

Recent Changes & Issues in Income Tax & International Taxation

Article explains guidelines for Mutually Agreed Procedure (MAP), Changes in Tax Residency Rules, Changes in equalization levy, Amendments w.r.t. Dividend Distribution Tax (DDT), Applicability of S 269 SU to B2B Businesses, Deferment for Approval/ Registration of Charitable Trusts & Exempt Institutions, Reduction in TDS/TCS Rates, TDS & TCS Rates Pre & Post 14th May 2020, Income Tax due Date Extensions, Reporting under Form 3CD deferred, Amendments in TDS provisions (Under Section 194A, 194C, 194H, 194I, 194J, New Inserted TDS Provisions (Under Section 194K and 194O), Period of holding of segregated portfolio in case of mutual funds, Alternative Tax Rates Slab for Individuals and HUF, Exercising option u/s 115BAC for TDS Deduction on Salary , Changes in TCS Provisions, Special provision for full value of consideration for transfer of assets other than capital assets in certain cases and Audit of accounts of certain persons carrying on business or profession.

1. Detailed guidelines for Mutually Agreed Procedure (MAP)

Page Contents

- [1. Detailed guidelines for Mutually Agreed Procedure \(MAP\)](#)
- [2. Changes in Tax Residency Rules](#)
- [3. Equalisation levy](#)
- [4. All amendments w.r.t. Dividend Distribution Tax \(DDT\)](#)
- [5. Applicability of Section 269SU to B2B Businesses](#)
- [6. Section 271AAD: \[newly inserted\] : Penalty for false or omitted entries found in books of accounts](#)
- [7. Deferment for Approval/ Registration of Charitable Trusts & Exempt Institutions](#)
- [8. Reduction in TDS/TCS Rates](#)
 - [TDS & TCS Rates Reduction from 14th May 2020 to 31st March 2021](#)
 - [TCS Rate Chart for FY 2020-21 Pre & Post 14th May 2020](#)
 - [TDS Rate Chart for FY 2020-21 Pre & Post 14th May 2020](#)
 - [TDS Rate Chart for FY 2020-21 Pre & Post 14th May 2020](#)
- [9. Income Tax due Date Extensions](#)
- [10. Reporting under Form 3CD deferred](#)
- [11. Changes/Amendments in TDS provisions](#)
 - [Section 194A :TDS on interest other than interest on securities:](#)
 - [TDS U/s 194C, 194H, 194I, 194J](#)
 - [Section 194K:\[newly inserted\]](#)
 - [194-O:\[newly inserted\] & S 197](#)
- [12. Period of holding of segregated portfolio in case of mutual funds](#)
- [13. Alternative Tax Rates Slab for Individuals and HUF](#)
- [14. Exercising option u/s 115BAC for TDS Deduction on Salary](#)
- [15. Changes in TCS Provisions](#)
- [16. Special provision for full value of consideration for transfer of assets other than capital assets in certain cases](#)
- [17. Audit of accounts of certain persons carrying on business or profession](#)

Rule 44G & Form 34F

(1) A Resident assessee **aggrieved by any action of the tax authorities of any country or specified territory outside India** for the reason that, according to him, such action is not in accordance with the terms of agreement with such other country or specified territory, he may make an application to the Competent Authority in India seeking to invoke the mutual agreement procedure, if provided in such agreement, in Form No. 34F.

(2) Where a reference has been received from the competent authority of any country or specified territory outside India under any agreement with that country or specified territory with regard to any action taken by any income-tax authority in India or by the tax authorities of such country or specified territory, the Competent Authority in India shall convey his acceptance or otherwise for taking up the reference under mutual agreement procedure to the competent authority of the other country or specified territory.

–Settlement within an Average Period of 24 Months. Assessee has to inform of acceptance of decision within 30 days of receipt of communication of acceptance.

–The settlement shall not result in decreasing the income or increasing the loss, as the case may be, of the assessee in India, as declared by him in the return of income of the said year.

Our Comments – This procedure is in line with Action 14 of the OECD BEPS Project. All MNCs can take benefit of this Alternative Dispute resolution process for solving International Disputes. Already around 600 companies have gained till 2018 through this process.

