

Anil Nambiar & Associates

Providing proactive financial and professional service excellence that you can trust.

Newsletter May-2020

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Dear Friends,

Trust this letter finds you in the best of spirits. The recent past has been a testing time for all of us. Our word stood witness to a global pandemic, the impact of which may never be fully gauged. A new financial year has commenced, and people are yet to come to terms with the sudden disruption to daily life and business operations.

The Government has come out with a package aimed at reducing the burden and reviving businesses impacted by the lockdown. The Union Budget has also introduced changes which will be implemented in the new financial year. This includes changes in the residential status, due dates for filing Tax Audit Report, TDS and TCS provisions. We will be reviewing these changes in this newsletter.

Keeping faith in human resilience, I am confident that we will overcome the challenges and emerge stronger.

Praying for the health and wellbeing of you and your family.

Best Regards,

CA. Anil Kumar, B.Sc. FCA

Major Changes in Income Tax Act applicable from Financial Year 2020-2021.

- **Residential Status:**

With effect from 01.04.2021 the definition of residential status is amended.

A person is said to be resident in India if

- a) He is in India for a period of 182 days or more during the previous year or
- b) He was in India for 365 days or more during the four years preceding the previous year and 60 days or more during the previous year

However, in case of a person who leaves India in a year as a member of ship's crew or for the purpose of employment the period of 60 days referred above was substituted by 182 days.

Similarly, any person being a citizen of India or a person of Indian Origin who being outside India comes to India on a visit the period of 60 days was substituted by 182 days.

Now this clause is substituted by 120 days. In other words, a person being a citizen of India or a person of Indian Origin can stay in India for a maximum period of 120 days during the previous year.

- Section 44AB Section 44AB has been amended to raise the tax audit limit as well as to change the due date for filing of tax audit report.

Accordingly

- The ceiling for tax audit has been increased from 1 crores to 5 crores in the case of a person whose aggregate of all amounts received including that received from cash sales ,or gross receipts during the year does not exceed 5 % of the said amount and whose aggregate of all payments including amount incurred for expenditure in cash during the previous year does not exceed 5% & of the said amount .

In all other cases the ceiling limit for conducting tax audit continues to be Rs.1 crore.

- The specified date for the submission of tax audit report has been changed to one month prior to the due date for furnishing of the return.

This change in the date of furnishing the tax audit report has the affects in the following sections.

- **Section 44DA:** Income by way of Royalties in the case of Non -residents. According to the amendment brought about to Section 44DA (2) every non -resident (not being a company) or a foreign company shall keep the books of accounts and other documents and get the same audited and furnish the same before the date specified under section 44AB and furnish the same by that date.
- **Section 50B:** In the case of slump sale the assessee shall furnish a report in the prescribe form before the specified date referred to in section 44AB.
- **Section 50C: Special provision for full value of consideration**

In case where the consideration received or accruing as a result of transfer by an assessee being land or building or both is less than the value fixed by any authority of the state government for the purpose of payment of stamp duty the value fixed by that authority was taken to be full value of consideration received for the transfer of the asset. However, when the value fixed by the authority does not exceed 105% the consideration received, the consideration was taken as the full value received. This clause has been amended and now if the value adopted is not more than 110% of the actual consideration the actual consideration can be taken as the full value received.

- **Due Date for filing of Return:**

The date for filing the returns of a partner of a firm whose accounts are subject to audit has been changed from 30th September of that assessment year to 31st October of that assessment year.

In cases where the accounts of a firm were required to be audited under the Income Tax Act the due date of filing of returns of a working partner was 30th September of that assessment year. However, the budget has amended this provision. With this

amendment the word working partner has been removed. Hence the return of a partner apart from the working partner of a firm whose accounts are subjected to audit is to be filed by 30th September of that assessment year.

- **Return by whom to be verified.**

Section 140 has been amended .In the case of a company the return has to be verified by a Managing Director and if for any unavoidable reason the Managing director is not able to verify the return or where there is no Managing Director by any Director or an any person as may be prescribed. In the case of a Limited Liability Partnership the return is to be signed by the designated person or where for any reason the designated partner is not able to verify the return by any partner there of or any other person as may be prescribed.

