



Welcome to our  
monthly newsletter

We bring you a concise and noteworthy regulatory developments in Income Tax, Goods & Services Tax, Companies Act during May 2022. We had tried to cover all important updates occurred during May 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](mailto:info@nucleusadvisors.in).



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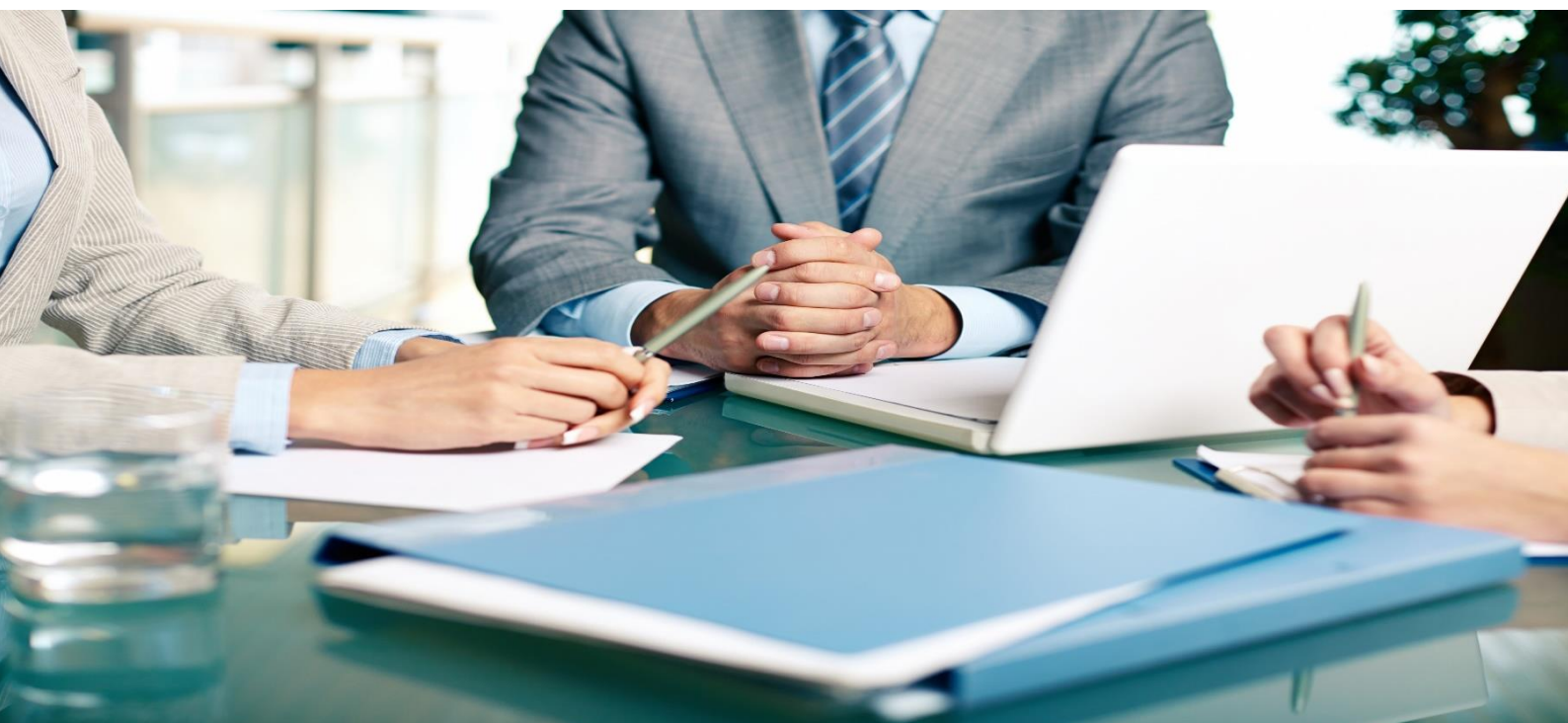
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## Why this Volume of Newsletter is important for reader?

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.