2. Changes in Tax Residency Rules

Cir 11 of 2020-Income Tax

Clarification in respect of residency under section 6 of the Income-tax Act, 1961

For the purpose of determining the residential status under section 6 of the Act during the previous year 2019-20 in respect of an individual who has come to India on a visit before 22nd March, 2020 and:

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

(b) has been quarantined in India on account of Novel Corona Virus (Covid-19) on or after March, 2020 and has departed on an evacuation flight on or before 31st March, 2020 or has been unable to leave India on or before 31st March, 2020, **his period of stay from the beginning of his quarantine to his date of departure or 31st March, 2020**, as the case may be, shall not be taken into account; or

(c) has departed on an evacuation flight on or before 31st March, 2020, his period of stay in India from 22nd March, 2020 to his date of departure shall not be taken into account.

Expl. (1b) to Section 6(1)

Earlier Rules	Current Rule	Impact
<p>Currently, an Indian citizen / person of Indian origin (who comes to India for the purpose of visits) is considered to be resident in India if:</p> <p>– They have been present in India for 365 days or more during the preceding 4</p>	<p>Under the proposed provisions an Indian citizen / person of Indian origin (who comes to India for the purpose of visits) will be considered resident in India if:</p> <p>– They have been present in India for 365 days or more during the preceding 4</p>	<p>This proposal reduces the number of days NRIs can visit India during the financial year (from 182 to 120) before being considered resident in India.</p> <p>NRIs will need to monitor their travel to India and adhere to the reduced threshold in order to remain non-resident in India.</p>

financial years; and – They are present in India for 182 days or more during the current financial year.	financial years; and – They are present in India for 120 days or more during the current financial year. if they earn > 15L from non-foreign Source – They are present in India for 182 days or more during the current financial year. if they earn < 15L from non-foreign Source	* The criteria of Rs.15 Lakhs of non-foreign source income seems low. * The term ‘income from foreign sources’ has been defined to mean income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India)
---	--	---

Section 6(1A)

Earlier Rules	Current Rule	Impact
An individual’s tax residence status in India is determined by the residence rules per the provisions of Income Tax Act, 1961.	New deemed residence rules have been introduced u/s 6(1A) whereby Indian citizens not liable to tax in any other country by virtue of their domicile or residence , or similar criteria, will be deemed to be resident in India. – Provided their income is more than Rs.15 Lakhs from non-foreign source	NRIs living and working in the foreign countries may be required to provide proof of residence . Also a declaration may be required in all NRI returns in this regard CBDT issued a Press Release dated 2 February 2020, clarifying that in case of an Indian citizen who becomes deemed resident of India, income earned outside India by him shall not be taxed in India unless it is derived from an Indian business or profession. – The term “liable to tax” cannot be equated with ‘payment of tax’ [<i>Uoi v. Azadi Bachao Andolan</i> [2003] 263 ITR 706 (SC)]. It is enough to say that a person is “liable to tax” in a jurisdiction if such jurisdiction has a “right to tax,” irrespective of whether such person essentially pays any tax or not.

Section 6(6)

Earlier Rules	Current Rule	Impact
In order to qualify as Resident but Not Ordinarily Resident (RNOR), an individual must satisfy the following: Has been non-resident in India in 9 out of the 10 preceding financial years; or Has been in India for 729 days or less in the 7 preceding years.	In order to qualify as RNOR, a Resident individual will need to satisfy the following criteria only: – Has been non-resident in India in 7 of 10 preceding financial years. If the above criteria is not satisfied the individual will be considered ROR.	Indian citizens previously considered non-resident may in the short-term meet the criteria to be considered RNOR and continue to be subject to income tax on Indian sourced income only. An individual coming to stay in India with no prior history of stay in India is not likely to qualify as ROR before their 5th year of

If the above is not satisfied the individual will be considered Resident and Ordinarily Resident (ROR).		stay.
---	--	-------

3. Equalisation levy

S 165A of FA 2016 & S 10(50) of Income Tax Act

◇ FA 2020 expands the scope of the “equalisation levy” to include consideration received by **Non-Resident** e-commerce operators for **e-commerce supply or services**, and taxed at a rate of **2%**. This levy has an effective date of **1 April 2020**.

