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# THE NEWSLETTER

*Knowledge with an edge*



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## what's inside

**IncomeTax**

by:  
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Service Tax)**

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by:  
Bhavesh Shah



**International  
Taxation**

by:  
Bhavesh Shah



**Company  
Law**

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Mayura Niphadkar  
Pinkesh Jain



**Compliance  
Calendar**

by:  
Pinkesh Jain



**Re-assessment Notices  
u/s 148 quashed by  
Delhi High Court**

In the case of Mon Mohan Kohli v. ACIT & Anr WP(C) Delhi High Court has held that

The delegation authorized being only for the purpose of enlarging limitation under a valid law, such delegation could not be exercised to resurrect the provision of law that stood omitted from the statute book by virtue of its substitution made by the Finance Act, 2021, w.e.f. 01.04.2021

Reassessment notices issued under section 148 of the Act are quashed. It is left open to the assessing authority to initiate re-assessment proceedings in accordance with the provisions of the Act, as amended by the Finance Act, 2021 after making due compliance as required under the law. [S. 147, 148A, 149, 151, 151A, 153, 292 Relaxation of Certain Provisions) Act, 2020 (TOLA), S. 3(1) of the Act 38 of 2020, Art. 226].

<https://itatonline.org>

**Supreme Court held  
that the powers of the  
Karta of HUF to Sale  
property belonging to  
HUF without consent  
of all coparceners is  
settled**

In the case of Beereddy Dasaratharami Reddy vs V. Manjunath and Anr, Supreme Court has held:

The Supreme Court in this case was considering an appeal where the action of Karta to sale the property of the HUF was held to be invalid in view of the fact that the son of the Karta had not signed the sale agreement and it was contended that the Karta had no power to sale the property.

The Supreme Court while dealing with the law on the subject held that Right of the Karta to execute agreement to sell or sale deed of a joint Hindu family property is settled and is beyond cavil vide several judgments of this Court including Sri Narayan Bal and Others v. Sridhar Sutar and Others (1996) 8 SCC 54(SC) wherein it has been held that a joint Hindu family is capable of acting through its Karta or adult member of the family in management of the joint Hindu family property.

The Karta enjoys wide discretion in his decision over existence of legal necessity and as to in what way such necessity can be fulfilled. The legal necessity in this case was fulfilled as by its own affidavit HUF contended that it needed money at the time of sale.

Thus, the appeal of the buyer was allowed and the HUF was directed to transfer the property as per the sale agreement.

<https://itatonline.org>

**CBDT forms task force  
to overhaul Income Tax  
department**

The Central Board of Direct Taxes (CBDT) has constituted a task force to restructure the Income Tax (I-T) Department. The panel comprising 10 senior officials of the I-T department will reassess its role and functions in view of the faceless regime aimed at cutting down physical interface between a taxpayer and the department.

CBDT has given a seven-point agenda to the task force. They include restructuring the department and rationalising national and regional e-assessment centers that are the primary gateway in communicating with taxpayers.

The panel has been asked to submit its recommendations by March 31, 2022.

The move is significant as taxpayers have raised concerns over challenges in the faceless regime introduced last year.

<https://economictimes.indiatimes.com>

**Bombay High Court  
passes strictures  
against the Assessing  
Officer**

In the case of Milestone Brandcom Private Limited vs. NFAC, Bombay High Court passed strictures against Assessing Officer for 'remarkable ineptitude' and 'gross abuse of process'. It imposes costs for not considering Assessee's reply to Draft Assessment Order and cutting & pasting the Draft Assessment Order in the Final Assessment Order.

The Writ Petition was filed by the Assessee against a Final Assessment Order passed by the National Faceless Assessment Centre without considering the response of the Assessee to the Draft Assessment Order and without granting an opportunity of being heard despite request from the Assessee. The Court noted that the final order was nothing but cut and pasted from the Draft Assessment Order.