# NEWSLETTER HIGHLIGHTS

## Direct Tax Updates

- Amendment in Rule 44E (Application for Obtaining an advance ruling u/s 245Q(1) )
- Amendment in Form 3CF, 10A, 10AB, 10BD
- Application for PAN is mandatory for transaction specified in Rule 114BA
- Insertion of Rule 44FA for Form and manner of filing appeal to the High Court u/s 245W(1)
- Exemption notified for specified incomes u/s 10(46) in the case of 'National Biodiversity Authority'
- Judicial Updates

## GST Updates

- Reporting 6% rate in GSTR-1.
- Annual Aggregate Turnover (AATO) computation for FY 2021-22
- Waiver of GSTR-4 Late Fee.

## MCA Updates

- Relaxation in paying additional fees for LLP (Form 11) in case of delay.
- No additional fees in case of delay of Event based form for LLP's up to June 30, 2022.
- Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- Restrictions on Section 8 Companies to carry micro finance activities.
- MCA issued clarification on passing of Ordinary and Special resolutions under the Companies Act on account of COVID-19 extension.
- Clarification of holding of Annual General Meeting (AGM) through Video Conference (VC) or Other Audio-Visual Means (OAVM).
- MCA tweaks Form SH-4 to include a declaration from transferee.



## DIRECT TAX UPDATES

### Amendment in Rule 44E (Application for Obtaining an advance ruling u/s 245Q(1) ) :- Notification No.49/2022

CBDT has issued the Income-tax (Twelfth Amendment) Rules, 2022 to further amend Rule 44E of the Income-Tax Rules, 1962 with respect to an application for obtaining an advance ruling under Section 245Q (1) and introduces amended FORM No. 34C, 34D, 34DA, 34E, and 34EA.

In rule 44E which specifies the Application for obtaining an advance ruling, sub-rule (2) has been substituted, as follows:

“(2) The application referred to in sub-rule (1), the verification, the annexures, and the statements and documents accompanying the annexures of the application, shall be signed and verified as under:



| In case of       | Digitally Signed  | Sign and Verification   | Where, for any unavoidable reason it is not possible to sign the application by the person as specified in Column 3 (4) |
|------------------|---|---|---|
| Individual       | Yes, if it's required under these rules to furnish his return of income under digital signature or communicated through his registered e-mail address | By himself  | By any person duly authorized by him on this behalf   |
| HUF              |   | By the Karta  | By any adult member of such family  |
| Company          | Yes   | By the managing director  | By any person duly authorized by the company on this behalf   |
| Firm             | Yes, if it's required under these rules to furnish his return of income under digital signature or communicated through his registered e-mail address | By the managing partner   | By any partner not being a Minor  |
| AOP              |   | By any member of the association or the principal officer             |   |
| Any other person |   | By that person or by some other person competent to act on his behalf |   |

The person signing the application as specified in column 4 of the above table holds a valid power of attorney to do so, which shall be attached to the application

#### Amendment in Form 3CF, 10A, 10AB, 10BD :- Notification No. 51/2022

CBDT has issued the income-tax (Fourteenth Amendment) Rules, 2022 to further amend the Income-tax Rules, 1962.

The following amendments have been made:

- Form 3CF, which specifies Application for registration or approval under section 35 has been amended.
- Form 10A, which specifies Application for registration or provisional registration or intimation or approval or provisional approval has been amended
- Form 10AB, which specifies Application for registration or approval has been amended.
- Form 10BD, which specifies Statement of particulars to be filed by reporting person under clause (viii) of section 80G(5) and clause (i) of section 35(1A) of the Income-tax Act, 1961 has been amended.
- Form 10BE, which specifies Certificate of donation under clause (ix) of section 80G(5) and under clause (ii) of section 35(1A) of the Income-tax Act, 1961 has been substituted.

Full Notification:- <https://www.incometaxindia.gov.in/communications/notification/notification-no-51-2022.pdf>

#### Application for PAN is mandatory for transaction specified in Rule 114BA :- Notification No. 53/2022

CBDT has issued the income-tax (Fifteenth Amendment) Rules, 2022 to further amend the Income-tax Rules, 1962.

