



Welcome to our
monthly newsletter

We bring you a concise and noteworthy regulatory developments in Income Tax and Goods & Services Tax during December 2020. We had tried to cover all important updates occurred during December 2020 in this volume of newsletter. Feedbacks are welcome at info@nucleusadvisors.in.



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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 and Goods & Service Tax 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.





TAX UPDATES

CBDT vide notification 93/2020 extend due dates for various compliances in order to reduce compliance burden on industries during current pandemic.

Particulars	Old due date	Extended due date
Furnishing of TDS Statement of 3rd Qtr. of 2020-21	31-01-2021	31-03-2021
Furnishing of TCS Statement of 3rd Qtr. of 2020-21	31-01-2021	31-03-2021
Furnishing of report of Audit under any provision of the Income Tax Act, 1961 for FY 2019-20	31-12-2020	15-1-2021
Furnishing of return if income for AY 2020-21 by Companies, Audit cases under any provision of Income Tax Act and Audit cases under any law for the time being in force.	31-01-2021	15-02-2021
All assesseees who were required to furnish return of income for AY 2020-21 on or before 31.7.2020	31-12-2020	10-01-2021

The Central Board of Direct tax (CBDT) extended last date for filing declaration under form 1 under vivad se vishwas scheme.

(Notification No. 92/2020)

CBDT vide Notification No. 92/2020 in S.O. 4804(E) issued on 31.12.2020 has extended the date for making payment without additional amount under the Vivad se Vishwas Scheme from 31st December 2020 to 31st January 2021. However, there is no change in the extended date for payment of disputed tax by 31.03.2021 under the Scheme which was already notified vide Notification No. 85/2020 dated 27.10.2020.

Direct Tax Vivad se Vishwas Act, 2020 was enacted on 17th March, 2020 with the objective to reduce pending income tax litigation, generate timely revenue for the Government and to benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process.

CBDT has recently issued further clarifications on Direct Tax Vivad se Vishwas Act, 2020 vide Circular No. 21/2020 dated December 4, 2020. These FAQ's are issued in continuation to the earlier FAQ's issued vide Circular No. 9/2020 dated April 22, 2020.

Link to FAQ's [Click to open Circular No. 21/2020](#)
[Click to open Circular No. 9/2020](#)

GST UPDATES

Extension of the Due Dates for Compliances and Actions in respect of Anti Profiteering Measures

The Central Board of Indirect Taxes and Customs (CBIC) has released a notification No. 91/2020- Central Tax on December 14th, 2020. Where, any time limit for completion or compliance of any action, by any authority, has been specified in, or prescribed or notified under section 171 of the said Act, , which falls during the period from March 20, 2020 to March 30, 2021 and where compliance of such action has not been made within such time, then, the time limit for such compliance, shall be extended upto March 31, 2021. This notification shall come into effect from December 1 , 2020.

Section 171 of the CGST Act, 2017 deals with the constitution of an Authority, or empowering an existing Authority, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him

Time Period for Completion of Action as Specified in Rules

Screening Committee : Within 2 months (1 month extension) from the date of receipt of a written application, upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action

Standing Committee : Within 2 months (1 month extension) from the date of receipt of written application shall examine the accuracy and adequacy of the evidence provided in the application to determine whether there is prima-facie evidence to support the claim of the applicant

Director General of Anti- Profiteering : Complete the investigation within 6 months (3 months extension) Of the receipt of the reference from the Standing Committee and, upon completion Of the investigation, furnish to the Authority, a report of its findings along with the relevant

The Authority : Within 6 months from the date of the receipt of the report from the Director General of Anti• profiteering determine whether a registered person has passed the benefit of the reduction in the rate of tax on the supply Of goods or services or the benefit Of input tax credit to the recipient by way of commensurate reduction in prices.

Appointment Date for Section 119, 120, 121, 122, 123, 124, 126, 127 and 131 of the Finance Act, 2020

The Government has released **Notification No. 92/2020 - Central Tax** dated December 23rd, 2020 notifying **January 1st, 2021**, as the date on which the provisions of **sections 119, 120, 121, 122, 123, 124, 126, 127 and 131** of the Finance Act, 2020 shall come into force.