The assessing officer who passed the impugned final assessment order, was directed to pay costs of Rs. 10,000/- from his personal account to the PM Cares Fund and file compliance affidavit in this regard. The Court also expressed that the parties concerned shall also take action against the Assessing Officer who passed the impugned order.

<https://itatonline.org>

**CBDT further extends  
the due date for filing  
various reports under  
the Act and filing of  
Tax Returns**

On consideration of difficulties reported by the taxpayers and other stakeholders due to COVID and in electronic filing of various reports of audit under the provisions of the Income-tax Act, 1961 (Act), the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Act, extends the following due dates:

Particulars	Old Extended Due Date	New Extended Date
Tax Audit Report u/s 44AB	15th Jan 2022	15th Feb 2022
Transfer Pricing Report u/s 92E	31st Jan 2022	15th Feb 2022
Return of Income whose accounts are audited u/s 44AB	15th Feb 2022	15th Mar 2022
Return of Income whose accounts are audited under any other law	15th Feb 2022	15th Mar 2022
Return of Income whose accounts are audited u/s 92E	28th Feb 2022	15th Mar 2022
Partners of the firm whose accounts are audited	15th Feb 2022	15th Mar 2022

<https://www.incometaxindia.gov.in/communications/circular/circular-no-1-2022.pdf>

**AADHAR** ▶  
**Authentication**  
**required for GST**  
**Refund Application**  
**and Revocation of**  
**Cancellation of GST**  
**Registration**

It has been notified that, every Proprietor / Karta / Managing Director/ Member of Managing Committee / AOP / BOI / Society or Trustee or Authorized Signatory has to undergo Aadhar Authentication for GST Refund Application under Rule 89 or Rule 96 and for Filing of Revocation of Cancellation of Registration.

The above requirements of AADHAR Authentication on GST Portal, shall not apply to following categories of registered persons:

- a) not a citizen of India
- b) a Department or establishment of the Central Government or State Government
- c) a local authority
- d) a statutory body
- e) a Public Sector Undertaking
- f) a person applying for registration under the provisions of sub-section (9) of section 25 of the said Act

[Notification No.38/2021 – Central Tax dated December 21, 2021]

**Important** ▶  
**Amendments**  
**Applicable from**  
**January 1, 2022**

**> Scope of Supply Amended to include supply to Members**

Section 7(1)(aa) of the CGST Act, has been retrospectively inserted from 1st July,2017 which states that any activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration shall be considered as a Supply. Accordingly, now the clubs /associations and its members will be treated as Distinct Persons and GST will be applicable on supply made to members.

**> End of provisional Input Tax Credit**

Input Tax Credit (ITC) claims will be allowed only if the Invoices or Debit Notes have been furnished by the supplier in its GSTR-1. Taxpayer can no longer claim 5% additional or provisional ITC. Taxpayers need to be extra careful now and make sure every ITC claim reflects in GSTR- 2B.

**> Cannot file GSTR-1 if filing of GSTR-3B is pending:**

Blocking of the facility of filing Form GSTR-1 will be made effective from January 1 in cases where the taxpayer has not paid taxes and not filed Form GSTR-3B in the immediate previous month. Earlier, the law restricts the filing of return for outward supplies (GSTR-1) in case a taxpayer fails to file Form GSTR-3B of the preceding two months.

**> Self-Assessed Tax shall be determined as furnished in Return u/s 37 (GSTR-1) and not as furnished in Return u/s 39 (GSTR-3B)**

Previously the Government could initiate Demand / Recovery Proceedings only if Liability was furnished in GSTR 3B. Such practical difficulty has now been removed vide the Explanation inserted and any Liability as furnished in GSTR 1 and not paid through GSTR 3B is liable to be recovered.

**> Appeals to Appellate Authority**

Previously payment of 10% of the tax in dispute was enough for the Assessee to file an appeal against an order u/s 129(3). Now it is required to pay 25% of the penalty amount to file such appeal.

