

# Nucleus ADVISORS

# RoundUp

November 2020 | F&A | Volume III



Welcome to our  
monthly newsletter

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

With a view of reducing hardships faced by the home buyers and developers, the Finance Minister in her Press briefing unveiling Atmanirbhar Bharat Package 3.0 announced the increase of tolerance limit under Section 43CA and Section 56(2)(x) of the IT Act to 20%.

Up to 2018, section 43CA of the Income-tax Act, 1961 ('the Act') provided for deeming of the stamp duty value (circle rate) as sale consideration for transfer of real-estate inventory in the case the circle rate exceeded the declared consideration. Consequentially, stamp duty value was deemed as purchase consideration in case of buyer under section 56(2)(x) of the Act.

In order to provide relief to real estate developers and buyers, the Finance Act, 2018, provided a safe harbour of 5%. Accordingly, these deeming provisions triggered only where the difference between the sale/purchase consideration and the circle rate was more than 5%

In order to provide further relief in this matter, Finance Act, 2020 increased this safe harbour from 5% to 10%. Therefore, currently, the circle rate is deemed to be the sale/purchase consideration for real estate developers and buyers only where the variation between the agreement value and the circle rate is more than 10%.

In order to boost demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a rate substantially lower than the circle rate and giving benefit to the home buyers, the safe harbour has been increased from 10% to 20% under section 43CA of the Act for the period from 12th November, 2020 to 30th June, 2021. The same is applicable for only primary sale of residential units of value up to Rs. 2 crore. Therefore, for these transactions, circle rate shall be deemed as sale/purchase consideration only if the variation between the agreement value and the circle rate is more than 20%.

**The Central Board of Direct tax (CBDT) notified Abu Dhabi based sovereign wealth fund (SWF) for the purpose of exemption under Section 10(23FE).**

