APRIL 2019

NewsBites

Thirteenth Edition

Greetings!

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

Contents

Goods & Service Tax

Key Highlights of 34th GST Council Meet held on 19th March 2019:

- GST Rates for Real Estate Sector to be effective from 1st April, 2019
- Affordable housing properties: Effective GST rate of 1% without ITC
- Residential properties outside affordable segment: Effective GST rate of 5% without ITC
- Builders of existing housing projects that are completing construction by 31st March 2019 get to choose either of the two alternatives:

  Alternative 1: Choose the old rate of 12% (8% for affordable housing) and charge this GST Rate in the invoices raised. Further, input tax credit benefit is available and can be passed on to the buyer.

  Alternative 2: Choose to bear GST tax at the rate of 5% (1% for affordable housing as defined by GST law). The benefit of the input tax credit (ITC) is not available to the builder for procurements used in construction.

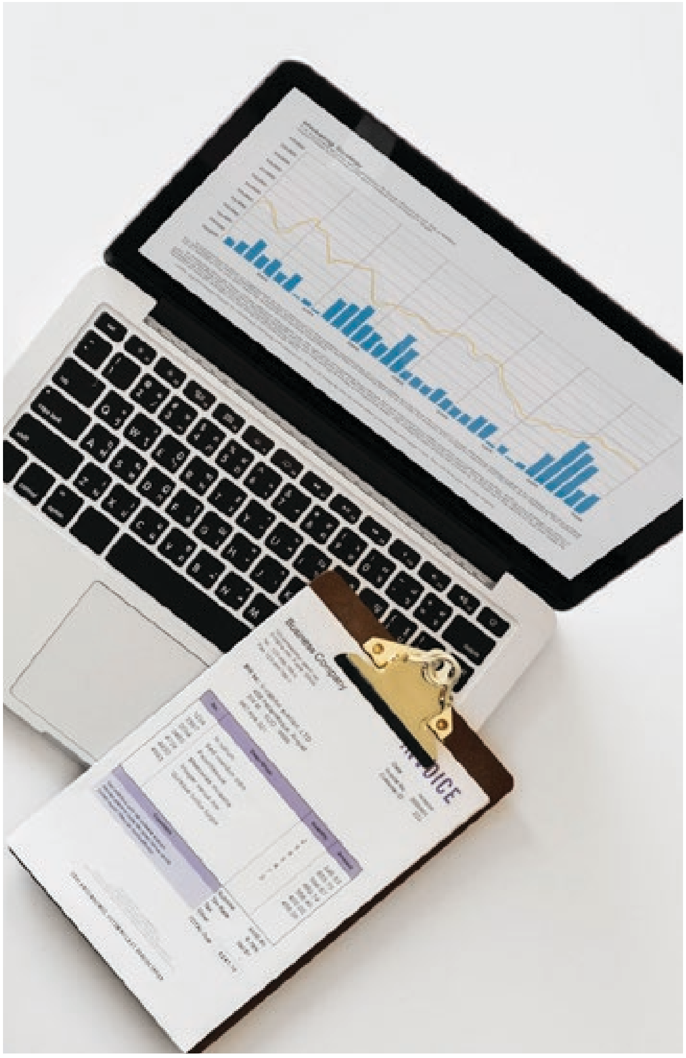
Circular No. 92/11/2019-GST, dated 7-3-2019

- **Sales promotion schemes – GST liability and ITC availability clarified:**

(i) Where free samples and gifts are offered as part of sales promotion scheme, CBIC has clarified that supply of such goods, services or both which are supplied free of cost without a consideration, will not be treated as 'supply' under GST law. ITC is not available on inputs, input services and capital goods to the extent they are used in relation to such supplies.