Section 119: Amendment in Registered Persons Not Eligible for Opting Composition Scheme

For opting the composition scheme as specified in Section 10(1) of the CGST Act, 2017, the registered person shall be eligible if

- (a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;
- (b) he is not engaged in making any supply of goods **or services** which are not leviable to tax under this Act;
- (c) he is not engaged in making any inter-State outward supplies of goods **or services**;
- (d) he is not engaged in making any supply of goods **or services** through an electronic commerce operator who is required to collect tax at source under section 52; and
- (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council

Change in the Provision:

The words “or services” have been added to clause (b), (c) and (d) to include services providers in the negative list for the purpose of opting the Composition Scheme.

Section 120: Change in Time Period for Availing ITC of Debit Note

Section 16(4) of the CGST Act, 2017 has been amended to extend the time period of availing **ITC of debit note** till the return under Section 39 for September following the end of financial year to which such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Previously, the **time period was limited by the issuance of invoice** in respect of which debit note has been issued.

Section 121: Amendment in Persons Eligible for Cancellation of Registration

Section 29 of the CGST Act, 2017 has been amended to include the registered persons who have taken voluntarily registration under Section 25(3) and **intends to opt out of the registration voluntarily** made under sub-section (3) of section 25 for the purpose of cancellation of GST Registration.

Section 122: Extension of Time Period for Application seeking Revocation of Cancellation of Registration

Any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,—

- (a) by the **Additional Commissioner or the Joint Commissioner**, as the case may be, for a period **not exceeding thirty days**;
- (b) by the **Commissioner**, for a further period **not exceeding thirty days**, beyond the period specified in clause (a).”

Change in the Provision:

Provision for extending the time period of application has been inserted.

Section 123: Amendment in Tax Invoice Provision for Services

In section 31 of the Central Goods and Services Tax Act, in sub-section (2), for the proviso, the following proviso shall be substituted, namely:

“Provided that the Government may, on the recommendations of the Council, by notification, —

- (a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;
- (b) subject to the condition mentioned therein, specify the categories of services in respect of which—
 - (i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
 - (ii) tax invoice may not be issued.”

Change in the Provision:

The proviso has been substituted to include the **categories of services or supplies** in respect of which a **tax invoice** shall be issued, within such time and in such manner as may be prescribed by the Government.

Section 124: Waiver of Penalty for non-issuance of TDS Certificate:

In section 51 of the Central Goods and Services Tax Act, –

(a) for sub-section (3), the following sub-section shall be substituted, namely: –

“(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”;

(b) sub-section (4) shall be omitted.

Change in the Provision:

The liability of deductor for **furnishing TDS Certificate** to the deductee has been **removed** and accordingly penalty leviable for non-issuance of certificate has been **waived**.

Section 126: Person Retaining the Benefit of a Fraudulent Transaction Liable for Penalty

In section 122 of the Central Goods and Services Tax Act, after sub-section (1), the following sub-section shall be inserted, namely:

–

“(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.”

Change in the Provision:

The **person who retains the benefit of a transaction** and at whose instance such transaction is conducted has been included to penalize them equivalent to the tax evaded or ITC availed or passed on. Earlier, these persons used fall under residuary section (Section 125) and penalty leviable was only twenty-five thousand rupees.

Section 127: Inclusion of Persons Retaining Benefit for Imprisonment Clause

In section 132 of the Central Goods and Services Tax Act, in sub-section (1), –

(i) for the words “Whoever commits any of the following offences”, the words

“Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted;

(ii) for clause (c), the following clause shall be substituted, namely: –

“(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;”;

(iii) in clause (e), the words “, fraudulently avails input tax credit” shall be omitted.

Change in the Provision:

Person who causes to commit and retain the benefits arising out of, any of the offences shall be **liable for imprisonment** depending on the amount of tax evaded.

