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Monthly Newsletter Series

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# KNOWL with an **EDGE**



## Income Tax

| Page 1

by: Manish Parekh

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## GST

| Page 3

by: Vivek Shah

---

## FEMA

| Page 5

by: Bhavesh Shah

---

## International Taxation

| Page 6

by: Bhavesh Shah

---

## Company Law

| Page 7

by: Pinkesh Jain

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## Compliance Calendar

| Page 9

by: Pinkesh Jain

## **CBDT Extends the Due Date of Form 10B and 10BB for the trusts and institutions which filed audit reports for the AY 2023-24 in wrong forms**

It has come to the attention of the CBDT that in a number of cases trusts / institutions have furnished audit report in Form No. 10B, where Form No. 10BB was required to be furnished for the A.Y. 2023-24. Similarly, in a number of cases trusts / institutions have furnished audit report in Form No. 10BB, where Form No. 10B was required to be furnished for the A.Y. 2023-24.

As noted above, non-furnishing of audit report in the prescribed form would result in denial of exemption in such cases as it is one of the conditions which is required to be satisfied for claim of exemption.

In view of the above, the Central Board of Direct Taxes, in exercise of its powers under section 119 of the Act hereby allows those trusts / institutions which have furnished audit report on or before 31st October, 2023 in Form No. 10B where Form No. 10BB was applicable and vice-versa, to furnish the audit report under clause (b) of the tenth proviso to clause (23C) of section 10 and sub-clause (ii) of clause (b) of sub-section (1) of section 12A of the Income-tax Act, 1961, in the applicable Form No. 10B / 10BB for the assessment year 2023-24, on or before 31st March, 2024.

<https://incometaxindia.gov.in/communications/circular/circular-no-2-2024.pdf>

## **CBDT issues circular clarifying exemption for Inter-Trust donations.**

Income of any fund or institution or Trust or any university or other educational institution or any hospital or other medical institution referred to in certain clauses of section 10(23C) of the Income-tax Act, 1961 (ITA) [hereinafter referred to as the first regime] or any Trust or institution registered under section 12AA or 12AB of the ITA ('hereinafter referred to as the second regime') is exempt, subject to the fulfilment of certain conditions. These conditions, inter-alia, include the following:-

(a) at least 85% of income of the Trust/institution should be applied during the year for charitable or

religious purposes;

(b) Trusts or institutions are allowed to apply mandatory 85% of their income either themselves or by making donations to the Trusts with similar objectives; and

(c) If donated to other Trust/institution, the donation should not be towards corpus to ensure that the donations are applied by the done trust/institution for charitable or religious purposes.

In order to ensure intended application towards charitable or religious purposes, Finance Act, 2023 provided that eligible donations made by a Trust/institution shall be treated as application for charitable or religious purposes, only to the extent of 85% of such donations and accordingly, the Finance Act, 2023 made the following amendments:

(a) inserted clause (iii) in Explanation 2 to third proviso of section 10(23C) of the Act;

(b) inserted clause (iii) in Explanation 4 to section 11(1) of the Act

Representations were received by the CBDT raising the concern that whether the balance 15% of donation to other trust / institution would be taxable or is eligible for 15% accumulation since the funds would not be available having been already disbursed.

CBDT has now issued a clarification whether the remaining 15% of donation to other Trust / institution would be taxable or would be eligible for 15% accumulation since the funds would not be available having been already disbursed)

It has been reiterated that eligible donations made by a Trust/institution to another Trust/institution under any of the two regimes shall be treated as application for charitable or religious purposes only to the extent of 85% of such donations. Hence, when a Trust/institution donates INR 100 to another trust/institution, it will be considered to have applied 85% (INR 85) for the purpose of charitable or religious activity. Further, it clarifies that balance 15% (INR 15) of such donations by the donor Trust/institution shall not be required to be invested in specified modes under section 11(5) of the Act as the entire amount of

INR 100 has been donated to the other Trust / institution and is accordingly, eligible for exemption under the first or second regime.

