated Goods & Service Tax (IGST) on exports of goods have been detected in past few months. On verification, several such exporters were found to be non-existent in a number of cases. In all these cases it has been found that the Input Tax Credit (ITC) was taken by the exporters on the basis of fake invoices and IGST on exports was paid using such ITC

To mitigate the risk, the Board has taken few measures driven by rigorous data analytics and Artificial Intelligence tools based on which certain exporters are taken up for further verification.

While the verifications are caused to mitigate risk, it is necessary that genuine exporters do not face any hardship. In this context it is advised that exporters whose scrolls have been kept in abeyance for verification would be informed at the earliest possible either by the jurisdictional CGST or by Customs.

To expedite the verification, the exporters on being informed in this regard or on their own volition should fill in information in the format attached as Annexure 'A' to this Circular and submit the same to their jurisdictional CGST authorities for verification by them. If required, the jurisdictional authority may seek further additional information for verification. However, the jurisdictional authorities must adhere to timelines prescribed for verification.

Verification shall be completed by jurisdiction CGST office within 14 working days of furnishing of information in proforma by the exporter. If the verification is not completed within this period, the jurisdiction officer will bring it the notice of a nodal cell to be constituted in the jurisdictional Pr. Chief Commissioner/Chief Commissioner Office.

After a period of 14 working days from the date of submission of details in the prescribed format, the exporter may also escalate the matter to the Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax by sending an email to the Chief Commissioner concerned (email IDs of jurisdictional Chief Commissioners are in Annexure B).

The Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax should take appropriate action to get the verification completed within next 7 working days.

In case, any refund remains pending for more than one month, the exporter may register his grievance at www.cbic.gov.in/issue by giving all relevant details like GSTIN, IEC, Shipping Bill No., Port of Export & CGST formation where the details in prescribed format had been submitted etc.. All such grievances shall be examined by a Committee headed by Member GST, CBIC for resolution of the issue.

For more details, please follow - <http://cbic.gov.in/resources/htdocs-cbec/gst/circular-cgst-131-new.pdf>

Customs -Tariff

Notification No. 01/2020-CUSTOMS

Date – 2nd February 2020

Seeks to further amend notification No. 50/2017-Customs dated 30th June, 2017 so as to prescribe effective rate of Basic Customs Duty (BCD)

CBIC has made amendments in the Notification No. 50/2017- Customs, dated the 30th June, 2017.

In the said notification, -

in the Table, -

- (1) after S. No. 3 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)	(6)
“3A.	0101 21 00	Pure-bred breeding Horses	Nil	-	- ”;

For more details, please follow - <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs01-2020.pdf>

Notification No. 02/2020-CUSTOMS

Date – 2nd February 2020

Seeks to further amend notification No. 57/2017-Customs, dated the 30th June, 2017 so as to change the applicable BCD rate on specified parts of Cellular Mobile Phones

CBIC has made amendments in the Notification No. 57/2017- Customs, dated the 30th June, 2017.

In the said notification, in the TABLE, -

- (i) after S. No. 5B and the entries relating thereto, the following S. No. and entries shall be inserted with effect from the 1st day of April, 2020, namely: -

(1)	(2)	(3)	(4)	(5)
“5C	Any Chapter	(a) Vibrator Motor / Ringer for use in manufacture of cellular mobile phones (b) Inputs or parts for use in manufacture of items mentioned at (a) above (c) Inputs or sub-parts for use in manufacture of parts mentioned at (b) above	10% Nil Nil	1 1 1”;

For more details, please follow - <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs02-2020.pdf>

Notification No. 03/2020-CUSTOMS

Date – 2nd February 2020

Seeks to further amend notification No. 19/2019-Customs dated the 6th July, 2019 so as to extend the exemption from BCD and IGST on specified military equipment, if imported by DPSUs and PSUs for the defence forces.

CBIC has made amendments in the Notification No. 19/2019- Customs, dated the 6th July, 2019,

In the said notification, in the opening paragraph, for the words “*the Ministry of Defence, Government of India or the defence forces*”, the words “Ministry of Defence or the Defence forces, or the Defence Public Sector Units or other Public Sector Units, for the Defence forces” shall be substituted.

Notification No. 04/2020-CUSTOMS

Date – 2nd February 2020

Seeks to further amend notification No. 148/1994-Customs dated the 13th July, 1994 to exempt wool, woollen fabrics and apparels received as gifts by the Indian Red Cross Society

CBIC has made amendments in the Notification No.148/1994-Customs, dated the 13th July, 1994

In the said notification, in the Table, after S. No. 2 and the entries relating thereto, the following S. No. and entries shall be inserted, namely,-

(1)	(2)	(3)
“2A.	Wool, Woollen Fabrics and Woollen apparels received as gifts by the Indian Red Cross Society	”.

Notification No. 05/2020-CUSTOMS

Date – 2nd February 2020

Seeks to amend notification No. 25/99-Customs dated 28th February, 1999 so as to withdraw BCD exemption on Gold used in manufacture of semi-conductor devices or light emitting diode and to provide exemption to specified parts for use in manufacture of fuses and connectors

CBIC has made amendments in the Notification No. 25/99-Customs, dated the 28th February, 1999.

In the said notification, in the Table, in List A, -

- (i) S. No. 80 and the entries relating thereto shall be omitted;
- (ii) against S. No. 82, -
 - (a) in column (2), for the entry, the entry “76,85” shall be substituted;
 - (b) in column (3), for the entry, the entry “Aluminium wire with silicon or magnesium impurity of up to 2%” shall be substituted;
- (iii) against S. No. 190, in column (3), after the words “Blade Fuse Body”, the words “; Micro Fuse Base, Sub-Miniature Fuse Base, Micro Fuse Cover, Sub-Miniature Fuse Cover” shall be inserted;
- (iv) against S. No. 225, in column (2), for the entry “3908 90 90”, the entry “3907 99 90 or 3908 90 90” shall be substituted

Notification No. 06/2020-CUSTOMS

Date – 2nd February 2020

Seeks to further amend notification No. 24/2005-Customs, dated the 1st March, 2005 so as to exclude copper and articles thereof from the exemption provided to raw materials use for manufacturing of ITA goods specified therein the notification

CBIC has made amendments in the Notification No. 24/2005-Customs, dated the 1st March, 2005.

Amendments - In the said notification, in the Table, against S. No. 39, for the entry in column (2), the entry “Any Chapter except Chapter 74” shall be substituted.

Notification No. 07/2020-CUSTOMS
Date – 2nd February 2020

Seeks to further amend notification No. 25/2005-Customs, dated the 1st March, 2005 so as to exclude copper and articles thereof from the exemption provided to raw materials use for manufacturing of ITA goods specified therein the notification

CBIC has made amendments in the Notification No. 25/2005-Customs, dated the 1 st March, 2005.

