



Welcome to our
monthly newsletter

We bring you a concise and noteworthy regulatory developments in Income Tax, Goods & Services Tax, Companies Act during April 2022. We had tried to cover all important updates occurred during April 2022 in this volume of newsletter. The sole purpose of this circulation is to update finance professionals and business owners on direct & indirect taxes and other compliances. Feedbacks are welcome at info@nucleusadvisors.in.



Table of Contents

Page 03

Newsletter Highlights

Page 04 - 07

Direct Tax Updates

Page 08 -09

GST Updates

Page 10 - 11

MCA Updates

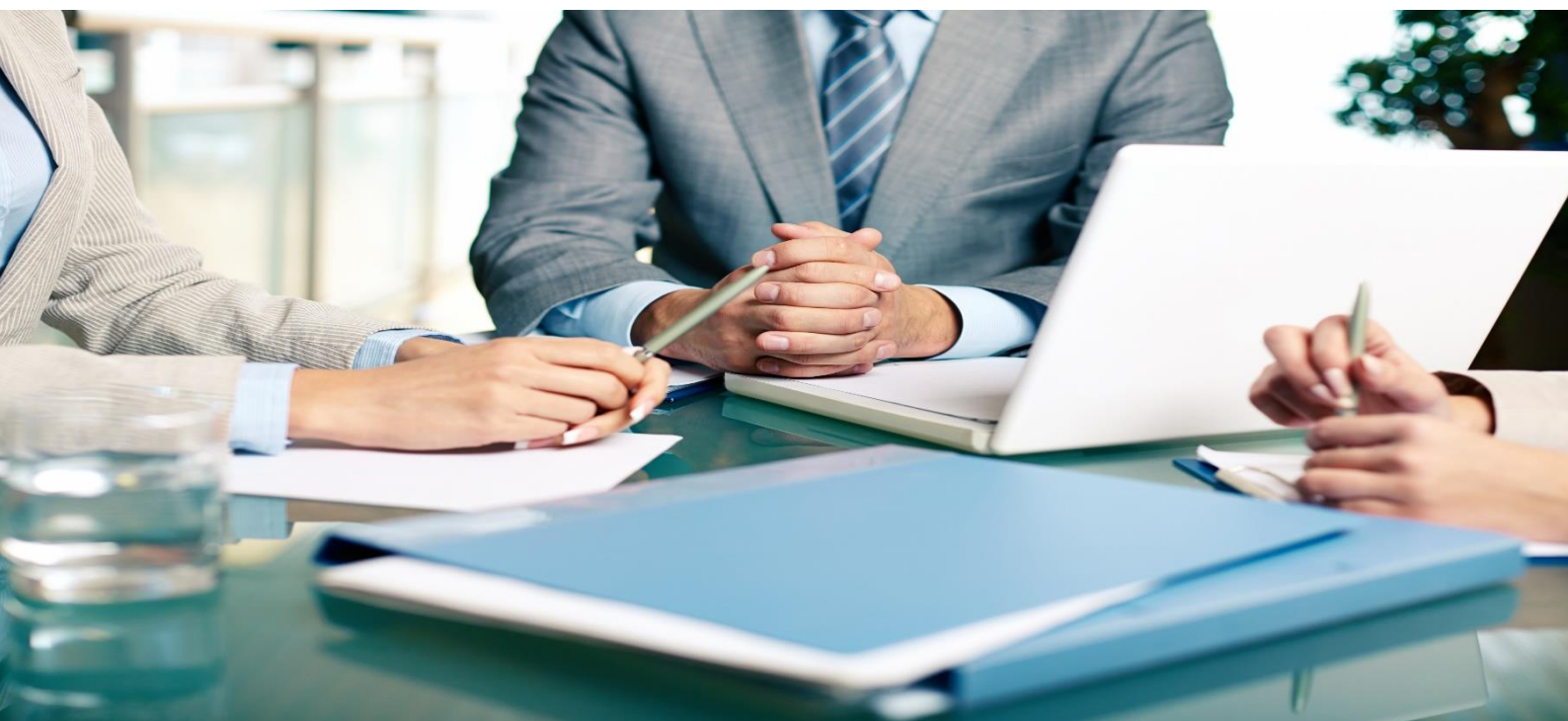
Page 12

Compliance Calendar



Why this Volume of Newsletter is important for reader?

