

NewsBites

Thirty Sixth Edition

Greetings!

We are delighted to present our news bite for the month of March 2021. 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

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Changes made in finance bill, 2021 as passed by the Lok Sabha:

Lok Sabha has passed the finance bill 2021. There are 127 amendments which have been made. Following are few key amendments:

a. Tax on Interest earned on PF contribution exceeding Rs. 2.50 Lakhs or Rs. 5 Lakhs

The Finance Bill, 2021 proposed that no exemption shall be available for the interest income accrued during the previous year in the recognised and statutory provident fund to the extent it relates to the contribution made by the employees over Rs. 2,50,000 in the previous year. This amendment is applicable from the assessment year 2022-23. This amendment has been proposed as the Government noticed that some employees have been contributing a huge amount to these funds and earning interest free income.

The Finance Bill (Lok Sabha) has added a second proviso to Section 10(11) and Section 10(12) that if an employee is contributing to the fund but there is no contribution to such fund by the employer, then the interest income accrued during the previous year shall be taxable to the extent it relates to the contribution made by the employee to that fund in excess of Rs. 5,00,000 in a financial year.

b. Tax Audit: Transaction settled by way of a non-account payee cheque/draft is a cash transaction:

The Finance Bill, 2021 has proposed to further increase this threshold limit from Rs. 5 crores to Rs. 10 crores. The Finance Bill (Lok Sabha) inserts a new proviso that for computation of the threshold limit of Rs. 10 crores, the payment or receipt settled through a non-account payee cheque or non-account payee bank draft shall be deemed to be cash payment or cash receipt respectively. Thus, the same shall be included while computing 5% cash transaction limit under section 44AB.

c. HUF is also not eligible for presumptive taxation scheme under section 44ADA:

With effect from Assessment Year 2021-22, only a resident Individual and a resident partnership firm shall be eligible to compute the income under the said presumptive taxation scheme. An LLP, HUF, Company, AOP, BOI, etc. shall not be eligible to claim the benefit of Section 44ADA.



Income Tax

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d. Fee for default in furnishing return of income:

The Finance Bill, 2021 has proposed to reduce the time-limit to file belated or revised returns of income, as the case may be, by 3 months. Therefore, the last date to file the revised or belated return shall be 31st December of the relevant Assessment Year.

As the last date cannot exceed 31st December, the higher late filing fees of Rs.10,000 cannot be levied in any situation. The Finance Bill (Lok Sabha) has made a consequential amendment to Section 234F that the late-filing fee shall be Rs. 5,000. However, where the total income of a person does not exceed Rs. 5 Lakhs, the fee payable shall not exceed Rs. 1,000.

e. Fee for default in linking Aadhaar and PAN:

If the person fails to link PAN-Aadhaar by 31-03-2021, he shall be liable to pay a fee, maximum of Rs. 1,000. This fee shall be in addition to the other consequences the person has to face if PAN becomes inoperative due to non-intimation of Aadhaar.

On 31-03-2021 the due date has further been extended to 30-06-2021.

f. No equalization levy if services, goods provided via Indian entity:

The amendment means offshore e-commerce platforms don't have to pay 2% equalization levy, on that portion of goods which are sourced from India. So if goods or services listed on a foreign marketplace (e-commerce platforms) are owned or provided by an Indian resident or Indian permanent establishment of a foreign entity, it shall be out of the purview of the levy.



Goods & Services Tax

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Changes in GST with effect from 1st April 2021:

Important GST amendments which we must adhere to with effect from 1st April, 2021 are as follows:

a. Fresh Invoice/Document Series:

As per Rule 46(b) of the CGST Rules, New/unique series of invoices to be raised for FY 2021-22 to avoid duplication or repetition of invoices with the preceding F.Y.

b. Applicability of QR code:

The Central Board of Indirect Taxes and Customs (CBIC) notified the waiver of penalty for non-compliance of capturing dynamic QR code in GST Invoice from December 2020 to June 30, 2021.

