

NewsBites

Fifty-First Edition

Greetings!

We are delighted to present our news bite for the month of June 2022. This News Bites intends to give an overview of what is happening in the sphere of direct and indirect taxation, company law, government incentives, FEMA and other regulatory laws.

We hope you find this useful. For any feedback you can reach to us at info@sanca.in.

Best Regards,
S A N & CO.
Chartered Accountants

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Income Tax

New TDS Provisions applicable from the July 01, 2022:

a. TDS on Benefits/perquisites received in a business @10%:

The Central Board of Direct Taxes (CBDT) has issued guidelines for the applicability of Section 194R for tax deduction at source on benefits or perquisites received in a business. **Budget 2022-23 introduced a new section in the IT Act -194R.** It requires the deduction of tax at source at 10% by any person who provides **any benefit or perquisite exceeding Rs 20,000 in a year** to a resident arising from the business or profession of such resident.

Benefits or perquisites on which tax is required to be deducted- The guidelines have cited below examples where the tax is required to be deducted under Section 194R:

- When a person gives incentives in cash or kind such as TV, car, computers, gold coin, mobile phone, etc.
- When a person sponsors a trip for the recipient and his/her relatives upon achieving certain targets
- When a person provides a free ticket for an event
- When a person gives medicine samples free to medical practitioners
- However, the above list is not exhaustive.

Calculation of the threshold limit

Section 194R will be triggered if the value of the benefit or the perquisite exceeds Rs 20,000 during the year (including the period 1st April 2022 to 30th June 2022). The benefits provider should deduct TDS under the said section only on the benefits or perquisites provided after 1st July 2022.

How to deduct tax on benefits in kind?

If the benefit or perquisite is to be provided in kind, the deductor has to ensure that the recipient of such benefit pays advance tax on the value of such benefit. Alternatively, the benefits provider may pay TDS to

the government under Section 194R (TDS to be also considered as part of the benefit).

Exceptions to Section 194R-The guidelines have illustrated various situations of sales promotion where TDS under Section 194R would not be applicable.

- Sales discounts, cash discounts, and rebates allowed to customers
- Where some units of a product are rewarded on purchase of specific units of the same product (example, BOGO-buy one get one) for a charge or substantial discount

However, the above exception of non-deduction of tax is not applicable in a situation of free samples. It has further stated that Section 194R shall not apply if the benefit or perquisite is provided to the government entity not carrying on any business or profession, for example, government hospital, etc.

Also, expenses incurred for the conferences to educate the dealer/business about the product launch, sales techniques, or similar aspects shall not be considered a benefit or perquisite. However, such conferences must not be like incentives or benefits to the select dealer/customers achieving targets.

Hence, from now onwards, the taxpayers need to identify transactions which are benefits and perquisites and comply with the new TDS provision.

b. TDS on Crypto Transactions (VDA's) @ 1%:

Finance Act 2022 inserted a new section 194S in the Income-tax Act, 1961, with effect from 1st July 2022. The new section mandates that a person paying by way of virtual digital assets (VDAs) or crypto assets to deduct tax deducted at source (TDS) at the rate of 1% of the consideration.

However, while the Finance Act 2022 has brought in clarity concerning the levy of income tax on crypto assets, there was some confusion over the application on TDS on crypto transactions.



According to the circular, **since the threshold of ₹50,000 (or ₹10,000)** is with respect to the financial year, calculation of consideration for transfer of VDA triggering deduction shall be counted from 1 April 2022. The circular highlighted that if the crypto transaction is taking place on or through an exchange there is a possibility of tax deduction requirement under section 194S at multiple stages. The tax department clarified that in a case where the transfer of VDA takes place on or through an exchange and the asset being transferred is owned by a person other than the exchange transferred, either directly or through a broker, tax may be deducted only by the exchange, which is crediting or making payment to the seller.