◇ As part of the measures to address the tax challenges posed by the increased digitalization of the economy, an “equalisation levy” was introduced by the Finance Act, 2016 on certain non-resident businesses. The levy was applied at a rate of 6% on certain “specified services”—such as online advertisement and any provision for digital advertising space or any other facility or service for the purpose of online advertisement.

◇ For these purposes, an “**e-commerce operator**” is defined as a **non-resident** that owns, operates or **manages a digital or electronic facility or platform for online sale of goods or the online provision of services**.

◇ **The “e-commerce supply or services” on which the levy applies are:**

- Online **sale of goods** owned by the e-commerce operator
- Online **provision of services** provided by the e-commerce operator
- Online sale of goods or provision of goods **facilitated** by the e-commerce operator (i.e., when the operator provides a platform for others to supply goods or provide services)
- **Any combination of the above**

S 165A & S 10(50)

◇ The levy is applicable when the goods or services are provided / facilitated by the e-commerce operator **to**:

- A person **resident** in India
- A **non-resident** (in respect of sale of advertisements targeted at persons resident in India or using IP address in India)
- A person who buys goods or services using an **IP address** located in India

◇ There are certain situations when the equalisation levy is **not applicable**. These include situations when:

- The non-resident has a **permanent establishment** in India and the e-commerce supply or services are effectively connected to such permanent establishment
- **The equalisation levy at 6% on “specified services” (as defined above) applies to such services**
- The gross receipts / turnover in respect of goods sold / services provided to residents, non-residents and persons using IP addresses in India (referred to above) is less than Rs. 2 crores in a year (approximately U.S. \$267,000)

◇ Unlike in the case of the equalisation levy on specified services when the resident payer was responsible to deduct and pay the equalization levy, this levy on the e-commerce operator is the **responsibility and is to be discharged by the operator itself**, on a quarterly basis. Consequently, **an exemption from income tax is proposed for the e-commerce operators in respect of amounts covered by the equalisation levy**.

◇ **Similar to liabilities of the equalisation levy as previously imposed, this expanded levy would not be part of the Income-tax Act and, thus, would not be subject to provisions of India's income tax treaties.**

S 165A & S 10(50)

Comments:

1. This would affect online operators like **Netflix, Amazon prime or any grocery apps** who are based in tax Havens and currently exempt from any type of taxes in India or doesn't have any permanent establishment in India. However, as we have seen earlier in cross border transactions, any tax levy or withholding taxes are borne by Indian service receiver, who in turn increases prices of goods or services. **So, the subscription for accessing such online content is going to get expensive**

2. The provision of equalisation levy @ 2% is inserted by section 165A of Finance Act 2020 whereby it has not been mentioned anywhere that the requirement of deducting **TDS u/s 195** shall not be required if the transaction is subject to equalisation levy @ 2%. Further, the **requirement of deducting TDS lies with the payer** who is going to make the payment to the e-commerce operator for the services availed. However, the liability to pay equalisation levy lies with e-commerce operator itself. It is an extra charge levied on the non-resident e-commerce operator covering them to the ambit of Indian Tax Laws for this levy.

S 165A of FA 2016 & S 10(50) of Income Tax Act

◇ FA 2020 expands the scope of the "equalisation levy" to include consideration received by **Non-Resident** e-commerce operators for **e-commerce supply or services**, and taxed at a rate of **2%**. This levy has an effective date of **1 April 2020**.

◇ As part of the measures to address the tax challenges posed by the increased digitalization of the economy, an "equalisation levy" was introduced by the Finance Act, 2016 on certain non-resident businesses. The levy was applied at a rate of 6% on certain "specified services"—such as online advertisement and any provision for digital advertising space or any other facility or service for the purpose of online advertisement.

◇ For these purposes, an "**e-commerce operator**" is defined as a **non-resident** that owns, operates or **manages a digital or electronic facility or platform for online sale of goods or the online provision of services**.

