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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 May 2023. We had tried to cover all important updates occurred during May 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.



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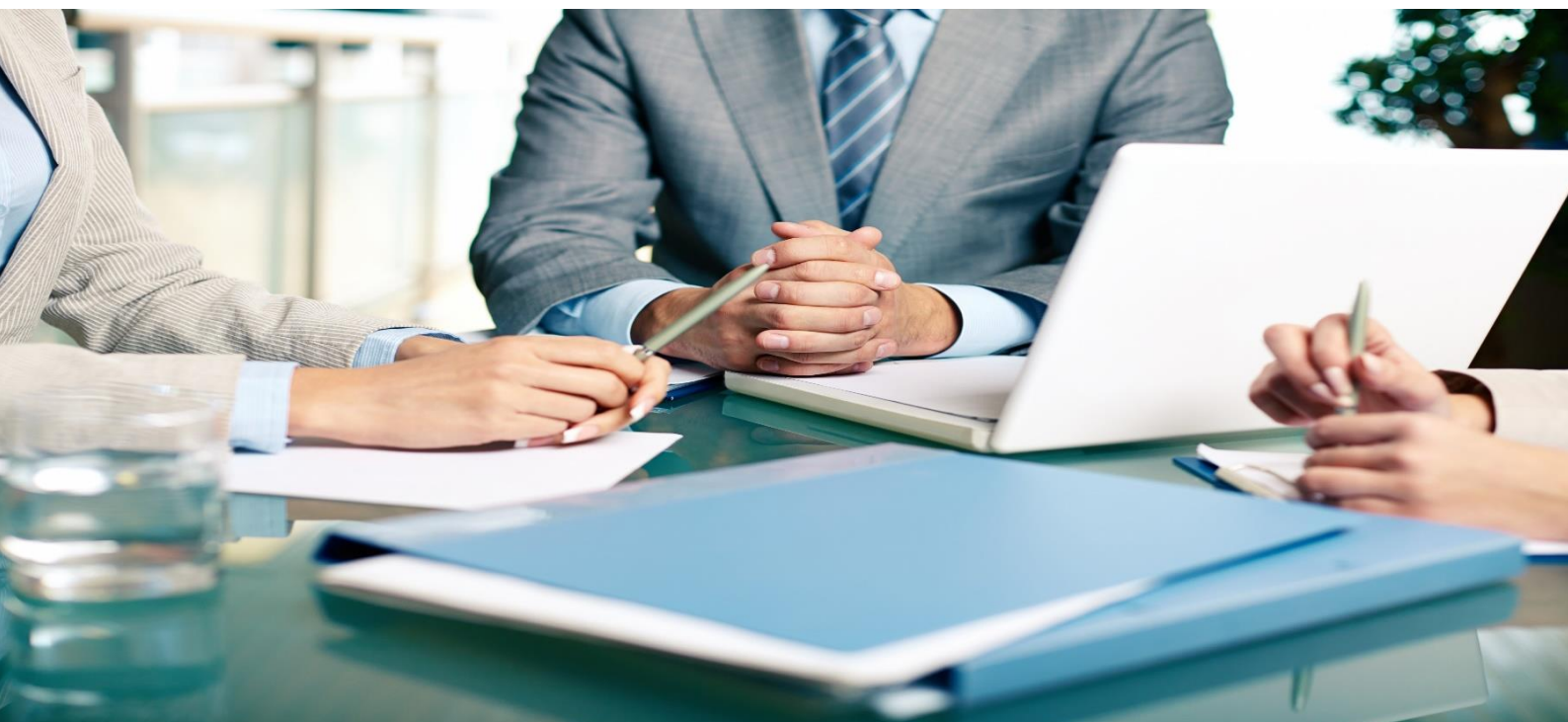
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Why this Volume of Newsletter is important for reader?