Amendments - In the said notification, in the Table, against S. No. 33, for the entry in column (2), the entry “Any Chapter except Chapter 74” shall be substituted.

Notification No. 08/2020-CUSTOMS
Date – 2nd February 2020

Seeks to exempt specified goods from Health Cess imposed on the medical devices falling under heading 9018 to 9022 in terms of clause 139 of the Finance Bill, 2020

CBIC has exempted the goods of the description specified in column (2) of the Table below and falling within the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), from the whole of the Health Cess leviable thereon under the said clause of the Finance Bill:

Provided that in case of goods specified in the said Table, the exemption under this notification shall be subject to the condition, if any, specified under the respective exemption notifications mentioned therein.

Sl. No.	Description of goods
(1)	(2)
1.	All goods falling under heading 9022, other than those for medical, surgical, dental or veterinary uses.
2.	All goods on which exemption is claimed and allowed under the following notifications, namely: - <ul style="list-style-type: none"> (i) Notification No. 74/2005-Customs, dated the 22nd July, 2005, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 499(E), dated the 22nd July, 2005; (ii) Notification No.10/2008-Customs, dated the 15th January, 2008, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 33(E), dated the 15th January, 2008; (iii) Notification No. 152/2009-Customs, dated the 31st December, 2009, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 943(E), dated the 31st December, 2009; (iv) Notification No. 46/2011-Customs, dated the 1st June, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 423(E), dated the 1st June, 2011; (v) Notification No. 53/2011-Customs, dated the 1st July, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 499(E), dated the 1st July, 2011; and (vi) Notification No. 69/2011-Customs, dated the 29th July, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 593(E), dated the 29th July, 2011.

For more details , please follow - <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs08-2020.pdf>

Notification No. 09/2020-CUSTOMS

Date – 2nd February 2020

Seeks to further amend notification No. 11/2018-Customs, dated the 2nd February, 2018 in order to revise the levy of Social Welfare Surcharge on specified goods

CBIC has made amendments in the Notification No. 11/2018-Customs, dated the 2nd February, 2018

For more details, please follow - <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs09-2020.pdf>

Notification No. 10/2020-CUSTOMS

Date – 2nd February 2020

Seeks to further amend notifications mentioned in the Column (2) of the Table of the notification No. 10/2020-Customs, dated the 2nd February, 2020 so as to align the notification mentioned in Column (2) with the new tariff lines created as per Finance Bill, 2020

CBIC has directed that each of the Notifications of the Government of India in the Ministry of Finance (Department of Revenue), specified in column (2) of the Table below shall be amended in the manner specified in the corresponding entry in column (3) of the said Table, namely: -

Sl. No.	Notification number and date	Amendments
(1)	(2)	(3)
1	Notification No.73/2005- Customs, dated the 22nd July, 2005. [G.S.R. 498 (E), dated the 22nd July, 2005]	In the said notification, in the Table, against serial number 143, for the entry in column (2), the entry “8529 90 30 or 8529 90 90” shall be substituted.
2	Notification No. 101/2007- Customs, dated the 11th September, 2007. [G.S.R. 583(E), dated the 11th September, 2007]	In the said notification, in the Table, against serial number 1002, for the entry in column (2), the entry “8529 90 30 or 8529 90 90” shall be substituted.
3	Notification No.46/2011- Customs, dated the 1 st June, 2011. [G.S.R. 423 (E), dated the 1 st June, 2011]	In the said notification, in the Table, against serial number 1404, for the entry in column (2), the entry “8529 90 10 to 8529 90 30” shall be substituted.

For more details , please follow - <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs10-2020.pdf>

Notification No. 11/2020-CUSTOMS

Date – 2nd February 2020

Seeks to further amend notification No. 82/2017-Customs dated the 27th October, 2017 so as to omit a redundant entry at S. No. 31A

CBIC has made amendments in the Notification No. 82/2017-Customs, dated the 27th of October, 2017.

In the said notification, in the Table, serial number 31A and the entries relating thereto shall be omitted.

Notification No. 12/2020-CUSTOMS

Date – 2nd February 2020

Seeks to rescind certain customs notifications which have become redundant or entries in these notifications are being merged with other similar notifications granting exemptions

CBIC has rescinded few Notifications of the Government of India in the Ministry of Finance (Department of Revenue) except as respects things done or omitted to be done before such rescission

For more details, please follow - <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns2020/cs-tarr2020/cs12-2020.pdf>

Customs - Non Tariff

Notification No. 07/2020-CUSTOMS (N.T.)

Date – 28th January 2020

Revised All Industry Rates of Duty Drawback

CBIC has determined the rates of drawback as specified in the Schedule subject to the following notes and conditions.

Notes and conditions.-(1) The tariff items and descriptions of goods in the said Schedule are aligned with the tariff items and descriptions of goods in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) at the four-digit level only. The descriptions of goods given at the six digit or eight digit in the said Schedule are in several cases not aligned with the descriptions of goods given in the First Schedule to the Customs Tariff Act, 1975.

(2) The general rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 shall, mutatis mutandis, apply for classifying the export goods listed in the said Schedule.

For more details , please follow - http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt_07.pdf

Notification No. 08/2020-CUSTOMS (N.T.)

Date – 31st January 2020

Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver - Reg.

CBIC has made amendments in the Notification No. 36/2001-Customs (N.T.), dated the 3rd August, 2001.

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
1	1511 10 00	Crude Palm Oil	821
2	1511 90 10	RBD Palm Oil	847
3	1511 90 90	Others – Palm Oi	834
4	1511 10 00	Crude Palmolein	851

For more details , please follow - http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt_08.pdf

Notification No. 09/2020-CUSTOMS (N.T.)

Date – 2nd February 2020

Seeks to further amend Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 to change the anti-circumvention provision and make certain other miscellaneous changes.

CBIC has made amendments the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, namely: -

Short title and commencement. — (1) These rules may be called the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Amendment Rules, 2020

In the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, -

(a) in rule 2,-

(i) in clause (b), for the Explanation, the following Explanation shall be substituted, namely: -

“*Explanation.* - For the purposes of this clause, producers shall be deemed to be related to exporters or importers only if,-

- a) one of them directly or indirectly controls the other; or
- b) both of them are directly or indirectly controlled by a third person; or
- c) together they directly or indirectly control a third person subject to the condition that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producers to behave differently from non-related producers.

Note: For the purpose of this Explanation, a producer shall be deemed to control another producer when the former is legally or operationally in a position to exercise restraint or direction over the latter.”