◇ **The "e-commerce supply or services" on which the levy applies are:**

- Online **sale of goods** owned by the e-commerce operator
- Online **provision of services** provided by the e-commerce operator
- Online sale of goods or provision of goods **facilitated** by the e-commerce operator (i.e., when the operator provides a platform for others to supply goods or provide services)
- **Any combination of the above**

S 165A & S 10(50)

◇ The levy is applicable when the goods or services are provided / facilitated by the e-commerce operator to:

- A person **resident** in India
 - A **non-resident** (in respect of sale of advertisements targeted at persons resident in India or using IP address in India)
 - A person who buys goods or services using an **IP address** located in India
- ◇ There are certain situations when the equalisation levy is **not applicable**. These include situations when:

- The non-resident has a **permanent establishment** in India and the e-commerce supply or services are effectively connected to such permanent establishment
- **The equalisation levy at 6% on “specified services” (as defined above) applies to such services**
- The gross receipts / turnover in respect of goods sold / services provided to residents, non-residents and persons using IP addresses in India (referred to above) is less than Rs. 2 crores in a year (approximately U.S. \$267,000)
 - ◊ Unlike in the case of the equalisation levy on specified services when the resident payer was responsible to deduct and pay the equalization levy, this levy on the e-commerce operator is the **responsibility and is to be discharged by the operator itself**, on a quarterly basis. Consequently, **an exemption from income tax is proposed for the e-commerce operators in respect of amounts covered by the equalisation levy.**
 - ◊ **Similar to liabilities of the equalisation levy as previously imposed, this expanded levy would not be part of the Income-tax Act and, thus, would not be subject to provisions of India’s income tax treaties.**

S 165A & S 10(50)

Comments:

1. This would affect online operators like **Netflix, Amazon prime or any grocery apps** who are based in tax Havens and currently exempt from any type of taxes in India or doesn't have any permanent establishment in India. However, as we have seen earlier in cross border transactions, any tax levy or withholding taxes are borne by Indian service receiver, who in turn increases prices of goods or services. **So, the subscription for accessing such online content is going to get expensive**

2. The provision of equalisation levy @ 2% is inserted by section 165A of Finance Act 2020 whereby it has not been mentioned anywhere that the requirement of deducting **TDS u/s 195** shall not be required if the transaction is subject to equalisation levy @ 2%. Further, the **requirement of deducting TDS lies with the payer** who is going to make the payment to the e-commerce operator for the services availed. However, the liability to pay equalisation levy lies with e-commerce operator itself. It is an extra charge levied on the non-resident e-commerce operator covering them to the ambit of Indian Tax Laws for this levy.

4. All amendments w.r.t. Dividend Distribution Tax (DDT)

S 115-O & 115-R

Section 115-O: Dividend Distribution Tax:

DDT is removed from AY 2021-22. It means, the companies are not required to pay tax on the dividend distributed by them. It will be taxed in the hands of recipient i.e., Shareholders.

Section 115-R: Tax on income distributed to unit holders

Tax on distributed income to unit holders is removed from AY 2021-22. It means, the specified company/mutual fund is not required to pay tax on the income distributed by them. It will be taxed in the hands of recipient i.e., Unit holders.

S 10(34) & 10(35)

Sec 10(34) & 10(35) shall not apply

Further, The Finance Act, 2020 provides clarity that dividend received by the assessee on or after 1 April 2020 shall not be included in his income, if tax has already been paid on such dividend under section 115-O and section 115BBDA wherever applicable.

The amendment has resolved the anomaly as there would be no double taxation if the dividend has suffered dividend distribution tax or tax under section 115BBDA in the earlier regime

S 115BAA ; S 115BAB & S 115BBDA

S 115BAA: Tax on income of certain domestic companies.

This section is amended so as to provide deduction *U/s 80M: Deduction in respect of certain inter-
corporate dividends* to the domestic Companies opting to pay tax @ 22%, without claiming any deductions as per this section.

It means, now the companies opting to pay tax under this section can claim deduction u/s 80M

S 115BAB : Tax on income of new manufacturing domestic companies.

This section is amended so as to provide deduction *U/s 80M: Deduction in respect of certain inter-
corporate dividends* to the domestic Companies opting to pay tax @ 15%, without claiming any deductions as per this section.

It means, now the companies opting to pay tax under this section can claim deduction U/s.80M.

Section 115BBDA: Tax on certain dividends received from domestic companies.

As per this section, the dividend received by the specified assessee exceeding Rs.10,00,000/-, such dividend received in excess Rs.10,00,000/- will be taxed at the rate of 10%. This provision will be applicable till AY 2020-21. From AY 2021-22, this section will be inactive.