Section 131: General Disciplines Related to Penalty

In **Schedule II** to the Central Goods and Services Tax Act, in paragraph 4, the words “**whether or not for a consideration**,” at both the places where they occur, shall be **omitted** and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

Amended Provision is mentioned below:

4. Transfer of business assets

(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, such transfer or disposal is a supply of goods by the person;

(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, the usage or making available of such goods is a supply of services.

Fourteenth Amendment to the CGST Rules, 2017.

Application for Registration:

In rule 8, for sub-rule (4A), with effect from Jan 1st, 2020, the following sub-rule shall be substituted,

- (4A) Every application made under rule (4) relating to “Composition Levy” shall be followed by-
 - Biometric-based **Aadhaar authentication** and taking photograph, unless exempted under sub-section (6D) of section 25, if he has opted for authentication of Aadhaar number; or
 - Taking **biometric information, photograph and verification** of such other KYC documents, as notified, unless the applicant is exempted under sub-section (6D) of section 25, if he has opted not to get Aadhaar authentication done.

For the proviso, the following proviso shall be substituted,

- A person fails to undergo authentication of Aadhaar number or does not opt for authentication of Aadhaar number; or
- the proper officer, with the approval of an officer authorized by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,
- The registration shall be granted **within thirty days** of submission of application, **after physical verification** of the place of business in the presence of the said person, in the manner provided under rule 25 and verification of such documents as the proper officer may deem fit.”

Sub rule(2) of rule 9:

- The proper officer shall issue notice within **seven working days** from the date of submission of the application for registration.
- For the proviso, the following proviso shall be substituted, namely: -

“The notice in FORM GST REG-03 may be issued **not later than thirty days from the date of submission of the application.**”

In sub-rule (5) of rule 9, the following sub-rule shall be substituted:

- If the proper officer fails to take any action, -
 - within a period of **seven working days from the date of submission of the application** in cases where the person is not covered under proviso to sub-rule (1); or
 - within a period of **thirty days from the date of submission of the application** in cases where a person is covered under proviso to sub-rule (1); or
 - within a period of **seven working days from the date of the receipt of the clarification**, information or documents furnished by the applicant under sub-rule (2),

the application for grant of registration shall be **deemed to have been approved.**



Notification No. 93/2020: Waiver of Late Fees.

The Government has released Notification No. 93/2020- Central Tax dated December 23rd, 2020 notifying after the third proviso, the following proviso shall be inserted, namely: -

“Provided also that the late fee payable for delay in furnishing of FORM GSTR-4 for the Financial Year 2019-20 under section 47 of the said Act, from the 1st day of November, 2020 till the 31st day of December, 2020 shall stand waived for the registered person whose principal place of business is in the Union Territory of Ladakh.”.

In Rule 21 - “Registration to be Cancelled in Certain Cases”

The registration granted to a person is liable to be cancelled, if the said person, -

(b) issues invoice or bill without supply of goods or services or **both** in violation of the provisions of this Act, or the rules made thereunder.

After clause (d), the following clauses shall be inserted,

- “(e) avails input tax credit in **violation of the provisions of section 16** of the Act or the rules made thereunder; or
- (f) furnishes the details of outward supplies in **FORM GSTR-1** under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods; or
- (g) violates the provision of rule 86B.”

Rule 21A - “Suspension of GST Registration

- Where the proper officer has **reasons to believe** that the registration of a person is liable to be **cancelled under section 29** or under rule 21, he may, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22 **without giving an opportunity of being heard.**
- After sub rule (2), sub-rule 2A is inserted giving the power to officer to **suspend and cancel the registration** of taxpayers if he believes there is **significant discrepancy in details reported** in between returns filed by taxpayer. (GSTR 1 vs GSTR 3B vs GSTR 2A). Form GST Registration -31 also notified for this purpose. Also as recommended by law committee and discussed in GST Council last meeting the rules are inserted for linking GST registration to biometrics authentication with a live photo.
- Sub-rule (2A) has been incorporated at the required places to take into account its impact on the relevant provision.
- the following proviso shall be inserted, namely: -

“Provided that the **suspension of registration** under this rule **may be revoked** by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.”.

