

# NewsBites

Thirty First Edition

Greetings!

We are delighted to present our news bite for the month of October 2020. 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](mailto:info@sanca.in).

Best Regards,  
S A N & CO.  
Chartered Accountants

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# Income Tax

## LTC cash voucher scheme extended to private sector employee:

In view of the COVID-19 pandemic and resultant nationwide lockdown as well as disruption of transport and hospitality sector, as also the need for observing social distancing, a number of employees are not able to avail of Leave Travel Concession (LTC) in the current Block of 2018-21.

With a view to compensate Central Government employees and incentivize consumption, thereby giving a boost to consumption expenditure, the Government of India allowed payment of cash allowance equivalent to LTC fare to Central Government employees subject to fulfilment of certain conditions vide OM No. F. No. 12(2)/2020-EII (A) dated 12th October 2020. It has also been provided that since the cash allowance of LTC fare is in lieu of deemed actual travel, the same shall be eligible for income-tax exemption on the lines of existing income-tax exemption available for LTC fare.

In order to provide the benefits to other employees (i.e. non-Central Government employees) who are not covered by the above mentioned OM No. F. No. 12(2)/2020-EII (A) dated 12th October 2020, it has been decided to provide similar income-tax exemption for the payment of cash equivalent of LTC fare to the non-Central Government employees also. Accordingly, the payment of cash allowance, subject to maximum of Rs. 36,000 per person as Deemed LTC fare per person (Round Trip) to non-Central Government employees, shall be allowed income-tax exemption subject to fulfilment of conditions specified in para 4.

The income-tax exemption to receipt of deemed LTC fare by a non-Central Government employee ('the employee') shall be allowed subject to fulfilment of the following conditions:

a. The employee exercises an option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-21.

- b. The employee spends a sum equals to **three times of the value of the deemed LTC fare on purchase of goods/services which carry a GST rate of not less than 12% from GST registered vendors/service providers ('the specified expenditure') through digital mode during the period from the 12th of October, 2020 to 31st of March, 2021 ('specified period') and obtains a voucher indicating the GST number and the amount of GST paid.**
- c. An employee who spends less than three times of the deemed LTC fare on specified expenditure during the specified period shall not be entitled to receive full amount of deemed LTC fare and the related income-tax exemption and the amount of both shall be reduced proportionately as explained in Example-A below

Further, as this exemption is in lieu of the exemption provided for LTC fare, **an employee who has exercised an option to pay income tax under concessional tax regime under section 115BAC of the Income-tax Act, 1961 shall not be entitled for this exemption.**

The legislative amendment to the provisions of the Income-tax Act, 1961 for this purpose shall be proposed in due course.

### Example-A

Deemed LTC Fare	Rs. 20,000 x 4 = Rs. 80,000
Amount to be spent	Rs. 80,000 x 3 = Rs. 2,40,000

Thus, if an employee spends Rs. 2,40,000 or above on specified expenditure, he shall be entitled for full deemed LTC fare and the related income-tax exemption. However, if the employee spends Rs. 1,80,000 only, then he shall be entitled for 75% (i.e. Rs. 60,000) of deemed LTC fare and the related income-tax exemption. In case the employee already received Rs. 80,000 from employer in advance, he has to refund Rs. 20,000 to the employer as he could spend only 75% of the required amount.



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## Income Tax Due date chart post recent due date extensions:

Recently, the Finance Ministry via Press Release and as per **Notification No. 88/2020 issued by CBDT dated 29 October 2020** announced further extension of deadlines for filing of Income Tax Return and furnishing of Tax Audit Reports and Transfer Pricing (TP) Reports.

Sr. No.	Particulars	Period	Last Extended Due Date	New Due Date
1.	Income Tax Return u/s 139 (Revised or Belated Return)	AY 2019- 20 (FY 2018-19)	30th September, 2020	<b>30th November, 2020</b>
2.	Income Tax Return u/s 139 (In cases of assessee to whom TP Audit, Company Audit and Tax Audit is applicable)	AY 2020-21 (FY 2019-20)	30th November 2020	<b>31st January, 2021</b>
3.	Income Tax Return u/s 139 (in any other case)	AY 2020-21 (FY 2019-20)	30th November, 2020	<b>31st December, 2020</b>
4.	Self – Assessment (SA) Tax Liability. No interest chargeable under Section 234A, if the SA Tax liability is up-to INR 1 Lakh	AY 2020-21 (FY 2019-20)	30th November 2020	<b>31st January, 2021 (In case of assesseees not requiring any Audit, it is 31st December, 2020)</b>
5.	Filing of Tax Audit Report under section 44AB and TP Report under section 92E of the IT Act	AY 2020-21 (FY 2019-20)	31st October, 2020	<b>31st December, 2020</b>



# GOODS & SERVICES TAX

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## GST Annual Returns deadline extended

GST Council has decided to extend the due date for filing Annual Return (Form GSTR-9/GSTR-9A) and Reconciliation Statement (FORM GSTR-9C) for **Financial Year 2018-19 from October 31, 2020 to December 31, 2020.**

GSTR 9, the annual return under GST, consists of details regarding the outward and inward supplies made or received under different tax heads. GSTR-9C is a statement of reconciliation between GSTR-9 and the audited annual financial statement. The annual return is mandatory only for taxpayers with aggregate annual turnover of above Rs 2 crore while reconciliation statement is to be furnished only by the registered persons having aggregate turnover above Rs 5 crore.