This is illustrated by following example where Trust 1, Trust 2 and Trust 3 are trusts or institutions under any of the two regimes. Further, Trust1 is making eligible donation to Trust 2 and Trust 2 is further making eligible donation to Trust 3.

Sl. No	Particulars	Trust 1		Trust 2		Trust 3	
1	Income (A)	300		100		100	
2	Income which is required to be applied (B = 85% of A)		255		85		85
3	Application of income						
4	Donation to other trusts under the first or second regime (C)	100		100			Nil
5	Amount to be considered as application of income against the donations at row no. 3 [as per clause (iii) of the Explanation 2 to third proviso to clause (23C) of section 10 or clause (iii) of the Explanation 4 to sub-section (1) of section 11 of the Act]. (D = 85% of C)		85		85		
6	Balance income for application (E = A -C)	200		Nil		100	
7	Application other than Sl. No.4 (F = 85% of E)		170		Nil		85
8	Remaining income which may be accumulated without Form No. 10 / 9A (G = 15% of E)		30		Nil		15
9	Funds required to be invested in section 11(5) modes (H = G)		30		Nil		15
10	Exemption of income (I = C +F + G)	300		100		100	

<https://incometaxindia.gov.in/communications/circular/circular-3-2024.pdf>

**Ex-post facto extension of due date for filing Form No. 26QE which was required to be filed during the period 01.07.2022 to 28.02.2023 (pertaining to F.Y. 2022-23)**

As per section 194S of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), any person

responsible for paying to any resident person any sum by way of consideration for the transfer of a virtual digital asset is required to deduct an amount equal to 1% of such sum as income tax thereon.

Further, as per sub-rule (40) of rule 31A, a 'specified person' is required to report such deductions in a challan-cum-statement electronically in Form No. 26QE within thirty days from the end of the month in which such deduction is made.

It has come to the notice of the Central Board of Direct Taxes ('the Board') that specified persons who deducted tax under section 194S of the Act during the period from 01.07.2022 to 31.01.2023, could not file Form No. 26QE and pay corresponding TDS on or before the due date, due to unavailability of Form No. 26QE. This has resulted in consequential levy of fee under section 234E and interest under clause (ii) of sub-section (1A) of section 201 of the Act. Further, the specified persons who deducted tax under section 194S during the period from 01.02.2023 to 28.02.2023 had insufficient time to file Form No. 26QE and pay corresponding TDS thereon.

In order to address the grievances of such specified persons and in exercise of the powers conferred under section 119(2)(a) of the Act, the Board has decided to, ex-post facto, extend the due date of filing of Form No. 26QE for specified persons who deducted tax under section 194S but failed to file Form No. 26QE. The due date is hereby extended to 30.05.2023 in those cases where the tax was deducted by specified persons under section 194S of the Act during the period from 01.07.2022 to 28.02.2023. Fee levied under section 234E and/or interest charged under section 201(1A)(ii) of the Act in such cases for the period upto 30.05.2023, shall be waived.

It is clarified that the above extension is a one-time exception in view of the circumstances referred to above.

<https://incometaxindia.gov.in/communications/circular/circular-4-2024.pdf>



**The Central Board of Indirect Taxes (CBIC) has instructed its field officers to create an internal process to eliminate repeated notices to companies and individuals that are already under investigation by state goods and services tax authorities**

An internal review found approximately 10,000 instances where taxpayers received notices from both central and state GST bodies. Numerous cases of simultaneous investigations have been criticized by the courts. This issue was brought up in a recent meeting of central and state GST enforcement officers, presided over by Union Finance Minister Nirmala Sitharaman. A high-level official commented, "Cases where both central and state agencies have issued notices or initiated investigations on the same matter have been identified. We are drafting a comprehensive directive to address this."