(ii) Schemes like 'buy one get one free' should be treated as two goods supplied for the price of one and such supply will be taxable as per Section 8 of the CGST Act, after determining whether it is a mixed or composite supply. ITC will be available to the supplier in such Valuation – Discounts when not includible in value of supply:

- Discounts are excludible from the value of supply, subject to condition including reversal of ITC by the recipient in cases of 'Buy more, Save more offer' or staggered/volume discounts, where rate of discount is increased after volume of purchase is increased However, the supplier will be entitled to ITC on inputs, input services and capital goods used in relation to such supplies



Last dates for filing GSTR-1 and GSTR-3B for April-June 2019, notified:

- GSTR-1 for the months of April, May and June 2019 are to be filed till 11th day of the succeeding month by registered persons having aggregate turnover of more than INR 1.5 crore.
- For persons whose turnover is up to INR 1.5 crore, this return for the quarter April - June 2019 can be filed till 31-7-2019.
- Form GSTR-3B for each of the months from April to June 2019, must be furnished by twentieth day of the succeeding month. (Notifications Nos. 11 to 13/2019-CT dated 7-3-2019)

New return formats placed on GST portal: Goods and Services Tax Network (GSTN) has placed the proposed three return documents, as approved by the competent authority, on the GST Portal.

- The new formats, titled, normal, sahaj and sugam, is likely to simplify the compliance process for taxpayers having turnover of up to INR 5 crore.
- The taxpayers would have an option to file any of the three forms. It may however be noted that HSN code at least at 6-digit level shall have to be reported. As decided by the GST Council, these forms will operate on a pilot basis from 1-4-2019 and will be made mandatory only from July 2019.

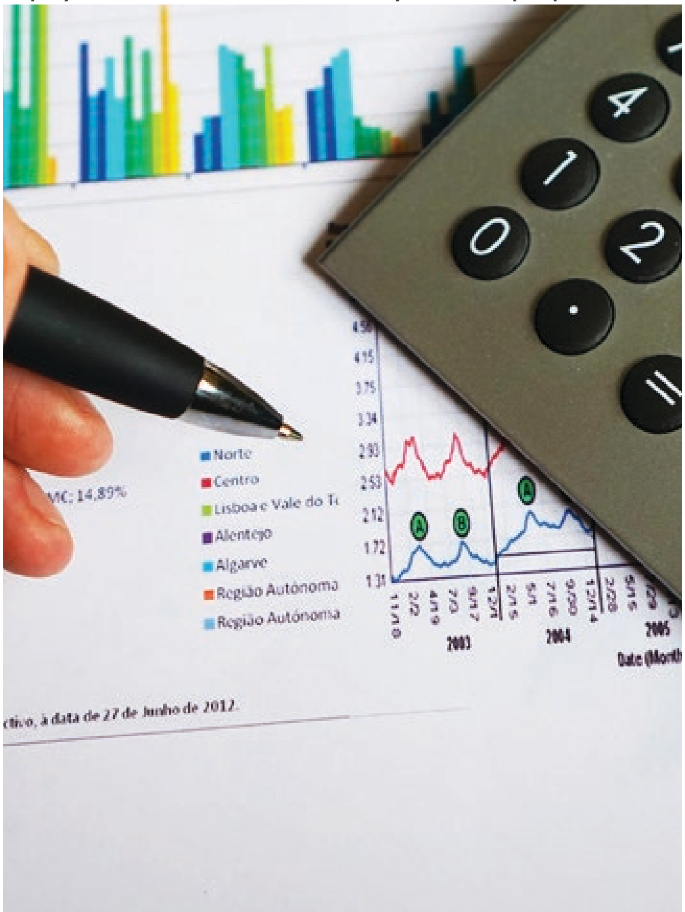
IGST Credit utilization Clarification

The CBIC has now clarified that the IGST credit can be used in payment of CGST or SGST in any order or proportion.

Businesses that have accumulated Integrated GST (IGST) credit in their books can settle it against central and state tax dues in any proportion, the revenue department has said. Importers typically pay IGST on goods they bring into the country. Also IGST is paid on inter-state movement of goods. This tax is supposed to be set-off against the actual GST paid, or may be claimed as refund in certain cases.

The Central Board of Indirect Taxes and Customs (CBIC) in March had allowed utilisation of input tax credit (ITC) of IGST towards the payment of Central GST and State GST, in any order subject to the condition that the entire IGST liability has been first discharged using the accumulated credit.

The CBIC has now clarified that the IGST credit can be used in payment of CGST or SGST in any order or proportion.



