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Monthly Newsletter Series
October 2025 | Vol 147

KNOWL with an **EDGE**



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Best Practices and Standard Operating Procedure for Assessing Capital Gains on Joint Development Agreements (JDAs) under Section 45(5A) of the Income Tax Act, 1961

The investigation division of CBDT with the help of investigation by DGIT (Kolkata) has developed a systematic methodology to identify potential cases u/s 45(5A).

Based on this CBDT has issued memorandum no. F. No. 434/07/2024-IT(DAC)/65 dated September 15, 2025 which outlines the provisions of Section 45(5A) of the Income Tax Act, 1961 and Standard Operating Procedure (SOP) to include:

- Utilizing RERA/HIRA Websites: Authorities will use state Real Estate Regulatory Authority (RERA) or Housing Industry Regulation Act (HIRA) websites to find information on registered projects, including those under JDAs. These websites contain a wealth of information, including lists of registered and approved projects.
- Identifying Relevant Projects: Identifying approved projects under JDA where the landowners are individuals or HUFs. This is done by scrutinizing the project details and related documents (e.g., JDA/Development Agreements) available on the regulatory websites.
- Cross-Referencing with Tax Returns: Matching above data with tax returns filed on the CPC 2.0 portal for the year in which the completion certificate was issued.
- Verifying Capital Gains Disclosure: The Schedule of Capital Gains (Schedule-CG) in the tax return to be checked to ensure the landowner has disclosed the required capital gains Under Section 45(5A).
- Notices and summonses - If capital gains were not disclosed / reported, notices under Section 131 (1A) will be issued to obtain clarifications.

(Office Memorandum, dated 15.09.2025 [F.No. 434/07/2024-IT(DAC)/65]

Income tax refund above Rs 50,000: Does Income Tax Department delay big refunds?

With the September 16 deadline for filing Income Tax Returns (ITRs) over, millions of taxpayers are eagerly awaiting their refunds. Many are wondering if the Income Tax Department delays processing refunds if the refund amount is large, such as over Rs 50,000.

According to income tax rules, there is no upper limit on refunds. Whether your refund is Rs 10,000 or Rs 1 lakh or even greater, it will be credited the same way. However, refunds involving larger amounts may require additional scrutiny by the department, which may result in a slight delay in processing, experts are of the view.

Benefits for early income tax return filers.

Taxpayers who filed their ITR much ahead of the deadline, i.e., weeks before the due date, found their e-verification completed within a few hours, and in many cases, the ITR was processed and refunds issued the same day.

However, for those who filed their returns on the last day or the day before, i.e. 15th or 16th September, the story was a little different. The e-filing portal was overloaded at that time, resulting in e-verification taking 24 to 48 hours and slow processing

<https://www.financialexpress.com>

Income tax refunds drop 24% even as net direct tax collections grow

The government has so far seen strong direct tax collections in the ongoing financial year. From the beginning of the financial year 2025-26 (FY26) to September 17, net direct tax collections rose by 9.18% to Rs 10.82 lakh crore. This rise in collections is primarily due to a growth in advance tax collected from companies and the slower pace of refund issuance.

Tax refunds drop by 24% over the same period last year. Between April 1 and September 17, 2025, the government issued income tax refunds of only Rs 1.61 lakh crore. This is a 24% drop from last year's Rs 2.1 lakh crore.

Reacting to the lower refunds this year, many people on social media are asking questions about their ITR

refund status and are concerned about income tax refund delays.

Corporate tax collections strong, individuals also paid more Tax collections from companies remained steady. Corporate advance tax collections rose 6.11% to Rs 3.52 lakh crore. Net corporate tax collections stood at Rs 4.72 lakh crore as compared to Rs 4.50 lakh crore last year

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Non-speaking Order by NFAC without discussion & following SOP, set aside

In the case of Kotagiri Cooperative Store Vs ITO, ITAT Chennai set aside a non-speaking order of 7 lines passed by NFAC wherein there was no discussion on the facts & provisions. ITAT held that:

Assessee, a co-operative society running public distribution system (PDS) fair price shops, filed return at NIL income after claiming deduction u/s 80P(2)(a)(iii). The return was picked for “limited scrutiny” to examine business expenses.

AO disallowed the 80P claim outright & assessed income at Rs.34.20 lakh, completing the assessment in just seven lines, without issuing mandatory show-cause notice or draft order as per CBDT SOP dated 19.11.2020.

CIT(A) confirmed the disallowance without detailed reasoning.

Tribunal set aside the orders of authorities below and remanded the matter to the file of the Assessing Officer for fresh adjudication with a direction to pass speaking order keeping in mind for the purpose for which the case of the assessee has been selected for “Limited Scrutiny” after affording reasonable opportunities of being heard.

www.itatonline.org

GST Update: Clarification on IMS Implementation

The GST Department has issued an important clarification regarding the **Invoice Management System (IMS)** to counter incorrect information circulating online.

