

NewsBites

Twentieth Edition

Greetings!

We are delighted to present our news bites for the month of November, 2019. This News Bites intends to give an overview of what is happening in the sphere of direct and indirect taxation, audit and assurance, GST and Secretarial Compliances in the industry.

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

Lok Sabha passes Bill to effect corporate tax reduction:

- Taxation Laws (Amendment) Bill, 2019, will amend the Income Tax Act 1961 and the Finance (No 2) Act 2019;
- Taxation Laws (Amendment) Bill, 2019, will amend the Income Tax Act 1961 and the Finance (No 2) Act 2019. It replaces the Ordinance which was Promulgated by the President in September;
- The government in September slashed corporate tax rates up to 10 percentage points as it looked to pull the economy out of a six-year low growth with a ₹1.45 lakh crore tax break;
- Base corporate tax for existing companies has been reduced to 22% from 30%, and to 15% from 25% for new manufacturing firms incorporated after October 1, 2019, and starting operations before March 31, 2023;
- The companies opting for lower tax rates, however, will not be entitled to claim any rebate or deductions;



File Belated Income Tax Return before December 31, 2019 to avoid paying higher penalty:

- Penalty for filing Belated Income Tax Return will be as follows:

Date of filing ITR	Penalty amount
After August 31, 2019 but on or before December 31, 2019	Rs. 5,000/-
Between January 01, 2020 and March 31, 2020	Rs. 10,000/-

- Further if your income is below the taxable limit, you do not have to pay a late filing fee. And if you are a small taxpayer whose gross total income does not exceed Rs 5 lakh, then the maximum fees you are liable to pay is Rs 1,000.

TDS on cash withdrawal:

- The Ministry of Finance recently notified Form 26QD for TDS Return and Form 16D for TDS Certificate under section 194M and 194N of the Income Tax Act. "As per section 194M any individual or an HUF, which is not subject to tax audit and is not required to deduct TDS under section 194C, section 194H or section 194J and is making payment to any resident for carrying out any work, commission, brokerage or fees for professional service, shall deduct a sum equal to 5 per cent as TDS and deposit the amount with the Government."
- As per the notification, the liability to deduct TDS will arise when the amount paid in one go or multiple instalments exceeds Rs 50 lakh. The TDS so deducted is required to be deposited within 30 days from the end of the month in which the deduction was made and shall be accompanied by a challan-cum-statement in Form 26QD, said Mittal.
- Additionally, an individual is required to issue the TDS certificate to the deductee in Form 16D within 15 days from the due date for furnishing the challan-cum-statement in Form No. 26QD.

Goods & Services Tax

DIN a new mandate for Investigation by the GST Department

Circular No. 122/41/2019-GST

Which mandates in case of all the search authorisation, summons, arrest memo, inspection notices and letters issued in the course of enquiry to quote unique **Document Identification Number (DIN)**. This issuance of DIN is mandated by the board under the power conferred under section 168(1) of the Central Goods and Services Tax Act and is made effective from 8th November 2019.

Features and benefits of DIN:

1. Prominent Mention of DIN

DIN is to be prominently mentioned on search authorization, summons, arrest memo, inspection notices and notices issued in the case of any enquiry. DIN is to be generated on the website of www.cbicddm.gov.in. DIN can be issued from the login of the empowered officer after of entering the details of the communication and type of the document after verification of OTP.

2. Ensures authenticity and genuineness of the documents

We are finding that many numbers of Summons and notices are being issued from Non-official e-mail ids. After the implementation of this system, there can be surety regarding the genuineness of such summons. Any validly generated DIN would be available on www.cbic.gov.in, and any person can verify the authenticity of the documents so issued by the department.

3. Post facto generation of DIN in exceptional circumstances

There is also a provision wherein such documents can be issued without the generation of the DIN, but that should happen only in exceptional

cases and it would be done by way of recording reasons in writing namely technical difficulties and shortage of time. Even in such cases, the document would be required to be regularised by generation of DIN within 15 days from the issue of the document.

4. No DIN no Validity

It would also be essential to note that any of the above-mentioned documents are being issued by the department without bearing DIN, such documents would be treated as invalid to the extent that they were never issued. Hence, in the case of enquiry proceedings every assessee should verify this DIN to identify whether proceedings are genuine or are merely harassment.

5. Digital Trail and Audit

Where such mandatory issuance of DIN would now bring audit trail of such documents that are being issued. It would be pertinent to note that issuance of search warrants there should be a reason to believe. Hence, after the introduction of DIN if such kind authorisations are being given without recording of reasons to believe at the time of issuance can be quashed during litigation.