The following amendments have been made:

- In Rule 114, which specifies Application for allotment of a permanent account number, in sub-rule (3), clause (vii) has been inserted, namely:

“(vii) in the case of a person who intends to enter into the transaction specified in Rule 114BA here specified in Column (2) of the table, Shall apply for PAN at least seven days before the date on which he intends to enter into the said transaction and every person specified in column (3) of the said Table, who receives such document, shall ensure that the said number has been duly quoted and authenticated

| S.No. | Nature of Transaction   | Person  |
|-------|---|---|
| (1)   | (2)   | (3)   |
| 1.    | Cash deposit or deposits aggregating to twenty lakh rupees or more in a financial year, in one or more account of a person with, –<br>1. A banking company or a co-operative bank<br>2. Post Office       | 1. A banking company or a co-operative bank<br>2. Post Master General |
| 2.    | Cash withdrawal or withdrawals aggregating to twenty lakh rupees or more in a financial year, in one or more account of a person with, –<br>1. A banking company or a co-operative bank<br>2. Post Office | 1. A banking company or a co-operative bank<br>2. Post Master General |
| 3.    | Opening of a current account or cash credit account by a person with, –<br>1. A banking company or a co-operative bank<br>2. Post Office  | 1. A banking company or a co-operative bank<br>2. Post Master General |

#### Insertion of Rule 44FA for Form and manner of filing appeal to the High Court u/s 245W(1) :- Notification No. 57/2022

In the Income-tax Rules, 1962, after rule 44F, the following rule shall be inserted, namely: -

“44FA. Form and manner of filing appeal to the High Court on ruling pronounced or order passed by the Board for Advance Rulings under section 245W (1).” The form and manner of filing appeal to the High Court under section 245W(1) of the Act against a ruling pronounced or order passed by the Board for Advance Rulings by the assessee, or the Assessing Officer on the directions of the Principal Commissioner or Commissioner, shall be the same as provided in the applicable procedure laid down by the jurisdictional High Court for filing an appeal to the High Court.”

#### Exemption notified for specified incomes u/s 10(46) in the case of ‘National Biodiversity Authority’: - Notification No.58/2022

CBDT notifies Tax Exemption to National Biodiversity Authority in respect of the following specified income arising to the Authority, namely:

- a) amount received in the form of grant-in-aid from the Government of India
- b) benefit sharing fee and royalty received
- c) amount received in the form of application fees; and
- d) interest earned on (a) to (c) above.

This notification shall be effective subject to the conditions that National Biodiversity Authority, Chennai:-

- 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 section 139 of the Income-tax Act, 1961

The Delhi High Court, while disposing off the writ petition filed by the taxpayer, held that where due to technical difficulties, the Central Processing Centre (CPC) is unable to grant interest under section 244A of the Income-tax Act, 1961 (the Act) upto the date of issuance of refund, the Tax Officer (TO) will pass a manual order. Upon uploading of the order on the Income-tax Business Application (ITBA) portal, the CPC will issue the refund.

### Background

- In the intimation under section 143(1) of the Act, interest under section 244A of the Act had been computed upto the date of issuance of intimation, i.e. 31 March 2021.
- The taxpayer received the refund determined in the intimation under section 143(1) of the Act in April 2022, resulting in short grant of interest under section 244A of the Act for the period of 13 months (i.e. from April 2021 till April 2022).

### Taxpayer's contention

- Interest under section 244A of the Act to be granted till the date of issuance of refund.

### Revenue's contention

- As per the instruction received from CPC Bangalore, the functionality for grant of interest under section 244A of the Act till the date of actual issuance of refund is under development; hence, the TO can grant interest under section 244A of the Act by passing a manual order and uploading the same on the ITBA portal, and the refund would thereafter be issued by the CPC.

### High Court's decision

- In view of the instruction issued by the CPC, the TO is directed to grant interest under section 244A of the Act till the date of issuance of the refund by passing a manual order. Upon uploading of the order on ITBA portal, the CPC is directed to issue the refund within six weeks.
- This Ministry has received representation seeking an extension on timelines for filing the Annual Return (Form 11) by LLPs without paying additional fees.
- In view of the transition from version-2 of MCA-21 to version-3 and to promote compliance on part of LLPs, it has been decided to allow LLPs to file e-Form 11 (Annual Return of Limited Liability Partnership) for the Financial Year 2021-2022 without paying additional fees up to June 30, 2022.

