



Welcome to our
monthly newsletter

We bring you a concise and noteworthy regulatory developments in Income Tax, Goods & Services Tax, Companies Act during August 2022. We had tried to cover all important updates occurred during August 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.



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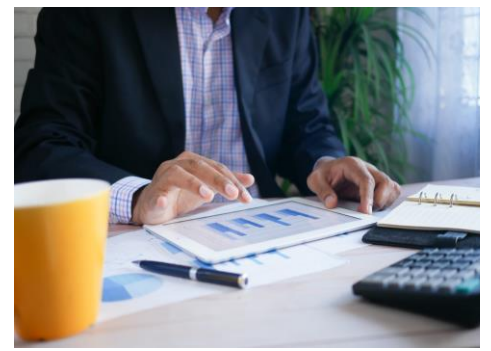
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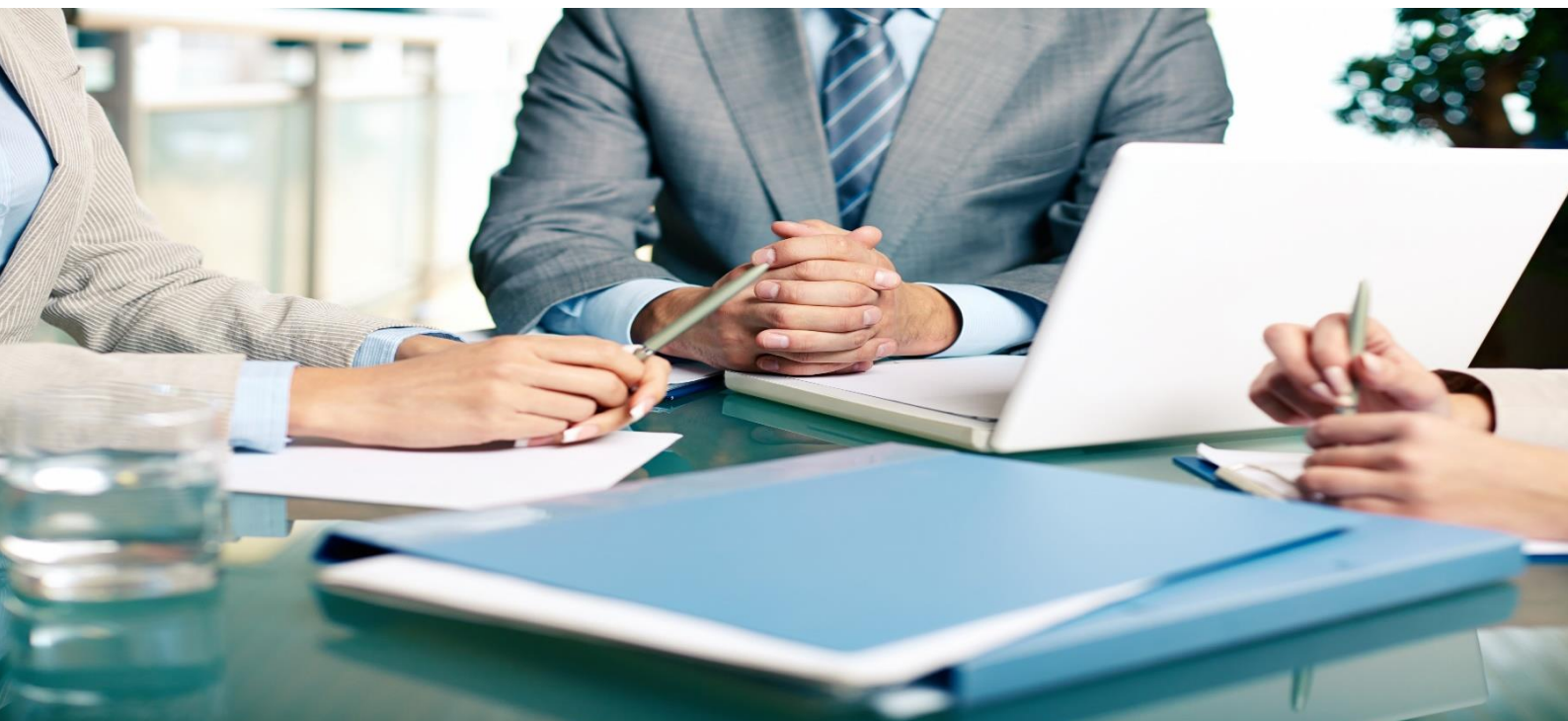
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Why this Volume of Newsletter is important for reader?