Income Tax

Income Tax

Here are nine changes in ITR forms 1 & 2 that you should know about:

1. Online filing of ITR mandatory :

In a departure from previous year, all individuals (except for super senior citizens) will be required to file their ITRs electronically. The ITR-1 for FY 2018-19 cannot be filed in paper format by the taxpayers having income below Rs 5 lakh with no refund.

"In the previous year, CBDT allowed two types of individuals to file their ITR in paper format. These individuals were super senior citizens whose age is 80 years or above and individuals having income below Rs 5 lakh with no refund. However, for FY 2018-19, only super senior citizens can now file ITR-1 or ITR-4 in paper form and others will have to file their ITR electronically."

2. Complete details of buyer to whom you have sold property

If you have sold a property in FY 2018 - 19, then while filing ITR-2, you will be required to provide complete details of the buyer to whom you have sold the property. "The buyer details have to be provided irrespective whether the capital gains accrued are of short-term or long-term in nature. The details of buyer will have to be given if TDS is deducted by your buyer while making payment.

It is mandatory to deduct TDS if the sale value exceeds Rs 50 lakh. However, "If the sale value exceeds Rs 10 lakh but below Rs 50 lakh then deducting TDS is not mandatory but quoting of PAN of the buyer while filing ITR is mandatory for this year,"

3. Property wise details of rent arrears

"While filing ITR-1 or ITR-2 as applicable, if there are any rent arrears that are received by you in FY 2018-19 then you have to report them property wise as received," Remember, if an individual has one house property which is let out during FY 2018-19, then the rent received is required to be reported in ITR-1.

For individuals with more than one house property, they are required to file their ITR using ITR-2. "ITR-1 & ITR-2 has introduced an additional row 'Arrears/Unrealized Rent received during the year less 30%'. This row was not available in both the forms in the previous year,"

4. Specifying the type of house property

While providing details of your one house property in ITR-1, you are required to specify whether the house is - 'Self Occupied', 'Let-out' or 'Deemed Let-out.' In the previous year's ITR-1, there was no such option of 'Deemed Let-out' in ITR-1.

5. Investment details in unlisted companies

If you are holding shares in an unlisted company then, you are required to disclose the details of your holdings in ITR-2. The details required are extensive - name of the company, PAN of the company, number and cost of acquisition at the beginning of the year, number of shares, face value, issue price (or purchase price) and date of purchase of shares acquired during the year, number and and sale consideration of shares transferred during the year, number and cost of acquisition of shares held at the end of the previous year.

"Such information is being sought so as to get the footprints of transactions of purchase and sale of unlisted shares. It will also help the department to check whether income and net worth of a shareholder is in corroboration with the amount invested by him in an unlisted company. If it does not reconcile, the department can initiate the enquiry to verify if some unaccounted money is invested in an unlisted company."

6. Reporting of salary details gets easier in ITR-1

This year providing details of your salary income will be easier as the details required are in sync with the information available in Form-16. In the last year, though taxpayers were required to provide the break-up of salary details, the information required was not in sync with information available in Form-16.