(ii) after clause (d), the following clause shall be inserted, namely: - ‘(da) “period of investigation” means the period during which the existence of dumping is examined;’;

For more details , please follow - http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt_09.pdf

**Notification No. 10/2020-CUSTOMS (N.T.)
Date – 2nd February 2020**

Seeks to further amend Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995 to introduce anti-circumvention provisions in these rules and make certain other miscellaneous changes.

CBIC has made amendments in the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995.

For more details , please follow - http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt_10.pdf

Customs - Safeguards

**Customs -Safeguards
Notification No. 01/2020-Customs (SG)
Date – 2nd February 2020**

Seeks to amend notification No. 1/2018-Customs (SG), dated the 30th July, 2018 so as to align the tariff item of subject goods with the new tariff items created as per Finance Bill, 2020.

CBIC has made amendments in the Notification No. 01/2018- Customs (SG), dated the 30th July, 2018.

In the said notification, for the words and figures “tariff item 8541 40 11”, wherever they occur, the words and figures “tariff items 8541 40 11 and 8541 40 12” shall be substituted.

Customs - Anti-Dumping Duty

**Notification No. 01/2020-Customs (ADD)
Date - 24th January, 2020**

Seeks to amend notification No. 40/2017-Customs(ADD) dated 25-08-2017, to revise anti-dumping duty on imports of "Sodium Nitrite" originating in or exported from China PR, in pursuance of final findings of sunset review investigations issued by DGTR vide notification No. 15/06/2016-DGTR dated the 8th November 2019.

In the matter of continuation of anti-dumping duty on imports of Sodium Nitrite falling under tariff item 2834 10 10 of the First Schedule to the Customs Tariff Act, originating in or exported from People's Republic of China imposed vide notification of the Government of India, in the Ministry of Finance, No.76/2011-Customs, dated the 17th August 2011 CBIC had issued the notification in supersession of notification No.76/2011-

Customs, G.S.R.628 (E), dated the 17th August 2011 for continued imposition of anti-dumping duty at the modified rates vide notification No. 46/2014- Customs (ADD), dated the 8th December, 2014.

The Central Government had extended the period of imposition of antidumping duty on Sodium Nitrite, originating in or exported from People's Republic of China up to and inclusive of the 16th August, 2017.

In the matter of review of anti-dumping duty on imports of Sodium Nitrite, originating in or exported from People's Republic of China, the Designated Authority had come to the conclusion that–

- (i) there is continued dumping of the product concerned from subject country, causing injury to the domestic industry;
- (ii) imports are significantly undercutting and underselling the prices of the domestic industry;
- (iii) cessation of antidumping duty is likely to lead to continuation and recurrence of dumping and injury to the domestic industry

and had recommended continued imposition of anti-dumping duty on imports of Sodium Nitrite originating in, or exported, from People's Republic of China

For more details, please follow - <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd01-2020.pdf>

**Notification No. 02/2020-Customs (ADD)
Date - 30th January, 2020**

Seeks to impose provisional anti-dumping duty on the imports of the " Digital offset printing plates", originating in or exported from China PR, Japan, Korea RP, Taiwan and Vietnam.

In case of “Digital Offset Printing Plates” falling under sub-headings 8442 50 and tariff items 3701 30 00, 3704 00 90, 3705 10 00, 7606 11 90, 7606 91 90, 7606 92 90 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) originating in, or exported from People’s Republic of China, Japan, Korea RP, Taiwan and Vietnam and imported into India, the designated authority has come to the provisional conclusion that

- a) there is substantial increase in imports of subject goods from subject countries in absolute terms as well as in relation to production and consumption in India;
- b) the subject goods have been exported to India from the subject countries below normal value;
- c) the domestic industry has suffered material injury on account of subject imports from the subject countries; and
- d) the injury has been caused by the dumped imports of the subject goods from the subject countries,

and has recommended imposition of provisional anti-dumping duty on imports of Digital Offset Printing Plates, originating in, or exported from subject countries and imported into India, in order to remove the injury to the domestic industry.

CBIC after considering the aforesaid preliminary findings of the designated authority, has imposed on Digital Offset Printing Plates, exported from People’s Republic of China, Japan, Korea RP, Taiwan and Vietnam.

For more details, please follow - <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd02-2020.pdf>

**Notification No. 03/2020-Customs (ADD)
Date - 2nd February 2020**

Seeks to revoke the Anti-dumping duty imposed on Purified Terephthalic Acid and for this purpose, rescinds the notifications No. 28/2016-Customs (ADD), dated the 5th July, 2016 and No. 28/2019-Customs (ADD), dated the 24th July, 2019.

CBIC has revoked the antidumping duty imposed on “Purified Terephthalic Acid” including its variants “Medium Quality Terephthalic Acid” and “Qualified Terephthalic Acid”, falling under tariff item 2917 36 00 of the First Schedule to the said Act, originating in or exported from the People’s Republic of China, Iran, Indonesia, Malaysia, Taiwan, Korea RP and Thailand, and imported into India and has rescinded the Notifications except as respects things done or omitted to be done before such rescission, namely:-

S. No.	Notification Number	G.S.R. Number
(1)	(2)	(3)
1	28/2016-Customs(ADD), dated the 5th July, 2016	664 (E), dated the 5th July, 2016
2	28/2019-Customs(ADD), dated the 24th July, 2019	524 (E), dated the 24th July, 2019.

Customs – Circulars

Circular No. - 04/2020
Date – 21st January 2020

Clarification relating to import of gifts – Reg

DGFT Notification states as follows:

“import of goods. including those purchased from E –commerce portals, through post or courier, where customs clearance is sought as gifts, is prohibited except for life saving drugs/ medicines and Rakhi (but not gifts related to Rakhi.)

Rakhi (but not gifts related to Rakhi) will be covered under Section 25(6) of Customs Act, 1962 that reads “...no duty shall be collected if the amount of duty leviable is equal to or less than Rs. 100/

Import of goods as gifts with payment of full applicable duties is allowed

For more details, please follow - <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-04-2020.pdf>

Circular No. - 05/2020
Date – 27th January 2020

Implementation of automated clearance on pilot basis’-reg

SECTION 47. Clearance of goods for home consumption – (1) Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.

Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria`.

In this regard, Board had issued Circular No 09/2019-Customs dated 28.02.2019. Para 3 of the said circular provides that in terms of the 1 st proviso to Section 47(1), the Customs Automated System would electronically give clearance to Bill(s) of Entry, on completion of Customs Compliance Verification (CCV) and payment of duty by the importer.

3. The important features of the automated clearance are as follows.

- The facility will only be for ICES locations where RMS is enabled and fully functional.
- All the Customs Compliance Verification (CCV) requirements under the Customs Act, rules, instructions etc will be done by the designated proper officer of Customs.
- The CCV would operate even while duty has not been paid or payment is under process.
- After completion of CCV, the proper officer of customs, on satisfaction that the goods are ready for clearance, will confirm the completion of the CCV for the particular Bill of Entry in the Customs System.
- On confirmation of payment of applicable duty, the Customs System will then electronically give clearance to the Bill of Entry.