**(Notification No. 89/2020)**

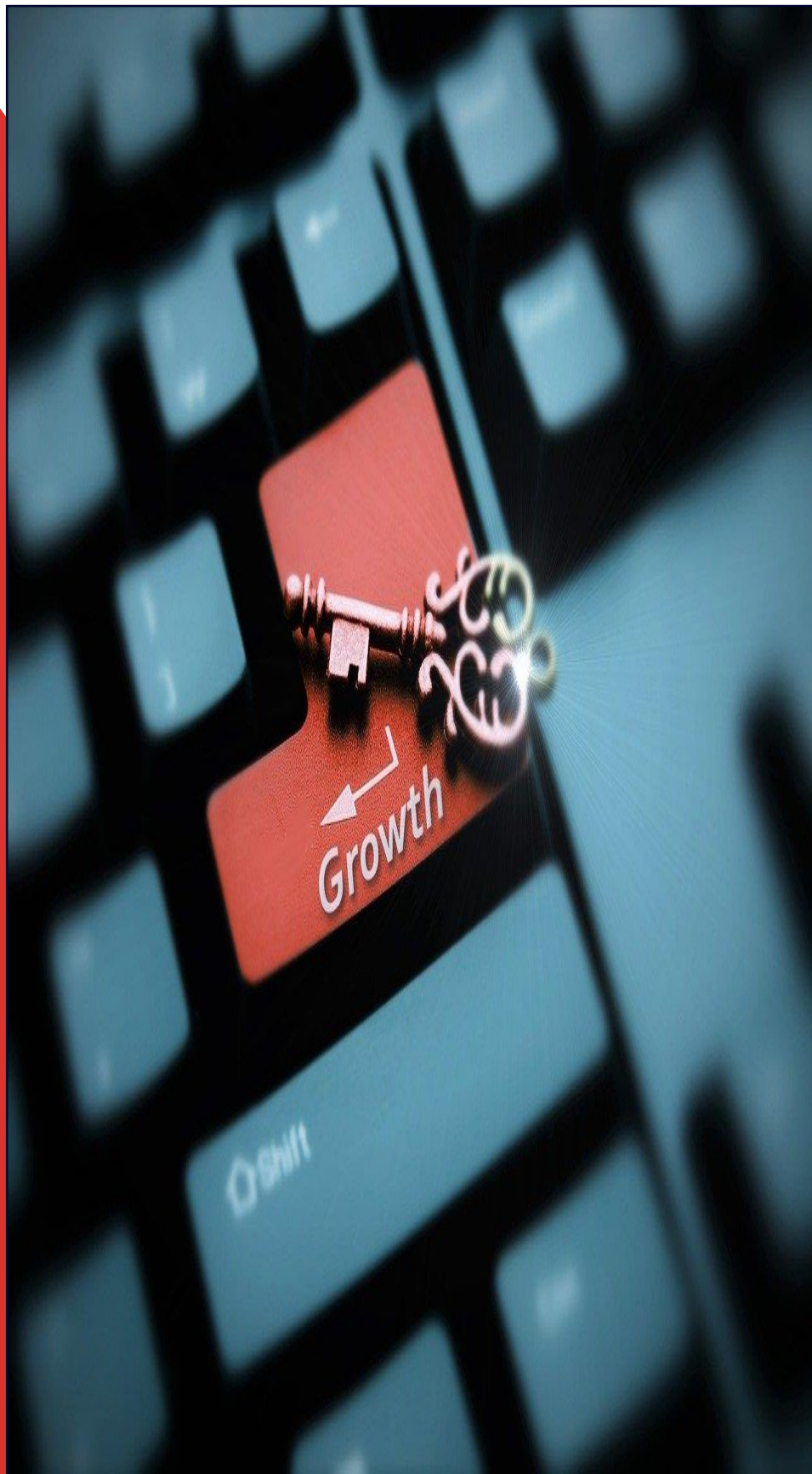
CBDT notified SWF, namely, the MIC Redwood 1 RSC Limited, Abu Dhabi, United Arab Emirates, as the specified person for the purposes of Section 10(23FE) in respect of the investment made by it in India 'on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024', subject to fulfilment of conditions. The CBDT also notified the audit report to be filed by the SWF for claiming exemption under Section 10(23FE).

The Finance Bill, 2020 had introduced Section 10(23FE) granting exemption to Sovereign Wealth Funds (SWFs) towards infrastructure investment whereby their income in the nature of interest, dividend and long-term capital gains from investments made in specified infrastructure business shall be exempt from tax in India, subject to satisfaction of certain conditions. While enacting the Finance Act, 2020, this exemption was also extended to Pension Funds (PFs) as well subject to certain conditions.

## CBDT condoned delay in filing of audit report for Section 10(23C) entities from AY's 2016-17 onwards

- Section 10(23C) of the Act is a specific exemption available to certain Government and non-government universities, educational institutions, hospital, trust, etc. To claim such an exemption under section 10(23C), an Audit Report in Form 10BB is required to be filed by such trust or institution.
- CBDT issued circular under Section 119(2) for condoning delay in filing of audit report in Form 10BB applicable to entities claiming exemption under Section 10(23C). The CBDT condoned delay in filing of such audit reports for AY 2016-17 and AY 2017-18.
- The circular also empowered the Commissioner of Income tax (CIT) to condone delay of upto 365 days for AY 2018-19 onward.

(Circular No. 19/2020)



# GST UPDATES

## Enforcement of Section 97 of Finance Act, 2019, w.e.f. 10.11.2020 [Notification No. 81/2020-Central Tax/S.O. 4043(E)]

The changes which were made in Section 39 i.e., substitution of sub-sections (1) (2) and (7) of Section 39, via section 97 of Finance (No. 2) Act, 2019 (23 of 2019) has come in effect from November 10th, 2020.