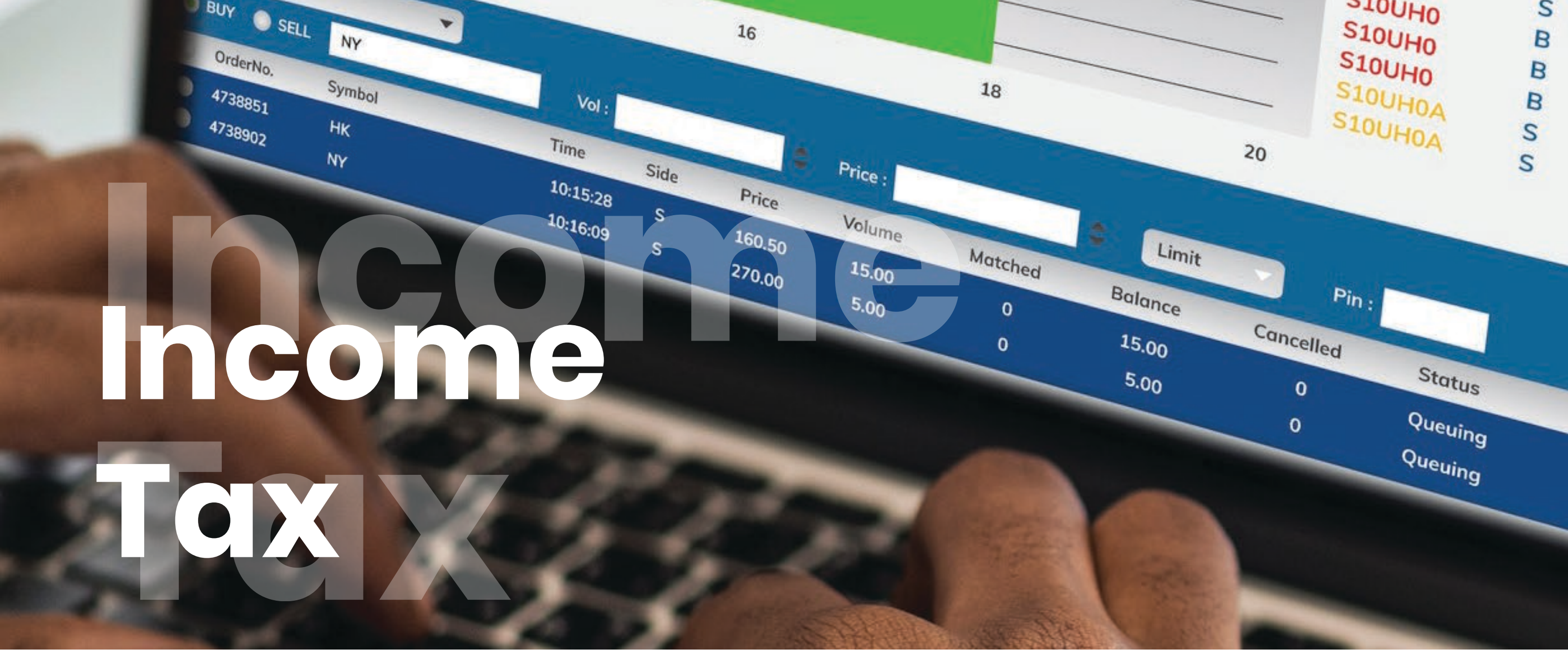
7. Full disclosure of interest income

Along with providing full break-up of salary income, taxpayers will be required to specify the full bifurcation details of the interest income or any other income received by them. Income from other sources head in ITR-1 has been updated to provide details of the source from where interest or any other income is received.

8. Residential status

The new ITR-2 form asks individuals not only to specify the residential status as resident, resident but not ordinarily resident or non-resident, but also to provide additional information with respect to his residential status, such as, number of days of stay in India, jurisdiction of his residence and tax identification number in case he is a non-resident.

"These details are being asked to check if a taxpayer has rightly determined his residential status in India which is entirely based on his number of days of stay in India. The Tax Identification Number will validate if a non-resident taxpayer is rightly claiming the DTAA benefit."



Income Tax

9. Mention of DIN number

If you are Director of a company, then you will be required to specify your DIN (Director Identification Number) in ITR-2 or 3 whichever is applicable. Along with this you will also be required to provide information - name of company, PAN, whether shares are listed or unlisted.

"The purpose of seeking DIN no. of directors might be to identify the inactive directors whose qualifications and taxable income does not justify him to remain on board. If a person has been a director of a company but his income over the period had been negligent, it can raise doubt on the purpose for which he was appointed as director in a company."

Income Tax dept, GSTN to share tax payer data to scale up scrutiny Excerpts from Mint Dt. 01-05-2019

- The move will allow direct and indirect tax authorities to zero in on discrepancies in the information that business have disclosed in their respective tax return forms.
- The move comes as part of tightening of anti-evasion measures after the GST Council gave several relaxations.

The government authorized the income tax department to share details including sales and profits that businesses have reported in their income tax returns with GSTN, the company that processes Goods and Services Tax (GST) returns, to scale up scrutiny and check tax evasion.