In rule 36 - Documentary Requirements and Conditions for Claiming ITC

Rule 36(4) “Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of Sections 37, shall not exceed **5 percent** of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of Sections 37 in FORM GSTR-1 or using the invoice furnishing facility” shall be inserted”.

Change in Provision: -

- For the word “**uploaded**”, at both the places where it occurs, the word “**furnished**” have been substituted;
- After the words, brackets and figures “by the suppliers under sub-section (1) of section 37”, at both the places where they occur, the words, letters and figure “**in FORM GSTR-1 or using the invoice furnishing facility**” have been inserted;
- For the figures and words “**10 per cent.**”, the figure and words “**5 per cent.**” have been substituted.

Rule 59- Form and Manner of Furnishing Details of Outward Supplies

- New sub-rule 59(5) is inserted: The following registered person shall not be allowed to GSTR1
- If he has **not furnished** the return in **GSTR-3B** for preceding two months;
- If he is required to furnish return for every quarter **under the proviso to sub-section (1) of section 39**, if he has not furnished the return in **GSTR-3B** for preceding tax period;

If he is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of ninety-nine per cent. of such tax liability under rule 86B, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period.”



Rule 86B is Inserted with effect from January 1st 2020

“86B. Restrictions on use of amount available in electronic credit ledger. -

Notwithstanding anything contained in these rules, the registered person shall **not use** the amount available in **electronic credit ledger** to discharge his liability towards output tax in **excess of ninety-nine percent of such tax liability**, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees:

The **restriction shall not apply to**

- 1) The proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees who have **paid more than one lakh rupees as income tax under the Income-tax Act, 1961** (43 of 1961) in each of the last two financial years for which the time limit to file return of income under the said Act has expired; or
- 2) The registered person
 - Who has **received a refund amount of more than one lakh rupees** in the preceding financial year on account of unutilized input tax credit under clause (i) of first proviso of sub-section (3) of section 54;; or
 - Who has **received a refund amount of more than one lakh rupees** in the preceding financial year on account of **unutilized input tax credit** under clause (ii) of first proviso of sub-section (3) of section 54; ; or
 - Who has **discharged his liability** towards output tax through the **electronic cash ledger** for an amount which is in **excess of 1% of the total output tax liability**, applied cumulatively, up to the said month in the current financial year; or
 - Who is Govt Department or PSU or Local Authority or Statutory Body

Provided further that the Commissioner or an officer authorized by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.”

Rule 138- Information to be furnished prior to commencement of movement of goods and generation of e-way bill

1) Distance upto 200 Km:

One day in cases other than Over Dimensional Cargo [or multimodal shipment in which at least one leg involves transport by ship

2) For every 200 km or part thereof thereafter

One additional day in cases other than Over Dimensional Cargo [or multimodal shipment in which at least one leg involves transport by ship

The distance has been increased from 100 km to 200 km.

Form **GST REG -31**” is inserted for “Intimation for suspension and notice for cancellation of Registration”

Extension of time limit for furnishing of Annual Return:

The Government has released **Notification No. 95/2020** - Central Tax notifying the extension of time limit for furnishing of the annual return specified electronically through the common portal, for the financial year 2019-20 till February 28th 2021.

Compliance Calendar

Direct Taxes

January 10th, 2021

Extended due date for Filing ITR for AY 2020-21 for Taxpayers not requiring Audit

January 15th, 2021

Date for furnishing various audit reports under the Income-tax Act

Date for furnishing various audit reports under the Income-tax Act

January 30th, 2021

Quarterly TCS certificate in respect of tax collected for the quarter ending December 31, 2020

January 31th, 2021

Last Date for making Declaration under Vivad Se Vishwas Scheme

Quarterly statement of TDS deposited for the quarter ending December 31, 2020

Indirect Taxes

January 10th, 2021

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

January 11th, 2021

Due date for filing of GSTR 1 (Regular Tax Payer)

January 13th, 2021

Due date for filing of GSTR 6 (ISD) and GSTR1 for those who has opted quarterly option.

