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Welcome to our  
Monthly Newsletter

We bring you a concise and noteworthy regulatory developments in Income Tax, Goods & Services Tax, Companies Act during July 2023. We had tried to cover all important updates occurred during July 2023 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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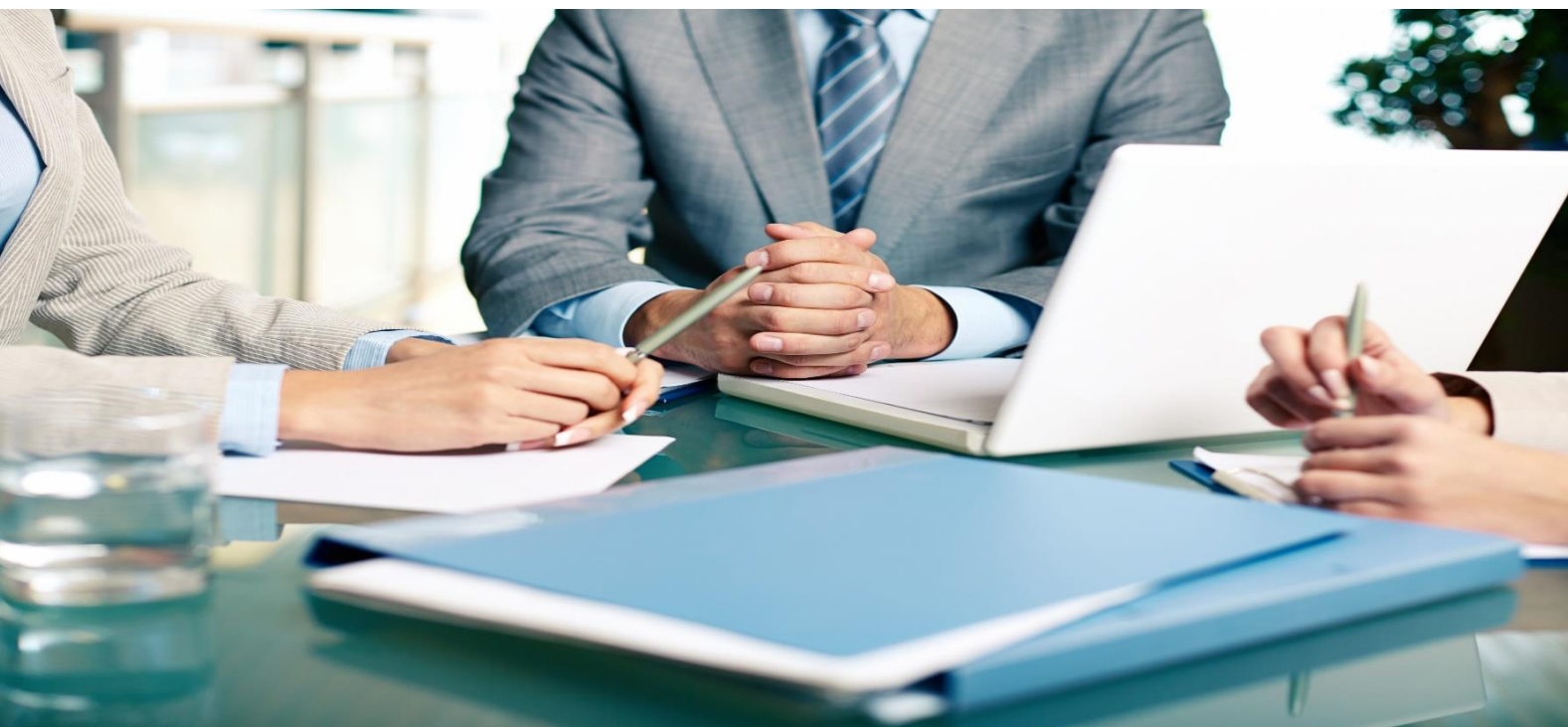
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## Why this Volume of Newsletter is important for reader?