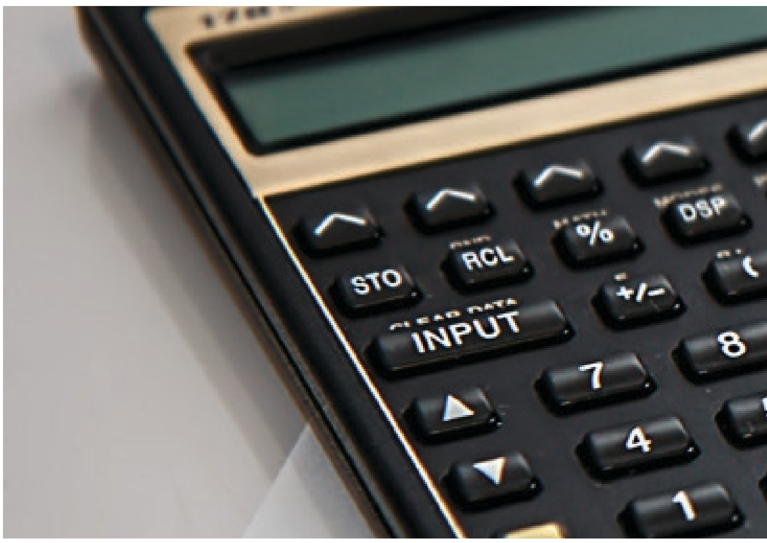
The move will allow direct and indirect tax authorities to zero in on discrepancies in the information that business have disclosed in their respective tax return forms and nail tax evaders. The move comes as part of tightening of anti-evasion measures after the GST Council gave several relaxations in recent months to ease the rigors of tax compliance to businesses, especially to small ones. A formal system of data sharing between direct and indirect tax authorities means businesses have to be extra careful while filling up their tax returns and avoid mismatches. The move is significant considering that businesses did not show enthusiasm in opting for a single window tax facility for corporate tax, service tax and central excise in 2006 under the name Large Taxpayer Unit as they apparently preferred to avoid simultaneous scrutiny by different tax authorities.

An office order issued by the Central Board of Direct Taxes (CBDT) on Tuesday authorized the Principal Director General of Income Tax (systems) or Director General of Income Tax (systems) to share specified data with an officer of GSTN. The designated officers from both sides will also decide ways of simultaneous exchange of information.

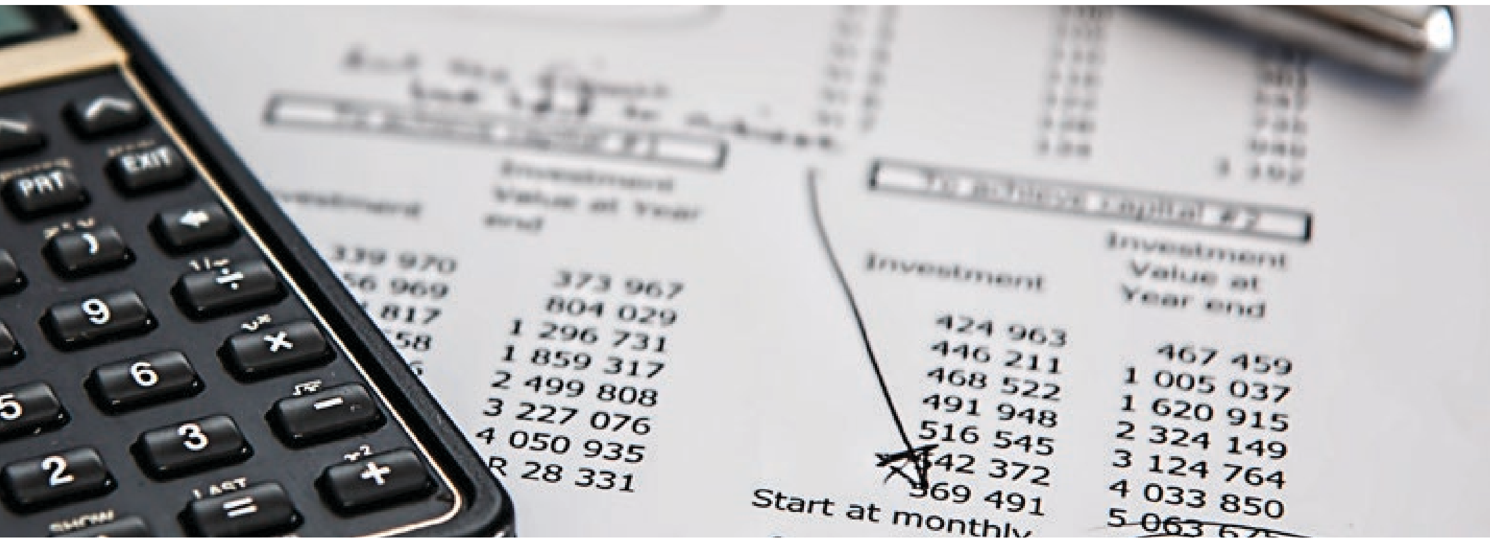
I-T dept revises format of TDS certificate issued by employers