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.



Direct Tax Updates

- Every fund or institution or trust etc. is required to maintain books and documents specified: -Notification No. 94/2022
- Amendment in Rule 17CB to replace 'trust or institution' with 'specified person' to incorporate FA 2022 amendment: -Notification No. 101/2022

GST Updates

- Clarifications regarding applicable GST rates & exemptions on certain services (Circular No. 177/09/2022-GST; dated Aug 03, 2022)
- Clarification regarding GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law (Circular No.178/10/2022-GST; dated Aug 03, 2022)
- Clarification regarding GST rates & classification on certain goods (Circular No.179/11/2022-GST; dated Aug 03, 2022)
- Notification No. 17/2022-Central Tax
- Introducing Single Click Nil Filing of GSTR-1

MCA Updates

- MCA issued FAQs on V3 COMPANY FORMS (Director KYC, Charge & Deposit Forms)
- Physical Verification of Registered Office
- Companies (Removal of names) Second Amendment Rule, 2022
- Companies (Appointment and Qualification of Directors) Third Amendment Rules, 2022
- Companies (Acceptance of Deposit) Amendment Rules, 2022



DIRECT TAX UPDATES

Every fund or institution or trust etc. is required to maintain books and documents specified: -
Notification No. 94/2022

Every fund or institution or trust or any university or other educational institution or any hospital or other medical institution which is required to keep and maintain books of account and other documents, shall keep and maintain the following, namely -

- books of account, including cash book, ledger; journal, copies of bills, whether machine numbered or otherwise serially numbered, wherever such bills are issued by the assessee, and copies or counterfoils of machine numbered or otherwise serially numbered receipts issued by the assessee etc.
- books of account, as referred in clause (a), for business undertaking referred section 11(4) of the Act
- other documents for maintaining, -
 - record all the projects and institutions run by the person containing details of their name, address, and objectives.
 - record of income of the person during the previous year, in respect of, voluntary contribution containing details of name of the donor, address, permanent account number (if available) and Aadhaar number (if available) and income from property held under trust referred to under section 11 of the Act along with list of such properties;
 - the contribution received during the previous year containing details of name of the donor, address, permanent account number (if available) and Aadhaar number (if available);

- money invested or deposited in the forms and modes other than those specified in subsection (5) of section 11 of the Act in which such voluntary contribution, received during the previous year, is invested or deposited etc.

The books of accounts and other documents specified above may be kept in written form or in electronic form or in digital form or as print-outs of data stored in electronic form or in digital form or any other form of electromagnetic data storage device and shall be kept and maintained for a period of ten years from the end of the relevant assessment year.

Amendment in Rule 17CB to replace ‘trust or institution’ with ‘specified person’ to incorporate FA 2022 amendment: -Notification No. 101

Section 115TD of the Income-tax Act provides that trust or institution is liable to pay additional income tax on the accreted income, which arises on the conversion of trust into the non-charitable form or on transfer of assets of a charitable trust on its dissolution to a non-charitable institution.

The Finance Act, 2022 had amended provisions of section 115TD with effect from 1st April 2023 to make them applicable to any institution covered under section 10(23C)(iv)/(v)/(vi)/(via). Broadly, the amendment has been carried out by substituting the words “trust or institution” with the words “specified person” and “specified person” has been defined as follows:

- (a) any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10; or
- (b) a trust or institution registered under section 12AA or section 12AB;’.

Rule 17CB of the Income-tax Rules 1962 provides for the method of valuation of accreted income for the purposes of section 115TD.

Rule 17CB has been amended to replace the words “trust or institution” with the words “specified person” wherever they occur in the Rule.

Relevant Circulars Issued by CBIC

- Clarifications regarding applicable GST rates & exemptions on certain services (Circular No. 177/09/2022-GST; dated Aug 03, 2022):