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 July 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

- Explanation on “Investment Fund” defined under Notification vide number S.O.2672(E), dated 26/07/19
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### Notifications Issued

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- Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01.04.2019 to 31.12.2021
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- Taxability of Shares held by Holding Company in Subsidiary Company:
- Clarification on refund related issues:
- Clarification on issues pertaining to e-invoicing:
- Clarification on taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons:
- Due dates for GSTR-1, GSTR-3B, and GSTR-7 have been extended for the state of Manipur.
- Clarification on taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons

## MCA Updates

- Merger of Multiple User Id of Professionals on MCA
- Introduction of Refund form on V3 portal

## Audit Updates

- New Accounting Standard on Insurance
- ICAI released Exposure Draft for Tax Audit



## DIRECT TAX UPDATES

### Explanation on “Investment Fund” defined under Notification vide number S.O.2672(E), dated 26/07/19

“Investment fund” means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);”

### No TDS on Dividend by any unit of IFSC engaged in Business of “Leasing of Aircraft”

No deduction of income tax shall be made under section 194 of the Income-tax Act from any income in the nature of dividend paid by any unit of an International Financial Services Centre, primarily engaged in the business of leasing of an aircraft (hereinafter referred as payer) to a company, being a Unit of an International Financial Services Centre primarily engaged in the business of leasing of an aircraft subject to the following:

- (a) The payee shall, -

- (i) furnish a statement-cum-declaration in Form No. 1 to the payer giving details of previous year relevant to the assessment year in which the dividend income eligible for exemption under clause (34B) of section 10 of Income-tax Act is payable.
- (ii) such statement-cum-declaration shall be furnished and verified in the manner prescribed in Form No. 1 for the previous year relevant to the assessment year in which the dividend income eligible for exemption under clause (34B) of section 10 of Income-tax Act is payable.

(b) The payer shall, -

- (i) not deduct tax on payment made or credited to the recipient of such dividend (payee) after the date of receipt of copy of statement-cum-declaration in Form No. 1 from payee;
- (ii) furnish the particulars of all the payments made to the recipient of such dividend on which tax has not been deducted in view of this Notification in the statement of deduction of tax referred to in sub-section (3) of section 200 of the Income-tax Act, read with the rule 31A of the Income-tax Rules, 1962.

## Income Tax (Twelfth Amendment) Rules, 2023

Key Amendment in the Income-tax Rules, 1962

- In rule 21AK, for sub-rule (1), the following sub-rule shall be substituted, namely:

“(1) The income accrued or arisen to, or received by, a non-resident as a result of

- (a) transfer of non-deliverable forward contracts or offshore derivative instruments or over-the-counter derivatives; or
- (b) distribution of income on offshore derivative instruments, under clause (4E) of section 10 of the Act, shall be exempted subject to fulfilment of the following conditions, namely:—
  - (i) the non-deliverable forward contract or offshore derivative instrument or over-the-counter derivative is entered into by the non-resident with an offshore banking unit of an International Financial Services Centre which holds a valid certificate of registration granted under International Financial Services Centres Authority (Banking) Regulations, 2020 by the International Financial Services Centres Authority; and
  - (ii) such contract, instrument or derivative is not entered into by the non-resident through or on behalf of its permanent establishment in India.”;

- In rule 114AAB, in the Explanation, for clause (a), the following clause shall be substituted, namely:

- (a) “specified fund” means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019) and which is located in any International Financial Services Centre or a specified fund referred to in sub-clause (i) of clause (c) of Explanation to clause (4D) of section 10;”.

- In Form No. 64D, —

- (A) Against serial number 7, for paragraph (i), the following para shall be substituted, namely:
  - “(i) Whether registered as Alternative Investment Fund with Securities and Exchange Board of India under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 or the International Financial Services Centres Authority (Fund Management) Regulations, 2022:”

- (B) in serial number 12, for the paragraph starting with “Attach a copy of the certificate of registration” and ending with “Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.”, the following paragraph shall be substituted, namely: – “Attach a copy of the certificate of registration under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 or the International Financial Services Centres Authority (Fund Management) Regulations, 2022.”