TDS on Dividends

Section 194: TDS on Dividends

The Company distributing dividend has to deduct TDS as under-

- On dividend distributed in any Mode i.e., either in cash or cheque, etc.
- If such dividend paid is more than Rs.5000/-
- The rate of TDS is 10%

S 57 : Deductions in respect of Dividend Income

As all the dividends are made taxable in the hands of recipient, the deductions from such income are brought in by inserting the following proviso.

No expenses are allowed as deduction except the interest expenses incurred to earn the income in the nature of Dividend or income in respect of units of MF specified under clause (23D) of section 10 or income in respect of units from a specified company defined in the explanation to clause(35) of section 10.

And such deduction *shall not exceed 20%* of the dividend income, or income in respect of such units included in the total income for that year.

S 2(22)(e)

S 115-O.2[(1) Notwithstanding anything contained in any other provision of this Act and subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2003 **18[but on or before the 31st day of March, 2020]**, whether out of current or accumulated profits shall be charged to additional income-tax (hereafter referred to as tax on distributed profits) at the rate of **3[fifteen] per cent.**]

15[Provided that in respect of dividend referred to in sub-clause (e) of clause (22) of section 2, **this sub-section shall have effect as if for the words “fifteen per cent.”, the words “thirty per cent.” had been substituted;**]

5. Applicability of Section 269SU to B2B Businesses

Cir 12/2020

The provisions of section 269SU of the Act shall not be applicable to a specified person having only B2B transactions (i.e. no transaction with retail customer/consumer) if at least **95%** of aggregate of all amounts received during the previous year, including amount received for sales, turnover or gross receipts, are by other than cash

6. Section 271AAD: [newly inserted] : *Penalty for false or omitted entries found in books of accounts*

Section 271AAD

◇ If it is found during **any proceeding** under the Act that in the books of accounts maintained by any person, there is a-

(i) false entry or

(ii) any entry relevant for computation of total income of such person has been **omitted to evade tax liability**,

◇ then such person shall be liable to pay by way of penalty, a sum which is equal to the **aggregate amounts of such false entries or omitted entry**.

◇ Further, penalty will be levied of the aggregate amounts of such false entries or omitted entry on **any other person who causes the assessee in making the false entry or omits or causes to omit an entry**.

◇ The term 'false entry' has been defined in an inclusive manner to include use or intention to use:

(a) Forged or falsified documents such as a false invoice, or a false piece of documentary evidence, or

(b) invoice for supply or receipt of goods or services or both issued by or received by the assessee in respect of which no actual goods or services have been provided or received; or

(c) Invoice issued for supply of goods or services or both issued by or received from **a non-existent person**.

7. Deferment for Approval/ Registration of Charitable Trusts & Exempt Institutions

Sec 12AB – New Registration for Exempt Entities

– Charitable trusts and exempt institution which were already registered under section 12A or section 12AA of Income Tax Act, 1961 will now be required to reapply online for registration and approval by August 31, 2020.

– Provisions of registration under section 12AA or section 12A will become redundant from 01st June 2020 and a new section 12AB will come into force with effect from 01st June 2020. All the existing registered trusts under the erstwhile section 12A or section 12AA would move to new provision section 12AB.

– Similarly, charitable trusts and exempt institutions which already have Section 80G certificate will now be required to reapply online for registration or approval by August 31, 2020. The registration shall remain valid for 5 years.

– These new Procedural compliances were about to be applicable from June 1, 2020. Hence seeing the present situation, the CBDT has possibly decided to give relief and therefore the new compliances under the mentioned section which were made applicable from June 1, 2020 and should have been completed by August 31, 2020 now changed to October 1, 2020 and shall continue till December 31, 2020.

8. Reduction in TDS/TCS Rates

TDS & TCS Rates Reduction from 14th May 2020 to 31st March 2021

1. TDS on the amount **paid or credited** during the period from 14th May, 2020 to 31st March, 2021 shall be deducted at the reduced rates specified in the table in para 1 above. Similarly, the tax on the amount received or debited during the period from 14th May, 2020 to 31st March, 2021 shall be collected at the reduced rates

2. No reduction in rates of TDS or TCS, where the tax is required to be deducted or collected at higher rate due to non-furnishing of PAN/Aadhaar. For example, if the tax is required to be deducted at 20% under section 206AA of the Income-tax Act due to non-furnishing of PAN/Aadhaar, it shall be deducted at the rate of 20% and not at the rate of 15%.