January 20th, 2021

Due date for filing of GSTR 3B (Regular Tax Payer).

Due date for filing of GSTR 5 (Non-Resident Taxable Person).

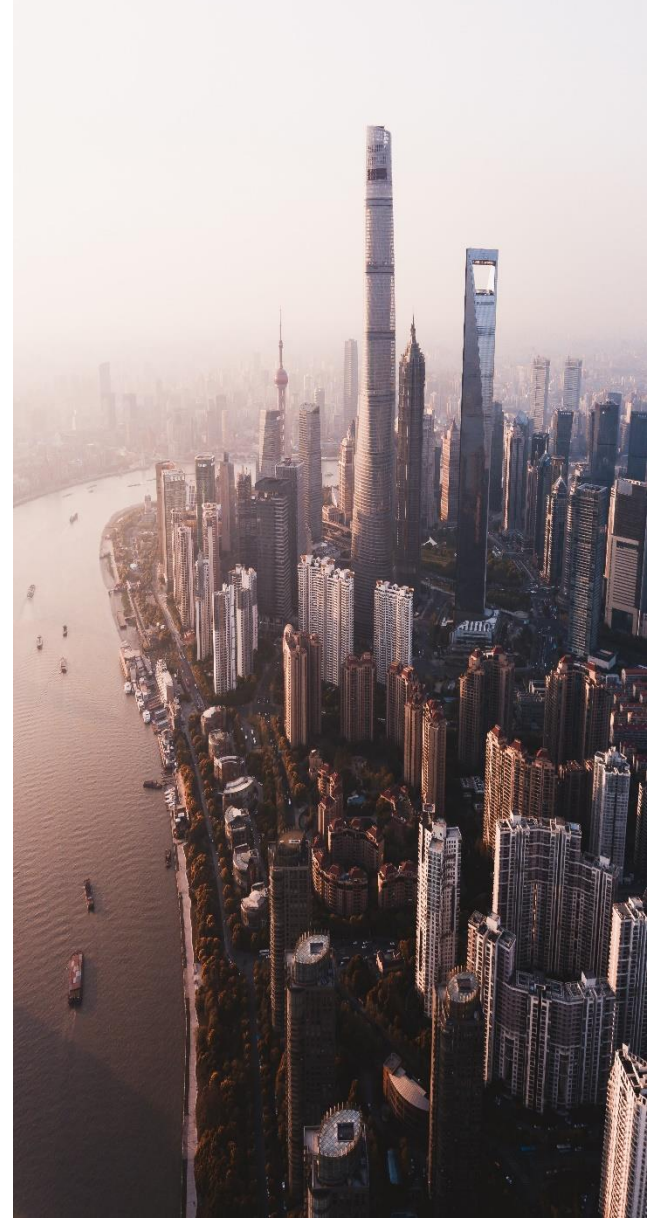
Due date for filing of GSTR 5A (Non-Resident OIDAR Service Provider).

January 22nd, 2021

Due date for filing of GSTR 3B for Taxpayer having turnover upto ₹5 crores in previous financial year (monthly return) in the state of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Daman & Diu, and Dadra & Nagar Haveli, Puducherry, Andaman, and Nicobar Islands, Lakshadweep.

January 24th, 2021

Due date for filing of GSTR 3B for Taxpayer having turnover upto ₹5 crores in previous financial year (monthly return) in the state of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha, Jammu and Kashmir, Ladakh, Chandigarh, Delhi



Do you know?

The finance ministry reported that the gross GST revenue collected in December 2020 rose to ₹1,15,174 crore, **an all-time monthly high since the implementation of the new tax regime**. The December figures, which are 12% higher the GST revenues in the same month last year, are in line with the recent trend of recovery in the GST revenue.



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ABOUT US

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