### Income Tax (Thirteenth Amendment) Rules, 2023

In the Income-tax Rules, 1962, in rule 11UAC,

- (i) in sub-rule (4), in the Explanation, for the words “this clause” the words “this sub- rule” shall be substituted;
- (ii) after sub-rule (4), the following sub-rule shall be inserted, namely:

‘(5) any movable property, being shares or units or interest in the resultant fund received by the fund management entity of the resultant fund, in lieu of shares or units or interest held by the investment manager entity in the original fund, pursuant to the relocation, subject to the following conditions, namely:

- not less than ninety per cent of shares or units or interest in the fund management entity of the resultant fund are held by the same entity(ies) or person(s) in the same proportion as held by them in the investment manager entity of the original fund; and
- not less than ninety per cent of the aggregate of shares or units or interest in the investment manager entity of the original fund was held by such entity(ies) or person(s).

### CG permits exemption u/s10(46) to “Yamuna Expressway Industrial Development Authority”

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 CG hereby notifies for the purposes of the said clause, ‘Yamuna Expressway Industrial Development Authority’, an authority constituted by the State Government of Uttar Pradesh, in respect of the following specified income arising to that Authority, namely:-

- (a) Grants received from the State Government;
- (b) Moneys received from the disposal of land, building and other properties, movable and immovable;
- (c) Moneys received by the way of rent & fees or any other charges from the disposal of land, building and other properties, movable and immovable;
- (d) The amount of interest earned on the funds deposited in the banks; and
- (e) The amount of interest/penalties received on the deferred payment received from the Allottees of various movable or immovable properties.

This notification shall be effective subject to the conditions that Yamuna Expressway Industrial Development Authority,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years;
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

*This notification shall be deemed to have been applied for the FY 2018-2019 to FY 2022-2023.*

## Notifications Issued

### Charging interest under section 50(3), for wrong availment of IGST credit and reversal thereof:

- Since the amount of ITC available in electronic credit ledger under all heads (IGST head, CGST head, SGST head) can be utilised for the payment of IGST, total ITC available in electronic credit ledger shall be considered for the purpose of interest calculation under Rule 88B of CGST Act, 2017.
- Further, in case IGST credit wrongly availed subsequently reversed on a certain date, there will not be any interest liability under the said section. However, if the balance of all heads together falls below the credit wrongly availed, then it will amount to utilization of such ITC wrongly availed and will attract interest liability
- Also, the credit of Compensation Cess cannot be considered for the calculation of interest as the same can be utilised only for the payment of compensation cess.
- For instance: Mr. A, a registered supplier has wrongly availed ITC of INR 1000 in the month of January'23. Calculate interest liability in the following cases:
  - a. ITC not utilised and subsequently reversed
  - b. ITC utilised say in the month of March'23

Where ITC is not utilised and subsequently reversed there will not be any interest liability under section 50(3) of the CGST Act, 2017.

In this case, ITC is utilised in the month of March and the interest liability will be calculated from the date of utilization till the date of payment. Accordingly (from April 21, 2023 to July 24, 2023 i.e. 95 days):

$$=1000*18\%*95/365 = 47 \text{ (approx)}$$

### Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01.04.2019 to 31.12.2021

Difference in GSTR-2A and GSTR-3B can be reconciled by producing certificate from supplier (up to 5 lakhs) and CA/CMA certificate (in excess of 5 lakhs):

- For the period of April 01, 2019 to October 08, 2019 in terms of circular no.183/15/2022 dated 27.12.2022.
- For the period of October 09, 2019 to December 31, 2021 in terms of circular no.183/15/2022 dated 27.12.2022 subject to the condition of availment of ITC provided under rule 36(4) i.e., 20%, 10% and 5%.

### Clarification on TCS liability under section 52 in case of multiple e-commerce operators in one transaction:

In case, multiple ECOs are involved in a single transaction through:	Who will be liable for collecting TCS under section 52?
<ul style="list-style-type: none"> <li>Open Network for Digital Commerce (ONDC)</li> </ul>	in such case, <b>supplier side-ECO will be liable for compliances of section 52</b> , collection of TCS must be done by supplier side-ECO who will finally release the payment to supplier after collecting the same.
<ul style="list-style-type: none"> <li>ECO Platform (Provided that supplier side-ECO is itself a supplier of such supply)</li> </ul>	in such case, <b>buyer side-ECO will be liable for compliances of section 52</b> , the collected payment shall be remit by the buyer side-ECO to supplier only after deducting his fees and collecting TCS under section 52