- **Changes to TDS provisions: Major changes in TDS provisions are**

Section 194: Dividends		
Payments made by Cash, cheque, Warrant or any other mode	Rate 10%	Limit has been raised from Rs.2500 to Rs.5000
Section 194A		
Interest paid by a Co-operative Society whose total sales, gross receipts or turnover of the society exceeds Rs.50 crores during the financial year.	Rates in force	Amount of interest or the aggregate amounts of interest credited or paid is more than Rs.40000. However, in the case of senior citizens the ceiling is Rs.50000.
Section 194J		
Fees for Technical Services not being a professional service	Rate is 2%	
In other cases	Rate is 10%	
Section 194K		
Any person responsible for paying to a resident any income in respect of- a) units of a Mutual Fund b) units from the Administrator of the specified Undertaking c) units from the specified company	Rate is 10%. The provisions of this section shall not apply where the income or aggregate of income does not exceed Rs.5000.	
Section 194 LBA		
Income from units of a business trust	Rate changed from 5% to 10%	
Section 194LBC		
Interest paid to a non-resident, not being an Indian Company or to a foreign	Rate reduced to 4% from 5%	

company by a specified company or trust	
Section 194O	
Payment by an E-commerce operator to an E-Commerce participant	Rate of 1% of gross amount of sale or services or both
Section 206AA	
In case the recipient of any sum which is subjected to deduction of tax at source fails to furnish his PAN tax shall be deducted at a maximum rate of 20% .However in case where the payment is to be made under the newly inserted section 194O tax is to be deducted at 5% if the E-Commerce participant does not furnish his PAN.	

- **Changes in the provisions of Tax Collection at Source**

Two new sub sections have been introduced to Section 206C.

Section 206C(1G)	
Any authorized dealer, who receives an amount, or an aggregate amount of Rs. 7 Lakhs or more in a financial year for remittance out of Indian from a person remitting such amount out of India under the Liberalized Remittance Scheme of the Reserve Bank of India;	5%
An amount remitted for the purpose of pursuing an education through a loan obtained from any financial institute	0.5% on an amount exceeding Rs.7 Lakhs
a seller of an overseas tour program package who receives an amount from a buyer, being a person who purchases such package Shall at the time of receipt of the amount collect tax at the rate of	5%
Section 206C(1H)	
Every person being a seller who receives any amount as consideration for sale of any goods to the value or aggregate of such value exceeding Rs.50 Lakhs in any previous year other than the goods covered under sub-section (1) or subsection (1F) or sub section 1(G) shall at the time of receipt of such amount collect from the buyer a sum of 0.1% of the sale consideration exceeding Rs.50 Lakhs as Income Tax.	

RELEIF ANNOUNCED BY THE GOVERNMENT TO MITIGATE THE IMPACT OF COVID-19

NOTIFICATIONS IN COMPANIES ACT

➤ Extension of Days Names Reserved and for Resubmission of Forms

The Ministry of Corporate Affairs has extended the period of names reserved between 15.03.2020 to 31.05.2020 by 20 days beyond 31st May in the case of new name and 60 days beyond 31st May for change of name. In the case of forms marked for resubmission where the last date of resubmission falls between 15.03.2020 ad 31.05.2020 an additional 15 days is given beyond 31.05.2020.

➤ Holding of AGM by Companies whose Financial Year Ended on 31.03.2019

Companies whose Financial Year ended on 31.03.2019 are permitted to hold their AGM by 30th September 2020.

➤ Conducting of AGM

Companies can conduct their AGM during the calendar year 2020 by Video Conferencing or other audio-visual means.

The notice and financial statements including Auditors Report, Director's Report and other documents required to be attached can be sent by email to the members of the company.

EASE OF DOING BUSINESS

- Debts due to Covid-19 excluded from default category and no fresh insolvency procedure to be initiated for 1 year.
- Special Insolvency procedure for MSME to be initiated.
- Decriminalization of Companies Act provisions.
- Compoundable offences to be sorted out by Internal Adjudicating Mechanism.
- 7 Compoundable Offences dropped.
- Indian Companies can directly list their securities in foreign jurisdiction.
- Due dates for filing of Income Tax Returns extended from July 31st to November 30 while tax audit dates changed from September 30th to October 31st.