Through the series of this newsletter, we aim at covering all relevant Income Tax, Goods & Service Tax, MCA, Audit & Assurance notification, circulars and case laws which may directly or indirectly impact our readers. At Nucleus, it is our utmost priority to help our readers to be informed with respect to the changes in relevant laws for a smoother compliance.



Direct Tax Updates

- Income-tax (6th Amendment), Rules, 2022
- e-Dispute Resolution Scheme, 2022: Notification No. 26 /2022 and 27/2022
- Exemption from specified incomes u/s 10(46) in the case of ‘Rajasthan Electricity Regulatory Commission’: - Notification No.30/2022
- Conditions for Filing Return of Income under Seventh Proviso to Section 139(1) and Rule 12AB: - Notification No.37/2022
- Exemption from specified incomes u/s 10(46) in the case of ‘Tamilnadu Construction Workers Welfare Board’: - Notification No.47/2022
- Form ITR-U notified for filing of updated return: - Notification No.48/2022
- Judicial Updates

GST Updates

- Enhancements & Improvements in GSTR-1
- Advisory to composition taxpayers

MCA Updates

- Nidhi (Amendment) Rules, 2022
- Companies (Management and Administration) Amendment Rules, 2022
- Companies (Incorporation) Amendment Rules, 2022



DIRECT TAX UPDATES

Income-tax (6th Amendment), Rules, 2022

The Finance Act, 2021 has inserted a new section 89A to provide relief to residents who have income from foreign retirement benefits accounts. Some countries tax income from such foreign retirement benefits accounts on receipt basis. However, the amount withdrawn from such account is chargeable to tax in India on the accrual basis. Due to the mismatch in the year of taxability, the taxpayers face difficulties in claiming the foreign tax credit.

Section 89A provides that the income of a specified person from the specified account shall be taxed in the manner and in the year as prescribed by the Central Government. A specified person means a resident person who opened a specified account in a notified country while being non-resident and resident in that country.

CBDT has notified Rule 21AAA prescribing manner for taxation of income from retirement benefits account maintained in a notified country. The rule provides that if a specified person has accrued any income in the retirement benefits account, then the same shall be included in his total income of the previous year, in which such income is taxed in the country wherein such account is maintained.

To exercise this option, the specified person is required to e-file Form No. 10-EE on or before furnishing return of income. Further, once this option is exercised, it will apply to all subsequent previous years and cannot be withdrawn.

However, if the specified person has become non-resident after exercising the option, then it shall be deemed that he has never exercised the option and income accrued in the specified account from the previous year in which such option was exercised shall be taxable in his hand.

*Notified country - Canada, United Kingdom of Great Britain and Northern Ireland, United States of America

e-Dispute Resolution Scheme, 2022: Notification No. 26 /2022 and 27/2022

The Finance Act, 2021 has inserted Section 245MA to provide for the constitution of 'Dispute Resolution Committee' (DRC). DRC will provide an opportunity to resolve a dispute arising from any variation in the 'Specified Order' and fulfils the 'Specified Conditions'.

The CBDT has notified rules for constitution of DRC and also notified e-Dispute Resolution Scheme, 2022 to dispose of application facelessly.

The Central Government shall constitute a DRC for every region of the Principal Chief Commissioner of Income-tax for dispute resolution. An application to the DRC shall be made in Form No. 34BC by the person, who opts for dispute resolution under section 245MA. Such application shall be accompanied by a fee of Rs. 1,000.

The DRC, subject to prescribed conditions, shall grant waiver of penalty imposable or immunity from prosecution or both, in respect of the order which is the subject matter of resolution, if it is satisfied that such person has:

- (i) paid the tax due on the returned income in full if available; and
- (ii) Co-operated with the Dispute Resolution Committee in the proceedings before it.

