

NewsBites

Sixty Second Edition

Greetings!

We are delighted to present our news bite for the month of May 2023. 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,
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Chartered Accountants

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Income Tax

Applicability of tax collection at source (TCS) to small debit/credit transactions under Liberalized Remittance Scheme (LRS):

The Budget 2023-24 hiked TCS rates to 20 per cent, from 5 per cent currently, on overseas tour packages and funds remitted under LRS (other than for education and medical purposes), which will come into effect from July 1, 2023.

To avoid any procedural ambiguity, it has been decided that any payments by an individual using their international Debit or Credit cards up to Rs. 7 lakhs per financial year will be excluded from the LRS limits and hence, will not attract any TCS.

Enhancement of exemption limit of leave encashment - CBDT:

With effect from 1st day of April 2023, limit in relation to non-government sector employees, the maximum amount receivable by him/her as cash equivalent of leave salary in respect of the period of earned leave at their credit at the time of their retirement, whether superannuation or otherwise, hereby specifies the amount of Rs. 25,00,000 (twenty-five lakhs rupees only).

Exemption from taxation of share premium/Angel Tax under Section 56 (2) (viib):

Section 56(2) (viib) of the Income Tax Act encompasses a provision that pertains to closely-held companies issuing shares to investors at a value exceeding the "fair

market value" of those shares. In such cases, the surplus amount of the issue price over the fair value is subject to taxation as the income of the company issuing the shares.

The Central Government recently notified the following class or classes of persons, for the purposes of the said clause to whom provision of sec.56 (2) (viib) shall not apply-

1. Government and Government related investors such as central banks, sovereign wealth funds, international or multilateral organizations or agencies including entities controlled by the Government or where direct or indirect ownership of the Government is seventy-five percent or more.
2. Banks or Entities involved in Insurance Business where such entity is subject to applicable regulations in the country where it is established or incorporated or is a resident.
3. Any of the following entities, which is a resident of any country or specified territory (as mentioned in sec.56 (2) (viib)), and such entity is subject to applicable regulations in the country where it is established or incorporated or is a resident-
 - a. entities registered with Securities and Exchange Board of India as Category-I Foreign Portfolio Investors;
 - b. endowment funds associated with a university, hospitals or charities;
 - c. pension funds created or established under the law of the foreign country or specified territory;
 - d. Broad Based Pooled Investment Vehicle or fund where the number of investors in such vehicle or fund is more than fifty and such fund is not a hedge fund or a fund which employs diverse or complex trading strategies.



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Applicability of Tax Deduction at Source (TDS) in respect of Mahila Samman Savings Certificate (MSSC) & Senior Citizens Savings Scheme (SCSS):

TDS deduction under Section 194A (Tax deduction on Interest other than “Interest on securities”) is applicable on the interest income earned through the Mahila Samman Savings Certificate (MSSC) & Senior Citizens Savings Scheme (SCSS) schemes as notified by Central Government.

Hence, if the aggregate amount of interest credited or paid to the payee in respect of MSSC and SCSS schemes during a Financial Year exceeds Rs. 50,000 in case senior citizen and Rs. 40,000 in case of others, TDS is required to be deducted.