Excerpts from Mint Dt. 16-04-2019

- The revised Form, which has been notified by the Income Tax department, will come into effect from May 12, 2019.
- The I-T department has already notified income tax return forms for fiscal 2018-19.
- The Income Tax department has revised Form 16 by adding various details, including income from house property and remuneration received from other employers, thereby making it more comprehensive to help check tax avoidance.



- It will also include segregated information regarding deductions under various tax saving schemes, investments in tax savings instruments, different allowances received by the employee as well as income from other sources.
- Form 16 is a certificate issued by employers, giving details of employees' TDS (tax deducted at source) usually by mid June and is used in filing I-T returns.
- The revised Form, which has been notified by the Income Tax department, will come into effect from May 12, 2019. This means the income tax returns for financial year 2018-19 will have to be filed on the basis of revised Form 16.
- Amongotherthings,therevisedForm16willalsoinclude details of deductions in respect of interest on deposits in savings account, and rebates and surcharge, wherever applicable.
- The I-T department has already notified income tax return forms for fiscal 2018-19. Salaried class and those who do not have to get their accounts audited, will have to file their ITRs by July 31 this year.
- Meanwhile, the income tax department has also modified Form 24Q, which is furnished by employer to the tax department. It will include additional details like Permanent Account Number (PAN) of non-institutional entities from whom the employee has taken loan for buying or constructing housing property.
- The Form 16 and 24Q have been amended with an intent to make them more elaborative and informative. The same has been done in order to bring the Forms in parity with latest changes made in ITR Forms such as disclosure of standard deduction and exemptions claimed under section 10.
- "Earlier, where the disclosure of various deductions were mentioned in a consolidated manner, ranging from 80C, 80CCD, 80E, 80G would now be required to be disclosed separately. These specific disclosures would provide ease to the tax authorities in understanding the various components of income of the taxpayer and thereby, facilitating the conduct of scrutiny more precisely".
- The changes in Form 24Q will further help in identifying any fabricated transaction undertaken with an aim of tax avoidance.



Companies Act, 2013

Form DIR-3 KYC

As per rule 12A of the Companies (Appointment and Qualification of Directors) Rules 2014, "**every individual who has been allotted a Director Identification Number (DIN) as on 31st March of a financial year as per these rules shall, submit e-form DIR-3-KYC to the Central Government on or before 30th April of immediate next financial year.**

Provided that every individual who has already been allotted a Director Identification Number (DIN) as at 31st March, 2018, shall submit e-form DIR-3 KYC on or before 5th October, 2018."

However, the DIR-3 KYC e-form presently available on the portal does not cater for the following:

(i) Filing on annual basis, and

(ii) Filing in respect of DINs allotted post 31 March 2018. It presently caters only to those individuals who were allotted DINs as on 31st March 2018 and whose DINs have been marked as 'Deactivated due to non-filing of DIR-3 KYC'.

The revised form can be filed without any fee within a period of 30 days from the date of deployment. Accordingly, DIN holders who had filed DIR-3 KYC form earlier and complied with the said provisions may kindly await the deployment of the modified form for fulfilling their compliance requirements.