Exemption from specified incomes u/s 10(46) in the case of "Rajasthan Electricity Regulatory

CBDT notifies Tax Exemption to Rajasthan Electricity Regulatory Commission in respect of the following specified income arising to the Commission, namely:

- a. Petition filing fees
- b. License fees, and
- c. Interest earned on investment

This notification shall be effective subject to the conditions that Rajasthan Electricity Regulatory Commission, -

- a. shall not engage in any commercial activity
- b. activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c. shall file return of income in accordance with the provision of section 139.

Conditions for Filing Return of Income under Seventh Proviso to Section 139(1) and Rule 12AB: - Notification No.37/2022.

The conditions for furnishing return of income in respect of persons referred to in clause (b) of section 139(1) in terms of clause (iv) of the seventh proviso to section 139(1) shall be the following, namely: -

- 1. if his total sales, turnover or gross receipts, as the case may be, in the business exceeds sixty lakh rupees during the previous year; or
- 2. if his total gross receipts in profession exceeds ten lakh rupees during the previous year; or

3. if the aggregate of tax deducted at source and tax collected at source during the previous year, in the case of the person, is twenty-five thousand rupees or more; or
4. the deposit in one or more savings bank account of the person, in aggregate, is rupees fifty lakh or more during the previous year

Provided that in the case of an individual resident in India who is of the age of sixty years or more, at any time during the relevant previous year, the provision of clause (iii) shall have effect as if for the words “twenty-five thousand”, the words “fifty thousand” had been substituted

Exemption from specified incomes u/s 10(46) in the case of ‘Tamil Nadu Construction Workers Welfare Board’: - Notification No.47/2022

Tax Exemption is provided to Tamil Nadu Construction Workers Welfare Board in respect of the following specified income arising to the Board, namely:

- a) Contribution to Fund for benefit of manual workers in the employment in construction or maintenance of dams, bridges, etc.;
- b) Fee collection; and
- c) Interest earned on (a) and (b) above

Notification shall be effective subject to the conditions that Tamil Nadu Construction Workers Welfare Board, -

- a) shall not engage in any commercial activity;
- b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c) shall file return of income in accordance with the provision of Section 139.

Form ITR-U notified for filing of updated return: - Notification No.48/2022

The Finance Act, 2022 has introduced a new concept of updated return. The provision of an updated return is effective from 01-04-2022, and the time limit provided for filing an updated return is 24 months from the end of the relevant assessment year. In the financial year 2022-23, a person can file an updated return for AY 2020-21 and AY 2021-22.

A new sub-section (8A) has been inserted under section 139 to allow a person to file an updated return of income except in case of search & seizure and other specified circumstances.

CBDT has notified a new Rule 12AC and a new Form ITR-U, which shall be required to be filed along with the respective ITR, to furnish an updated return.

The following are the key excerpts from the newly notified Rule and Form:

- **Manner of furnishing an updated return**

An updated return of income is to be furnished electronically under a digital signature or through an electronic verification code for a certain class of person. Further, no separate ITR forms have been notified for filing of an updated return.

A taxpayer is required to furnish an updated return in those ITR forms which were notified for the respective Assessment Year for which an updated return is to be furnished. Such an ITR form is to be filed along with the newly notified ITR-U.

- **Part A General Information (ITR-U)**

This part of ITR-U seeks general information from taxpayers related to the filing of an updated return.

- **Part B - Computation of updated income and tax payable (ITR-U)**

This part of ITR-U includes heads of income under which additional income is reported. The taxpayer is required to mention only additional income. Total income as reported in Part B TI of the ITR form shall also be reported here to compute the additional tax payable by the assessee on the updated return (section 140B).

Adjustments such as previously paid tax, refund issued to the taxpayer, and fee for default in the furnishing of return of income under section 234F shall be considered while calculating such additional tax.

- **Tax Payments (ITR-U)**

This part of ITR-U includes details of tax payment by the assessee on the updated return under section 140B and details of payments of advance tax, self-assessment tax, regular assessment tax, and credit for which has not been claimed in the earlier return.