Key Points:

- 1. No Change in ITC Auto-Population:** ITC will continue to auto-populate from **GSTR-2B to GSTR-3B** as before. IMS does not alter this process.
- 2. GSTR-2B Generation:** GSTR-2B will still be generated automatically on the **14th of every month**. Taxpayers may perform actions in IMS and regenerate GSTR-2B, if needed, before filing GSTR-3B.
- 3. Credit Note Handling (from Oct 2025):** Taxpayers can keep credit notes pending and, upon acceptance, manually adjust ITC reversal only to the extent availed.

Summary:

IMS does not change the current ITC or return filing process — it only adds a layer for managing invoices and related documents more effectively.

GSTR-7 – Key Information & New Update (Invoice-wise Reporting)

GSTR-7 is a return filed by **tax deductors under GST** — typically Government departments, public sector undertakings, or notified entities — to report the **Tax Deducted at Source (TDS)** on payments made to suppliers.

Earlier, deductors were required to report **summary-level TDS details** in GSTR-7. From the **September 2025 tax period onward**, the GST portal now enables and mandates **invoice-wise reporting** of TDS details as per **Notification No. 09/2025 – Central Tax dated 11.02.2025**.

The due date for filing GSTR-7 remains the 10th of the following month (i.e., 10th October 2025 for September 2025).

This change aims to improve accuracy and reconciliation between supplier invoices and TDS deductions on the GST portal.

Separate GST Registration Required for Importers Storing Goods in Other States

The **Central Board of Indirect Taxes and Customs (CBIC)** has clarified that importers or businesses storing goods in **warehouses located in a state different from their principal place of business** must obtain a **separate GST registration** in that state.

As per Section 2(85) of the **CGST Act, 2017**, a “place of business” includes warehouses or storage facilities from where goods are supplied. Therefore, if goods are stored and supplied from a warehouse in another state—such as a Delhi-based company using a warehouse in Haryana—the warehouse is treated as a **distinct place of business**.

Accordingly:

- **GST registration** must be taken in the state where the warehouse is located.
- **Inter-state movement** of goods between the principal place and the warehouse must be supported by a **tax invoice and e-way bill**, with applicable GST paid.
- Supplies made **within the same state** as the warehouse will attract **CGST + SGST**, while **supplies to other states** will attract **IGST**.
- **Cold storage services** are treated as services related to immovable property; hence, **place of supply** will be the location of the warehouse.

This clarification ensures proper compliance for businesses using third-party warehouses or cold storage facilities across different states.

No PE in India for Irish Lessor as ITAT Rules Presence of Leased Aircraft Alone Not Sufficient

In a significant boost to cross-border aircraft leasing structures, the Income Tax Appellate Tribunal (ITAT), Mumbai Bench has ruled in *Sunflower Aircraft Leasing Limited v. ACIT* that mere presence of leased aircraft in India does not constitute a Permanent Establishment (PE) of a foreign lessor under the India–Ireland Tax Treaty, where operational control and possession lie entirely with the Indian lessee.

The taxpayer, an Ireland-based aircraft leasing company, entered into dry operating lease agreements with an Indian airline. Lease agreements were negotiated, executed, and managed entirely from Ireland. Delivery and redelivery of aircraft occurred outside India. The taxpayer had no personnel, office, or operational infrastructure in India. It filed a nil return, claiming lease rentals as business profits taxable only in Ireland (Article 7) or alternatively as profits from rental of aircraft in international traffic (Article 8). The Revenue alleged that the aircraft constituted a fixed place PE, and attributed 25% of gross rentals to India.

ITAT's Key Findings

1. No Fixed Place PE

- Merely owning an asset or retaining protective rights (inspection, repossession, maintenance oversight) does not satisfy the disposal test for PE.
- Operational control, scheduling, routing, and maintenance were exclusively with the lessee.
- The aircraft were not at the lessor's disposal in India and could not be accessed or used by it for carrying on business.

2. Presence ≠ Business Activity

- The Tribunal distinguished between the situs of the asset and the locus of business operations.
- Income-generating functions (marketing, contracting, financing) were performed entirely from Ireland.

3. Article 8 Protection Applies

- The treaty expressly covers “rental of aircraft in international traffic”, not just operation.
- Since the lessee used the aircraft as part of its international fleet, rentals were taxable only in Ireland, even if the lessor had a PE.

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4. Even If PE Exists, Article 8 Overrides

- The Tribunal noted that specific treaty provisions (Article 8) prevail over general business profits rules (Article 7).
- Therefore, even if a PE were assumed, profits would still not be taxable in India.

Asset presence alone does not create PE, control and disposal are decisive. Protective ownership rights does not mean operational control. Article 8 of the India–Ireland treaty provides strong protection for aircraft leasing income when aircraft are used in international traffic. The ruling offers clarity and comfort to global aircraft lessors, reinforcing India's commitment to treaty-based certainty.

(*Sunflower Aircraft Leasing Limited v. ACIT* (ITA No. 1107/Mum/2025))

Bundled Fees for Standard Software & Implementation Not Taxable as Royalty

In a major relief for cross-border software suppliers, the Delhi Bench of the Income Tax Appellate Tribunal (ITAT) has ruled in *Munich RE Automation Solutions Ltd.* that payments received by an Ireland-based company for licensing standard software and related implementation/support services are not taxable as “royalty” under Article 12(3) of the India–Ireland Double Taxation Avoidance Agreement (DTAA).