## Reporting 6% rate in GSTR-1

A new tax rate of 6% IGST and 3% CGST + 3% SGST has been introduced on the goods mentioned below through notification No.02/2022:

| Sl.No. | Tariff item, sub-heading, heading or Chapter | Description   |
|--------|--|---|
| 1.     | 6815   | Fly ash bricks or fly ash aggregate with 90 % or more fly ash content; Fly ash blocks |
| 2.     | 6901 00 10                                   | Bricks of fossil meals or similar siliceous earths                                    |
| 3.     | 6904 10 00                                   | Building bricks   |
| 4.     | 6905 10 00                                   | Earthen or roofing tiles  |

Changes are made on GST portal to include this rate in GSTR-1 and 6% tax rate has been added in all the table except HSN table 12, which will be made available shortly. Therefore, taxpayer who have to report these goods can do so by reporting taxable value under 6% heading and for the HSN table taxpayer can report these goods under tax rate 5% and then increase the system computed tax manually.

## Annual Aggregate Turnover (AATO) computation for FY 2021-22

The functionality of AATO for the FY 2021-22 is made available to the taxpayer's dashboards. It includes following features:

- Taxpayer can view the exact Annual Aggregate Turnover (AATO) for the previous period as well as Aggregate turnover for the current period on the basis of return filed by the taxpayer.
- In case taxpayer feels that system calculated turnover is different from the turnover as per records then the taxpayer can avail **facility of turnover updation.**
- This facility is provided to all the GSTINs which is registered on the common PAN and all the changes made to each GSTIN will be summed up while computing Annual Aggregate Turnover.
- The taxpayer can only amend their turnover twice in the month of May,22 and after that the figures will be sent for the review of Jurisdictional Tax officer who can amend the values provided by the taxpayer wherever required.

## Waiver of GSTR-4 Late Fee - Notification No. 07/2022 - Central Tax dated May 26, 2022

Late fee payable for delay in furnishing of FORM GSTR-4 for the Financial Year 2021-22 under section 47 of the said Act shall stand waived for the period from May 1, 2022 till June 30, 2022.



## Relaxation in paying additional fees for LLP (Form 11) in case of delay-

- This Ministry has received representation seeking an extension on timelines for filing the Annual Return (Form 11) by LLPs without paying additional fees.
- In view of the transition from version-2 of MCA-21 to version-3 and to promote compliance on part of LLPs, it has been decided to allow LLPs to file e-Form 11 (Annual Return of Limited Liability Partnership) for the Financial Year 2021-2022 without paying additional fees up to June 30, 2022.

## No additional fees in case of delay of Event based form for LLP's up to June 30, 2022-

- Based on the representations received by the MCA, seeking an extension of timelines for filing the event-based forms by LLP's without paying additional fees in view of the transition from version - 2 of MCA - 21 to version - 3.
- Keeping in view these representations and to promote compliance on part of the LLP's, the MCA has decided to allow LLP's to file various event-based LLP e - Forms, due dates which are falling between February 25, 2022, and May 31, 2022, without paying additional fees up to June 30, 2022

## Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

- Through this amendment, MCA has added a new sub-rule 4 in Rule 25A of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, to provide that in case of a compromise or an arrangement or merger or demerger between an Indian company and a company or body corporate which has been incorporated in a country which shares a land border with India, a declaration in Form No. CAA-16 shall be required at the stage of submission of an application under Section 230 of the Act.
- Accordingly, a new Form CAA - 16 is also notified which is to be signed by the authorised representative of the companies involved and a declaration to be provided that whether the company/body corporate is not required to obtain prior approval under the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 or not.
- A copy of the approval is also required to be attached with the Form CAA-16.

## Restrictions on Section 8 Companies to carry micro finance activities

- MCA has been observed that various Section 8 companies are altering their object clause for carrying out micro-finance activities by way of passing Special Resolution, changing Activity code and subsequently filing of e-form MGT-14 with the concerned ROCs, even though at initial incorporation, the ROC (CRC) is not allowing Section 8 companies to get incorporated with the objects of microfinance activities.
- It is clarified that immediate action on the part of RoCs is required as per law, including changing their objects to prevent such companies from carrying out micro-finance activities.
- Further, the Office of DCoA shall ensure strict compliance by all the ROCs with the instructions contained in the letters issued earlier by the Ministry on this subject. Further, the ROCs shall also circulate these directions to all the officers/officials to ensure examination in accordance with the law, while processing e-forms relating to Incorporation of Companies and Change in Objects of the MOA of Section 8 companies registered under the Companies Act, 2013.