In a case where broker owns the VDA, it is the broker who is the seller. Hence, the amount of consideration being credited or paid to the broker by the exchange is also subject to tax deduction under section 194S of the Act," the circular said.

Further, where the credit/payment between exchange and the seller is through a broker (and the broker is not seller), the responsibility to deduct tax will be on both the exchange and the broker.

In situations where the consideration is in kind or in exchange of another VDA or partly in kind and cash is not sufficient to meet the TDS liability, the person responsible for paying such consideration is required to ensure that tax required to be deducted has been paid in respect of such consideration, before releasing the consideration.

Further, if one VDA is being exchanged with another, both the persons are buyer as well as seller need to pay tax with respect to transfer of VDA and show the evidence to other so that VDAs can then be exchanged.

Further, no TDS is applicable if the payer is a specified person (an individual or Hindu Undivided Family (HUF), who is not subject to tax audit) and aggregate value of consideration is less than ₹50,000 during the financial year. In other cases, no TDS is applicable if the consideration does not exceed ₹10,000 in aggregate during a financial year.

PAN–Aadhaar linking penalty to be increased from July 01, 2022:

As per CBDT circular F.No. 370142/14/22–TPL dated on 30th March 2022, every person who has been allotted a PAN as on 1st July 2017 and is eligible to obtain Aadhaar number is required to link PAN with AADHAAR on or before 31st March, 2022. **Taxpayers who failed to do so are liable to pay a fee of Rs.500 till 30 June, 2022 and thereafter a fee of Rs. 1,000** will be applicable before submission of PAN–AADHAAR linkage request.

Cost inflation index for FY 2022–23 used for LTCG calculation notified:

The Central Board of Direct Taxes (CBDT) notified the cost inflation index (CII) for FY 2022–23 via a notification dated June 14, 2022. **The Cost Inflation Index for FY 2022–23 relevant to AY 2023–24 is 331.**

For the previous year, i.e., FY 2021–22, CII was notified as 317.

This CII number will assist you determine the long-term capital gains on which you are required to pay taxes when you file your income tax returns (ITR) next year. This notification will take effect on April 1, 2023 and will apply to the Assessment Year 2023–24 and future years.

Income Tax Return filing last date– 31–July–2022:

Income Tax return filing for Assessment Year 2022–23 is now available on the government's e-filing portal. As per Income Tax Act provisions, **the last date to file ITR (excluding those facing tax audits) for AY 2022/23 (also identified as Financial Year 2021–22) is July 31, 2022.** For other taxpayers (for whom an audit is applicable), the return filing due date is October 31, 2022.

Goods & Services Tax

Key Developments at the GST Council Meeting

The 47th GST Council meeting was held on 28 and 29 June 2022.

The Council agreed on rationalization of GST rates by increasing tariffs on a host of goods and services (such as LED lamps, solar water heater, leather, works contract services for specified works) for correction of inverted duty structure to avoid the accumulation of input tax credit resulting in blockage of working capital. Various exemptions on goods and services have also been withdrawn, such as taxing hotel accommodation priced up to Rs 1,000 and hospital accommodation (excluding ICU) exceeding Rs 5,000 per day.

Summary of recommendations relating to changes in GST rates on Few supply of Goods and Services

S.No.	Particulars	From	To
1.	Printing, writing or drawing ink	12%	18%
2.	Knives with cutting blades, Paper knives, Pencil sharpeners and blades therefor, Spoons, forks, ladles, skimmers, cake-servers etc	12%	18%
3.	LED Lamps, lights and fixture, their metal printed circuits board	12%	18%
4.	Drawing and marking out instruments	12%	18%
5.	Solar Water Heater and system;	5%	12%
6.	Services supplied by foreman to chit fund	12%	18%

S.No.	Particulars	From	To
7	Job work in relation to processing of hides, skins and leather	5%	12%
8	Job work in relation to manufacture of leather goods and footwear	5%	12%
9	Works contract for roads, bridges, railways, metro, effluent treatment plant, crematorium etc.	12%	18%
10	Job work in relation to manufacture of clay bricks	5%	12%
11	Works contract supplied to central and state governments, local authorities for historical monuments, canals, dams, pipelines, plants for water supply, educational institutions, hospitals etc. & sub-contractor thereof	12%	18%

Recommendation for sin rate of 28% on casino, horse racing and online gaming has been deferred by the Council and the matter is to be re-examined. Taxing online gaming at 28% would have an adverse impact on this growing industry. Hence, there is a requirement to distinguish between skill-based games and game of chance, before increasing the rate to 28%.