**> Closure of Proceedings u/s 73 or u/s 74 (Demand/Recovery) will be independent of Proceedings u/s 129 or u/s 130(Detention /Seizure)**

Section 74 stated that where the proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all such persons liable to pay penalty under sections 122, 125, 129 and 130 would have been deemed to be concluded. But after the amendment, Section 129 and Sec.130 has been removed and only proceedings under 122 and 125 would be deemed to be concluded thus resulting in proceedings of the detention, seizure and confiscation of goods and conveyances in transit (Section 129 and Section 130) separate from the demand and recovery proceedings u/s 73 and 74.

[Notification No.39/2021 – Central Tax dated December 21, 2021 and  
Notification No.40/2021 – Central Tax dated December 29, 2021]

***Extension of Due Date  
for filing GST Annual  
Return (Form GSTR-9)  
and Self Certified  
Annual Reconciliation  
Statement (Form  
GSTR-9C)***

The due date for furnishing the GST Annual Return (Form GSTR-9) and Self Certified Annual Reconciliation Statement (Form GSTR-9C) for the FY 2020-21 has been extended to **February 28, 2022**.

[Notification No.40/2021 – Central Tax dated December 29, 2021]

### **External Commercial Borrowings (ECB) and Trade Credits (TC) Policy – Changes due to LIBOR transition**

In view of the imminent discontinuance of LIBOR as a benchmark rate, it has been decided by the RBI to make the following changes to the all-in-cost benchmark and ceiling for FCY ECBs/ TCs:

**i. Redefining Benchmark Rate for FCY ECBs and TCs:** Currently, the benchmark rate is defined as “benchmark rate in case of FCY ECB/TC refers to 6-months LIBOR rate of different currencies or any other 6-month interbank interest rate applicable to the currency of borrowing, e.g., EURIBOR”. Henceforth, benchmark rate in case of FCY ECB/TC shall refer to any widely accepted interbank rate or alternative reference rate (ARR) of 6-month tenor, applicable to the currency of borrowing.

**ii. Change in all-in-cost ceiling for new ECBs/ TCs:** To take into account differences in credit risk and term premia between LIBOR and the ARR, the all-in-cost ceiling for new FCY ECBs and TCs has been increased by 50 bps to 500 bps and 300 bps, respectively, over the benchmark rates.

**iii. One Time Adjustment in all-in-cost ceiling for existing ECBs/ TCs:** To enable smooth transition of existing ECBs/ TCs linked to LIBOR whose benchmarks are changed to ARRs, the all-in cost ceiling for such ECBs/ TCs has been revised upwards by 100 basis points to 550 bps and 350 bps, respectively, over the ARR.

There is no change in the all-in-cost benchmark and ceiling for INR ECBs/ TCs. All other provisions of the ECB/ TC policy remain unchanged.

(RBI/2021-22/135A.P. (DIR Series) Circular No. 19 dated December 8, 2021)

### **Introduction of Legal Entity Identifier for Cross-border Transactions**

The Legal Entity Identifier (LEI) is a 20-digit number used to uniquely identify parties to financial transactions worldwide to improve the quality and accuracy of financial data systems. LEI has been introduced by the Reserve Bank of India (RBI) in a phased manner for participants in the over the counter (OTC) derivative, non-derivative markets, large corporate borrowers and large value transactions in centralized payment systems.

In order to further harness the benefits of LEI, it has been decided by the RBI, **with effect from October 1, 2022**, all Resident entities (non-individuals) undertaking capital or current account transactions of ₹50 crore and above (per transaction) under FEMA, 1999 should obtain LEI. In case of Non-resident counterparts/ overseas entities where the LEI information is not available, AD Category I banks may process the transactions to avoid disruptions.

Please be informed, once an entity has obtained an LEI number, it must be reported in all transactions of that entity, irrespective of transaction size.

Further, AD Category I banks may encourage concerned entities to voluntarily furnish LEI while undertaking transactions even before October 1, 2022.