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

- Increase in exemption limit for leave encashment
- Exemption from specified incomes u/s 10(46) in the case of “Pune Metropolitan Region Development Authority”
- Amendment to rule 11AA for Provisional Approval u/s 80G : Income-tax (7th Amendment) Rules, 2023
- Income Tax (Fifth Amendment) Rules, 2023

GST Updates

Notifications Issued

- Change in E-Invoicing Limit -Notification No. 10/2023 - Central Tax
- Extension of GSTR-1 due date for the state of Manipur-Notification No. 11/2023-Central Tax
- Extension of GSTR-7 due date for the state of Manipur-Notification No. 13/2023-Central Tax
- Update on GSTR-9 and 9C
- Delhi High Court Judgement - Services supplied to Holding Company under an Agreement does not make the service provider an Intermediary.(Delhi High Court vs MC Donald's India Private Limited - W.P.9(C)No. 11430/2022)

Audit Updates

- Chartered Accountants Become Reporting Agencies After Tweak in Anti-Money Laundering Law
- IFRS has issued an exposure draft on Amendments to the Classification and Measurement of Financial Instruments

MCA Updates

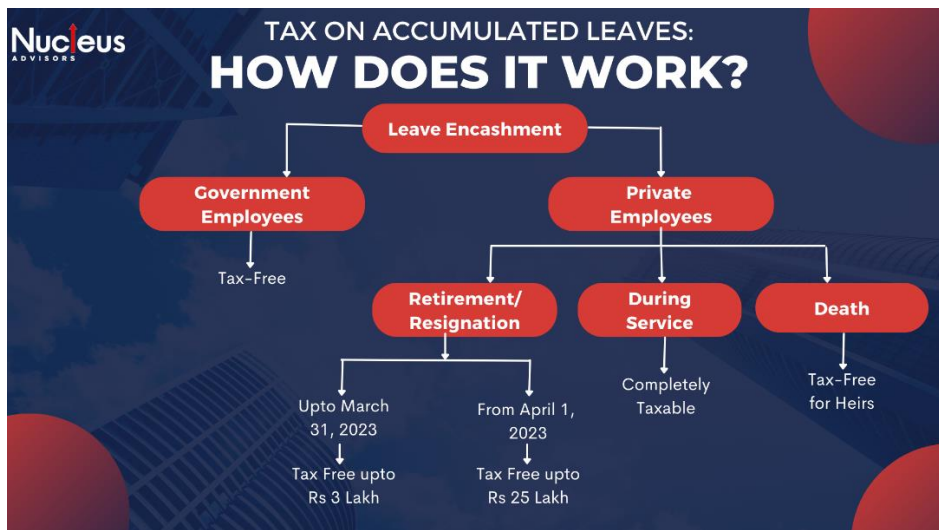
- New Conditions imposed by MCA for companies filing name removal application.



DIRECT TAX UPDATES

Increase in the exemption limit for leave encashment

Income Tax exemption limit for leave encashment upon retirement for non-government salaried employees hiked to Rs 25 lakh from Rs 3 Lakh.



Exemption from specified incomes u/s 10(46) in the case of ‘‘Pune Metropolitan Region Development

Following are the specified exempt income arising to the Authority :-

- grants received from the State Government, the Union Government or any other authority or agency
- income such as fees, user charges or fines received in the capacity of Local Town Planning Authority
- income such as land lease - rental received from monetization of Government Lands
- other miscellaneous income such as penalty charges, sale of tender forms, RTI fees, registration charges from contractors, penalty levied on contractors for defective work
- stamp duty grant
- interest earned on (a) to (e) above

This notification shall be effective subject to the conditions that Authority :-

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

Amendment to rule 11AA for Provisional Approval u/s 80G : Income-tax (7th Amendment) Rules, 2023

The Sub-rule (7) of Rule 11AA of the Income Tax Rules has been modified by the new amendment. The amended sub-rule 7 (rule 11AA) reads, ‘‘In case of an application made under clause (iv) of the first proviso to section 80G(5) of the Act, the provisional approval shall be effective from the assessment year relevant to the previous year in which such application is made’’.

Before Amendment If a request is made under clause (iv) of the first provision to section 80G(5), the provisional permission will take effect as of the date of the order, as stated in sub-rule (5).