Section 39 is related to GST Returns required to be filed by different class of taxpayers. Certain new provisions were inserted in said section. The impact of the amendments are stated below:

- (a) Under sub-section (1), registered persons were required to file GSTR-3B till the twentieth day of the succeeding month as per older provision. After the amendment, CBIC is empowered to notify the time period for filing GSTR-3B by rules or notification. Further, the CBIC may notify the class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.
- (b) Sub-section (2) specified that the registered persons paying tax under Section 10 i.e., Suppliers registered under Composition Scheme shall furnish return (GSTR-4) quarterly within eighteen days after the end of such quarter. However, with this amendment, such taxpayers shall be required to furnish a return for each financial year or part thereof, in such form and manner; and within such time, as may be prescribed.
- (c) Every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed
- (d) Further, every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.

## Thirteenth Amendment CGST Rules

The Government from time to time makes changes in the GST rules to take into account the effect of decisions made in the GST Council meetings. Recently, thirteenth amendment (2020) has been made to the Central Goods and Services Tax Rules, 2017. The synopsis of said changes are given below [Notification No. 82/2020-Central Tax/S.O. 698(E)]:

### Furnishing Details of Outward Supplies via Invoice Furnishing Facility

In Rule 59, the following sub-rule shall be substituted with effect from January 1, 2021.

Sub-rule 2: The registered persons required to furnish return for every quarter under proviso to sub-section (1) of section 39 may furnish the details of such outward supplies of goods or services or both to a registered person, as he may consider necessary, for the first and second months of a quarter, up to a cumulative value of fifty lakh rupees in each of the months,- using invoice furnishing facility (“IFF”) electronically on the common portal, duly authenticated in the manner prescribed under rule 26 (digitally signed), from the 1st day of the month succeeding such month till the 13th day of the said month.

Sub-rule 3: The details of outward supplies furnished using the IFF, for the first and second months of a quarter, shall not be furnished in FORM GSTR-1 for the said quarter.

### Form and Manner of Ascertaining Details of Inward Supplies

Rule 60 shall be substituted with effect from the 1st day of January, 2021 with the following:

**60. FORM GSTR-2A shall include the below mentioned details :**

1. The details of outward supplies furnished by the supplier in FORM GSTR-1 or using the IFF shall be made available electronically to the concerned registered persons (recipients) in Part A of FORM GSTR-2A, in FORM GSTR-4A and in FORM GSTR-6A through the common portal, as the case may be.
2. The details of invoices furnished by a non-resident taxable person in his return in FORM GSTR-5 under rule 63 shall be made available to the recipient of credit in Part A of FORM GSTR 2A electronically through the common portal.
3. The details of invoices furnished by an Input Service Distributor in his return in FORM GSTR-6 under rule 65 shall be made available to the recipient of credit in Part B of FORM GSTR 2A electronically through the common portal.