Judicial Updates

No liability of tax on payments made to non-resident for online advertising services without a PE in India	
Case	CIT Vs M/s Lenskart Solution (P) L
Decision	Income Tax Appellate Tribunal, Delhi Bench
In favor of	Assessee

The Delhi bench of the Income-tax Appellate Tribunal, in a recent ruling, upheld the order of the Commissioner of Income-tax (Appeals) wherein it held that there was no liability of tax on payments made for online advertising services to a non-resident, sans a permanent establishment (PE) of the non resident in India.

- During the relevant year, i.e. assessment year 2012-13, the taxpayer had made payment for online advertising services to a non-resident entity based out of Ireland. Admittedly, the non-resident entity submitted its Tax Residency Certificate and a Declaration of no PE in India. In the absence of the PE of the non-resident in India, the taxpayer did not withhold the taxes, placing reliance on Article 7 of the India-Ireland Double Taxation Avoidance Agreement (DTAA).
- The Tax Officer did not accept the contention of the taxpayer and disallowed the advertising fee paid to the non-resident under section 40(a)(i) of the Income-tax Act, 1961 (the Act).
- On further appeal before the CIT(A), the taxpayer inter-alia placed reliance on a similar decision to contend that in the absence of a PE of the non-resident in India, there was no liability on the taxpayer to withhold taxes under section 195 of the Act read with Article 7 of the India-Ireland DTAA. The taxpayer further relied on the introduction of Equalisation Levy (EL), which was effective from 1 April 2016 to contend that online advertising services prior to 1 April 2016 were not subject to withholding tax.
- The CIT(A) accepted the taxpayer's contention that in the absence of a PE of the non-resident in India, the taxpayer was not liable to withhold tax on the payments made for advertising services to the non-resident.

Tribunal's ruling

The Tribunal upheld the order of the CIT(A), thereby stating that in the absence of the PE of the non resident in India, there is no liability of tax on the online advertising services.

Enhancements & Improvements in GSTR-1

Removal of 'Submit' button before filing: The present two-step filing of GSTR-1/IFF involving 'Submit' and 'File' buttons will be replaced with a simpler single-step filing process. The upcoming 'File Statement' button will replace the present two-step filing process and will provide taxpayers with the flexibility to add or modify records till the filing is completed by pressing the 'File Statement' button.

Consolidated Summary: Taxpayers will now be shown a table-wise consolidated summary before actual filing of GSTR-1/IFF. This consolidated summary will have a detailed & table-wise summary of the records added by the taxpayers. This will provide a complete overview of the records added in GSTR-1/IFF before actual filing.

Recipient wise Summary: The consolidated summary page will also provide recipient-wise summary, containing the total value of the supplies & the total tax involved in such supplies for each recipient. The recipient-wise summary will be made available with respect to the following tables of GSTR-1/IFF, which have counter-party recipients:

- Table 4A: B2B supplies
- Table 4B: Supplies attracting reverse charge
- Table 6B: SEZ supplies
- Table 6C: Deemed exports
- Table 9B: Credit/Debit notes

Advisory to composition taxpayers

Reason of Negative Liability in GSTR-4: The liability of the complete year is required to be declared in GSTR-4 under applicable tax rates. Taxpayers should fill up table 6 of GSTR-4 mandatorily. In case, there is no liability, the said table may be filled up with '0' value. If no liability is declared in table 6, it is presumed that no liability is required to be paid, even though, taxpayer may have paid the liability through Form GST CMP-08. In such cases, liability paid through GST CMP-08 becomes excess tax paid and moves to Negative Liability Statement for utilization of same for subsequent tax period's liability.

What the taxpayer did wrongly: Liability paid through Form GST CMP-08 is auto-populated in table 5 of the GSTR-4 for convenience of the taxpayers. Taxpayers who do not fill up table 6 of GSTR-4 i.e. no liability is declared, even though, taxpayer may have paid the liability through Form GST CMP-08; since the 'Tax payable' in GSTR-4 is computed after reducing the liability declared in GST CMP-08 which is auto-populated in table 5. Thus, if nothing is declared in table 6, then the negative liability entry appears in GSTR-4.