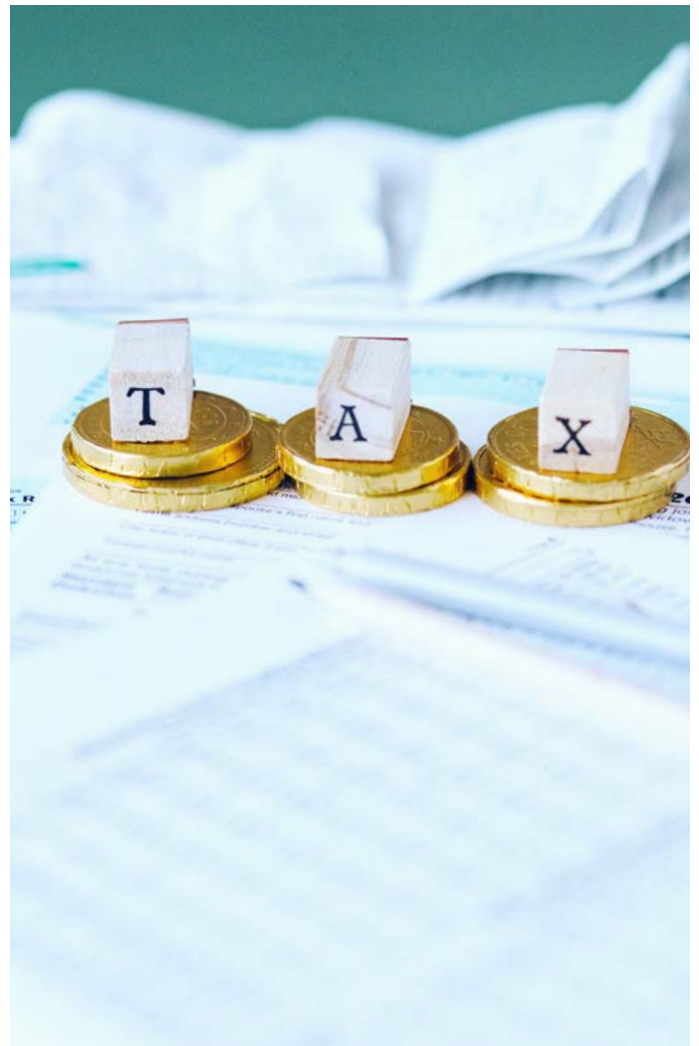


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Goods & Services Tax

Reduction in threshold limit for GST E-Invoicing from 10 Cr. rupees to 5 Cr. rupees, effective from August 1, 2023:

Earlier registered person whose turnover exceeds Rs. 10 crore is required to comply with e-invoice provision which means he must generate e-invoice against each tax invoice, debit note, credit note issued to registered person.

Now Ministry of Finance notified that person registered under GST and having turnover more than Rs. 5 Crore in any financial year from 2017-18 is required to comply with the e-invoice provisions w.e.f. 01st August 2023 i.e., he will be required to generate IRN/e-invoice against each tax invoice, debit note & credit note issued to registered person & export transactions.

However, e-invoice shall not be applicable on following types of registered Persons:

1. Insurance Company
2. Banking Company or a financial Institutions
3. SEZ Units
4. Government Department and Local Authorities
5. Goods Transport Agency.

Guidelines for Special All-India Drive against fake registrations:

The issue of unscrupulous elements misusing the identity of other persons to obtain fake/ bogus registration under GST, with an intention to defraud the Government exchequer, was deliberated. Such fake/ non-genuine

registrations are being used to fraudulently pass on input tax credit to unscrupulous recipients by issuing invoices without any underlying supply of goods or services or both, which is causing revenue loss to the government so a special all India drive against fake registration is initiated.

During the National Co-ordination Meeting of the State and Central GST officers held at New Delhi on 24th April 2023, it was discussed that while various system based and policy measures are being taken to address this problem of fake registration and fake input tax credit, there is a need of concerted and coordinated action on a mission mode by Central and State tax authorities to tackle this menace in a more systematic manner. It was agreed that a nation-wide effort in the form of a Special Drive should be launched on All-India basis to detect such suspicious/ fake registrations and to conduct requisite verification for timely remedial action.

Period of special drive: A Special All-India Drive may be launched by all Central and State Tax administrations during the period 16th May 2023 to 15th July 2023 to detect suspicious / fake GSTINs and to conduct requisite verification and further remedial action to weed out these fake billers from the GST eco-system and to safeguard Government revenue.

Identification of fraudulent GSTINs: Based on detailed data analytics and risk parameters, GSTN will identify & share the details of such suspicious GSTINs, jurisdiction wise, with the concerned State/ Central Tax administration for initiating verification drive. The Nodal officer of the State/ CGST Zone will ensure that the data received from GSTN/GARM/ other tax administrations is made available to the concerned jurisdictional formation within two days positively.

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Action to be taken by field formations: A time bound exercise of verification of the suspicious GSTINs shall be undertaken by the concerned jurisdictional tax officer(s). If, after detailed verification, it is found that the taxpayer is non-existent and fictitious Jurisdictional Tax officer may immediately initiate action for suspension and cancellation of the registration of the said taxpayer & blocking of input tax credit in Electronic Credit Ledger without any delay.

Additionally, the details of the recipients to whom the input tax credit has been passed by such non-existing taxpayer may be identified through the details furnished in FORM GSTR-1 by the said taxpayer. Where the recipient GSTIN pertains to the jurisdiction of the said tax authority itself, suitable action may be initiated for demand and recovery of the input tax credit wrongly availed by such recipient based on invoice issued by the said non-existing supplier, without underlying supply of goods or services or both.

Registered persons should take following precautions:

1. Kindly ensure that on one premise there should not be more than one registration unless it is clearly demarcated place for each of the registrations.
2. Documents required for demonstrating registration eligibility at the time of inspection- As applicable:
 1. Latest electricity Bill
 2. Consent Letter/NOC
 3. Municipal Khata Receipt or Property Tax Receipt
 4. Rent agreement should be valid, if expired then renew the agreement
 5. Aadhar Card and PAN

All above documents should be available in original.