Income Tax (Fifth Amendment) Rules, 2023

Key Amendment:

Substitution in Rule 31A(4) with effect from July 01, 2023, for clause (ix) which deals with furnish particulars of amount paid or credited on which tax was not deducted or deducted at lower rate in view of the notification issued under second proviso to section 194N or in view of the exemption provided in fourth proviso to Section 194N or in view of the notification issued under fifth proviso to Section 194N.

Insertion of Rule 133, which deals with formula of calculation of net winnings from online games like-

Net winnings $= (A+D) - (B+C)$, where -

A = Aggregate amount withdrawn from the user account during the financial year

B = Aggregate amount of non-taxable deposit made in the user account by the assessee during the financial year

C = Opening balance of the user account at the beginning of the financial year and

D= Closing balance of the user account at the end of the financial year.

Notifications Issued

Change in E-Invoicing Limit -Notification No. 10/2023 - Central Tax

In the said notification, the amendment has been made in the Notification No. 13/2020 - Central Tax that the E-invoicing applicability threshold is now reduced from Rs. 10 Crores to Rs. 5 crores w.e.f August 01, 2023. This means that if the turnover of the registered person under GST exceeds Rs. 5 crores in any of the financial year beginning from 2017 then he is required to comply with e-invoicing provisions from August 01, 2023.

Extension of GSTR-1 due date for the state of Manipur-Notification No. 11/2023-Central Tax

In the said notification, the amendment has been made after the third proviso of Notification No. 83/2020-Central Tax that the time limit for furnishing GSTR-1 for April 2023 for the registered person whose principal place of business is in the state of Manipur shall be extended till May 31, 2023.

In order to verify that the offline communication is sent by the State GST Tax Officers, a new facility for Reference Number generation by state tax officer will be provided which is under development. Under this facility, state tax officer can generate a RFN for the physical documents and the documents can be validated by the taxpayer both pre and post login. This facility will be available under the Dashboard- User Services-Verify the RFN-and provide the RFN to be provided. The limited details will be provided pre login while greater details will be provided when taxpayer log ins and verify the RFN.

Extension of GSTR-3B due date for the state of Manipur-Notification No. 12/2023 - Central Tax

In the said notification, the due date of GSTR-3B for the month of April'23 has been extended till May 31, 2023 for the registered person whose principal place of business is in the state of Manipur.

Extension of GSTR-7 due date for the state of Manipur-Notification No. 13/2023-Central Tax

In the said notification, the due date of GSTR-7 for the month of April'23 has been extended till May 31, 2023 for the registered person whose principal place of business is in the state of Manipur.

In the said Notification, the government has made the following further amendment in Notification No.11/2017-Central Tax (Rate) after second proviso, the following provisos has been inserted, namely:-

- (a) Provided also that the option for the Financial Year 2023-2024 shall be exercised on or before May 31, 2023,
- (b) Provide also that that a GTA who commences new business during any Financial Year may exercise the option itself to pay GST on the services supplied by it during that Financial Year by making a declaration in Annexure V before the expiry of 40 days from the date of applying GST registration or 1 month from the date of obtaining the GST registration. The same notification has been issued in Integrated tax rate and Union tax rate.

Update on GSTR-9 and 9C

GSTR-9 and GSTR-9C option has been enabled for the Financial Year 2022-23. Annual Return GSTR-9 once filed cannot be revised. Also, the computation of ITC will be based on GSTR-1/1FF /GSTR-5 filed by the corresponding supplier of the taxpayer's upto April 30, 2023.

GSTR-1/1FF /GSTR-5 filed after the April 30, 2023 will be covered in next update. GSTR-9 And 9C is enabled at the portal which is reflecting as shown below:-

1. Annual return in Form GSTR-9 once filed cannot be revised.
2. Computation of ITC has been made based on GSTR-1/IFF/GSTR-5 filed by your corresponding suppliers upto 30/04/2023. GSTR-1/IFF/GSTR-5 filed after the updation date will be covered in the next updation.

