

NEWSLETTER NO 24 (INCLUDING GST) – JAN 1, 2021 TO MAR 31, 2021

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I. Income tax: Updated upto Mar 31, 2021:

1. Noti SO 1432 (E) dt Mar 31, 2021:

- Date for issuance of notice u/s 148 further extended from Mar 31, 2021 to Apr 30, 2021.
- Date for Aadhar linking with PAN further extended to Jun 30, 2021.



2. Noti GSR 212 (E) dt Mar 26, 2021: Income tax (6th amendment) Rules, 2021 –
 - Rule 2C substituted to provide for new system of application for re-approval/ renewal u/s 10(23C). It is to be applied in Form 10A or 10AB as the case may be. Earlier Form 56 is now omitted.
 - Rule 5C amended to provide for new system of application for re-approval/ renewal u/s 35(1) by a research association. Application shall be submitted electronically in Form 3CF. Intimation for re-approval shall be made in Form 10A as per new Rule 5CA.
 - Rule 11AA substituted to provide for new system of application for re-registration/ renewal u/s 80G.
 - Rule 17A substituted to provide for new system of application for re-registration/ renewal of charitable or religious trusts u/s 80G.
 - New Rule 18AB inserted to provide for filing return of donations received during the year and is to be filed in respect of FY 2021-22 onwards. It is to be filed in Form 10BD on or before May 31. So, first return shall be due on May 31, 2022. Late fee of Rs 200 per day u/s 234G applicable. Certificate of donation is also to be issued in Form 10BE and it is to be given to donors upto May 31. Besides late fee, penalty of Rs 10,000 to Rs 1,00,000 also leviable u/s 271K for non submission of statement or issuance of certificate.
3. Important: Cir 5/2020 dt Mar 25, 2021: Clause 30C (impermissible avoidance agreement as referred to in Sec 96) and 44 (break up of total expenditure of entities registered or not registered under GST) of tax audit report to be kept in abeyance till Mar 31, 2022.
4. Instruction No 9 dt Mar 25, 2021: Resolution regarding allotment of one PAN to two or more persons.
5. Noti GSR 194 (E) dt Mar 16, 2021: Rule 29BA inserted: An application by a person for determination of appropriate proportion of sum chargeable in the case of non-resident recipient under sub-section (2) or sub-section (7) of section 195 shall be made in Form 15E electronically.
6. Noti 175(E) dt Mar 12, 2021: Amendment in Rule 114E – more transaction to come under SFT:
 - Capital gains on transfer of listed securities or units of Mutual funds.
 - Dividend income.
 - Interest income received from banking company or co-operative bank, post office or even NBFC.



7. Cir No 2 dt Mar 3, 2021: Sec 6 – relaxation for condition for residential status for FY 19-20 and FY 20-21 due to covid restrictions. It is subject to certain conditions.
8. Noti 966 (E) dt Feb 27, 2021: Due date for assessment u/s 143(3) and other various assessments as per Sec 153 extended from Mar 31, 2021 to Apr 30, 2021. Time limit for imposition of penalty extended to Jun 30, 2021.
9. Noti 964(E) dt Feb 26, 2021: Date for making application under Vivad Se Vishwas Scheme (VSVS) further extended to March 31, 2021. Date of making payment without additional interest extended to Apr 30, 2021.
10. Noti 1/2021 dt Feb 8, 2021: PAN shall be issued in new formats. E-PANs would be issued in PDF format with enhanced QR code.
11. Guidance note released by CPC on how to file ITR-7 and common errors. Also how to rectify earlier errors. It is issued on Feb 8, 2021.
12. Important: Order 187 dt Jan 20, 2021: With immediate effect all pending penalty proceedings, except central, international and TDS charges, be disposed of by National Faceless Assessment Centre. Till the time National Faceless Penalty Centres are created, NeAC shall act for them.
13. Press release dt Jan 12, 2021: Complaint for tax evasion/ benami etc can be filed at <https://www.incometaxindiaefiling.gov.in/> under the head "File complaint of tax evasion/undisclosed foreign asset/benami property. Authenticity of complainant shall be done by OTP, unique no shall be allotted which can be tracked also by complainant.
14. Noti 117(E) dt Jan 12, 2021: Faceless Penalty Scheme, 2021 launched.
15. Noti 118(E) dt Jan 12, 2021: Procedure and directions for Faceless Penalty Scheme, 2021. It's a six page detailed notification. Even rectification application shall be made to National Faceless Penalty Centre.
16. Important: Cir 370153 dt Jan 11, 2021: Order rejecting request for extension of due date for filing of return and tax audits. Further to judgement of Gujarat HC, this is a detailed order giving various justifications even in international context. This may turn out to be milestone order which might change the course of thinking of taxpayers and tax practitioners.