### **MCA issued clarification on passing of Ordinary and Special resolutions under the Companies Act on account of COVID-19 extension**

- The MCA issued clarification on passing of Ordinary and Special resolutions by the companies under the Companies Act read with rules made thereunder on account of COVID-19 extension of timeline.
- After due examination, it has been decided to allow companies to conduct their EGMs through Video Conference (VC) or Other Audio Visual Means (OAVM) or transact items through postal ballot in accordance with framework provided in the aforesaid Circulars up to December 31, 2022.

### **Clarification of holding of Annual General Meeting (AGM) through Video Conference (VC) or Other Audio-Visual Means (OAVM)**

- It has been decided to allow the companies whose AGMs are due in the Year 2022, to conduct their AGMs / EGMs on or before 31st December, 2022 through Video Conference (VC) or Other Audio Visual Means (OAVM).
- This Circular shall not be construed as conferring any extension of time for holding of AGMs by the companies. For seeking extension of date for holding AGM, Companies must follow the procedure prescribed under the provisions of the Companies Act, 2013 and file requisite Application in e-Form GNL-1:
- It is further clarified that this Circular shall not be construed as conferring any extension of time for holding of AGMs by the companies under the Companies Act, 2013 (the Act) and the companies which have not adhered to the relevant timelines shall be liable to legal action under the appropriate provisions of the Act.

### **MCA tweaks Form SH-4 to include a declaration from transferee**

- The MCA has notified the Companies (Share Capital and Debentures) Amendment Rules, 2022 whereby 'Securities Transfer Form' i.e. Form SH-4 has been revised to include a declaration from the transferee that "no Govt. approval is required under the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 prior to the transfer of shares or where the transferee is required to obtain the Government approval prior to the transfer of shares, the same has been obtained and is enclosed herewith the form.
- In the Companies (Share Capital and Debentures) Rules, 2014, in the Annexure, in Form No.SH-4, before the Enclosures, the following declaration shall be inserted, namely-
  - a) The transferee is not required to obtain the Government approval under the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 prior to the transfer of shares; or
  - b) The transferee is required to obtain the Government approval under the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 prior to the transfer of shares and the same has been obtained and is enclosed herewith.

# COMPLIANCE CALANDER

## Direct Taxes

### June 07, 2022

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

### June 14, 2022

- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB & 194M in the month of April, 2022.

### June 15, 2022

- Quarterly TDS certificates (in respect of tax deducted for payments other than salary) for the quarter ending March, 2022.
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of May, 2022 has been paid without the production of a challan.
- First instalment of advance tax for the assessment year 2023-24.
- Certificate of tax deducted at source to employees in respect of salary paid and tax deducted during Financial Year 2021-22.
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of May, 2022.
- Furnishing of statement (in Form No. 64D) of income paid or credited by an investment fund to its unit holder for the previous year 2021-22.

### June 29, 2022

- Due date for e-filing of a statement (in Form No. 3CEK) by an eligible investment fund under section 9A in respect of its activities in financial year 2021-22 Due date for Issue of TCS certificates for the 4th Quarter of the Financial Year 2021-22.

### June 30, 2022

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194IM in the month of May, 2022.
- Return in respect of securities transaction tax for the financial year 2021-22.
- Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending March 31, 2022.
- Furnishing of Equalisation Levy statement for the Financial Year 2021-22.

## Indirect Taxes

### June 10, 2022

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

### June 11, 2022

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

### June 13, 2022

- Due date for filing of GSTR-6 & GSTR1/IFF

### June 20, 2022

- Due date for filing of GSTR 3B (Regular Tax Payer)
- Due date for filing of GSTR 5 (Non-Resident Taxable Person).
- Due date for filing of GSTR 5A (Non-Resident OIDAR Service Provider).

### June 25, 2022

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



### Do You Know?

GST collection in May 2022 increased 44% on year to hit Rs 1.4 lakh crore but dropped 16% month-on-month. In April 2022, GST collections hit an all-time high of Rs 1.68 lakh crore.

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# ABOUT US

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