Now, The Central Board of Indirect Taxes and Customs (CBIC) notified the deadline of compliance of capturing dynamic QR code in GST Invoice to July 1, 2021

Hence, companies having turnover above 500 Cr. can initiate adding dynamic QR Code on B2C invoices from 1st July 2021. In any case if the taxpayers fail to comply with dynamic QR Code requirements from 1st July 2021, penalty will be levied from 1st December 2020.

The Central Board of Indirect Taxes and Customs (CBIC) notified the waiver of penalty for non-compliance of capturing dynamic QR code in GST Invoice from December 2020 to June 30, 2021.

c. Opt-in or Opt-out from Quarterly Return Monthly Payment Scheme for F.Y. 2021-22:

The window to opt-in or opt- out of the QRMP Scheme for the first quarter of FY 2021-22 i.e., From April 1, 2021 to June 30, 2021 is open now at GST Portal.

d. Change in HSN requirement from 2/4 digit to 4/6 digits:

With effect from 1st April 2021 vide Notification No. 78/2020 –Central Tax, dated 15th October 2020, it is mandatory to put HSN code as follows:

HSN Digit	Code	Turnover Limit	Applicable to:
4 Digit		Less than 5 Cr.	B2B Invoices
6 Digit		More than 5 Cr.	B2B and B2C Invoices

e. Applicability of E-invoice:

E-Invoicing has been made applicable as follows:

Turnover Limit	Turnover Limit in F.Y.	Applicability From
Exceed Rs. 500 Cr.	2017-18 to 2019-20	1st October 2020
Exceed Rs. 100 Cr.	2017-18 to 2019-20	1st January 2021
Exceed Rs. 50 Cr.	2017-18 to Onwards	1st April 2021



THE COMPANIES ACT, 2013

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Mandatory disclosures on or after April 01, 2022 by Statutory Auditor of the company in its Audit Report:

MCA, vide its notification dated March 24, 2021, prescribed following matters that the Statutory Auditor of the company is required to disclose in its Audit Report:

- a. MCA directed to delete the clause relating to dealing in Specified Bank Notes from the Audit Report;
- b. Auditor shall disclose that whether the management has represented that, no funds have been advanced or loaned or invested (other than as disclosed in the notes to accounts) by the company to or in any other person or entity, including foreign entity, with the understanding that the Intermediary person or entity receiving such funds shall further directly or indirectly lend or invest in other person or entity (Ultimate Beneficiaries) in any manner on behalf of the company or provide any guarantee, security or the like on behalf of Ultimate Beneficiaries.
- c. Auditor shall also disclose that whether the management has represented that, no funds have been received by the company (other than as disclosed in the notes to accounts) from any other person or entity (Funding entity), including foreign entity, with the understanding that the company shall directly or indirectly lend or invest in other person or entity in any manner on behalf of the Funding Company (Ultimate Beneficiaries) or provide any guarantee, security or the like on behalf of Ultimate Beneficiaries.
- d. Whether dividend declared or paid during the year by the company is in compliance of the Companies Act, 2013.

- e. Whether the company has used such accounting software for maintaining its books of accounts which has a feature of recording audit trail of each and every transaction, creating an edit log of each change made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled. Further the same has been operated throughout the year for all the transactions recorded in the software and the audit trail feature has not been tampered with and the audit trail has been preserved by the company as per the statutory requirement for record retention.

BSE has mandated filling of Annual Secretarial Compliance Report by all listed companies in XBRL format:

- a. SEBI vide its Circular CIR/CFD/CMD1/27/2019 dated February 08, 2019 has prescribed the format on the Annual Secretarial compliance report.
- b. The Exchange has now introduced the facility of filing of Annual Secretarial Compliance Report in XBRL mode under Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 with immediate effect.
- c. The disclosure to the Stock Exchange(s) shall be made by listed entities within 60 days from the end of the Financial year. All the listed companies are required to submit Annual Secretarial Compliance Report in PDF mode along with the submission of the Annual Secretarial compliance report in XBRL mode.