All entities who undertake large value cross border transactions (₹50 crore and above) shall start the process to obtain LEI in time, if they do not already have one issued.

(RBI/2021-22/137 A.P. (DIR Series) Circular No. 20 dated December 10, 2021)

***OECD releases Pillar Two model rules for domestic implementation of 15% global minimum tax***

The OECD on December 20, 2021 published detailed rules to assist in the implementation of a landmark reform to the international tax system, which will ensure Multinational Enterprises (MNEs) will be subject to a minimum 15% tax rate from 2023.

The Pillar Two model rules provide governments a precise template for taking forward the two-pillar solution to address the tax challenges arising from digitalization and globalization of the economy agreed in October 2021 by 137 countries and jurisdictions under the OECD/G20 Inclusive Framework on BEPS.

The rules define the scope and set out the mechanism for the so-called Global Anti-Base Erosion (GloBE) rules under Pillar Two, which will introduce a global minimum corporate tax rate set at 15%. The minimum tax will apply to MNEs with revenue above EUR 750 million and is estimated to generate around USD 150 billion in additional global tax revenues annually.

The GloBE rules provide for a co-ordinated system of taxation intended to ensure large MNE groups pay this minimum level of tax on income arising in each of the jurisdictions in which they operate. The rules create a “top-up tax” to be applied on profits in any jurisdiction whenever the effective tax rate, determined on a jurisdictional basis, is below the minimum 15% rate.

The new Pillar Two model rules will assist countries to bring the GloBE rules into domestic legislation in 2022. They provide for a co-ordinated system of interlocking rules that:

- define the MNEs within the scope of the minimum tax;
- set out a mechanism for calculating an MNE's effective tax rate on a jurisdictional basis, and for determining the amount of top-up tax payable under the rules; and
- impose the top-up tax on a member of the MNE group in accordance with an agreed rule order.

The Pillar Two model rules also address the treatment of acquisitions and disposals of group members and include specific rules to deal with particular holding structures and tax neutrality regimes. Finally, the rules address administrative aspects, including information filing requirements, and provide for transitional rules for MNEs that become subject to the global minimum tax.



**Important clarification regarding holding of AGM through Video Conference (VC) or Other Audio Visual Means (OVAM)**

The Ministry of Corporate Affairs vide its Circular No. 19 dated 8th December, 2021 with reference to its earlier Circular No. 20 dated 05th May, 2020 and Circular No. 02 dated 13th January, 2021 decided to allow companies whose AGMs are due in the year 2021, to conduct their AGM on or before 30th June, 2022 in accordance with the requirements laid down in para 3 and 4 of the general circular No. 20 dated 05th May, 2020.

Further, it is clarified that, this circular shall not be construed as conferring any extension of holding AGM and the Companies which have not adhered to the relevant timelines shall be liable to legal action under the appropriate provisions of the Act.

A Similar clarification has been issued for AGMs to be conducted in the year 2022.

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NDExNDI=&docCategory=Circulars&type=open>  
<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTM1MTk=&docCategory=Circulars&type=open>  
<https://www.mca.gov.in/bin/dms/getdocument?mds=%252FsmI3Qxz3XIO4y8gLSakgg%253D%253D&type=open>

**Clarification regarding conducting EGM**

The Ministry of Corporate Affairs vide its various circulars decided to allow companies to conduct their EGMs through Video Conference (VC) or Other Audio Visual Means (OVAM) or transact items through postal ballot in accordance with framework provided in aforesaid circulars upto 30th June, 2022. All other requirements provided in the said circulars shall remain unchanged.