TCS Rate Chart for FY 2020-21 Pre & Post 14th May 2020

Section of the Income-tax Act	Nature of Receipts	Existing Rate of TCS	Reduced rate from 14/05/2020 to 31/03/2021
206C(1)	Sale of		
	(a) Tendu Leaves	5%	3.75%
	(b) Timber obtained under a forest lease	2.5%	1.875%
	(c) 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%

206C(1C)	Grant of license, lease, etc. of (a) Parking lot (b) Toll Plaza (c) Mining and quarrying	2% 2% 2%	1.5% 1.5% 1.5%
206C(1F)	Sale of motor vehicle above 10 lakhs	1%	0.75%
206C(1H)	Sale of any other goods	0.1% (w.e.f 01.10.2020)	0.075%

TDS Rate Chart for FY 2020-21 Pre & Post 14th May 2020

Section of the Income-tax Act	Nature of Payment	Existing Rate of TDS	Reduced rate from 14/05/2020 to 31/03/2021
193	Interest on Securities	10%	7.5%
194	Dividend	10%	7.5%
194A	Interest other than interest on securities	10%	7.5%
194C	Payment of Contractors and sub-contractors	1% (individual/HUF) 2% (others)	0.75% (individual/HUF) 1.5% (others)
194D	Insurance Commission	5%	3.75%
194DA	Payment in respect of life insurance policy	5%	3.75%
194EE	Payments in respect of deposits under National Savings Scheme	10%	7.5%
194F	Payments on account of re-purchase of Units by Mutual	20%	15%

	Funds or UTI		
194G	Commission, prize etc., on sale of lottery tickets	5%	3.75%
194H	Commission or brokerage	5%	3.75%

TDS Rate Chart for FY 2020-21 Pre & Post 14th May 2020

Section of the Income-tax Act	Nature of Payment	Existing Rate of TDS	Reduced rate from 14/05/2020 to 31/03/2021
194-I(a)	Rent for plant and machinery	2%	1.5%
194-I(b)	Rent for immovable property	10%	7.5%
194-IA	Payment for acquisition of immovable property	1%	0.75%
194-IB	Payment of rent by individual or HUF	5%	3.75%
194-IC	Payment for Joint Development Agreements	10%	7.5%
194J	Fee for Professional or Technical Services (FTS), Royalty, etc.	2% (FTS, certain royalties, call centre) 10% (others)	1.5% (FTS, certain royalties, call centre) 7.5% (others)
194K	Payment of dividend by Mutual Funds	10%	7.5%
194LA	Payment of Compensation on acquisition of immovable property	10%	7.5%
194LBA(1)	Payment of income by Business trust	10%	7.5%

194LBB(i)	Payment of income by Investment fund	10%	7.5%
194LBC(1)	Income by securitisation trust	25% (Individual/HUF) 30% (Others)	18.75% (Individual/HUF) 22.5% (Others)
194M	Payment to commission, brokerage etc. by Individual and HUF	5%	3.75%
194-O	TDS on e-commerce participants	1% (w.e.f. 1.10.2020)	0.75%

9. Income Tax due Date Extensions

Income Tax Return filing Due date Extended

S. No.	Assessee	Previous due date	New Extended Due date
1.	Assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s)	30.11.2020	30.11.2020
2.	Assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited	31.10.2020	30.11.2020
3.	All Assesses other than 1 and 2 above	31.07.2020	30.11.2020

Due date Extended for Filing Tax Audit report and filing of belated income tax returns for FY 2018-19

S. No.	Due date Extended for	Previous Due date	New Extended Due date
1	Last date for filing belated return for FY 2018-19(AY 2019-20)	31.03.2019	30.06.2020
2	Filing Tax audit report u/s 44AB	30.09.2020	31.10.2020

Other Relaxations

Date of assessments getting barred on 30th September,2020 extended to 31st December, 2020 and those getting barred on 31 st March,2021 will be extended to 30th September, 2021.

Period of **Vivad se Vishwas Scheme** for making payment without additional amount will be **extended to 31st December, 2020**.