4. Board has now decided to implement the facility of automated clearance as envisaged in 1st proviso to Section 47(1) in ICES. However, the facility will be initially rolled out on a pilot basis at two customs

locations- Chennai Customs House and Jawaharlal Nehru Customs House from 06.02.2020. Thereafter, the facility will be reviewed and further expanded on PAN India basis at all Customs EDI locations where RMS is enabled and functional.

For more information, please follow - <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-05-2020.pdf>

Circular No. - 06/2020
Date – 30th January 2020

Revised All Industry Rates of Duty Drawback – reg

Government has notified the revised rates of Duty Drawback, vide Notification No. 07/2020-Customs (N.T.) dated 28.01.2020 which will come into force on 04.02.2020.

The salient features of the revised rates of Duty Drawback are as follows –

- (i) Each tariff item in the Schedule annexed to the above mentioned Notification has been provided with an AIR specified under column (4) with cap of Duty Drawback amount given under column (5) in the Schedule. For claiming these AIRs, the relevant tariff item have to be suffixed with suffix 'B' e.g. for export of goods covered under tariff item (TI) 610901, the drawback serial no. should be declared as 610901B;
- (ii) The notification also specifies in the Table annexed thereto, lower AIRs on export of items covered under Chapters 61 and 62 of the Schedule (viz. articles of apparel and clothing accessories) made under Special Advance Authorization Scheme (para 4.04A of Foreign Trade Policy 2015-20) in terms of Notification No. 45/2016-Customs dated 13.08.2016. For claiming the alternative AIR, the relevant tariff item has to be suffixed with suffix 'D' instead of the usual suffix 'B' mentioned above.;
- (iii) AIRs of Duty Drawback have been increased for certain items pertaining to marine products and seafood (Chapter 3, 15, 16, 23), chemicals (Chapter 29), finished and lining leather, leather articles and footwear (Chapter 41, 42 and 64), cotton and MMF textiles (Chapter 50 to 60), carpets (Chapter 57), made-ups (Chapter 63) and glass and glass ware (Chapter 70). The increase in AIRs is on account of various factors such as the changes in duties, price (CIF) of imported inputs, FOB value of export goods, import intensity of inputs etc.;
- (iv) AIRs have been rationalized for bicycles tubes (Chapter 40), wool yarn/fabrics/readymade garments (Chapter 51 and 61-62) and silk yarn/fabrics/readymade garments (Chapter 50 and 61-62) among other items on account of reasons such as decrease in BCD rate, changes in price (CIF) of imported inputs, FOB value of export goods, import intensity of inputs etc.;
- (v) 31 new tariff items have been introduced in the Schedule pertaining to sectors viz. chemicals (18 items), textiles and readymade garments (6 items), leather articles and footwear (6 items) and glass handicraft/ art ware (1 item). Descriptions of three tariff items in Chapters 42 viz. TIs 42020102, 42020204 and 42020302 have been revised for better product differentiation;
- (vi) 10 tariff items under Chapter 64 prescribing AIR of 0.4 per cent in case of export products manufactured by units operating under Section 65 of Customs Act, 1962 have been deleted as no drawback is admissible for such goods in terms of notes and conditions given in notification No. 07/2020-Customs (N.T.) dated 28.01.2020.
- (vii) Appropriate caps of duty drawback amount have been provided wherever felt necessary to prescribe upper limit of duty drawback. For items under TI 8701 (Tractors), TI 8703 (Motor cars and other motor vehicles) and TI 8708 (Parts and accessory of motor vehicles of headings 8701 to 8705), caps have been removed in the Schedule.

For more details, please follow - <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-06-2020.pdf>

DIRECT TAX

Notifications

Notification No. 06/2020
Date – 27th January 2020

Amendment in Notification No. 2752(E),

CBDT has made following amendments in the Notification NO. 2752(E), dated the 22nd October, 2014, namely:-

In the said notification, in the SCHEDULE-I,

- i. the SI No. 113 and the entries relating thereto shall be omitted;
- ii. in SI No. 112 for the entries relating thereto, the following entries shall be substituted:-

For more details, please follow –

https://www.incometaxindia.gov.in/communications/notification/notification_06_2020.pdf

Notification No. 07/2020
Date – 28th January 2020

Notification regarding “Research Association

The organization M/s. Institute of Pesticide Formulation Technology, Gurugram (PAN:- AAATI0389Q) has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 read with Rules 5C and 5D of the Income-tax Rules, 1962, from Assessment year 2019-2020 and onwards under the category of “Research Association”, subject to the following conditions, namely:

- (i) The sole object of the approved Organization shall be to undertake scientific research;
- (ii) The approved organization shall carry out scientific research activity by itself;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.
- (v) The approved organization shall, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of Income-tax or Director of Income-tax containing-
 - a detailed note on the research work undertaken by it during the previous year;
 - a summary of research articles published in national or international journals during the year
 - any patent or other similar rights applied for or registered during the year
 - programme of research projects to be undertaken during the forthcoming year and the financial allocation for such programme.

2. The Central Government shall withdraw the approval if the approved organization:-

- a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or a statement referred in sub-paragraph(v) of paragraph 1;or
- d) ceases to carry on its research activities or its research activities are not found to be genuine; or

- e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of section 35 of the said Act read with rules 5C and 5D of the said Rules.

Notification No. 08/2020
Date – 29th January 2020

New Rule 64BBA

CBDT has made following rules further to amend the Income-tax Rules, 1962, namely:-

Short Title and commencement.—

- (1) These rules may be called the Income-tax (3rd Amendment) Rules, 2020.
(2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962 (hereafter referred to as the principal rules),—

- (i) after rule 6ABB, the following rule shall be inserted and shall be deemed to have been inserted from the 1st day of September, 2019, namely:-

Other electronic modes

6ABBA. The following shall be the other electronic modes for the purposes of clause (d) of first proviso to section 13A, clause (f) of sub-section (8) of section 35AD, sub-section (3), sub-section (3A), proviso to subsection (3A) and sub-section (4) of section 40A, second proviso to clause (1) of Section 43, sub-section (4) of section 43CA, proviso to sub-section (1) of section 44AD, second proviso to sub-section (1) of section 50C, second proviso to sub-clause (b) of clause (x) of sub-section (2) of section 56, clause (b) of first proviso of clause (i) of Explanation to section 80JJAA, section 269SS, section 269ST and section 269T, namely:—

- a) Credit Card;
- b) Debit Card;
- c) Net Banking;
- d) IMPS (Immediate Payment Service);
- e) UPI (Unified Payment Interface);
- f) RTGS (Real Time Gross Settlement);
- g) NEFT (National Electronic Funds Transfer), and
- h) BHIM (Bharat Interface for Money) Aadhar Pay”

For more details, please follow –

https://www.incometaxindia.gov.in/communications/notification/notification_08_2020.pdf

PRESS RELEASE

DIRECT TAX

Date – 24th January 2020

Search in group running renowned educational institutions in Tamil Nadu

The Income Tax Department mounted a search on a group operating leading educational institutions having a large number of schools and colleges in Chennai and Madurai region. The search was conducted at the office of the Trust, residences of the trustees and key employees of the group. The charitable trusts are running a medical college and hospital, Engineering colleges and schools across Tamil Nadu. Search and survey operations were carried out at 64 places across the State.