Form INC-22A Active

The MCA has issued the much awaited notification for extension of due date for filing of **e-Form INC – 22A (Form ACTIVE) from 25-04-2019 to 15-06-2019.** The disclosure requirement, which came into effect from February, makes it mandatory for registered companies to upload pictures of their business premises and at least one director. Ministry of Corporate Affairs have received many representations from industry associations for Extension of the Due date with many companies yet to comply thereafter Ministry of Corporate Affairs decided to Extend the Due date of form INC 22A (ACTIVE). The MCA has notified the Companies (Registration Offices and Fees) Second Amendment Rules, 2019 for applicability of fee after 15-06-2019 and parallel amendment through the Companies (Incorporation) Fourth Amendment Rules, 2019 also notified.

Rule 16: Return of deposits to be filed with the Registrar - Form DPT-3

Every company other than Government company to which these rules apply, shall on or before the 30th day of June, of every year, file with the Registrar, a return in Form DPT-3 along with the fee as provided in Companies (Registration Offices and Fees) Rules, 2014 and furnish the information contained therein upto 31st day of March of that year duly audited by the auditor of the company.

Form DPT-3 shall be used for filing return of deposit or particulars of transaction not considered as deposit or both by every company other than Government Company.

Every company other than Government company shall file a one-time return of outstanding receipt of money or loan by a company but not considered as deposits, in terms of clause (c) of sub-rule 1 of rule 2 from the 01st April, 2014 to the date of publication of this notification in the Official Gazette, as specified in Form DPT-3 within ninety days from the date of said publication of this notification along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014].

Statutory Compliance required to be adhered to in the month of April 2019

SR. No	Form	Due date	Description
1	LLP Form-11: Annual Return	May 30, 2019	Annual Return for LLP
2	E-Form DIR-3KYC	Within 30 days from the date of deployment of modified form	Application for KYC of Director
3	E-Form INC-22A	June 15, 2019	Active Company Tagging Identities and Verification (ACTIVE)
4	E-Form INC-20A	Within 6 months of Incorporation	Declaration for commencement of business
5	Form DTP-3	June 30, 2019	Return of Deposit

Insolvency

Insolvency professionals to administer refunds to investors

SEBI has decided to appoint administrators registered as insolvency professionals (IPs) to oversee distribution of money to investors. If the administrators appointed by SEBI refuse to work during the pendency of the assignment, it will recommend sustainable action against them, the regulator said in a recent circular.

SEBI is sitting on a huge pile of cash and property worth thousands of crores which it has managed to recover from fraudulent collective investment schemes and other such unregistered schemes. Though recovery of money from companies such as Sahara and PACL has led to accumulation of huge amounts of cash with SEBI, its distribution to investors has been an uphill task, sources said.

On April 2, SEBI issued a circular stating that the board after attachment of the properties of the defaulters may appoint an administrator who is a person registered with the Insolvency and Bankruptcy Board of India as an insolvency professional.

Interestingly, SEBI said, an administrator, who is selected from a panel of IPs, shall not withdraw his consent to act as an administrator or refuse to act as an administrator, if appointed by the board under the Administrator Regulations. He or she cannot surrender his/her registration to the IBBI Board or membership to the insolvency professional agency (IPA) during the pendency of the assignment. In case of such withdrawal or refusal, the matter will be referred to the IBBI for suitable action, SEBI said.

Changed insolvency norms by April next to speed up process

The Insolvency and Bankruptcy Code (IBC) is in the process of being changed to be effective from the next fiscal to accomodate the fast changing creditor-debtor scenario, according to the Insolvency and Bankruptcy Board of India (IBBI).

The IBBI on Saturday invited comments from stakeholders and the public on making changes to the current regulations notified under the IBC, 2016.

The changes the IBBI is looking are in the regulations under Voluntary Liquidation Process, 2017, Fast Track Corporate Insolvency Resolution Process regulations, 2017, Liquidation Process, 2016, and the Insolvency Resolution Process for Corporate Persons, 2016, among others.

Recent developments like the Supreme Court striking down the Reserve Bank of India's (RBI) circular last year on banks resolving their massive non-performing assets (NPAs or bad loans) has also made a case for review of certain criteria in the overarching laws of IBC," the IBBI said in notice.

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