II. Central Tax ('CT') Notifications: Updated upto Mar 31, 2021

1. Noti 6/2021 CT dt Mar 30, 2021: Dynamic QR code is compulsory in case of B2C sale by RP having aggregate turnover of more than 500 cr. Penalty for non-compliance of the same is waived for the period Dec 1, 2020 to Jun 30, 2021 if RP has complied with it wef Jul 1, 2021.
2. Noti 5/2021 CT dt Mar 8, 2021: From Apr 1, 2021, e-invoice u/r 48(4) would be applicable to persons having aggregate turnover more than Rs 50 crore. Following points to be noted:
 - Noti 70/2020 CT dt Sep 30, 2020 substituted the words 'a financial year' to 'any preceding financial year from 2017-18'. It should mean that e-invoice should be applicable from the FY subsequent to year in which turnover exceeds Rs 50 crore. It is also clear from Que No 22 of FAQ released in Press release dt Mar 30, 2021.
 - It would be applicable for goods or services both. It would also be applicable for exports also in terms of Noti 13/2020 CT.
 - It would be applicable in case of invoice only and not in case of bill of supply (ie only in case of taxable goods and not in case of exempt goods).
3. Noti 4/2021 CT dt Feb 28, 2021: Due date for filing GSTR 9 for FY 2019-20 further extended to Mar 31, 2021.
4. Noti 3/2021 CT dt Feb 23, 2021: Aadhar authentication for registration would not be applicable to persons –
 - Who is not citizen of India,
 - Certain government departments,
 - Foreign embassies etc and other notified persons.
5. Noti 1/2021 CT dt Jan 1, 2021: Rule 59(6) inserted to provide that –
 - R1 would not be filed if two months' 3B remain unfiled.
 - R1 or IFF would not be filed if one quarter's 3B remain unfiled.
 - In case where restriction of utilization of ITC upto 99% is applicable u/r 86B, R1 or IFF would not be filed if one month or quarter's 3B remain unfiled.



III. Central Tax (Rate) ('CTR') Notifications: Updated upto Mar 31, 2021

1. Nil

IV. Integrated GST ('IT') Imp Notifications: Updated upto Mar 31, 2021

Subject matter of many of the notifications is already covered under Central Tax notifications. Also, some notifications are administrative or not related to our practice. Therefore, only important notifications as considered by us are covered here.

1. No such notifications.

V. Integrated GST – Rate ('ITR') Imp Notifications: Updated upto Mar 31, 2021

Most of the rate notifications are replica of Central Tax Rate notifications which we have enumerated above. Effort has been to exclude such duplicate notifications and cover only those notifications which are relevant for us as independent IGST Rate notifications.

1. No such notifications.

VI. Compensation Cess ('CS') Notifications: Updated upto Mar 31, 2021

1. Nil

VII. Compensation Cess Rate ('CSR') Notifications: Updated upto Mar 31, 2021

1. Nil

VIII. Circulars (clarifications) under CGST: Updated upto Mar 31, 2021

1. Cir 147/3/2021 dt Mar 12, 2021: Clarification on refund related issues u/r 89. Cir 125/44/2019 dt Nov 18, 2019 is suitably amended to remove restriction on recipient of deemed export to claim ITC. Also, calculations are given whereby refund amount is increased if value of zero rated supply is more than 1.5 times of similar goods/ services supplied domestically.



2. Cir CBEC 20/16/05/2021 dt Feb 23, 2021: Guidelines for provisional attachment u/s 83. Basis should be recorded on file. Should be resorted to with utmost circumspection and with maximum care and caution.
3. Cir 146/2/2021 dt Feb 23, 2021: Clarifications given in respect of applicability of dynamic QR code for B2C transactions for taxpayers having turnover more than Rs 500 crore.
 - E-invoice is applicable for exports as per Noti 13/2020. Noti 14/2020 is not applicable for exports. So, dynamic QR code not applicable even though export is B2C supply.
 - Details required to be captured in QR code are given.
 - If details of receipt of payment against the invoice are duly incorporated in the invoice, then it would be sufficient compliance of requirement of dynamic QR code. However, if payment is received subsequent to issue of invoice, then dynamic QR code must be there on invoice.

Even if the e-commerce operator (ECO) or online application has complied with requirement of dynamic QR code, the supplier using such ECO or online application would still be required to comply with QR code requirement if payment details are not incorporated in the invoice.

Issue: I think if aggregate turnover of such supplier is less than Rs 500 crore using ECO or online application, then such supplier should not be required to comply with QR code requirement.

4. Cir 145/1/2021 dt Feb 11, 2021: SOP for implementation of provision of suspension of registrations u/e 21A(2A) (anomalies in 3B vis-à-vis GSTR 1 and 2A). Till the time functionality for issuance of Notice in Form REG 31 is implemented, notice shall be issued in REG 17 and its reply shall be filed in REG 18.