During the search, evidences were unearthed of fee collected under various nomenclatures from students of Engineering colleges; schools run by the group which were received in cash and not accounted for; and cash receipts not accounted for in the hospital account. Loans and interest were seen repaid in cash which were earlier taken in cash for the purpose of unaccounted investments. These receipts were utilised for the purchase of properties by paying on-money.

The search has resulted in the seizure of around Rs. 2 crore of unaccounted cash. Out of the unaccounted income detected so far, the group has admitted an amount of Rs. 532 crore as their undisclosed income. The searches are temporarily concluded and further investigations are under progress.

Press Release

Date – 24th January 2020

Income Tax searches lead to detection of undisclosed foreign assets of more than Rs. 1000 crore

Taking forward the mission of the Government against black money, particularly undisclosed foreign assets, the Income Tax Department conducted searches on 19th January, 2020, on a group which has been on their radar for having substantial undisclosed foreign assets. The operation covered 13 premises in NCR.

The group is a leading member of the hospitality industry, running a hotel abroad and a chain of luxury hotels under a prominent brand name, situated at various locations in India.

The search operation has so far resulted in seizure of unaccounted assets valued at Rs. 24.93 crore(cash of

Rs. 71.5 lakh, jewellery worth Rs.23 crore and expensive watches valued at Rs.1.2 crore).

Evidence seized during the search reveals that a large amount of black money was stashed abroad by the group, through the mechanism of Trusts, formed in early 1990s in tax havens.

Such foreign holdings of the main persons have remained hidden for decades beneath complex multi layered structures, located in different countries, ensuring secrecy. Search action further revealed that one of the close relatives of the promoter family was intentionally introduced as a front to ostensibly escape the provisions of domestic tax laws.

The investigation has successfully lifted the veil, leading to detection of undisclosed foreign assets of more than Rs. 1000 crore, apart from domestic tax evasion of more than Rs. 35 crore which may, inter alia, lead to consequences under the Black Money Act, 2015, as also, action under the Income-tax Act, 1961 respectively. Foreign assets include investment in a Hotel in UK, immovable properties in UK and UAE and deposits with foreign banks. Further investigations are in progress.

Press Release

Date – 2nd February 2020

CBDT issues clarification on the new provision pertaining to residence in India

The Finance Bill, 2020 has proposed that an Indian citizen shall be deemed to be resident in India, if he is not liable to be taxed in any country or jurisdiction. This is an anti-abuse provision since it is noticed that some Indian citizens shift their stay in low or no tax jurisdiction to avoid payment of tax in India.

The new provision is not intended to include in tax net those Indian citizens who are bonafide workers in other countries. In some section of the media the new provision is being interpreted to create an impression that those Indians who are bonafide workers in other countries, including in Middle East, and who are not liable to tax in these countries will be taxed in India on the income that they have earned there. This interpretation is not correct.

In order to avoid any misinterpretation, it is clarified that in case of an Indian citizen who becomes deemed resident of India under this proposed provision, income earned outside India by him shall not be taxed in India unless it is derived from an Indian business or profession. Necessary clarification, if required, shall be incorporated in the relevant provision of the law.

JUDGEMENTS

INDIRECT TAX

Odomos is Mosquito Repellent, not Medicine, 18% GST applicable: Allahabad High Court M/S Dabur India Ltd vs. Commissioner of CGST

Case No. – 1308 of 2019
Date – 17.01.2020

Fact of the Case

- In the present case M/S Dabur India Ltd is the applicant
- The petitioners pitched the product in their sale material and advertisements as a mosquito repellent. Various mosquito repelling qualities are identified as defining characteristics of the subject goods in the market.
- The product is not normally prescribed as a medicine by medical practitioners as a drug. There is no restriction on odomos sales. The product is sold on-demand at the counters in shops and establishments. Sales are not restricted to chemists/druggists alone.
- The product is a mosquito repellent by virtue of its mosquito repelling characteristics and is so understood in common parlance. The dealers identify and sell the product as a mosquito repellent. Customers purchase the same and use it in the like manner.

Decision of the Case

- The division bench comprising of Justices Biswanath Somadder and Ajay Bhanot pronounced the judgment on the writ petition filed by M/S Dabur India Ltd.
- The Court also said that the common parlance test or the market identity test for classification of the product was satisfied.
- The division bench also observed that the active ingredient of the product is NNDB which is the improved version – formula of DEET. The essential quality of DEET is mosquito repelling. The NNDB was introduced to overcome the itchiness caused by the DEET. The basic component of the product is DEET while the quality enhancements are created by the NNDB.
- While upholding the ruling Appellate Authority Advance Ruling (AAR) the Allahabad High Court has held that odomos is not a medicine, it is a mosquito repellent

hence 18% Goods and Services Tax (GST) applicable.

Input Tax Credits can be claimed on Leased Goods Transport Vehicle: AAR Ishan Resins & Paints Limited vs. W.B AAR

Case No. – 46 of 2019
Date – 8.11.2019

Fact of the Case

- In the present case Ishan Resins & Paints Limited. is the applicant
- The Applicant intends to lease trucks or tankers without an operator to goods transport agencies or any other persons. The Applicant seeks a ruling whether the supply of services by way of leasing of goods transport vehicle without operators to GTA would be exempted and also wants to know, if not exempted what will be the appropriate classification and rate of tax in GST Act, 2017.
- Further, the applicant seeks clarification on whether the credit of input tax paid on the purchasing of motor vehicles is admissible or not.

Decision of the Case

- As defined under section 75 of the Motor Vehicles Act, 1988, the possession and control of the vehicle is transferred to the hirer. Therefore, unless such transfer of the right to use happens a contract of hiring a vehicle does not qualify as renting a cab under the rent-a-cab scheme.
- The Authority observed that the applicant intends to lease out vehicles like trucks, tankers, etc. that are designed to transport goods. The control and possession of the vehicle will be transferred to the lessee, who will engage the operator and bear the cost of repair, insurance, etc. It is, therefore, not classifiable under SAC 9966, which is restricted to rental services of transport vehicles with an operator.
- The West Bengal Authority for Advance Ruling (AAR) ruled that Input Tax Credits can be claimed in accordance with the law on the goods transport vehicle so leased out.