### ITC in respect of warranty replacement and repair services during warranty period:

1. Replacement or repairing services provided by original equipment manufacturer:	If no additional consideration is charged from customer, then no GST is chargeable and also no reversal of ITC is required to be made.
2. Replacement of parts by distributor.	<ul style="list-style-type: none"> <li><u>Distributor uses his stock or purchase from third party and charges consideration from supplier:</u> GST would be payable on such supply by the distributor to the manufacturer.</li> <li><u>Distributor uses his stock received from manufacturer and manufacturer issues a credit note:</u> Tax liability may be adjusted by the manufacturer provided that the said distributor has reversed the ITC availed against the parts so replaced. Further, if no additional consideration is charged from customer, then no GST is chargeable and no reversal of ITC is required to be made by the distributor.</li> </ul>
3. Repair services provided by distributor	It would be considered as supply of service by distributor to the manufacturer accordingly GST would be payable on such supply of service by distributor.
4. Extended warranty to the customers	<ul style="list-style-type: none"> <li>a) <u>Provided at the time of original supply:</u> Such extended warranty would become part of value of composite supply and GST would be payable accordingly.</li> <li>b) <u>Provided after the original supply:</u> Considered as a separate contract and GST would be payable by the service provider.</li> </ul>



### Taxability of Shares held by Holding Company in Subsidiary Company:

This circular clarifies that securities include ‘shares’ as per definition of securities under the CGST Act, this implies that securities held by the holding company in the subsidiary company are considered neither goods nor services under the definition of the CGST Act.

Further, purchase or sale of shares alone does not qualify as a supply of goods or services. To be treated as a supply of services, there must be a supply as defined under Section 7 of the CGST Act.

Hence, mere holding of shares of a subsidiary company by holding company **cannot be treated as supply of services and therefore cannot be taxed under GST.**

### Clarification on refund related issues:

1. Refund of Accumulated ITC	Refund of accumulated ITC is restricted to those invoices appearing in Form GSTR-2B w.e.f. January 2022
2. Undertaking in Form RFD-01	This clarifies that due to the omission of Section 42 of CGST Act and removal of FORM GSTR-2 and FORM GSTR-3 from CGST Rules. The updated undertaking only refers to Section 16, the same shall be submitted electronically along with refund claim.
3. Calculation of adjusted annual turnover	The value of goods exported outside India to be included while calculating “adjusted annual turnover”
4. Admissibility of refund for exporters	Refund of IGST paid on account of goods not exported or payment not realised for services within specified time frame is allowed as ‘Excess payment of tax’

### Clarification on issues pertaining to e-invoicing:

Applicability of e-invoicing, the registered person whose turnover exceeds the prescribed threshold for generation of e-invoicing, are required to issue e-invoices for the supplies made to Government Departments or establishments / Government agencies / local authorities / PSUs, etc., registered solely for the purpose of TDS.

### Clarification on taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons:

- In case of common input services procured from third party and attributable to the distinct persons, ITC can be distributed through ISD mechanism or can be cross charged.
- Where full ITC is attributable to Branch office, cross charge value shall be deemed as open market value.

- Where full ITC is not available, cost of employee salary is not mandatorily required to be included

**Due dates for GSTR-1, GSTR-3B, and GSTR-7 have been extended for the state of Manipur.**

- The due date of furnishing GSTR-1 for the persons whose principal place of business is in the State of Manipur for the period April 2023 to June 2023 has been extended till July 31, 2023
- The due date of furnishing GSTR-3B for the persons whose principal place of business is in the State of Manipur for the period April 2023 to June 2023 has been extended till July 31, 2023.
- The due date of furnishing GSTR-3B for the persons whose principal place of business is in the State of Manipur for quarter ending June 2023 has been extended till July 31, 2023.
- The due date of furnishing GSTR-7 for the persons whose principal place of business is in the State of Manipur for the period April 2023 to June 2023 has been extended till July 31, 2023.

**Notification No. 22/2023 dated July 17, 2023**

Extension of amnesty scheme for non-filers of GSTR-4 till August 31, 2023.