S.No.	Related To	Clarification by CBIC
1.	Printing, writing or drawing ink	12 t GST charged and paid at 5% without claiming ITC during the period 1 July 17 to 5 October 2021 will be considered as GST paid in full. And if GST is paid at 18%, CBIC clarified that no refund will be allowed for GST, in order to avoid unnecessary litigation.
2.	Higher/ Additional toll charges collected for not having FASTAG on vehicle	That the additional fee in the form of higher toll charges collected for not having FASTAG is in the nature of toll charges thus, it is exempted as per Entry 23 of exemption notification.
3.	Selling of space for advertisement in souvenirs	That 'print media includes souvenir books and thus, will attract GST at 5%.
4.	Fees charge by educational institution on Application fees for entrance, eligibility certificate for admission & Issuance of migration certificate.	That these are covered under Entry 66 of exemption notification, thus exempt under GST.
5.	RCM applicability on service of transportation of passengers (or on renting of a motor vehicle designed to carry passengers	That RCM will be applicable only if a body corporate 'rents' or 'hires' a motor vehicle and not when it avails service of transportation of passengers.
6.	Location Charges (LC) or Preferential Location Charges (PLC) collected in addition to the lease premium for a long-term lease of land	That location charge is part of the consideration charged for longterm lease of the plot. Since it is charged upfront, the same is exempt as per Entry 41 of exemption notification.
7.	Honorarium to the Guest Anchors	GST will be applicable however Guest Anchor not required to take registration if aggregate turnover not exceeding Rs. 20L.

- Clarification regarding GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law (Circular No.178/10/2022-GST; dated Aug 03, 2022):
 - Forfeiture of salary or payment of amount as per the employment bond for leaving the employment before the minimum agreed period:
Amounts recovered by the employer is not a consideration for tolerating the act of such premature quitting of employment, but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation. Accordingly, the same are not taxable under GST.
 - Cheque dishonour fine/ penalty:
The fine/ penalty that the supplier or banker imposes for dishonour of a cheque, is a penalty imposed for not tolerating the act or situation, but penalizing with the aim to deter and discourage such an act or situation. Therefore, such fine/ penalty is not a consideration for any service thus not taxable under GST.

- Penalty imposed for violation of Laws:
Penalty imposed for violation of laws such as traffic violations, pollution norms violation, etc. are not consideration for any supply received thus not taxable under GST.
 - Late payment charges:
These are ancillary supply naturally bundled and supplied in conjunction with the principal supply. Thus, taxability arises If principal supply is also taxable.
- Clarification regarding GST rates & classification on certain goods (Circular No.179/11/2022-GST; dated Aug 03, 2022):
- Electric vehicles whether or not fitted with a battery pack, shall attract GST rate of 5%.
 - Treated sewage water attracts Nil rate of GST.
 - GST rate applicability (HSN 0804)
 - a) Fresh Mangoes - Exempt
 - b) Mangoes Sliced & Dried - 5%
 - c) All other form of dried mango including mango pulp -12%

Relevant Notifications Issued by CBIC

S.No.	Notification No.	Content of Notification
1	Notification No. 17/2022-Central Tax	The Notification is related to E-invoicing E-invoicing is applicable for taxpayers having turnover more than 10 crores. The effective date of Notification is October 01, 2022

Relevant Updates on GST Portal

- Introducing Single Click Nil Filing of GSTR-1:

Single click Nil filing of GSTR-1 has been introduced on the GSTN portal to improve the user experience and performance of GSTR-1/IFF filing. Taxpayers can now file NIL GSTR-1 return by simply ticking the checkbox File NIL GSTR-1 available at GSTR-1 dashboard.

MCA issued FAQs on V3 COMPANY FORMS (Director KYC, Charge & Deposit Forms)

- It is clarified that Set 1 forms covering 9 forms are being migrated to V3 while the remaining Company forms are still in the V2 portal.
- This phased migration is done to enable a smooth transition of the portal.
Forms covered in Set 1 forms are:
 - CHG-1
 - CHG-4
 - CHG-6
 - CHG-8
 - CHG-9
 - DIR-3 KYC E-form
 - DIR-3 KYC web
 - DPT-3
 - DPT-4
- Effective from 31st August 2022, Company are required to be filed in V3 post log in on the MCA21 V3 Portal and other remaining company forms will be continued to be filed in the same manner as earlier in V2.
- MCA has also clarified that in the V2, forms are required to be filled and uploaded in the portal while in V3 the forms are to be filled online. This enables user convenience including the ability to save a half-filled form and file it later.
- Further in V2, there was only a My Workspace which had a list of notices from MCA and circulars issued by them. In V3, there is a personalised “My Application” feature that allows one to view all the forms filed by them to date along with the status of the forms such as pending for DSC upload and Payment, Under Processing, Pay fees, Resubmission, etc.
- When a user logs in to V3, the login is through the email id whereas in V2 it was possible with the user id. When a business user logs in to the MCA system, an OTP will be sent to your mobile and e-mail address to ensure the authenticity of the user. As all Forms have been made Web-based, all Set 1 forms excluding DIR-3 KYC web are required to be filed through Business user’s accounts only.
- Filing of the SET 1 forms through a registered user account has been discontinued. It is further clarified that few attachments have been removed and the required information is either captured in machine-readable format within the form itself or in the form of a declaration.
- It is also clarified that any DIN holder who is filing his KYC details for the first time with MCA, must file all KYC details only through eForm DIR-3 KYC.
- There is no option for such a person to access the web service for his KYC. Further, any DIN holder who wants to update any information of his KYC details must update the same through the filing of eForm DIR-3 KYC only.
- Please note that no update in details can be made by accessing the web service for DIR-3 KYC.