All pending refunds to charitable trusts and noncorporate businesses & professions including proprietorship, partnership, LLP and Co-operatives shall be issued immediately

10. Reporting under Form 3CD deferred

SI. 44

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST			
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities
(1)	(2)	(3)	(4)	(5)	(6)

30C

30C. (a) Whether the assessee has entered into an **impermissible avoidance arrangement**, as referred to in section 96, during the previous year? (Yes/No)

(b) If yes, please specify:-

(i) Nature of the impermissible avoidance arrangement:

(ii) Amount (in Rs.) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement.”;

11. Changes/Amendments in TDS provisions

Section 194A :TDS on interest other than interest on securities:

Keeping other things same as mentioned already in the section, Applicability for Individual and HUF (payer) is changed as under –

- If an Individual or HUF is having **business turnover** more than **Rs.1 Cr** in the financial year immediately preceding the financial year in which such amount liable for TDS is paid or credited &

- If an Individual or HUF is having professional receipts more than **Rs. 50L** in the financial year immediately preceding the financial year in which such amount liable for tds is paid or credited, **is required to deduct TDS.**
The scope of section 194A to deduct tax at source in respect of payment of interest is being widened in respect of the Cooperative Societies.
- If the total sales, gross receipt or turnover of the Cooperative Society exceeds **Rs. 50 crore** during the financial year immediately preceding the financial year and the amount of interest to be credited or paid during the financial year is more than **Rs. 40,000** in the case of such cooperative society, the cooperative society shall be required to deduct tax at the rate of **10%** in case the amount of interest credited or paid or likely to be credited or paid during the financial year.
- However, in the case of the senior citizen, the tax shall be required to be deducted at source in case this amount is more than **Rs. 50,000/-**

TDS U/s 194C, 194H, 194I, 194J

> Keeping other things same as mentioned already in the section, Applicability for Individual and HUF (payers) is changed as under –

– If an Individual or HUF is having business turnover more than **Rs. 1 Cr** in the financial year immediately preceding the financial year in which such amount liable for tds is paid or credited &

– If an Individual or HUF is having professional receipts more than **Rs. 50 Lakhs** in the financial year immediately preceding the financial year in which such amount liable for tds is paid or credited,

is required to deduct TDS.

Section 194K:[newly inserted]

TDS in respect of units

– Any person responsible for paying to a resident **any income** in respect of Units,

– Shall deduct TDS at the rate of 10%

– If any sum paid is more than Rs. 5000/-

194-O:[newly inserted] & S 197

Payment of certain sums by e-commerce operator to the e-commerce participant.

- an E-commerce operator shall be required to deduct TDS at the rate of **1%** at the time of **credit of amount of sale or service or both** to the account of the E-commerce participant or at the time of payment thereof to such participant by any mode, whichever is earlier.
- The rate of TDS is 1%
- **The amount shall include the payment directly made by the purchaser of the goods or services to the E-commerce participant.**
- However, this provision shall not be applicable for E-commerce participant if the E-commerce participant happens to **be an individual or HUF** and the gross amount of sales or services or both of such individual or HUF through such E-commerce operator during the year **does not exceed Rs.5 lakhs** and such E-commerce participant furnishes a PAN or aadhar Number.
- **In case the E-commerce participant does not furnish PAN or Aadhar Number to the e-commerce operator, TDS shall be deducted at the rate of 5% under section 206AA of the Act**
Section 197: Certificate for deduction at lower rate

For TDS under 194-O, lower deduction certificate can be obtained by the assessee.

12. Period of holding of segregated portfolio in case of mutual funds

- Segregation of portfolio or side-pocketing is actually to be seen as splitting the investments into two parts, one is called the 'main portfolio' and another part is called the 'segregated portfolio'.
- It is now clarified the holding period and cost of acquisition with regard to units allotted consequent on segregation of portfolio of a mutual fund scheme due to rating downgrade and credit default, known as "credit event".
- Accordingly, the holding period of the segregated scheme will be reckoned from the date of investment in the main portfolio by the investor and not the date of segregation.
- The cost of acquisition of the main scheme and segregated scheme will be the proportionate cost as determined on the date of segregation.

Comments – In the absence of any amendment in section 47, it appears that 'transfer' will take place at the time of segregation of the portfolio, though it does not appear to be the intention. Hence, a suitable amendment in section 47 is warranted.