Debit of the negative liability: In the past, lot of tickets were received on the Helpdesk for reducing the negative liability from the Negative Liability Statement and the same was being done. For convenience of the taxpayers, the amount available in negative liability statement have been debited for all taxpayers. It has been noticed that some taxpayers had utilised the amount available in negative liability statement for paying the liability to file statement in Form GST CMP-08 or GSTR-4 of subsequent financial year. In such cases, the amount utilised out of negative liability statement has been debited in the cash ledger. Though, such liability should have been paid by depositing the amount through challan but in some cases the amount had not been deposited by the taxpayers. The

taxpayer who have deposited the amount in cash ledger, the debited amount has been adjusted whereas in case the amount of liability has not been deposited through challan, the balance in cash ledger becomes negative. In such cases, the taxpayers are advised to deposit the past liability through challan of equal amount urgently.

The details of the debit so made have been communicated to all such taxpayers through emails available on the portal. In case, the liability had been paid through adding in the next years' liability, the same can be claimed as refund through application in Form GST RFD-01.

Nidhi (Amendment) Rules, 2022

- The Ministry of Corporate Affairs, vide notification dated 19th April 2022, amended the Nidhi Rules, 2014. Notably, the Nidhi (Amendment) Rules, 2022 make prior declaration from the Central Government mandatory, before accepting the deposits for public companies who are desirous to function as Nidhi's.
- The following clause in Rule 3A of the said rules, after the third proviso, the following fourth proviso shall be inserted, namely:-

Rule 3A fourth proviso "In simple language, as per the fourth proviso to the amendment, if any Nidhi company has not complied or fails to comply with the requirements of this rule, shall not raise any deposit from its members or provide any loan to its members under the provisions of these rules from the date of such non-compliance"

In continuation to the above amendment "if any deposit raised by a company after the date of non-compliance, or the date of commencement of the above said rules, the same shall be treated as deposits, and the requirement of deposits rules under chapter V of the Companies Act, 2013 shall apply.

Provided also that nothing in this rule shall apply to companies incorporated as Nidhi on or after the commencement of the above said rules"

After rule 3A, Rule 3B has been inserted, which explains as follows:

Public company incorporated as a Nidhi company shall within a period of 120 days (one hundred twenty days) of its incorporation in Form NDH-4, fulfils the following conditions:

- i. it has not less than two hundred members; and
- ii. it has Net Owned Funds of twenty lakh rupees or more.

In Rule 4 (1) of the said rules (a) for the words "five lakh rupees", shall be substituted by the words "ten lakh rupees" Hence now a nidhi company shall have minimum capital of Rupees 10 Lakh.

After Rule 4(1) (a), Rule 4 (1) (b) is inserted which explains that on the date of commencement of the Nidhi Amendment Rules, 2022 every Nidhi company shall comply with this requirement within a period of 18 months (eighteen months) from the date of such commencement"

As per rule 5(5), provisions of this rule shall not be applicable for the companies incorporated as Nidhi on or after the commencement of the Nidhi (Amendment) Rules, 2022"

In Rule 8 after 8(3) new sub- rule 8(4) shall be inserted which explains that, a member shall not transfer more than fifty percent of his shareholding (as on the date of availing of loan or making of deposit) during the existence of such loan or deposit, as the case may be. Provided that the member shall retain the minimum number of 10 equity shares equivalent to Rs. 100 at all times"

In Rule 9 there is substantial change in the amount of Net Owned Funds that is required to be maintained by Nidhi Company which was previously Rs. 10 Lakhs now substituted by Rs. 25 Lakhs

Companies (Management and Administration) Amendment Rules, 2022

- The MCA has notified Companies (Management and Administration) Amendment Rules, 2022 to amend the existing set of Rules. The amendment pertains to restricting inspection and extraction of certain details from register, index or return in respect of the members of a company.