4. The details of tax deducted at source furnished by the deductor under sub-section (3) of section 39 in FORM GSTR-7 shall be made available to the deductee in Part C of FORM GSTR-2A electronically through the common portal
5. The details of tax collected at source furnished by an e-commerce operator under section 52 in FORM GSTR-8 shall be made available to the concerned person in Part C of FORM GSTR 2A electronically through the common portal.
6. The details of the integrated tax paid on the import of goods or goods brought in domestic Tariff Area from Special Economic Zone unit or a Special Economic Zone developer on a bill of entry shall be made available in Part D of FORM GSTR-2A electronically through the common portal.
7. An auto-drafted statement containing the details of input tax credit shall be made available to the registered person in FORM GSTR-2B, for every month, electronically through the common portal, and shall consist of -
  - (i) the details of outward supplies furnished by his supplier, other than a supplier required to furnish return for every quarter under proviso to sub-section (1) of section 39, in FORM GSTR-1, between the day immediately after the due date of furnishing of FORM GSTR-1 for the previous month to the due date of furnishing of FORM GSTR-1 for the month;
  - (ii) the details of invoices furnished by a non-resident taxable person in FORM GSTR- 5 and details of invoices furnished by an Input Service Distributor in his return in FORM GSTR-6 and details of outward supplies furnished by his supplier, required to furnish return for every quarter under proviso to sub-section (1) of section 39, in FORM GSTR-1 or using the IFF, as the case may be,-
    - (a) for the first month of the quarter, between the day immediately after the due date of furnishing of FORM GSTR-1 for the preceding quarter to the due date of furnishing details using the IFF for the first month of the quarter;
    - (b) for the second month of the quarter, between the day immediately after the due date of furnishing details using the IFF for the first month of the quarter to the due date of furnishing details using the IFF for the second month of the quarter;
    - (c) for the third month of the quarter, between the day immediately after the due date of furnishing of details using the IFF for the second month of the quarter to the due date of furnishing of FORM GSTR-1 for the quarter;
  - (iii) the details of the integrated tax paid on the import of goods or goods brought in the domestic Tariff Area from Special Economic Zone unit or a Special Economic Zone developer on a bill of entry in the month.
8. The Statement in FORM GSTR-2B for every month shall be made available to the registered person,-
  - (i) for the first and second month of a quarter, a day after the due date of furnishing of details of outward supplies for the said month, in the IFF by a registered person required to furnish return for every quarter under proviso to sub-section (1) of section 39, or in FORM GSTR-1 by a registered person, other than those required to furnish return for every quarter under proviso to sub-section (1) of section 39, whichever is later;
  - (ii) in the third month of the quarter, a day after the due date of furnishing of details of outward supplies for the said month, in FORM GSTR-1 by a registered person required to furnish return for every quarter under proviso to sub-section (1) of section 39.”

### Due Dates for Furnishing of FORM GSTR-3B

In the CGST rules, rule 61 shall be substituted to take into account the impact of changes made herein.

Every registered person required to furnish a return in FORM GSTR-3B, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner, on or before the twentieth day of the month succeeding such tax period.

Provided that for taxpayers having an aggregate turnover of up to five crore rupees in the previous financial year shall file their return according to the below mentioned table depending on their location of the principal place of business and the option chosen for filing of GSTR-3B.

S. No.	Principal Place of Business	Time Period for furnishing Form GSTR-3B (Monthly)	Time Period for furnishing Form GSTR-3B (Quarterly)
1	Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	22 <sup>nd</sup> day of the month succeeding such month	22 <sup>nd</sup> day of the month succeeding such quarter

2	Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi	24 <sup>th</sup> day of the month succeeding such month	24 <sup>th</sup> day of the month succeeding such quarter
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## Manner of Opting for Furnishing Quarterly Return

After rule 61, the following rule shall be inserted, namely Rule 61A: -

(1) Every registered person intending to furnish return on a quarterly basis under proviso to sub-section (1) of section 39, shall in accordance with the conditions and restrictions notified in this regard, indicate his preference for furnishing of return on a quarterly basis, electronically, on the common portal, from the 1st day of the second month of the preceding quarter till the last day of the first month of the quarter for which the option is being exercised:

Provided that where such option has been exercised once, the said registered person shall continue to furnish the return on a quarterly basis for future tax periods, unless the said registered person,-

- (a) becomes ineligible for furnishing the return on a quarterly basis as per the conditions and restrictions notified in this regard; or
- (b) opts for furnishing of return on a monthly basis, electronically, on the common portal:

Provided further that a registered person shall not be eligible to opt for furnishing quarterly return in case the last return due on the date of exercising such option has not been furnished.

(2) A registered person, whose aggregate turnover exceeds 5 crore rupees during the current financial year, shall opt for furnishing of return on a monthly basis, electronically, on the common portal, from the first month of the quarter, succeeding the quarter during which his aggregate turnover exceeds 5 crore rupees.

Every registered person required to furnish return, every quarter, shall pay the tax due under proviso to sub-section (7) of section 39, for each of the first two months of the quarter, by depositing the said amount in FORM GST PMT-06, by the twenty fifth day of the month succeeding such month.