The Central GST Act stipulates that if a state GW or Union Territory Goods and Services official begins proceedings, no other action should be taken under the CGST Act. State GST regulations similarly aim to prevent multiple legal actions. "If an investigation is subsequently started by another authority, it must be discontinued," stated a lawyer handling several related cases in various high courts. "The main intent of these legal provisions is to minimize repeated litigation, and any effort undermining this aim could be challenged in court," he further explained. The previously mentioned official noted that state GST officials have yet to fully utilize technology; however, duplicative notices could be avoided with proper digital record-keeping of investigations.

Advisory: Enhanced E-Invoicing Initiatives & Launch of Enhanced <https://einvoice.gst.gov.in> portal  
21/02/2024

GSTN on occasion of one year of the successful going live with the additional five new IRP portals, the e-invoice master information portal, and the e-invoice QR Code Verifier app, announces the launch of the revamped e-invoice master information portal <https://einvoice.gst.gov.in>. This enhancement is part of ongoing effort to further improve taxpayer services.

The revamped portal boasts several new features

designed to streamline user experience and enhance accessibility:

1. **PAN-Based Search:** Users can now effortlessly check the e-invoice enablement status of entities using their Permanent Account Number (PAN) alongside GSTIN search.
2. **Automatic E-invoice Exemption List:** The portal now automatically publishes an updated list of all GSTINs that have filed for e-invoice exemptions at the beginning of each month, available for user download.
3. **Global Search Bar:** A comprehensive search tab facilitates quick access to information across the portal.
4. **Local Search Capabilities:** Enhanced search functionality within advisory, FAQ, manual, and other sections for efficient information access.
5. **Revamped Advisory and FAQ Section:** Organized year-wise and month-wise for easier reference, offering comprehensive guidance.
6. **Daily IRN Count Statistics:** Users can now view statistics on the daily Invoice Reference Number (IRN) generation count.
7. **Dedicated Section on Mobile App:** Information and support for the e-invoice QR Code Verifier app are readily available.
8. **Improved Accessibility Compliance and UI/UX:** The portal adheres to GIGW guidelines, offering features such as contrast adjustment, text resizing buttons, and screen reader support for enhanced accessibility.
9. **Updated Website Policy:** Thorough updates to website policies including archival policy, content management, moderation policy, and web information manager details.

Moreover, in the past year, the GSTN E-Invoicing System has demonstrated remarkable efficiency, with over 1.6 crore e-invoices reported through the new IRPs. To further enhance monitoring, GSTN has introduced an internal e-invoice comprehensive health dashboard.

As a result of these advancements, the GSTN E-Invoicing System now offers:

- Expansion of IRP Portals to six, operating robustly alongside the centralized de-duplication system.
- Accessibility of E-Invoicing Reporting: All eligible taxpayers can report e-invoices through any of these

six IRP portals, online, via APIs, or through a mobile app, free of cost.

- Hourly Auto-Population of e-invoices in GSTR-1 from new IRPs.
- E-Invoice download for the past six months for both buyers and sellers via e-invoice portals and G2B APIs.
- E-Invoice QR Code Verifier App for e-invoice verification and search IRN functionality for online verification of IRN.

**India opens up 100% FDI under automatic route in the field of satellite component manufacturing**

The Union Cabinet has approved of the amendment to the Foreign Direct Investment (FDI) policy in the space sector. The satellites sub-sector has been divided into three different activities with defined limits for foreign investment in each such sector.

Currently, FDI is permitted in establishment and operation of satellites via Govt. approval route only. As per amended FDI policy, 100% FDI is allowed under automatic route for manufacturing of components and systems/sub-systems for satellites.