Various clarifications have been issued by the Council in relation to the taxability of goods and services such as 5% GST on electric vehicles whether or not fitted with a battery pack, treatment of preferential location charges (PLC) to be part of consideration for land (which is not subject to GST). Such clarification would benefit the auto industry to enjoy concessional rate of 5% on sale of electric vehicles even when sold without battery pack. Further, treatment of PLC as part of consideration for land will aid real estate sector to certain extent, by way of reduced cost to the consumer.



Authority for Advance ruling held that value for supply of used cars shall be difference of consideration received for supply of car and its depreciated value:

AUTHORITY FOR ADVANCE RULINGS, GUJARAT Dishman Carbogen Amcis Ltd., In re

Facts of the case

The applicant, M/s. Dishman Carbogen Amcis Limited submitted that it purchased a new car for Rs. 80 Lakhs on 16-02-2018 for use in its business and did not avail GST Input Tax Credit at the time of purchase as it is restricted under Section 17(5) of the CGST Act, 2017. Depreciation was claimed under the Income Tax Act, 1961 (43 of 1961).

The applicant has submitted that it intends to sell the same used car for a consideration of Rs. 55 Lakhs (Inclusive of all applicable taxes). The Written Down Value as per books of accounts is Rs. 47 Lakhs at the time of selling.

The applicant submits that it intends to sell the car and charge GST in terms of Notification 8/2018 CT(R) dated 25-01-2018

Held

The Value for intended supply shall be the difference between the consideration received for supply of said car and the depreciated value of the said car on the date of supply. Depreciation is as per Section 32 Income Tax Act.

GST rate leviable is 18% (9% CGST & 9% SGST).



Companies Act, 2013

Relaxation of additional fees in filing E-form LLP 11:

MCA has issued a General Circular No. 07/2022 dated June 29, 2022 to further extend the Relaxation in paying additional fees in case of delay in filing Form 11 (Annual Return) by Limited Liability Partnerships up to July 15, 2022.

Restoration of name in Independent Director databank:

MCA has notified the Companies (Appointment and Qualification of Directors) Second Amendment, Rules, 2022 to further amend the Companies (Appointment and Qualification of Directors) Rules, 2014 which shall come into force on the date of their publication in the Official Gazette 10-06-2022.

Any individual whose name has been removed from the databank may apply for restoration of his name on payment of fees of one thousand rupees and the institute shall allow such restoration subject to the conditions, that his name shall be shown in a separate restored category for a period of one year from the date of restoration within which, he shall be required to pass the online proficiency self-assessment test.

Thereafter his name shall be included in the databank, only, if he passes the said online proficiency self-assessment test and in such case, the fees paid by him at the time of initial registration shall continue to be valid for the period for which the same was initially paid.

In case he fails to pass the online proficiency self-assessment test within one year from the date of restoration, his name shall be removed from the data bank and he shall be required to apply afresh for inclusion of his name in the databank.

Registrar authorised to call for further information in case of application made in form STK-2 for striking off the company:

MCA has notified the Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022, which shall come into force on the date of their publication in the Official Gazette 09-06-2022. The amendment brought the revisions to the procedure for striking off a company.

Accordingly, where the Registrar, on examining the application made in Form STK-2, finds that it is necessary to call for further information or finds such application or any document annexed therewith is defective or incomplete in any respect, he shall inform the applicant to remove the defects and re-submit the complete Form within fifteen days from the date of such information, failing which the Registrar shall treat the Form as invalid in the electronic record, and shall inform the applicant.