## Applicability of interest under GST on ITC wrongly availed

### I. Interest always matter of Litigation and dispute

Interest on irregular ITC has been a matter of perpetual contention under the indirect tax legislation. The Central Excise and service tax regime saw numerous litigations on this matter with the tax authorities proposing to levy interest on mere irregular availment of ITC and the assessee contending that unless such irregular ITC has been utilized, there is no loss of tax revenue to the government and hence no interest is payable.

### II. Interest on wrong ITC under the GST

GST legislation addresses the issue about interest on irregular ITC as follows:

The Act covers only certain specific instances of irregular ITC and applicability of interest in such specific cases. The following instances are covered by the legislation on irregular ITC:

1. Where the ITC availed by the recipient is not declared by the supplier in the GST return; and
2. Duplicate claim of ITC by the recipient.

### III. Sec. 50(3) of the Act:

Interest is levied on the above irregular ITC in terms of the provisions under Section 50(3) and Section 42(10) of the Act. Section 50(3) of the Act provides that a taxable person who makes an undue or excess claim of the ITC under Section 42(10) shall pay an interest at the rate **not exceeding 24%** on such undue or excess claim.



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# THE COMPANIES ACT, 2013

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## Companies (Amendment) Act, 2020

An act has been prescribed to further amend the Companies Act, 2013, President has given his assent on September 28, 2020.

Further it shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

Some of the key changes are summarized below:

### I. Section 135: Corporate Social Responsibility

- **MCA empowered to prescribe the manner to set off in succeeding financial year:**

Section 135(5)(a) after the second proviso provides that if a company spends an amount in excess of the requirement, such company may set off such excess amount against the requirement to spend under this sub-section for such number of succeeding financial years and in such manner as may be prescribed.

- **Penal clause:**

Section 135(7)(b) provides that if a company is in default in complying with the provisions of this section then the company shall be liable to following penalty:

- a) Twice the amount that was required to be spent; or
- b) One crore rupees; whichever is less.

Further every officer of the company who is in default shall also be liable to penalty of one-tenth of the amount required to be transferred by the company or two lakh rupees, whichever is less.

- **Exemption to certain companies for constitution of CSR Committee:**

Section 135(9) provides that where the minimum amount to be spent by a company under this sub-section does not exceed fifty lakh rupees, the

requirement of constitution of the Corporate Social Responsibility Committee shall not be applicable and the functions of such committee provided under this section shall be discharged by the Board of Directors of such company.

### II. Section 117(3)(g): Exemption from filing E-form MGT-14

Exemption has been provided to Banking companies to file E-form MGT-14 in respect of resolution passed to grant loans or give guarantee or provide security in respect of loans under Section 179 in the ordinary course of business.

Further this exemption has been extended to NBFC's Housing Finance Companies in addition to Banking companies.

### III. Producer Companies

New Chapter XXIA (Section 378A to 378ZU) has been inserted which deals with Producer Companies. The said Chapter is divided into different parts such as:

Part I: Definitions

Part II: Incorporation of Producer Company

Part III: Management of Producer Company

Part IV: General Meetings

Part V: Share Capital and Members rights

Part VI: Finance, Accounts and Audit

Part VII: Loans to Members and Investment

Part VIII: Penalties

Part IX: Amalgamation, Merger or Division

Part X: Resolution of Disputes

Part XI: Miscellaneous Provisions

Part XII: Re-Conversion of Producer Company to Inter-State Co-Operative Society

# THE COMPANIES ACT, 2013

## Several important relaxations in lieu of Covid-19:

Ministry of Corporate Affairs has notified further relaxation in respect to the matters in which relaxation was earlier provided:

**I. Companies (Meetings of Board and its Powers) Third Amendment Rules, 2020:** MCA has further extended the due date from September 30, 2020 to December 31, 2020 for conducting the Board Meeting through video conferencing or other audio visual means and also deal matters such as approval of audited annual financial statement, approval of Board Report, approval of prospectus etc. through such Board Meeting through video conferencing or other audio visual means till December 31, 2020.

## II. Minimum residency requirement of 182 days by at least one Director in company:

Section 149(3) of the Companies Act, 2013 prescribes every company shall have at least one Director in the company who stays in India for a total period of not less than one hundred and eighty two days during the financial year.

In lieu of Covid-19, MCA has relaxed the residency norms of minimum stay of 182 days in India by at least one Director of the company for the Financial Year 2020-21. Therefore, non-compliance of above stated residency norms shall not be treated as violation of Section 149 of the Companies Act, 2013 for the Financial Year 2020-21.

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