No Penalty can be Imposed on Partners, If Penalty has been imposed on Partnership Firm: CESTAT

**M/s. Awin Exim vs. Commissioner of Customs
Case No. – A/12494-12496/2019
Date – 20th December 2019**

Fact of the Case

- In the present case the appellants are the petitioners of partnership firm named as M/s. Awin Exim
- The Appellants are the manufacturers of Made-ups and Readymade garments and they are having a letter of permission by the Development Commissioner, Kandla Special Economic Zone (KASEZ), Gandhidham.
- The appellant had imported certain goods, declaring the goods as “Shirting/ Dress Material & Pens” classifying the same under CTH 54075400 and CTH 96081000 respectively. The appellant had also filed the KASEZ Bill of Entry No. 4714 dated 16.02.2004 classifying the said goods under CTH 54071016.
- However, on inspection of premises, the officers of Custom found that out of 10 collected samples, 7 samples were found “dyed, knitted fabrics made wholly of Polyester filament yarn” whereas the other three samples were found to be “woven fabrics”.
- On account of suppressing the classification of goods, the goods were ordered to be confiscated and penalties were imposed on the Appellants.

Decision of the Case

- The Tribunal observed that while making these imports the M/s Awin Exim Company would not have gained any monetary benefit as no duty is involved.
 - The Tribunal has reduced the penalty of Rs. 3 Lakh imposed on M/s. Awin Exim Company under Section 112 of Customs Act, 1962 to Rs. 1,50,000/-
 - The Tribunal held that when a penalty is imposed on partnership firm, a penalty cannot be imposed on its partner. On considering his limited role and fact that Shri Subhash Choudhary (Power of Attorney) would not have gained any monetary benefits, the Tribunal has also reduced the penalty of Rs. 2 Lakh to Rs.1,00,000/-
-

Activity of Fabrication of Body Building on Tippers, Trailers attracts 18% GST: AAR M/s SLN Tech-Fabs Pvt. Ltd. vs. Karnataka AAR

**Case No. – KAR ADRG 02/2020
Date -7th January 2020**

Fact of the Case

- In the present case M/s SLN Tech-Fabs (Bengaluru) Pvt. Ltd. is the applicant
- The applicant is engaged in the activity of providing services of Transport solutions, in the field of truck body and fabrication of transport equipment such as tippers, trailers, containers, etc.
- The applicant is charging a total of 28% of Goods and Service Tax (GST) wherein the total tax was the aggregate of 14% Central Goods and Service Tax (CGST) and 14% Karnataka Goods and Service Tax (KGST).
- The applicant filed an application asking that can the rate of Goods and Service Tax can be reduced to 18%.

Decision of the Case

- The AAR held that the applicant is engaged in the business which is covered under the ambit of activity of fabrication of Body Building on Tippers, Trailers attracts which attracts 18% of GST.
- The AAR also observed that, all the activities which are covered under the ambit of supply of goods will be charged at the rate of 28% of the Goods and Service Tax (GST) and not less than 28%. However, the Activity of the fabrication of Body Building on Tippers, Trailers attracts 18% GST.

No ITC available for Supply of Goods and Services carrying out for Civil Work and External Development Work: AAR M/s Indag Rubber Limited vs. Advance Ruling Rajasthan
Case No. – RAJ/AAR/2019-20/23
Date – 10th October 2019

Fact of the Case

- The Applicant M/s Indag Rubber Limited manufactures pre-cured tread rubber, unvulcanized rubber strip gum, universal spray cement and tire envelopes for the tire retreading industry.
- The Applicant has entered into an agreement with M/s Elcom Systems Pvt. Ltd for

providing on lease a Maintenance Repair and Overhaul facility (MRO).

- That, the applicant further engaged M / s Akanksha Contracts Pvt. Ltd. for supplying various goods and services for setting up the MRO facility on its land.
- The applicant contended that he is eligible to claim input tax credit (ITC) in respect of goods and services supplied by M/s Akanksha Contracts Pvt. for carrying out the activities of Civil Work and External Development Works for setting up of MRO facility which will be further leased to M/s Elcom Systems Pvt. Ltd.

Decision of the Case

The Authority comprising of J.P.Meena, Addl commissioner and Hemant Jain, Joint commissioner has ruled that the applicant is not eligible to claim credit of the GST charged by the vendor for supply of goods and services to it, which are used for carrying out the activities (Civil Work and External Developmental Works) for setting up of MRO facility.

DIRECT TAX

Exemption to Agricultural Lands bought when not for any Business purposes allowed: ITAT Kushal Infraproject Industries India Ltd. vs. DCIT, New Delhi **Case No. – 2802/Del/2015** **Date – 30.12.2019**

Fact of the Case

- In the present case the applicant paid Rs. 42 lakh as remuneration on to the which was paid Rs. 2 lakh only in the preceding assessment year. The A.O disallowed a substantial portion of amount of Rs. 33 lakh
- The Revenue contended disallowance of profit on the sale of Pooth Khurd village land on the ground that the amount was not exempt under Section 2(14) of the Income Tax Act since the agricultural lands do not fall in the definition of ‘Capital Asset’.
- The AO had held that u/s 2(14)(iii), any land situated within a distance of 8 KM from the local limits of any Municipal Corporation will be treated as Urban Land and the condition not being satisfied, the land was held not to be agricultural land.

Decision of the Case

- The Bench observed that according to the Certificate of Patwari as well as Tehsildar and Sub-Divisional Magistrate of Delhi submitted by the assessee, it is clarified that the land in question is situated more than 9 km from the municipal limit and the population of the area is about 7000 only. The Bench upheld the decision of the CIT(A) in holding that land in question is agricultural land and the amount earned on the sale of the land to be a capital receipt.
- The Bench stated that the assessee had admittedly sold the agricultural land as there was no intention to do any business activity, therefore, the period of holding would not be relevant. The same is evident from the fact that assessee never converted the land into non-agricultural, neither did he create any plot or carried any development activities or make any advertisements for the sale of land.
- The AO on the ground of an increase in the authorized share capital from Rs 10 lakhs to Rs 51 crores asked for details, to which the assessee submitted that ROC Fees paid was the reason for such an increase. The AO held that expenditure on the increase of authorized share capital is not allowable under Section 35D. The CIT (A) however held that u/s 35D only 1/5th of the expenses could be allowed in every 5 years and was accordingly directed. However, the instant Tribunal set aside the order of the CIT(A) on the grounds held by AO.