**Notification No. 23/2023 dated July 17, 2023**

The registered persons whose registration has been cancelled under section 29 of the CGST Act, 2017 and who has failed to apply for revocation of cancellation of registration, may apply for the same till August 31, 2023.

**Notification No. 24/2023 dated July 17, 2023**

Extension of amnesty scheme for deemed withdrawal of assessment orders issued under section 62 of the CGST Act, 2017 till August 31, 2023.

**Notification No. 25/2023 dated July 17, 2023**

Extension of amnesty scheme for non-filers of GSTR-9 till August 31, 2023.

**Notification No. 26/2023 dated July 17, 2023**

Extension of amnesty scheme for non-filers of GSTR-10 till August 31, 2023.

**Notification No. 27/2023 dated July 31, 2023**

The Central Government has notified that the provisions of section 123 of the CGST Act, 2017 shall come into force from October 01, 2023.

**Notification No. 28/2023 dated July 31, 2023**

The Central Government has notified that the provisions of section 137 to 162 of the CGST Act, 2017 shall come into force from October 01, 2023. However, section 149 to 154 of the said act, shall come into force from August 01, 2023.

**Notification No. 29/2023 dated July 31, 2023**

- **ANNEXURE-1:** Registered person who intends to file an appeal against the order passed under section 73 or 74, shall file the same in a form attached in ANNEXURE-1 of the said notification.
- **ANNEXURE-2:** The Appellate Authority shall issue a summary of the order in ANNEXURE-2 attached form under the said notification.

**Notification No. 30/2023 dated July 31, 2023**

<b>FORMS</b>	details to be furnished by registered person engaged in manufacturing of goods such as pan masala, tobacco etc:
<b>SRM-I</b>	details of packing machines to be used for packing of pouches and containers are furnished here.
<b>SRM-IIA</b>	details of additional packing machine installed on registered place of business are furnished here.
<b>SRM-IA</b>	If registered person has submitted production capacity of his manufacturing unit to any other government department or agency or organisation, the same shall be furnished here.
<b>SRM-IIB</b>	details of any existing filling and packing machine removed from the registered place of business are furnished here.
<b>SRM-IIIA</b>	details of daily records of: <ul style="list-style-type: none"><li>• Inputs procured and utilised</li><li>• Waste generated</li><li>• Reading of electricity meters and generator set meters</li></ul>
<b>SRM-IIIB</b>	daily shift-wise record of machine-wise production, product-wise and brand-wise details.
<b>SRM-IV</b>	a special statement for each month to be submitted before 10 <sup>th</sup> day of next month.

**Notification No. 31/2023 dated July 31, 2023**

It has been notified that the provisions of sub-rule 4(A) of rule 8 of the CGST Act, 2017 shall not apply to all States and Union territories except in State of Gujarat and **State of Puducherry**.

Further, Rule 8 of the said act provides that the persons who are liable for registration under section 25 of the said act shall apply for registration in form GST REG-01 and shall submit an application in electronic form in part B of form GST REG-01.

**Notification No. 32/2023 dated July 31, 2023**

Exemption from annual return to registered persons having aggregate turnover up to Rs.2 crore in the FY 2022-23.

**Notification No. 33/2023 dated July 31, 2023**

This notification empowers “Account Aggregators” which are NBFCs under policy guidelines of RBI, to facilitate information sharing on the common portal based on consent. This is to improve data accuracy, compliance and ease of access for taxpayers.

**Notification No. 34/2023 dated July 31, 2023**

It has been notified that the persons who are liable to collect TCS under section 52 but not exceeding the aggregate turnover above the threshold limit are exempt from obtaining registration subject to some specified conditions.