PIB Press Release dated 21st February 2024

## **The US company providing airline ticket booking services through its computer reservation system located outside India does not have a permanent establishment in India**

Based on the facts and circumstances of the case, recently, the Delhi bench of the Tribunal concluded that the taxpayer does not establish a fixed place permanent establishment (PE) in India for its airline ticket booking services facilitated through its computer reservation system (CRS), under the India-US tax treaty. The access to the CRS, situated in the USA, was granted to foreign travel agencies rather than directly to Indian travel agents. Moreover, the taxpayer did not provide any equipment to Indian travel agents at their Indian premises.

Additionally, the US company does not establish an agency PE in India, as there is no entity consistently securing contracts for the taxpayer or independently committing the taxpayer to contracts.

Determining a PE in the realm of virtual business poses a multifaceted challenge. In this particular case, the Tribunal addressed the PE determination concerning ticket booking services provided via CRS. Based on the case's specifics, the Tribunal made distinctions from previous rulings such as the Galileo case and the taxpayer's own case from earlier years. This ruling could potentially impact other entities in the same industry or adopting a similar business mode

ITA No. 216/Del/2016 - Source: Taxsutra.com

## Notification dated 02nd February, 2024 regarding establishment of Central Processing Centre (CPC)

Under this notification the Ministry of Corporate Affairs made an establishment of a Central Processing Centre at Indian Institute of Corporate Affairs, Plot No. 6,7,8, Sector 5, IMT Manesar, District Gurgaon (Haryana), Pin Code- 122050 having territorial jurisdiction all over India.

The CPC shall process and dispose off e-forms filed along with the fee as provided in the Companies (Registration of Offices and Fees) Rules, 2014.

The effective date of Notification was 6th February, 2024.

<https://www.mca.gov.in/bin/dms/getdocument?mds=FrgS%252FjRXtmK%252BHpwLI3BHRQ%253D%253D&type=open>

## Notification dated 07th February, 2024 regarding relaxation of additional fees on Form BEN-1 and Form BEN-2 filed by Limited Liability Partnership (LLP)

In light of the transition of MCA-21 from V2 to V3, Ministry of Corporate Affairs vide this notification extended the date of filing Form LLP BEN-2 and LLP Form No. 4D without incurring any additional fees until 15.05.2024.

Form LLP BEN-2 and LLP Form No. 4D will be made available in V3 for filing purposes starting from 15.04.2024.

<https://www.mca.gov.in/bin/dms/getdocument?mds=ui4J8CwvqBhepbNiu3putw%253D%253D&type=open>

## Notification dated 14th February, 2024 amending Companies (Registration Offices and Fees) Amendment Rules, 2014

By present notification, Companies (Registration Offices and Fees) Amendment Rules, 2024 were made effective w.e.f. 16th February, 2024. A new rule 10A has been inserted to the existing rules. The rule specifies the list of e-forms, applications

and documents on which the Central Processing Centre (CPC) shall exercise jurisdiction. It also specifies the time line for processing of application by CPC.

In case, multiple applications, e-forms, and documents are filed at the same time, then all such applications, E-forms and documents must be examined and decided by the Registrar of the CPC.

Under the amended rules, the government has extended the jurisdiction of Central Processing Centre over following forms, application, e-Forms or documents.

Sr. No.	Name of the Form	Purpose
1.	MGT-14	Filing of Resolutions and agreements to the Registrar under section 117 of the Act
2.	SH-7	Notice to Registrar of any alteration of share capital under section 64
3.	INC-24	Application for approval of Central Government for change of name under section 13 of the Act
4.	INC-6	One Person Company- Application for Conversion under section 18 of the Act
5.	INC-27	Conversion of public company into private company or private company into public company
6.	INC-20	Intimation to Registrar of revocation/surrender of license issued under section 8 of the Act
7.	DPT-3	Return of Deposits under sections 73 and 74 of the Act
8.	MSC-1	Application to ROC for obtaining the status of dormant company under sub-section (1) of section 455 of the Act
9.	MSC-4	Application for seeking status of active company under sub-section (5) of section 455 of the Act
10.	SH-8	Letter of Offer under section 68 of the Act
11.	SH-9	Declaration of Solvency under sub-section (3) of section 68 of the Act
12.	SH-11	Return in respect of buy-back of Securities under sub-section 10 of section 68 of the Act