- The amended Rule stands as follows:
 - a) The registers and indices maintained and copies of returns shall be open for inspection during business hours, at such reasonable time on every working day as the board may decide, by any member, debenture holder, other security holder or beneficial owner without payment of fee and by any other person on payment of such fee as may be specified in the articles of association of the company but not exceeding fifty rupees for each inspection.
 - b) Any such member, debenture holder, security holder or beneficial owner or any other person may require a copy of any such register or entries therein or return on payment of such fee as may be specified in the articles of association of the company but not exceeding ten rupees for each page. Such copy or entries or return shall be supplied within seven days of deposit of such fee.
 - c) Notwithstanding anything contained in sub-rules (1) and (2), the following particulars of the register or index or return in respect of the members of a company shall not be made available for any inspection under sub-section (2) or for taking extracts or copies under sub-section (3) of section 94, namely:
 - address or registered address (in case of a body corporate);
 - e-mail ID;
 - Unique Identification Number;
 - PAN number.

Companies (Incorporation) Amendment Rules, 2022

- The Ministry of Corporate Affairs (MCA) has notified Companies (Incorporation) Amendment Rules, 2022 to further amend the Companies (Incorporation) Rules, 2014. With this notification, MCA amends the provision related to the application for incorporation of Nidhi Companies and also introduces the Form INC 20A (Declaration for Commencement of Business). This new rule shall come into force on their publication in the Official Gazette.
- Companies (Incorporation) Amendment Rules, 2022 insert Rule 12 in the Companies (Incorporation) Rules, 2014. In Rule 12 (Application for incorporation of companies), the following proviso has been inserted namely:
 - "Provided further that in case of a Company being incorporated as a Nidhi, the declaration by the Central Government under section 406 of the Act shall be obtained by the Nidhi before commencing the business and a declaration on this behalf shall be submitted at the stage of incorporation by the company"

COMPLIANCE CALANDER

Direct Taxes

May 07, 2022

- Due date for deposit of tax deducted/collected for the month of April 2022.

May 15, 2022

- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB & 194M in the month of March, 2022.
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of April, 2022 has been paid without the production of a challan.
- Quarterly statement of TCS deposited for the quarter ending March 31, 2022.
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes have been modified after registering in the system for the month of April, 2022.

May 30, 2022

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194M in the month of March, 2022.
- Due date for Issue of TCS certificates for the 4th Quarter of the Financial Year 2021-22.
- Due date for quarterly statement of TDS deposited for the quarter ending March 31, 2022.

May 31, 2022

- Due date for furnishing of statement of financial transaction (in Form No. 61A) as required to be furnished under sub-section (1) of section 285BA of the Act respect for financial year 2021-22.
- Due date for e-filing of annual statement of reportable accounts as required to be furnished under section 285BA(1)(k) (in Form No. 61B) for calendar year 2021 by reporting financial institutions.
- Application for allotment of PAN in case of non-individual resident person, which enters into a financial transaction of Rs. 2,50,000 or more during FY 2021-22 and hasn't been allotted any PAN.

Indirect Taxes

May 10, 2022

- Due date for filing of GSTR 7 (Tax Deductor) and GSTR 8 (Tax Collector).

May 11, 2022

- Due date for filing of GSTR 1 for Regular Taxpayers.

May 13, 2022

- Due date for filing of GSTR-6.

May 20, 2022

- Due date for filing of GSTR 3B (Regular Tax Payer)
- Due date for filing of GSTR 3B (Annual Turnover of more than INR 5cr in Previous FY - April 2022)
- Due date for filing of GSTR 5 (Non-Resident Taxable Person).
- Due date for filing of GSTR 5A (Non-Resident OIDAR Service Provider).

May 25, 2022

- Due date for filing of PMT-06 (Under QRMP Scheme)

MCA

May 30, 2022

- Due date for furnishing LLP Form- 11.
- Due date for furnishing Form PAS 6.



Do You Know?

State government employees can claim deduction under Section 80CCD (2) for NPS contribution by the employer up to 14 % of their basic salary and dearness allowance. Earlier the limit was 10 % of their basic salary and dearness allowance.

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ABOUT US

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