After the re-submission of the Form or document, if the Registrar finds that the Form or document is defective or incomplete in any respect, he shall give the further time of fifteen days to remove such defects or complete the Form, failing which the Registrar shall treat the Form as invalid in the electronic record and shall inform the applicant, accordingly.

Any re-submission of the application in Form STK-2 made prior to the commencement of the Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022 shall not be counted for the purposes of reckoning the maximum number of re-submissions of such Form.

Penalty provisions for contraventions of NFRA rules:

MCA has notified the National Financial Reporting Authority (NFRA) Amendment Rules 2022 which shall come into force on the date of their publication in the Official Gazette i.e.17-06-2022.

According to the National Financial Reporting Authority (NFRA) amendment rules 2022, Rule 13 is amended to provide the revised penalty provision for non-compliance or contravention with any of the provisions.

It is provided that any non-compliance or contravention with any of the provisions will attract a penalty of ₹5,000/- and where the contravention is a continuing one, a further fine of ₹500/- for every day during the period of contravention. This applies to offenses for which the penalty is not specified elsewhere in the law.

Rules and procedures for carrying out inspection on Insolvency Professionals:

IBBI has notified the Insolvency and Bankruptcy Board of India (Inspection and Investigation) (Amendment) Regulations, 2022 and the Insolvency and Bankruptcy Board of India (Grievance and Complaint Handling Procedure)(Amendment) Regulations, 2022 which shall come into force on the date of their publication in the Official Gazette i.e 14-06-2022.

The Amendment has provided the revised mechanism for carrying out inspections and investigations on insolvency professional agencies, insolvency professionals, and

information utilities and passing orders by Disciplinary Committee.

The mechanism of complaint/ grievance redressal and subsequent enforcement action has been amended to have expeditious redressal and also to avoid placing an undue burden on the service providers.

To curtail such delays and to ensure an expeditious and result-oriented enforcement mechanism, the Amendment Regulations provide for the Revisions in various timelines related to the enforcement process provided in the (Grievance and Complaint Handling Procedure) Regulations, 2017 and (Inspection and Investigation) Regulations, 2017 for addressing the issue of delay in the present mechanism; Effective participation of IPAs in regulating the IPs through examination of grievances received against IPs; Intimation to Committee of Creditor (CoC)/ Adjudicating Authority (AA) about the outcome of the Disciplinary Committee (DC) order.



Government Government Scheme Updates

Industry News:

Bharat Ratna Dr. Babasaheb Ambedkar Special Package Scheme of Incentives for SC/ST Entrepreneurs:

On the auspicious occasion of 125th birth anniversary of Bharat Ratna Dr Babasaheb Ambedkar, Hon'ble Chief Minister has proposed to formulate a new policy for SC/ST entrepreneurs in the State to make them self-sufficient and financially independent.

In order to encourage the dispersal of industries to lesser developed areas of the State, the Government has been giving package of incentives to new/expansion of industries set up in the developing regions of the State since 1964.

The special package of incentives will be applicable for manufacturing and IT/ITES industries set up by the SC/ST entrepreneurs:

Definition of SC/ST Entrepreneur:

- Proprietary unit - 100% stake by SC/ST Entrepreneur.
- Partnership firm - SC/ST partners having 100% stake in the firm.
- Co-operative sector - Enterprise having 100% members from SC or ST category or combination of both categories as registered as per Co-operative Society Act.
- Private limited / Public limited - Promoter & Director SC/ST entrepreneurs having 100% controlling stake in the Company.

Coverage of the Scheme:

- Applicable for manufacturing industries.
- Manufacturing industries considered as per Para 1.2 of PSI 2019 GR.
- IT/ITeS activities as per para 4(i)(ii)(iii)(v) & (vi) covered under Maharashtra IT/ITeS Policy-2015.