IX. Circulars (clarifications) under IGST and Comp Cess: Updated till Mar 31, 2021

1. Nil

X. Orders under GST: Updated till Mar 31, 2021

1. Nil.

XI. Removal of Difficulty Orders under GST: Updated till Mar 31, 2021

1. Nil



XII. Press Releases: Updated upto Mar 31, 2021

1. Press release dt Mar 30, 2021: FAQ on e-invoicing. Some takeaways –
 - E-invoicing applicable between two different GST numbers having same PAN.
 - Credit notes/ debit notes issued u/s 34 are covered but financial or commercial credit notes are not covered.
 - Outward supply covered under RCM is also liable to e-invoice if other conditions are satisfied. Issue: It appears strange, such person may not even be registered.
 - Only the RP who are compulsorily required to issue e-invoice are allowed. No one can try voluntarily at the moment.
 - It is not necessary that invoice should be uploaded on same day. However, practically, it seems necessary to do so because e-way bill may not be auto generated.
 - There is currently no field for TCS to be collected on sales.
 - For debit or credit notes, no linkage with invoice number has been given in view of amended provisions.
 - Both GST numbers – supplier and recipient, should be active at the time of preparation of e-invoice.
 - Search HSN is available at <https://services.gst.gov.in/services/searchhsnsac>
 - Physical print of e-invoice not mandatory during transit. Electronic copy would also suffice.
 - Amendments, if any, after generation of IRN is not possible on IRP (invoice registration portal). Same may done while filing GSTR 1 or subsequently in GSTR 1 but it shall be flagged to proper officer for information.
 - IRN may be cancelled within 24 hours of its intimation to IRP provided there is no active e-way bill or verified by proper officer during transit.
 - If sale could not be executed and IRN could not be cancelled as time of 24 hours had elapsed, then such invoice should be deleted from auto populated GSTR 1. Issue: What would happen in case of recipient, it auto populates in his 2A? As per Que No 99, it seems, recipient shall not have its details in his 2A in such case.
 - Currently, there is no time limit for generation of e-way bill after generation of IRN.

2. Press release dt Feb 28, 2021: Due date for filing GSTR 9 and 9C for FY 19-20 further extended to Mar 31, 2021.



3. Press release dt Feb 12, 2021: FAQ on QRMP scheme. Liability under fixed sum method would be equal to liability discharged through cash ledger for the last month of the previous quarter.
4. Press release dt Jan 11, 2021: FAQ on Aadhar authentication of taxpayers. It is to be done for only one partner/ director and primary authorized person.

XIII. Other GST related Update: Updated upto Mar 31, 2021

1. Cir 1077/1/2021 dt Jan 19, 2021: Strict compliance to limitation be observed while filing appeals/ petitions before courts/ tribunal. If need be disciplinary action be taken against erring officers.

XIV. Important Circular updates in MGST, MVAT, CST and Profession tax: Updated upto Mar 31, 2021

1. Cir 7T of 2021 dt Mar 19, 2021: Discontinuance of issuing identification certificate to units under PSI for eligibility period starting from Jul 1, 2017 (ie GST period).
2. Cir 5T of 2021 dt Jan 29, 2021: Last date of submission of VAT audit for FY 19-20 was Feb 28, 2021. Being it is Sunday, last date would be Mar 1, 2021 and last date for physical submission of given papers would be Mar 12, 2021.
3. Cir 1T of 2021 dt Jan 12, 2021: Withdrawal of Cir 39T of 2019 which stated that circulars issued by CBIC would be deemed to accepted by MGSTD unless separate circular is issued on the matter. Thus, now onwards, separate circulars would be issued by MGSTD after examination of circulars issued by CBIC.

XV. Important Notifications updates in MGST, MVAT, CST and Prof tax: Updated upto Mar 31, 2021

1. Noti 1521/CR 30/ Taxation 1 dt Mar 24, 2021: VAT on liquor covered by schedule entries B-1, B-2 and B-3 was 60% subject to maximum of MRP x 35/ 135. Wef Apr 1, 2021, it would be 65% subject to maximum of MRP x 40/ 140.
2. Noti PFT 1221/CR 3/ Taxation 3 dt Feb 12, 2021: Profession tax –
 - Amendment in Rule 4 – PAN/ TAN of all directors required if PTRC number of company is required.



- Rule 8 deleted – no need to display PTRC or PTEC registration at prominent place.

XVI. Others: Updated upto Mar 31, 2021:

1. Noti SO 1055 (E) dt Mar 3, 2021: If GST registration is not applicable under GST Act, then it would not be required for registration under MSMED Act also. PAN would be compulsory for all types of enterprises.

Disclaimer:

All efforts have been made to ensure correctness of data. However, readers are advised to confirm from their own sources also. Further, interpretations given above are our personal opinions at M/s Umesh Agrawal and Associates. We are not responsible for any loss arising due to the above information.