1. Authorized signatory as updated on GST portal should be signing the Invoices.
2. The stock and sale/purchase invoices along with other documents if found at the registered place of business, then it is assumed that it pertains to registered person and accordingly it shall be dealt with.
3. Display of RC and at prominent location at his principal place of business and at every additional place or places of business and GSTIN on the name board exhibited at the entry of his principal place of business and at every additional place or places of business.
4. Books of Accounts
5. Every registered person shall keep the books of accounts at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration.
6. Such books of account shall include any electronic form of data stored on any electronic device until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records. (In case of any appeal or revision or proceedings, 1 year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

Companies Act, 2013

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MCA notifies amendments in strike off rules under Companies Act 2013:

MCA vide notification dated May 10, 2023 notified Companies (Removal of Names of Companies from the Register of Companies) Second Amendment Rules, 2023 which shall come into force with immediate effect which states as follows:

The company shall not file an application unless it has filed overdue financial statements under section 137 and overdue annual returns under section 92, up to the end of the financial year in which the company ceased to carry its business operations.

Further in case a company intends to file the application after the action under subsection (1) of section 248 has been initiated by the Registrar, it shall file all pending financial statements under section 137 and all pending annual returns under section 92, before filing the application.

Provided also that once notice under sub-section (5) of section 248 has been issued by the Registrar for publication pursuant to the action initiated under sub-section (1) of section 248, a company shall not be allowed to file the application under this sub-rule.

MCA notifies amendments in section for compromise, arrangements and amalgamations:

MCA vide notification dated May 15, 2023 notified Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023 which shall come into effect with effect from June 15, 2023 which substitute following subrules:

“(5) Where no objection or suggestion is received within a period of thirty days of receipt of copy of scheme

under sub-section (2) of section 233, from the Registrar of Companies and Official Liquidator by the Central Government and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, it may, within a period of fifteen days after the expiry of said thirty days, issue a confirmation order of such scheme of merger or amalgamation in Form No. CAA.12:

Provided that if the Central Government does not issue the confirmation order within a period of sixty days of the receipt of the scheme under sub-section (2) of section 233, it shall be deemed that it has no objection to the scheme and a confirmation order shall be issued accordingly.

(6) Where objections or suggestions are received within a period of thirty days of receipt of copy of scheme under sub-section (2) of section 233 from the Registrar of Companies or Official Liquidator or both by the Central Government and:

- a. such objections or suggestions of Registrar of Companies or Official Liquidator, are not sustainable and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, it may within a period of thirty days after expiry of thirty days referred to above, issue a confirmation order of such scheme of merger or amalgamation in Form No. CAA.12.
- b. the Central Government is of the opinion, whether on the basis of such objections or otherwise, that the scheme is not in the public interest or in the interest of creditors, it may within sixty days of the receipt of the scheme file an application before the Tribunal in Form No. CAA.13 stating the objections or opinion and requesting that Tribunal may consider the scheme under section 232 of the Act.

Provided that if the Central Government does not issue a confirmation order under clause (a) or does not file any application under clause (b) within a period of sixty days of the receipt of the scheme under sub section (2) of section 233 of the Act, it shall be deemed that it has no objection to the scheme and a confirmation order shall be issued accordingly.”.

Government Scheme Updates

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Industry News:

Maharashtra State Cabinet approves new IT support services policy:

On 30 May 2023, the Maharashtra state cabinet approved a new IT support services policy, intending to attract investment of Rs 95,000 crore in this sector and carry out the export of up to Rs 10 lakh crore.

The new policy will generate 35 lakh jobs and will take the state to the forefront of the IT industry in the country. Various incentives have been sanctioned to develop zone one cities such as Mumbai and Navi Mumbai as data centre hubs.

Under the policy, the Maharashtra government will take the initiative to establish an integrated Center of Excellence (CoE) to support startups in association with leading technical institutes, business schools and private institutions. Likewise, innovation clusters will be developed through M-Hubs on the lines of the NASSCOM Startup Warehouse Program of Maharashtra Industrial Development Corporation for new industries.

The M-Hub will be established at the premises of the Maharashtra State Small Industrial Development Corporation (MSSIDC) at Kalamboli in Raigad to promote entrepreneurship. The building will comprise training facilities for 300 students, along with accommodation for students and faculty.

Under the 2015 policy, Maharashtra received an investment of Rs 61,872 crore when the target was Rs 50,000 crore.



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