# MCA UPDATES

## Merger of Multiple User IDs of Professionals on MCA

- The Ministry of Corporate Affairs (MCA) has recently issued General Circular 07/2023, dated July 12, 2023, addressing the Presidents of three prestigious professional institutes, namely the Institute of Chartered Accountants of India (ICAI), the Institute of Cost Accountants of India (ICAI), and the Institute of Company Secretaries of India (ICSI).
- This circular outlines the process for merging existing user IDs with the new MCA21 V-3 portal or deactivating old user IDs. Members are requested to approach their respective institutes for necessary recommendations to facilitate the creation of a new ID in the V-3 portal.
- To address this issue, it has been decided that members should contact their respective institutes with their credentials. The institutes will then provide recommendations for merging multiple existing user IDs with the ID created in the V-3 portal or for deactivating old user IDs in the V-2 portal.
- These recommendations will enable members to create a new ID in the V-3 portal. The necessary changes in the user IDs in the V-3 portal will be made based on the recommendations forwarded by the President or Vice-president of the institute to [ddegov@mca.gov.in](mailto:ddegov@mca.gov.in).

## Introduction of Refund form on V3 portal

- The MCA has informed the stakeholders that they are launching a refund form on the V3 portal, effective on 04.08.2023.
- Refund forms on the V2 portal will continue to be available for availing of refunds against forms filed in V2 Portal

### New Accounting Standard on Insurance

The National Financial Reporting Authority (NFRA) has provided recommendations to the Ministry of Corporate Affairs (MCA) on the Indian Accounting Standard (Ind AS) 117 for insurance contracts. The NFRA's suggestions are being assessed. The standards will soon be notified under the Companies (Indian Accounting Standards) Rules 2015.

The government will notify a new accounting standard for insurance contracts soon, which would align Indian norms with international practices and assist global investors better display the risk exposure of domestic insurers.

When notified, it will replace currently notified Ind AS 104, Insurance Contracts.

The new standards, modelled on the IFRS 17 issued by the International Accounting Standard Board, will help draw foreign direct investment (FDI) into the insurance sector and also deepen insurance penetration in the country. This is because international investors would be able to better compare the financials of domestic insurers with those of their global peers, he said.

The new framework would require domestic insurers to further strengthen their disclosure needs, leading to greater transparency and informed decision-making

### ICAI released Exposure Draft for Tax Audit

ICAI has issued Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 - AY 2023-24. This is effective for the AY 2023-24 and subject to amendments made by law, judiciary, or administration, for the subsequent assessment years. Last date for comments is August 06, 2023.

# COMPLIANCE CALENDER

## Direct Taxes

### August 07, 2023

- Due date for deposit of Tax deducted/collected for the month of July, 2023. However, all 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.

### August 14, 2023

- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M & 194S in the month of June, 2023

### August 15, 2023

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of July, 2023 has been paid without the production of a challan.
- 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 July, 2023.
- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending June 30, 2023

### August 30, 2023

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M & 194S for the month of July, 2023.

### August 31, 2023

- Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on October 31, 2023).
- Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or section 11(1) (if the assessee is required to submit return of income on October 31, 2023).

## Indirect Taxes

### August 11, 2023

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

### August 13, 2023

- Due date for filing of GSTR-6 & GSTR-1(QRMP Taxpayer)
- Due date for filing of GSTR 5 (Non-Resident Taxable Person).
- Due date for filing GSTR-1(IFF)

### August 20, 2023

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

### August 25, 2023

- Due date for filing PMT-04 wherein a registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, through the Common Portal.

### August 28, 2023

- Due date for furnishing GSTR-11 (Taxpayers having UIN)

### August 30, 2023

- Due date for furnishing GSTR-4 for composition taxpayers.



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### Do You Know?

- New record of over 6.77 crore Income Tax Returns (ITRs) filed till 31st July, 2023; record growth of 16.1% Year-on-Year.
- 64.33 lakh ITRs filed on 31st July, 2023
- 53.67 lakh ITRs from first time filers
- 5.63 crore ITRs already e-verified, with more than 3.44 crore (61%) ITRs for AY 2023-24 processed by 31st July, 2023



# ABOUT US

Nucleus AAR Advisors LLP is an Investment Banking and Risk Advisory Firm providing specialized services in the field of Startup Advisory, M&A Advisory, International Taxation, Audit & Assurance. We partner with entrepreneurs in their critical decision making by providing them various analysis customized as per their requirement. We also help in the effective implementation of decisions and its subsequent monitoring as well.

Team Nucleus is comprised of people from Big4s and reputed consulting firms with combined experience of 30+ years. Team is distinguished by their functional and technical expertise combined with their hands-on experience, thereby ensuring that our clients receive the most professional



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