NOTIFICATIONS IN INCOME TAX

➤ REDUCTION IN THE RATE OF TDS & TCS BY 0.75% FROM 14.05.2020 TO 31.03.2021

The Central Government reduced the TDS and TCS rates by 0.25% for the payments made from 14.05.2020 to 31.03.2021. The new effective rates of TDS and TCS are given below

S.No	Section No	Nature of Payment	Existing Rate	Reduced Rate from 14.05.2020 to 31.03.2021
1	193	Interest on Securities	10%	7.5%
2	194	Dividend	10%	7.5%
3	194A	Interest other than Interest on Securities	10%	7.5%
4	194C	Payment of Contractors and Subcontractors	1%(individual /HUF) 2%(others)	0.75%(individual /HUF) 1.5%(others)
5	194D	Insurance Commission	5%	3.75%
6	194DA	Payment in respect of Life Insurance Policy	5%	3.75%
7	194EE	Payment in respect of Deposits under National Savings Scheme	10%	5%
8	194F	Payments on account of repurchase of Units by Mutual Funds or UTI	20%	15%
9	194G	Commission, prize etc on sale of lottery tickets	5%	3.75%
10	194H	Commission or brokerage	5%	3.75%
11	194-I(a)	Rent for Plant & Machinery	2%	1.5%
12	194-I(b)	Rent for Immovable Property	10%	7.5%
13	194-IA	Payment for acquisition of immovable property	1%	0.75%

14	194-IB	Payment of rent by individual or HUF	5%	3.75%
15	194-IC	Payment for Joint Development Agreements	10%	7.5%
16	194J	Fees for Professional or Technical services, Royalty etc.	2% (FTS, certain royalties, call centers), 10% for others	1.5% (FTS, certain royalties, call centers), 7.5% for others
17	194K	Payment of Dividend by Mutual Fund	10%	7.5%
18	194LA	Payment of Compensation on Compulsory acquisition of Assets	10%	7.5%
19	194LBA(1)	Payment of income by Business Trust	10%	7.5%
20	194LBB(i)	Payment of income by Investment Fund	10%	7.5%
21	194LBC(i)	Income by Securitisation Trust	25%(Individual/HUF) 30% others	18.75%(Individual/HUF) 22.5% others
22	194M	Payment to Commission, Brokerage etc. by Individual or HUF	5%	3.75%
23	194O	TDS on e-commerce participants	1% (w.e.f 01.10.2020)	0.75%

TCS rates for the following receipts has been reduced by 2.5% from 14.05.2020 to 31.03.2021

S.No	Section	Nature of Receipts	Existing Rates	New Rates from 14.05.2020 to 31.03.2021
1	206C(1)	Sale of		
		(a) Tendu Leaves	5%	3.75%
		(b) Timber obtained under a forest lease	2.5%	1.875%
		© timber obtained by any other mode	2.5%	1.875%
		(d) Any other forest produce not being timber/tendu leaves	2.5%	1.875%
		(e) Scrap	1%	0.75%
		(f) Minerals, being coal or lignite or iron ore	1%	0.75%
2	206C(1C)	Grant of license, lease etc. of		
		(a) Parking Lot	2%	1.5%
		(b) Toll Plaza	2%	1.5%
		© Mining and Quarrying	2%	1.5%
3	206C(1F)	Sale of Motor Vehicle above 10Lakhs	1%	0.75%
4	206C(1H)	Sale of any other goods	0.1% (w.e.f 01.10.2020)	0.75%

However, there shall be no reduction in the rates of TDS or TCS where the tax is required to be deducted or collected at higher rates due to non-furnishing of PAN.



**RELAXATION IN RESIDENCY NORMS FOR INDIVIDUALS STRANDED IN INDIA
DUE TO COVID-19 LOCK DOWN.**

CBDT has clarified in the case of individuals who have come on a visit to India during the previous year 2019-20 but due to the breakdown of Covid-19 are required to prolong their stay in India and

- (a) Has been unable to leave India on or before March 31,2020 his period of stay in India from 22nd March to 31st March shall not be taken into account

- (b) Has been quarantined in India on account of Covid-19 on or after 01.03.2020 and has departed in an evacuation flight on or before 31.03.2020 or unable to leave India before 31.03.2020 his period of stay from 01.03.2020 to the date of his departure or 31.03.2020 shall not be taken into account.

- (c) Has departed on an evacuation flight on or before 31.03.2020his period of stay in India from 22.03.2020 to is date of departure shall not be taken into account.

NOTIFICATIONS IN GOODS AND SERVICE TAX

- Validity of all those e-way bills which were generated on or before 24.03.2020 and had expiry period from 20.03.2020 to 15.04.2020 extended till 31.05.2020.
- The time limit for furnishing of annual return specified under section 44 for the Financial Year 2018-19 till the September 30, 2020.
- Normal and Registered taxpayers who want to opt in for Composition scheme for the Financial Year 2020-2021, can apply in Form GST CMP02 till 30.06.2020.