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NDExNDA=&docCategory=Circulars&type=open>

**Extension of due date of filing e-forms AOC-4, AOC-4(CFS), AOC-4 XBRL and MGT -7 / MGT -7A for the financial year ended on 31.03.2021**

The Ministry of Corporate Affairs vide its Circular No. 22 dated 29th December, 2021 in continuation with its Circular No. 17 dated 29th October, 2021 decided that, no additional fees shall be levied upto 15th February, 2022 for the filing of e-forms AOC-4, AOC-4(CFS), AOC-4 XBRL and upto 28th February, 2022 for the filing of e-forms MGT -7 / MGT -7A in respect of the financial year ended on 31.03.2021 respectively i.e. during the said period, only normal fees shall be payable for the filing above mentioned e-forms.

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NDEzNDU=&docCategory=Circulars&type=open>  
<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NDA5MDk=&docCategory=Circulars&type=open>

**Due dates for the Month of February, 2022#**

Regulation	Due Date	Compliance	Description
Employees' State Insurance Act, 1948 - (ESIC)	15-Feb-22	ESIC Payment	ESIC Payment for the month of January, 2022
The Maharashtra Shops and Establishments Act, 1948	28-Feb-22	Shop and Establishment	Return in Form 'R' to be filed under Shop & Establishment Act
Goods and Service Tax (GST)	10-Feb-22	GSTR 7	Summary of Tax Deducted at Source (TDS) and deposited for the month of January, 2022
	10-Feb-22	GSTR 8	Summary of Tax Collected at Source (TCS) and deposited by E-Commerce Operator for the month of January, 2022
	11-Feb-22	GSTR-1	Return of outward supplies of taxable goods and/or services for the Month of January, 2022 (for Assesses having turnover exceeding 1.5 Cr.)
	13-Feb-22	GSTR 6	Return for Input Service Distributors for the month of January, 2022
	13-Feb-22	IFF-QRMP	Option of uploading Invoices for January 2022 using Invoice Furnishing Facility (IFF) applicable to tax payers opted for Quarterly Return Monthly Payment (QRMP) Scheme
	20-Feb-2022 or 22-Feb-2022 or 24-Feb-2022	GSTR-3B	Simple GSTR return for the Month of January, 2022 (based on category of taxpayer)
	28-Feb-2022	GSTR-9 & GSTR-9C	GST Annual Return and GST Self Certified Annual Reconciliation for the year ended on March 31, 2021
Income Tax Act, 1961	07-Feb-2022	TDS/TCS	Due date for deposit of Tax deducted/collected for the month of January, 2022.
	14-Feb-2022	TDS/TCS	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA/194IB/194IM in the month of December, 2021
	15-Feb-2022	ITR	Due date for filing of return of income for the assessment year 2021-22 if the assessee (not having any international or specified domestic transaction) is (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 the spouse of such partner if the provisions of section 5A apply  The due date for furnishing of return of income for Assessment Year 2021-22 has been extended to February 28, 2022 vide Circular no. 17/2021, dated 09-09-2021
	15-Feb-2022	TDS/TCS	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2021.
	28-Feb-2022	ITR	Return of income for the assessment year 2021-22 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s)  The due date for furnishing of return of income for Assessment Year 2021-22 has been extended to February 28, 2022 vide Circular no. 17/2021, dated 09-09-2021
PT Act 1975 (Employee)	15-Feb-22	PT Employees	PF Payment for the month of Jan, 2022
Employees' Provident Funds & Miscellaneous Provisions Act, 1952	15-Feb-22	PF Payment	PF Payment for the month of Jan, 2022

# The above due date calender contains compliances generally applicable to taxpayers and this calender has been compiled by HSCo on basis of data available on various portals and other sources. One should always check applicable compliances based on their business needs and should also check updated due dates, if any, on the government portal before making the compliance.

**35+**  
Years of  
Operation

**6**  
Partners

**60+**  
Team  
Members

**5**  
Offices across  
India

**60+**  
International  
Clientele

**700+**  
National  
Clients

**SSAE<sub>18</sub>**  
Compliant

**ICAI<sup>Certified</sup>**  
Peer Reviewed  
Firm

**IBBI<sup>Certified</sup>**  
Registered  
Valuer



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