6. Format of DIN

The composition of DIN can be identified as follows

CBIC - YYYY MM ZCDR NNNNNN

YYYY - denoted the calendar year in which the documents is being issued

MM - Denotes the month in which the document is being issued

ZCDR - Zone Commissionerate Division Range code of the field information

NNNNNN- 6 digits alphanumeric random number



Filing November GST return after change of rule last month

- A new circular by the Central Board of Indirect Taxes and Customs (CBIC) has put the onus on the GST taxpayers to correctly calculate the amount of input tax credit to be availed by them in a month. Any mistake in the calculation may lead to the imposition of interest and penalty. Under a new rule notified last month, the apex body to administer the indirect taxes in the country had restricted the amount of input tax credit to be availed by a buyer to 20% over the eligible amount. It means that a buyer can avail the input tax credit only for the amount where invoice matching with the details uploaded by his suppliers in their GSTR1 forms has already been done plus 20% of the matched amount.
- However, in the latest circular issued on Monday, the CBIC clarified that it will be the responsibility of taxpayers to avail the credit on the self-assessment basis as it will not be done through the GSTN portal. It means that GST registered buyers will be liable to pay interest and penalty if they make any mistake in calculating the amount of ITC claimed by them.
- Though the data on GSTR2 form will be auto-populated once GST registered suppliers file their GSTR1 forms, however, the same information cannot be automatically used by the GST registered buyers to avail the input tax credit under the new rule 36 (4) that caps the ITC claims to the eligible amount plus 20% over and above the eligible amount. And the exact amount of the ITC to be claimed for the month will have to be calculated by the taxpayers on a self-assessment basis.
- The CBIC also clarified that the restrictions will be applicable only on those invoices/debit notes on which ITC is availed after October 9 this year.



The Companies Act, 2013

Extension of last date to file Form PAS – 6 (Reconciliation of Share Capital Audit Report – Half yearly):

- MCA has extended the last date of filing of Form PAS – 6 (Reconciliation of Share Capital Audit Report – Half Yearly) without additional fees for the half year ended on 30-09-2019 will be sixty days from the date of deployment of this form on the website of the Ministry.
- Form PAS-6 is required to be filled by every unlisted public company to the Registrar with such fees as provided in Companies (Registration Offices and Fees) Rules, 2014 within sixty days from the conclusion of each half year duly certified by a company secretary in practice or chartered accountant in practice.

Extension of last date to file Form NFRA-2 (National Financial Reporting Authority Rules, 2018):

- MCA vide its circular dated November 27, 2019 has extended the date of filing Form NFRA-2 without additional fees within 90 days from the date of deployment of this form on the website of National Financial Reporting Authority.

Date Extension for filing of form AOC-4 (Financial Statements) & MGT-7 in the Union Territory of Jammu & Kashmir and Ladakh:

- MCA has vide its circular dated November 28, 2019, due to disturbances in internet services in the Union Territory of Jammu & Kashmir and Union Territory of Ladakh, the last date to file Form AOC-4 (Filing of Financial Statement), Form- AOC-4

(CFS) (Filing Consolidated Financial Statement), Form AOC-4 XBRL (Filing Financial Statement in XBRL format) and Form MGT-7 (Annual Return) has been extended up to 31st January, 2020 for companies having jurisdiction in the Union Territory of Jammu & Kashmir and Union Territory of Ladakh without levy of additional fees.

Companies (Meetings of Board and its Powers) Second Amendment Rules, 2019:

- MCA has vide its notification dated November 18, 2019 eased the requirement of obtaining the approval of shareholders for any related party transaction which shall come into force with immediate effect.
- Now the limit above which shareholders' approval will be mandatory is confined to "10% of the turnover of the Company" only and no monetary limit of Rs. 100 cr. / 50 cr. shall be required to be checked while confirming the compliance of such provision.

Compliance Monitoring System:

- With a view to streamlining the compliance part of the companies, increase transparency and penalize the defaulters, the Ministry of Corporate Affairs has come with a Compliance Monitoring System. The portal is named as MCA CMS i.e. Ministry of Corporate Affairs Compliance Monitoring System.
- The Compliance Monitoring System works on Artificial Intelligence i.e. the MCA CMS portal automatically detects the non-compliance and digitally sends Show Cause Notice for the same to the defaulter company or director. Then the said defaulting company or director is required to submit their defence reply digitally within 15 days from the date of the notice.



Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019:

- MCA has come up with specific rules extending the scope of IBC to personal guarantor of corporate debtors and accordingly notified the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019 with effect from December 01, 2019.
- These rules will be beneficial to both the bankers and the personal guarantors, minimizing litigation and will bring discipline in banking relationship.



Statutory Compliance required to be adhered to:

SR. No	Form	Due Date	Description
1	E-Form INC-20A	Within 6 months of Incorporation	Declaration for commencement of business
2	E-Form BEN-2	December 31, 2019	Declaration regarding Beneficial Owners
3	E-Form MGT-7	December 31, 2019	Annual Return

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