Annual Return GSTR9	Reconciliation Statement GSTR 9C
Due Date - 31/12/2023	Due Date - 31/12/2023
PREPARE-OFFLINE PREPARE OFFLINE	INITIATE-FILING PREPARE OFFLINE

Delhi High Court Judgement - Services supplied to Holding Company under an Agreement does not make the service provider an Intermediary. (Delhi High Court vs MC Donald's India Private Limited - W.P.9(C)No. 11430/2022)

Facts of Case:- M/s. McDonald's India Pvt. Ltd. ("the Petitioner") is a subsidiary of McDonald's Corporation, USA ("the foreign counterpart"). The Petitioner and foreign counterpart entered into 2 agreements namely, Master License Agreement ("MLA") and Service Agreement. As per Service Agreement, the Petitioner is bound to perform the certain activities viz, conduct research on subjects including consumer attitudes, demographics, marketing and advertising strategy. The Petitioner filed refund of tax paid on inputs for the period April 2018 to March 2019 by claiming services rendered under the Service Agreement as 'zero-rated supplies' as per Section- 16 of the IGST Act. However, the Adjudicating Authority issued a Show Cause Notice("the SCN"), proposing to reject the refund of tax paid on inputs amounting to INR 9,26,34,542/-.

The Petitioner filed the reply to the SCN but rejected the refund claim of the Petitioner vide an Order ("the Order in Original").

Being aggrieved, the Petitioner filed an appeal before the Appellate Authority, which rejected the refund claim of the Petitioner, Consequently, this petition has been filed.

Issue:- Whether the Petitioner is an intermediary within the meaning of Section 2(13) of the IGST Act in respect of services given under the Service Agreement?

Judgement of the Case:-

The Hon'ble Delhi High Court observed that :-

- The Appellate Authority presumed that Petitioner was acting as an intermediary between franchises and Joint ventures were ,the main services were provided by the foreign company and ancillary services by Petitioner,
- Also, Appellate Authority failed to consider the fact that Master License Agreement grants the Petitioner the right to enter into sub licenses with franchises which is a separate agreement,
- Noted above, as per service agreement ,the service recipient is a foreign counterparty, and the Petitioner is the service provider. There are no basis for the Appellate Authority to have concluded that the Petitioner acts as a mediator between joint ventures/ franchisees and the foreign counterpart. Thus, the appellate authority was wrong in considering the services supplied by petitioner as an intermediary services

- (d) Opined that, no additional grounds for rejecting the Petitioner's claim for refund could be raised suo motu by the Appellate Authority, in an appeal preferred by the Petitioner.
- (e) Further observed that, the services provided by the Petitioner had no connection with the services as contemplated under Section 13(5) of the IGST Act.
- (f) Set aside the Impugned Order and the Order in Original. Remanded the matter back to the Adjudicating Authority to consider the Petitioner's case afresh.

AUDIT UPDATES



Chartered Accountants Become Reporting Agencies After Tweak in Anti-Money Laundering Law

Chartered accountants, company secretaries and works accountants who buy property, establish a company, and execute financial transactions on behalf of their clients will now be covered under the anti-money laundering law after Finance Ministry notified changes to the Prevention of Money Laundering Act (PMLA), 2002, widening its lens to include several transactions facilitated by professionals.

Chartered accountants, company secretaries, and works accountants will need to examine ownership and financial position including clients' sources of funds.

The amendments have been made in the sub-clause (vi) of clause (sa) of sub-section (1) of Section 2 of the PMLA, which defines 'relevant persons' and firms covered under the anti-money laundering law. Earlier, the act did not include these professionals.

The professionals will now be responsible for activities on behalf of clients such as buying and selling of any immovable property, managing assets, creation, operation or management of companies, limited liability partnerships or trusts, and buying and selling of business entities.

Compendium of Indian Accounting Standards (Year 2023-2024)

The Institute of Chartered Accountants of India (ICAI) has released the 'Compendium of Ind AS (as on 1 April 2023)' which is a comprehensive up-to-date version, including all the rounds of amendments issued by the Ministry of Corporate Affairs (MCA) till date that are effective as of 1 April 2023.

To get access click [here](#).