The taxpayer, an Irish software provider to the insurance sector, licensed standard off-the-shelf software to an Indian customer along with support, maintenance, and implementation services. The Indian customer withheld tax on these payments, but the taxpayer claimed a refund asserting the receipts were not taxable in India. The Tax Officer treated the receipts as royalty under Section 9(1)(vi) of the Income-tax Act, 1961 and Article 12(3) of the DTAA, alleging transfer of intellectual property (IPR) and tailor-made development based on contract terms.

Tribunal's Key Findings

- **Standard Software, No IPR Transfer**
 - The Tribunal examined the Master Procurement Agreement (MPA) and Statements of Work (SOWs) and found that the software was standard, not custom-developed.
 - Clause 6 of the MPA clearly stated that all intellectual property remained with the taxpayer.
 - There was no transfer of copyright, source code, or ownership rights.
- **Covered by Supreme Court Precedent**
 - The case fell within the first category identified in the landmark Engineering Analysis Centre of Excellence (P.) Ltd. v. CIT [432 ITR 471 (SC)] ruling, which held that payments for standard software do not constitute royalty.
 - The Indian customer acted as an end user, not as an exclusive licensee or developer.
- **Bundled Services Don't Change Character**
 - Support, maintenance, and implementation were ancillary to the main license and did not involve transfer of technical know-how or human intervention sufficient to qualify as Fees for Technical Services (FTS).
- **No 'Work Made for Hire' Deliverables**
 - No ownership of deliverables or tailor-made products passed to the Indian customer.

Standard software licences with ancillary services are not taxable as royalty under the India–Ireland DTAA. The ruling reinforces that contractual terms and factual substance matter—retention of IPR by the foreign supplier is decisive. Taxpayers can rely on this decision to seek refunds or resist royalty characterisation of similar bundled software transactions.

(Munich RE Automation Solutions Ltd. v. ACIT (ITA No. 3766/Del/2023))

Gist of notifications during the month of September, 2025

1. Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2025 were notified by the Ministry of Corporate Affairs.

Key highlights:

- a. The scope of companies eligible for fast-track mergers has been widened.
- b. The provisions have now been expressly extended to cover schemes of division or demergers.
- c. New and revised versions of the forms have been notified.

2. **Extension of Due Date for completion of KYC Process**-Due date for filing e-form DIR-3-KYC and DIR-3 KYC-WEB was extended without additional fees upto 15th October, 2025.

3. **Permission for Holding General Meetings online by the companies until further Orders**-The permission for holding Annual General Meetings (AGM) and Extraordinary General Meetings (EGM) via Video Conference (VC) or Other Audio Visual Means (OAVM) has been granted until further orders. Circular allows companies to conduct these meetings remotely, following the framework and requirements laid out in earlier circular no. 20/2020 dated 5th May, 2020.

Compliance Calendar

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Due dates for the Month of November, 2025#

Regulation	Due Date	Compliance	Description
The Companies Act, 2013	On or Before 28th Nov, 2025	Form MGT-7/Form MGT-7A	Form for filing Annual Return by a Company
	On or Before 30th Nov, 2025	Form PAS-6	Form for filing of half yearly Return of Reconciliation of Share Capital Audit Report
Income Tax Act, 1961	7-Nov-25	TDS Payment	Due date for deposit of tax deducted/collected for the month of October, 2025.
	14-Nov-25	TDS Certificate	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194-M in the month of Sept, 2025
	15-Nov-25	TCS Certificate	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2025
	30-Nov-25	TDS Payment	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA/194-IB/194-M in the month of Nov, 2025
	30-Nov-25	ITR (TP case)	Return of income for the assessment year 2025-26 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)
	30-Nov-25	Form 3CEAA	Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2024-25
Goods and Service Tax (GST)	10-Nov-25	GSTR 7	Summary of Tax Deducted at Source (TDS) and deposited for the month of October 2025
	10-Nov-25	GSTR 8	Summary of Tax Collected at Source (TCS) and deposited by E-Commerce Operator for the month of October 2025
	11-Nov-25	GSTR-1	Return of outward supplies of taxable goods and/or services for the Month of October 2025 (for Assessors having turnover exceeding 5 Cr.)
	13-Nov-25	GSTR 6	Return for Input Service Distributors for the month of October 2025
	20-Nov-25	GSTR-3B	Simple GSTR return for the Month of October 2025 (based on category of taxpayer)
PT Act 1975 (Employee)	30-Nov-25	PT Employees	PT Payment for the month of Oct, 2025
Employees' Provident Funds & Miscellaneous Provisions Act, 1952	15-Nov-25	PF Payment	PF Payment for the month of Oct, 2025
Employees' State Insurance Act, 1948 - (ESIC)	15-Nov-25	ESIC Payment	ESIC Payment for the month of Oct, 2025

The above due date calendar contains compliances generally applicable to taxpayers and this calendar 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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