Physical Verification of Registered Office: -

- In the Companies (Incorporation) Rules, 2014, Rule 25B relating to Physical verification of the Registered Office of the company has been inserted.
- The Rule provides that If Registrar has a reasonable cause to believe that the Company is not carrying on any business or operations pursuant to section 12(9) of the Companies Act, 2013, the Registrar may carry out Physical verification of the Registered Office.
- The physical verification of the said registered office should be done in presence of two independent witnesses of the locality in which the said registered office is situated and may also seek the assistance of the local Police for such verification if required.
- Further, the Registrar shall carry the documents as filed with the MCA while physical verification and shall cross-check with the documents filed by the Company.
- The Registrar shall take a photograph of the registered office while performing physical verification. The report of such verification shall be prepared and relevant attachments shall be attached.
- Where the registrar is not getting any reply from the Company on the notices sent by it, the Registrar shall send a notice to the Company and its directors of intention to remove the name of the Company from the register of companies within 30 days from the notice.

Companies (Removal of names) Second Amendment Rule, 2022: -

- MCA further amend the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016, which shall come into force on the date of their publication in the Official Gazette i.e. August 24, 2022.
- Through this amendment, MCA has revised Form No. STK-1, Form No. STK-5 and Form No. STK-5A to capture the declaration that the company is not carrying on any business or operations, as revealed after the physical verification, as carried out by the Registrar of companies under the provisions of Section 12(9) of the Companies Act, 2013

Companies (Appointment and Qualification of Directors) Third Amendment Rules, 2022: -

- The amended Rules shall come into force on the date of their publication in the Official Gazette i.e. August 29, 2022.
- Keeping in mind the launch of MCA V3 for Companies Act Forms, MCA has released the amended version of the Forms DIR-3-KYC and web-form DIR-3-KYC-WEB and the same have been substituted in place of the old forms.
- It is clarified that in the case of Indian nationals, the Income-tax Permanent Account Number (Income-tax PAN) is mandatory in all cases even if there is no change in Income-tax PAN. In such cases, director details should be as per Income-tax PAN.
- In case the details as per Income-tax PAN are incorrect, the director/designated partner is advised to first correct the details in Income-tax PAN. The new forms would be made available from September 01, 2022 on the MCA portal.

Companies (Acceptance of Deposit) Amendment Rules, 2022: -

- The ministry of corporate affairs has amended rules to mandate detailed disclosure of funds accepted by companies under the Companies (Acceptance of Deposit) Rules.
- MCA also notified new forms for reporting details of deposits. Businesses will now be required to file by 30 June every year a return of deposits as per audited figures. Businesses will also have to report loans or advances received by the company from directors, shareholders, promoters or banks and financial institutions, which are referred to as exempted deposits.
- Further, Statutory Auditors will be required to submit a declaration with respect to the exempted deposits and liquid assets. This move will help in ensuring greater transparency in reporting obligations.

COMPLIANCE CALANDER

Direct Taxes

September 07, 2022

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

September 14, 2022

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

September 15, 2022

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of August, 2022 has been paid without the production of a challan
- Due date for furnishing statement in Form no. 3BB by a stock exchange
- Due date for Second instalment of advance tax for the assessment year 2023-24

September 30, 2022

- Due date for filing of audit report under section 44AB for the assessment year 2022-23 in the case of a corporate-assessee or non-corporate assessee.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194M in the month of August, 2022

Indirect Taxes

September 10, 2022

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

September 11, 2022

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

September 13, 2022

- Due date for filing of GSTR-6

September 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).

September 25, 2022

- Due date for payment in GST PMT 06 under QRMP Scheme.



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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