Probability or Improbability of Realisation to be considered in Realistic Manner: Gujarat HC Kalpataru Power Transmission Ltd vs. The Principal Commissioner of Income Tax **Case No. – 790 of 2019** **Date – 06/01/2020**

Fact of the Case

- In the present case Kalpataru Power Transmission Ltd. is the applicant
- The learned CIT(A) directed to delete the aforesaid addition of Rs.5,78,28,058/by observing that as there was no transfer/sale of the carbon receipts during the year under consideration and therefore, the same cannot be included in the year consideration.
- The division bench referred various decisions of the court as follows-
 - A. Whether there is a corresponding liability of the other party to pass on the benefits

- of duty-free import to the assessee even without any imports having been made
- B. Whether the probability or improbability of realization of the benefits by the assessee considered from a realistic and practical point of view (the assessee may not have made imports)

Decision of the Case

- The court observed that in instant case it is evident that in fact no real income but only hypothetical income had accrued to the assessee and Section 28(iv) of the Act would be inapplicable to the facts and circumstances of the case.
- The Gujarat high court held that the probability or improbability of realization has to be considered in a realistic manner and there was no real accrual of income to the assessee in respect of the disputed enhanced charges for supply of electricity.

**No Tax Deduction for Replacement of
Machineries: Madras HC
The Commissioner of Income Tax , Salem
vs.M/S Jawahar Mills Ltd.
Case No. – 282 & 283 of 2009
Date – 17.12.2019**

Fact of the Case

- In the present case the revenue department is the petitioner
- The appeals are filed by the Revenue against the order of the CIT (Appeals) and relate to the assessment years 1993-94 and 1994-95. The question in consideration is whether the cost of replacement of machinery could be claimed as revenue expenditure.
- The Assessing Officer observed that the machineries under consideration are indigenous products made in India and are nothing but a modernized system of automatic controllers installed to replace manual labor. He, therefore, disallowed the claim of the assessee.
- The CIT (Appeals), however, allowed the claim of the assessee. The revenue department filed an appeal against the order of CIT (Appeals).
- The Revenue submitted that each item for which deduction under the head “current repairs” was sought is a machine by itself and therefore deduction cannot be allowed. If the current repairs related to the independent machine itself instead of repairs of a part of that machine, a deduction cannot be granted

under Section 31(i) of the Income Tax Act, 1961.

Decision of the Case

- The Court held that the total replacement cost of three machineries in question purchased by the Assessee amounting to Rs.54,59,149/- came to be allowed by the Tribunal as ‘repairs maintenance expenditure’ or ‘revenue expenditure’.
- The said findings of the learned Tribunal are clearly contrary to the decision of the Hon’ble Supreme Court and therefore, the view of the Tribunal cannot be sustained and the replacement of the machinery as a whole by the Assessee cannot be held to be current repairs or allowable revenue expenditure.
- Therefore, respectfully following the binding precedent of the Hon’ble Supreme Court in the case of Commissioner of Income Tax, Gujarat V. Sarangpur Cotton Mfg. Co. Ltd., the present Appeals filed by the Revenue deserves to be allowed.

**No Immunity to Companies from Prosecution
merely because of Punishment prescribed is
Mandatory Imprisonment: Karnataka HC
M/S Avesthagen limited & Dr. Viloo Patel vs.
Income Tax Department Bangalore
Case No. – 47514 of 2017
Date – 06.09.2019**

Fact of the Case

- In the present case M/S Avesthagen limited is the petitioner
- Petitioners are sought to be prosecuted under section 276-B of the Income Tax Act, 1961 for failure to remit the tax deducted at source during the financial year 2010-2011 and 2011-2012 amounting to Rs.1,57,85,655/- and Rs.1,35,54,167/- respectively.
- The impugned actions by the petitioners were on the grounds like the show-cause notice is issued in respect of nine companies whereas the prosecution is launched only against the petitioners which are legally untenable
- The show cause notice was issued only to petitioner No.1 namely Managing Director and not to the Company are defective and contrary to section 276 of the Act
- Lastly, it is contended that the section provides for a mandatory term of imprisonment coupled with a fine in respect of the offences committed by a company.

Decision of the Case

- The arguments of learned counsel for petitioners based on Annexure-‘B’ is totally misconceived and cannot be a ground to quash the proceedings and this argument is also rejected
- The court overruled no criminal prosecution could be sustained for the offences under sections 276, 277 and 278 of the Act when the offences are rendered punishable with fine and imprisonment
- The court also hold that there is no immunity to the companies from prosecution merely because the prosecution is in respect of offences for which the punishment prescribed is mandatory imprisonment.

[ITAT deletes Addition since Transaction of Rendering Marketing Services of Channel Placement Rights with Broadcasters was Deductible under Domestic Transfer Pricing provisions](#)
[Hathway Cable and Datacom Ltd vs. DCIT, Mumbai](#)
[Case No. – 6201/Mum/2018](#)
[Date – 10/01/2020](#)

Fact of the Case

- Hathway Cable and Datacom Ltd is the applicant in the present case
- Assessee company operates as a ‘multi-system operator’ in the distribution of television channels through analog and digital cable distribution networks and internet services through cable. The assessee company operates as last-mile cable operator for certain territories of the country. These entities fall within the meaning of related parties (RPs) as defined in Section 40A(2)(b) of the Act.
- The assessee company has adopted a ‘Pooled Model’ under which it negotiates and settles with the broadcasters for their channels or bouquets of channels. The amount paid by broadcasters for placing their channels at preferred positions is placement charges. Such revenue is shared by the assessee with the RPs on the basis of their subscriber base.
- The issue in the present case is the decision of DRP for upholding 10% of the ad hoc addition made on account of income distribution for the marketing services rendered for the marketing services of channel placement rights.
- TPO rejected the system of proportional allocation of the total placement revenue for the reason that the benchmarking is ad-hoc in

nature and does not justify the allocation of total revenues proportionately.

- Addition by TPO was made not in respect of any expenditure having been incurred but with respect to income derived by the assessee (was also distributed to RPs). The DRP directed the TPO to retain the adjustment to the extent of 10% or allocated amount.

Decision of the Case

- The Bench constituting of R.C. Sharma and Vikas Awasthy as Accountant Member and Judicial Member held against the 10% transfer pricing adjustment upheld by the DRP.
- The Tribunal observed that the assessee has distributed income on the basis of actual subscribers being commanded by the RPs and the allocation made by the assessee in respect of Total placement Charges is fair and proper.
- The Mumbai Bench of Income Tax Appellate Tribunal (ITAT) in the case of Hathway Cable and Datacom Ltd v DCIT deletes addition on the ground that transaction of rendering marketing services of channel placement rights with broadcasters was deductible under Domestic Transfer pricing provisions.