Provided that the Commissioner may, by notification, extend the due date for depositing the said amount in FORM GST PMT-06, for such class of taxable persons as may be specified therein.

Provided further that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.

Provided also that while making a deposit in FORM GST PMT-06, such a registered person may -

- (a) for the first month of the quarter, take into account the balance in the electronic cash ledger.
- (b) for the second month of the quarter, take into account the balance in the electronic cash ledger excluding the tax due for the first month.

The amount deposited by the registered persons above, shall be debited while filing the return for the said quarter in FORM GSTR-3B, and any claim of refund of such amount lying in balance in the electronic cash ledger, if any, out of the amount so deposited shall be permitted only after the return in FORM GSTR-3B for the said quarter has been filed



## Amendment in Rule 62

In the said rules, in rule 62,

(i) in sub-rule (1), the words, figures, letters and brackets “or paying tax by availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019- Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.189 (E), dated the 7th March, 2019” shall be omitted;

(ii) in sub-rule (4), the words, figures, letters and brackets “or by availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019- Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.189 (E), dated the 7th March, 2019” shall be omitted;

(iii) in the explanation to sub-rule (4), the words, figures, letters and brackets “or opting for paying tax by availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019- Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.189 (E), dated the 7th March, 2019.” shall be omitted;

(iv) sub-rule (6) shall be omitted.

**Form number 2B is introduced under Central Goods and Services Tax (Thirteenth Amendment) Rules, 2020.**

## New Rules for Monthly/Quarterly filing of GSTR 1

CBIC has issued Notification No. 84/2020- Central Tax dated November 10, 2020 notifying the registered persons, having an aggregate turnover of up to five crore rupees in the preceding financial year, and who have opted to furnish a return (GSTR- 3B) for every quarter, as the class of persons who shall, subject to the following conditions and restrictions, furnish a return for every quarter from January, 2021 onwards, and pay the tax due every month in accordance with the proviso to sub-section (7) of section 39 of the said Act, namely: –

(i) the return for the preceding month, as due on the date of exercising such option, has been furnished:

(ii) where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the same.

A registered person whose aggregate turnover crosses five crore rupees during a quarter in a financial year shall not be eligible for furnishing of return on quarterly basis from the first month of the succeeding quarter.

Registered persons who have furnished the return for the tax period October, 2020 on or before 30th November, 2020, it shall be deemed that they have opted for the monthly or quarterly furnishing of return as mentioned in the Table below:

S. No.	Class of registered person	Deemed Option
1	Registered persons having aggregate turnover of up to 1.5 crore rupees, who have furnished FORM GSTR-1 on quarterly basis in the current financial year	Quarterly return
2	Registered persons having aggregate turnover of up to 1.5 crore rupees, who have furnished FORM GSTR-1 on monthly basis in the current financial year	Monthly return
3	Registered persons having aggregate turnover more than 1.5 crore rupees and up to 5 crore rupees in the preceding financial year	Quarterly return

The registered persons referred to in the Table, may change the default option electronically, on the common portal, during the period from 5th day of December, 2020 to 31st day of January, 2021.



### Extension of Due Date for filing FORM GSTR-1 [Notification No. 87/2020-Central Tax/S.O. 703(E)]

Time limit for furnishing the details of outward supplies in FORM GSTR-1 of the CGST Rules, 2017 has been extended, for each of the tax periods, till the eleventh day of the month succeeding such tax period.

Further, the time limit for furnishing the details of outward supplies in FORM GSTR-1 for the class of registered persons required to furnish return for every quarter under proviso to sub-section (1) of section 39 of the said Act, shall be extended till the thirteenth day of the month succeeding such tax period.

This notification shall come into force with effect from the 1st day of January, 2021.



## Extention of filing of ITC-04 [Notification No. 87/2020-Central Tax S.O.703(E)]

Time limit for furnishing the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2020 to September, 2020 has been extended till the 30th day of November, 2020.