Exposure draft by International Sustainability Standards Board (ISSB)

The International Sustainability Standards Board (ISSB) has published today an exposure draft 'Methodology for Enhancing the International Applicability of the SASB Standards' as it is an important source of guidance for companies applying IFRS S-1, General Requirements for Disclosure of Sustainability related Financial Information. The enhancements are designed to ensure that entities can apply the SASB Standards regardless of the jurisdiction in which they operate or the type of GAAP an entity applies. The deadline for submitting comments is 9 August 2023.

IFRS has issued an exposure draft on Amendments to the Classification and Measurement of Financial Instruments

When developing IFRS 9, the IASB divided its project on financial instruments into three stages: classification and measurement, impairment, and hedge accounting. In the second stage (impairment), the IASB developed an "expected credit loss" impairment model to address the delayed recognition of credit losses applying the impairment model in IAS 39 Financial Instruments: Recognition and Measurement. Now, the IASB is reviewing the impairment requirements in IFRS 9. Accordingly, the IASB has issued the Request for Information seeking feedback on the impairment requirements of IFRS 9. Deadline for submitting the public comments is July 31, 2023.

New Conditions imposed by MCA for companies filing name removal application

On May 10, 2023, the Ministry of Corporate Affairs ("MCA") has issued Companies (Removal of Names of Companies from the Register of Companies) Second Amendment Rules, 2023. Amendment introduces provisos to Rule 4 of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016.

The Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 provides the procedure for removing the name of a company from the register of companies. These Rules were first introduced in 2016 and they have been revised by the MCA from time to time.

Recently, on April 17, 2023, the MCA had issued significant changes vide the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2023, with regard to the application process for removing a company's name from the Registrar of Companies.

Rule 4 (1) of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016, talks about the application for Removal of name of company wherein an application for removal of name of a company under Section 248 (2) shall be made to the Registrar in Form No. STK-2 along with fee of INR 10,000/-

Three provisos have been inserted in Rule 4 (1) of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016.

These provisos impose statutory requirements on companies while filing an application for removal of company name from Register of Companies as under:

1. The company shall not submit the removal application unless they have filed the overdue financial statements and overdue annual returns till the end of the financial year in which the company is barred to carry its business operations.
2. In case a company intends to file the removal application after the registrar commences its power to remove the name of the company from register of companies and have reasonable cause to believe that a company failed to commence its business within one year of its incorporation, a company is not carrying on any business for a period of two immediately preceding financial years or subscribers to the memorandum have not paid their subscription, it shall file all pending financial statements and annual returns before filing the application.
3. In case the registrar strikes off the company's name from the register of companies and publish the notice in the official gazette regarding the same, the company shall not be permitted to file the application under Rule 4 (1) of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016.

COMPLIANCE CALENDER

Direct Taxes

June 07, 2023

- Due date for deposit of Tax deducted by an office of the government for the month of May, 2023.

June 14, 2023

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

June 15, 2023

- Quarterly TDS certificates (in respect of tax deducted for payments other than salary) for the quarter ending March, 2023.
- Due date for first instalment of advance tax for the assessment year 2024-25.
- Due date for issue of certificate of tax deducted at source to employees in respect of salary paid and tax deducted during Financial Year 2022-23.

June 30, 2023

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194M in the month of May, 2023.
- Due date for Return in respect of securities transaction tax for the financial year 2022-23.
- Due date for furnishing of statement of income distributed by business trust to its unit holders during the financial year 2022-23. This statement is required to be furnished to the unit holders in form No. 64B.
- Due date for furnishing of of Equalisation Levy statement for the Financial Year 2022-23.
- Deadline for linking PAN with Aadhaar to avoid PAN becoming inoperative.

Indirect Taxes

June 10, 2023

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

June 11, 2023

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

June 13, 2023

- Due date for filing of GSTR-6 & GSTR-1 (QRMP Taxpayer)
- Due date for filing of GSTR 6 (Input Service Distributors).
- Due date for filing GSTR-1 (IFF)

May 20, 2023

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

June 25, 2023

- Due filed by every registered person, who has been issued a Unique Identity Number (UIN), to get tax credit/refunds under GST.

June 28, 2023

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



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

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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