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

Due Date	Type of Return
07.02.2020	Last date to for furnishing of annual return/reconciliation statement in FORM GSTR-9/FORM GSTR-9C for F.Y 2017-18
10.02.2020	GSTR-7 for the month of January 2020- <i>to be filed by the by the to be filed by the person who is required to deduct TDS under GST</i>
10.02.2020	GSTR-8 for the month of January 2020- <i>to be filed by the by the e-commerce operators required to deduct TDS under GST</i>
11. 02.2020	GSTR-1 for the month of January 2020- <i>Applicable for taxpayers with Annual Aggregate turnover Above Rs. 1.50 Crore or opted to file monthly Return (Rs. 1.50 Crores)</i>
13. 02.2020	GSTR-6 for the month of January 2020- <i>to be filed by Input Service Distributor</i>
20. 02.2020	GSTR-5 & 5A for the month of January 2020- <i>to be filed by the Non-Resident taxable person & OIDAR</i>
20. 02.2020	GSTR 3B - for the month of January 2020.

DIRECT TAX CALENDAR - FEBRUARY, 2020

07.02.2020

- Due date for deposit of Tax deducted/collected for the month of January, 2020. However, all the sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan

14.02.2020

- Due date for issue of TDS Certificate for tax deducted under section 194-IA and section 194-IB in the month of December, 2019
- Due date for issue of TDS Certificate for tax deducted under section 194M in the month of December, 2019

15.02.2020

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of January, 2020 has been paid without the production of a challan
- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2019

COURSES OFFERED BY TAX RESEARCH DEPARTMENT

Eligibility criterion for admission in TRD Courses

- ✓ Qualified Cost & Management Accountants
- ✓ Other Professionals (CS, CA, MBA, M.Com, Lawyers)
- ✓ Executives from Industries and Tax Practitioners
- ✓ Students who are either CMA qualified or CMA pursuing

CERTIFICATE COURSE ON GST

Course Fee - Rs. 10,000+18% GST
*20% Discount for Members, CMA
Final Passed Candidates and CMA
Final pursuing Students*

Exam Fees - Rs. 1,000+18% GST
Duration – 72 Hours
Mode of Class – Offline and Online
**_Special Discount for Corporate*

ADVANCED CERTIFICATE COURSE ON GST

Course Fee - Rs. 14,000+18% GST
*20% Discount for Members, CMA
Final Passed Candidates and
CMA Final pursuing Students*

Exam Fees - Rs. 1,000+18% GST
Duration – 40Hours
Mode of Class – Online

CERTIFICATE COURSE ON TDS

Course Fee - Rs. 10,000+18% GST
*20% Discount for Members, CMA
Final Passed Candidates and
CMA Final pursuing Students*

Exam Fees - Rs. 1,000+18% GST
Duration – 30Hours
Mode of Class – Online

CERTIFICATE COURSE ON INCOME TAX RETURN FILLING

Course Fee - Rs. 10,000+18% GST
*20% Discount for Members, CMA
Final Passed Candidates and
CMA Final pursuing Students*

Exam Fees - Rs. 1,000+18% GST
Duration – 30Hours
Mode of Class – Online

CRASH COURSE ON GST FOR COLLEGE AND UNIVERSITY

Batch Size – 50 (Minimum)

Eligibility criterion - B.COM/B.B.A pursuing or completed
M.COM/M.B.A pursuing or completed

Course Fee - Rs. 1,000+ 18% GST

Exam Fees - Rs. 200+18% GST

Course Duration - 32 Hours

For enquiry about courses, mail at – trd@icmai.in

PUBLICATIONS OF TAX RESEARCH DEPARTMENT

Book	Amount (Rs.)
Impact of GST on Real Estate	100
Handbook on GST on Service Sector	250
Insight into Customs - Procedure & Practice	250
Handbook on Works Contract	100
Input Tax Credit & In depth Discussion	250
Handbook on Impact of GST on MSME Sector	100
Exemptions under the Income Tax Act, 1961	500
Insight into Assessment including E-Assessment	500
Taxation on Co-operative Sector	100
Guidance Note on GST Annual Return & Audit	500
Impact on GST on Education Sector	100
TOTAL	2750

Combo offer will be given for purchase of all books at a time which is
Rs. 2000

For Members and Students - **15% Discount**

SNAPSHOTS

Training programme on 'Advanced Course on Goods & Services Tax' to Senior Officers of the Commercial Taxes Department, Govt. of Tamil Nadu from 20th January 2020 to 22nd January 2020 at Southern India Regional Council



CMA Jyothi Satish, Chairperson, SIRC – ICAI welcomed the participants



Shri B. Suseel Kumar, Jt. Commissioner, Director – CTSTI rendered Inaugural Address



Shri M.A. Siddique, IAS., Commissioner of Commercial Taxes, Govt. of Tamil Nadu summed up the proceedings of the entire Technical Sessions handled by the Experts in their relevant fields



Audience at the Training Programme of Advanced Course on Goods & Services Tax' to Senior Officers of the Commercial Taxes Department, Govt. of Tamil Nadu from 20th January 2020 to 22nd January at Hotel GRT Grand, T. Nagar, Chennai

OTHER SNAPSHOTS



Meeting with Mrs. Aparajita Sarangi , MP Loksabha from Bhubaneswar Constituency on 28th January 2020 at Bhubaneswar and apprised her about our representation for inclusion of Cost Accountants in the definition of Accountants under The Income Tax Act



Meeting with Shri Naresh Penumaka, IRS Chief Commissioner GST, Central Excise and Customs, Bhubaneswar Zone

TAXATION COMMITTEE - PLAN OF ACTION

Proposed Action Plan:

1. Successful conduct of Certificate Course on GST.
2. Publication and Circulation of Tax bulletin (both in electronic and printed formats) for the awareness and knowledge updation of stakeholders, members, traders, Chambers of Commerce, Universities.
3. Publication of Handbooks on Taxation related topics helping stakeholders in their job deliberations.
4. Carry out webinars for the Capacity building of Members - Trainers in the locality to facilitate the traders/ registered dealers.
5. Conducting Seminars and workshops on industry specific issues, in association with the Trade associations/ Traders/ Chamber of commerce in different location on practical issues/aspects associated with GST.
6. Tendering representation to the Government on practical difficulties faced by the stakeholders in Taxation related matters.
7. Updating Government about the steps taken by the Institute in removing the practical difficulties in implementing various Tax Laws including GST.
8. Facilitating general public other than members through GST Help-Desk opened at Head quarter of the Institute and other places of country.
9. Introducing advance level courses for the professionals on GST and Income Tax.
10. Extending Crash Courses on Taxation to Corporates, Universities, Trade Associations etc.

Disclaimer:

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