This notification shall be deemed to have come into force with effect from the 25th day of October, 2020.

FORM GST ITC-04 is required to be submitted by the principal every quarter. It shall include the details of challans in respect of the following-

- a) Goods dispatched to a job worker or
- b) Received from a job worker or
- c) Sent from one job worker to another



## E-invoicing for Tax payers having Aggregate Turnover Exceeding INR 100 Cr. Notification No. 88/2020-Central Tax/S.O. 704(E)

CBIC has issued Notification No. 88/2020-Central Tax dated 10.11.2020 notifying the registered person whose aggregate turnover in a financial year exceeds one hundred crore rupees, as a class of registered person who shall prepare invoice and other prescribed documents, in terms of sub-rule(4) of rule 48 of the CGST rules in respect of supply of goods or services or both to a registered person i.e., they shall follow the procedure of e-invoicing.

However, the below mentioned persons are excluded from the purview of e-invoicing :

- An insurer or a banking company or a financial institution, including a non-banking financial company
- Goods transport agency supplying services in relation to transportation of goods by road in a goods carriage
- Supplier of Passenger transportation service
- Registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- SEZ Unit or Developer

This notification shall come into effect from January 1, 2021.

## Special Procedure for Making Payment of Tax Liability

With the issuance of Notification No. 85/2020- Central Tax dated November 10, 2020, the CBIC has notified the special procedure for payment of tax liability w.e.f. January 1, 2021 for the class of registered persons who have opted to furnish FORM GSTR-3B for every quarter or part thereof. In first month or second month or both months of the quarter, the person shall pay tax due by way of making a deposit of an amount in the electronic cash ledger equivalent to, -

(i) 35% of the tax liability paid by debiting the electronic cash ledger in the return for the preceding quarter where the return is furnished quarterly; or

(ii) the tax liability paid by debiting the electronic cash ledger in the return for the last month of the immediately preceding quarter where the return is furnished monthly:

Provided that no such amount may be required to be deposited-

(a) for the first month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the tax liability for the said month or where there is nil tax liability ;

(b) for the second month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the cumulative tax liability for the first and the second month of the quarter or where there is nil tax liability:

Provided further that registered person shall not be eligible for the said special procedure unless he has furnished the return for a complete tax period preceding such month.

## Penalty Waived Off for Non-Compliance of B2C Tax Invoice with Dynamic QR Code

CBIC has waived the amount of penalty payable by any registered person under section 125 of the CGST Act for non-compliance of the provisions of notification No.14/2020 - Central Tax, dated the 21st March, 2020 i.e., issuance of B2B Invoice with Dynamic Quick Response (QR) Code between the period from the 1st day of December, 2020 to the 31st day of March, 2021, subject to the condition that the said person complies with the provisions of the said notification from the 1st day of April, 2021.

# Compliance Calender

## Direct Taxes

### **7<sup>th</sup> December 2020**

Due date for deposit of Tax deducted/collected for the month of November, 2020.

### **15<sup>th</sup> December 2020**

Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of November, 2020 has been paid without the production of a challan

Third instalment of advance tax for the assessment year 2021-22.

Due date for issue of TDS Certificate for tax deducted under section 194-IA, IB, M in the month of October, 2020.

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 November, 2020

### **30<sup>th</sup> December 2020**

Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA, IB, M in the month of November, 2020.

Furnishing of report in Form No. 3CEAD for a reporting accounting year (assuming reporting accounting year is January 1, 2019 to December 31, 2019) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report under section 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc.

### **31<sup>st</sup> December 2020**

Return of income for the assessment year 2020-21 for all assessee other than (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or (d) an assessee who is required to furnish a report under section 92E.

Due date for furnishing of various audit reports including tax audit report and report in respect of international/specified domestic transaction for the Assessment Year 2020-21.