MCA prescribes amendment in Schedule III of the Companies Act, 2013:

MCA, vide its notification dated March 24, 2021, prescribed following amendments in the Schedule III of the Companies Act, 2013 which shall come into effect from 1st day of April, 2021:

- a. Companies have to round off the figures appearing in the financial statements, which earlier was optional. Further, the criteria for rounding off shall be based on “total income” in place of “turnover”.
- b. All Companies now have to disclose Shareholding of Promoters, Current maturities of long term borrowings, Trade Payables & Trade Receivables ageing schedule to be given, details of all the immovable whose title deeds are not held in the name of the Company, Disclosures to be made where Loans or Advances in the nature of loans are granted to promoters, directors, KMPs and related parties, Capital-work-in progress & Intangible assets under development ageing schedule shall also be given, Disclosure of any proceedings initiated or pending against the company for holding any Benami property under the Benami Transactions (Prohibition) Act, 1988.
- c. Further, where a company is a declared willful defaulter by any bank or financial Institution or other lenders, disclosure of any transactions with companies struck-off, and Where any charges or satisfaction yet to be registered with Registrar of Companies beyond the statutory period, details and reasons thereof shall be disclosed & detail to be provided in the Balance sheet.

MCA mandates Accounting software to be used by companies:

- a. MCA, vide notification dated March 24, 2021, has mandated that for the financial year commencing on or after the 1st day of April, 2022, every company which uses accounting software for maintaining its books of account shall use only such accounting software which has a feature of recording audit trail of each and every transaction, creating an edit log of each change made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled.
- b. Further, the notification also specified that Board Report should contain the following additional information’s relating to the details of an application made or any proceeding pending under the Insolvency and Bankruptcy Code, 2016 during the year along with their status as at the end of the financial year and the details of the difference between the amount of the valuation is done at the time of one-time settlement and the valuation done while taking a loan from the Banks or Financial Institutions along with the reasons thereof.

THE COMPANIES ACT, 2013



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MCA prescribed a way to compensate non-executive or independent directors of the company which are loss making or have inadequate profits:

MCA, vide its notification dated March 18, 2021, prescribed amendments in the Schedule V of the Companies Act, 2013, effective from March 18, 2021, which limits the remuneration that executive director, non-executive director or independent director can be given depending upon the effective capital of the company.

Earlier only the executive director was entitled to remuneration in the event of a loss.

Sn.	Where effective capital is (In Rupees)	Limit of yearly remuneration payable shall not exceed (in Rupees) in case of a managerial person	Limit of yearly remuneration payable shall not exceed (in rupees) in case of other director
1	Negative or less than 5 crores	60 Lakhs	12 Lakhs
2	5 crores and above but less than 100 crores	84 Lakhs	17 Lakhs
3	100 crores and above but less than 250 crores	120 Lakhs	24 Lakhs
4	250 crores and above.	120 lakhs plus 0.01% of the effective capital in excess of Rs. 250 crores	24 Lakhs plus 0.01% of the effective capital in excess of Rs. 250 crores

MCA mandates E-form MGT-7A for filling annual return by One Person Company & Small Company:

MCA, vide its notification dated March 05, 2021, mandated that every company shall file its annual return in E-form MGT-7 except One Person Company and Small Company.

Further One Person Company and Small Company shall file its annual return in E-form MGT-7A from the financial year 2020-2021.

MCA has deployed E-form CSR-1 for registration of entities which are undertaking CSR activities:

Following entities are required to register itself with Central Government by filling E-form CSR-1 with effect from April 01, 2021 which are undertaking CSR activities:

- Company established under Section 8 of the Companies Act, 2013 or Registered Public Trust or Registered Society having registrations under Section 12A and Section 80G under the Income Tax Act, 1961; or
- Company established under Section 8 of the Companies Act, 2013 or Registered Public Trust or Registered Society, established by Central Government or State Government; or
- any entity established under an Act of Parliament or a State legislature; or
- a company established under section 8 of the Act, or a registered public trust or a registered society, registered under section 12A and 80G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities.

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