<https://www.mca.gov.in/bin/dms/getdocument?mds=TC5liKr%252B0SpGVt5U%252BSzj%252Bw%253D%253D&type=open>

## Notification dated 19th February, 2024 regarding Deployment and usage of Change Request Form (CRF) on MCA-21

By present notification, Change Request Form (CRF) has been made available on V3 portal. This Web-based Form is to be used only under exceptional circumstances, for making a request to Registrar of Companies (RoCs), for the purposes which cannot be catered through any existing form or services or functionality available either at Front Office level (users of MCA-21 services) or



Back Office level (RoCs).

Primarily, the CRF is intended for master data correction and compliance with specific directives from Courts/Tribunals, beyond the purview of existing forms or services on the MCA-21 platform.

The Form should be processed by RoCs within 03 days of its filing, after which it should be forwarded to Joint Director (e-governance cell), who shall process and decide the matter within a maximum time of 07 days.

<https://www.mca.gov.in/bin/dms/getdocument?mds=Gdp7pwkWmPucgX1GIBvdSw%253D%253D&type=open>

## **Announcement that the Ministry of Corporate Affairs incorporation**

Announcement that the Ministry of Corporate Affairs incorporation related services can also be accessed through the National Single Window System (NSWS) by going through the following link:  
<https://www.nsws.gov.in/> dated 12th February, 2024.

<https://www.mca.gov.in/bin/dms/getdocument?mds=NkalCgC0PXM37dpK8VUeVA%253D%253D&type=open>

# Compliance Calendar

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Due dates for the Month of April, 2024#

Regulation	Due Date	Compliance	Description
Companies Act, 2013	30-Apr-24	MSME - 1	Due date for filing of Form MSME I for the period Oct-23 to Apr-24 by a Company.
Income Tax Act, 1961	14-Apr-24	TDS/TCS	Due date for issue of TDS Certificate for tax deducted under section 194-IA/194-IB/194-IM in the month of February 2024
	30-Apr-24	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 January, 2024 Due date for deposit of Tax deducted/collected for the month of February, 2024.
	30-Apr-24	TDS/TCS	Due date for deposit of Tax deducted by an assessee other than an office of the Government for the month of April, 2024
	30-Apr-24	Form 61	Due date for e-filing of a declaration in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2023 to April 31, 2024
	30-Apr-24	TDS/TCS	Due date for uploading declarations received from recipients in Form. 15G/15H during the quarter ending April, 2024
Goods and Service Tax (GST)	10-Apr-24	GSTR 7	Summary of Tax Deducted at Source (TDS) and deposited for the month of March 2024
	10-Apr-24	GSTR 8	Summary of Tax Collected at Source (TCS) and deposited by E-Commerce Operator for the month of March 2024
	11-Apr-24	GSTR - 1	Return of outward supplies of taxable goods and/or services for the Month of March 2024 (for Assesses having turnover exceeding 5 Cr.)
	13-Apr-24	GSTR 6	Return for Input Service Distributors for the month of March 2024
	13-Apr-24	GSTR - 1	Return of outward supplies of taxable goods and/or services for the Quarter January to March 2023 under QRMP Scheme
	20-Apr-24 or 22-Apr-24 or 24-Apr-24	GSTR - 3B	Simple GSTR return for the Month of March 2024 (based on category of taxpayer)
PT Act 1975 (Employee)	30-Apr-24	PT Employees	PT Payment for the month of April, 2024
Employees' Provident Funds & Miscellaneous Provisions Act, 1952	15-Apr-24	PF Payment	PF Payment for the month of April, 2024
Employees' State Insurance Act, 1948 - (ESIC)	15-Apr-24	ESIC Payment	ESIC Payment for the month of April, 2024

# 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.

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