## Indirect Taxes

### **10<sup>th</sup> December 2020**

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

### **11<sup>th</sup> December 2020**

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

### **13<sup>th</sup> December 2020**

Due date for filing of GSTR 6 (ISD).

### **20<sup>th</sup> December 2020\***

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).

### **28<sup>th</sup> December 2020**

Due date for filing of GSTR 11 (UIN Holder).

### **31<sup>st</sup> December 2020**

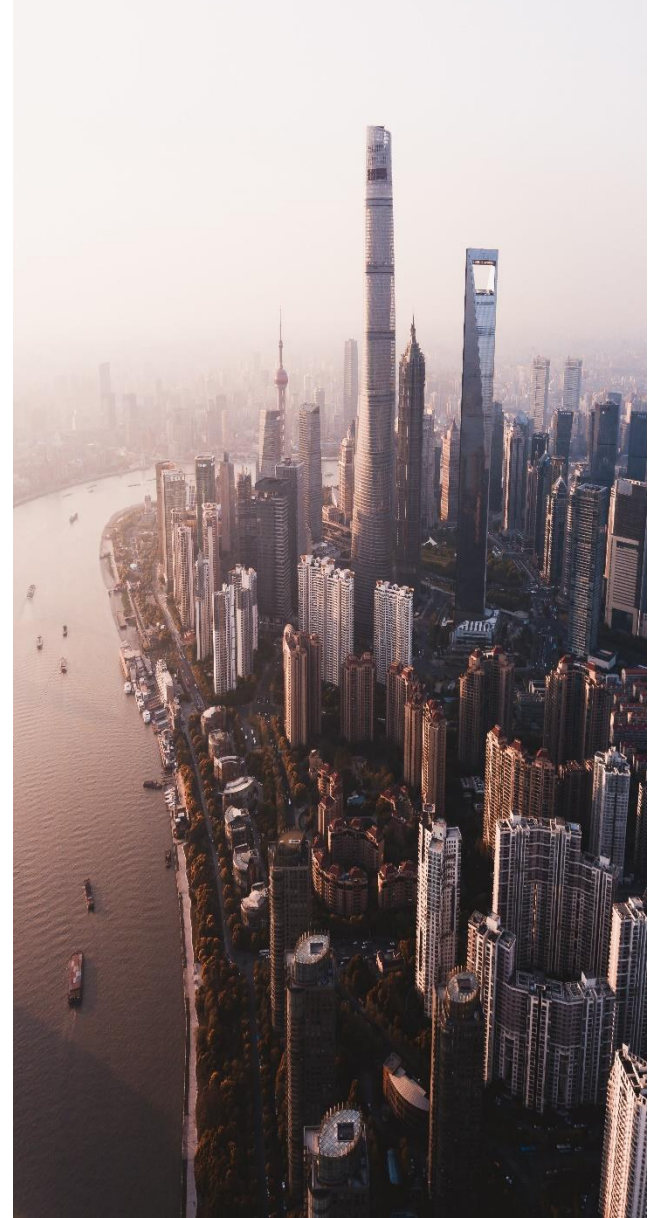
Due date for filing of GSTR 9 (Regular Tax Payer).

Due date for filing of GSTR 9C (Regular Tax Payer).

Due date for filing of GSTR 9A (Composition Tax Payer).

#### **\*Note**

Taxpayers having Aggregate Turnover of up to rupees five crore in the previous financial year shall be required to file FORM GSTR- 3B on 22<sup>nd</sup>/ 24<sup>th</sup> of the next month depending on the principal place of business of the registered person.



## Do you know?

India was the first country to introduce digital tax called 'Equalisation Levy' in 2016 at the rate of 6%. EL 1.0 was payable by Indian residents on online advertisement services purchased from non-resident companies. From 1 April 2020, the scope of equalisation levy has been expanded to include 2% levy on all online sale of goods or services into India by non-resident e-commerce operators ('EL 2.0').



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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.

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