Allotment of Land:

- MIDC will allot 20% plots to SC/ST entrepreneurs in MSME sector out of total plots available for allotment to MSMEs. MIDC will allot Land to SC/ST entrepreneurs on priority by maintaining a separate seniority list.

Incentive proposed for eligible units under this scheme are:

- As per PSI 2019 scheme, Incentives of C zone will be applicable to industries located in A & B zones
- As per PSI 2019 scheme, Incentives of D+ zone will be applicable to industries located in C & D zones
- As per PSI 2019 scheme, Incentives of Naxalism affected area & No Industry District will be applicable to industries located in D+ zone, Vidarbha, Marathwada, Ratnagiri, Sindhudurg & Dhule area.
- Incentives as per PSI 2019 are applicable for both New and Expansion of manufacturing unit.

Capital Subsidy:

New eligible units in MSME sector will be given capital subsidy for all zones in the State from 15% to 30% of Fixed Capital Investment within the limits of INR 15 lakhs to INR 30 lakhs as per the zones as below in 5 equal installment with effect from date of production.

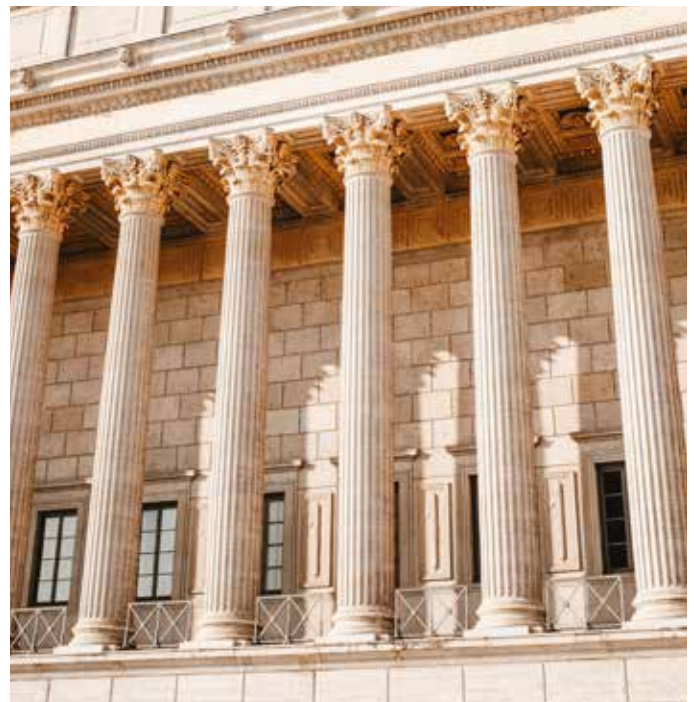
Sr. No.	Taluka	% of Fixed capital	Capital Subsidy (Rs. In Lacs)
1	A&B	15%	15
2	C	15%	15
3	D	20%	20
4	D+, Vidharbh, Marathwada, Ratnagiri, Sindhudurg, Dhule	25%	25
5	No Industry District & Naxal Affected Area	30%	30

Power Tariff Subsidy:

All eligible MSME units will be eligible for power tariff subsidy for the energy consumed and paid. The subsidy will be to the tune of INR 2 per unit for the units located in Vidharbha, Marathwada and north Maharashtra and for the districts of Raigad, Ratnagiri & Sindhudurg in Konkan region and INR 1 per unit for the units in other areas of the State for a period of 5 years from the date of production.

Interest Subsidy:

All eligible MSME units will be eligible for interest subsidy. The interest subsidy will be payable only on the interest actually paid to the banks and public financial institutions on the amount of term loans taken for acquisition of fixed assets. The amount of interest subsidy will be calculated at effective rate of interest or 5% per annum, whichever is less. The quantum of interest subsidy payable every year will not exceed double the amount of bills paid for electricity consumed during the relevant year.



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