13. Alternative Tax Rates Slab for Individuals and HUF

Section 115BAC: Alternative Tax Rates Slab for Individuals and HUF

Section 115BAC: Alternative Tax Rates Slab for Individuals and HUF

- If an individual and HUF exercises an option to not to claim various exemptions or deductions provided otherwise under the Act, the applicable slabs and tax rates will be as under

Sl.No.	Total Income(Rs.)	Rate of Tax
1	Upto 2,50,000	Nil
2	From 2,50,001 to 5,00,000	5 %
3	From 5,00,001 to 7,50,000	10%
4	From 7,50,001 to 10,00,000	15%
5	From 10,00,001 to 12,50,000	20%
6	From 12,50,001 to 15,00,000	25%
7	Above 15,00,000	30%

Conditions..

> Any individual or HUF who exercises such option shall not be eligible to claim various exemptions or deductions available under the Act including the following:-

- (i) Standard deduction of Rs.50,000
- (ii) Leave Travel Allowance under Section 10(5)
- (iii) House Rent Allowance under Section 10(13A)

- (iv) Certain allowances under Section 10(14) as will be prescribed
 - (v) Deduction of interest up to Rs.2,00,000/- allowable under Section 24(b) in respect of self occupied property.
 - (vi) Deduction of 1/3rd of family pension allowable under Section 57(iia)
 - (vii) All deductions allowed under Chapter VI-A (except the deduction under Section 80 CCD(2) and Section 80 JJAA) including of Rs. 1,50,000/- under Section 80C in respect of contribution to provident fund, life insurance premium and deduction of Rs.50,000/- as contribution to NPS under Section 80CCD (1B).
 - (viii) Allowance for Minor Child Income allowable under Section 10(32) on clubbing of minor income
In addition to the above, the following deductions/exemptions allowed while computing income of business or profession shall also not be available.
 - (ix) Exemption for SEZ Unit under Section 10AA
 - (x) Additional initial depreciation in respect of plant and machinery under Section 32(1)(iia)
 - (xi) Investment allowance in respect of new plant and machinery in notified backward areas under Section 32AD
 - (xii) Tea/Coffee/Rubber development benefit under Section 33AB
 - (xiii) Site restoration benefit under Section 33ABA
 - (xiv) Various deductions for donation for expenditure on scientific research or social sciences research under section 35(1)(ii), section 35(1)(iia), section 35(1)(iiaa) or under section 34(2AA)
 - (xv) Accelerated capital deduction for specified businesses under Section 35AD
 - (xvi) Expenditure on agricultural extension project under Section 35CCC
- > Further, such individual or HUF who exercises such option- Shall not be allowed to **set off any loss or depreciation carried forward** from an earlier assessment year if such loss or depreciation is attributable to any other deductions referred hereinabove.
- > No set off of any loss under the head “**Income from HP**” shall be allowed against income under any other head.
- > Carried forward loss or depreciation shall be deemed to have given full effect to and no further adjustment in respect of such **carried forward loss or depreciation shall be available meaning thereby that such loss or depreciation carried forward shall lapse.**
- > If the option to pay tax under section 115BAC is exercised in respect of assessment year 2021-2022, then the written down value of the *block of asset shall be increased by the amount of depreciation* carried forward which is not available for set-off due to the restrictions contained in the proposed newly inserted section 115BAC.
- > To claim benefit by paying the tax at the applicable rates under this section, assessee *not having business income* has to opt *along with the return of income* to be furnished U/s 139(1) for a previous year relevant to assessment year.
- > **However if an assessee having business income exercises this option in a previous year and subsequently he can withdraw only once for a previous year other than the year in which it was exercised and thereafter, the person shall never be eligible to exercise option under this section except where such person ceases to have any business income in which case, he can opt the benefit available to person not having business income.**

14. Exercising option u/s 115BAC for TDS Deduction on Salary

Option by Employees u/s 115BAC

- An employee, having income other than the income under the head “profit and gains of business or profession” and intending to opt for the concessional rate under section 115BAC of the Act, may intimate the deductor, being his employer, of such intention for each previous year and upon such intimation, the deductor shall compute his total income, and make TDS thereon in accordance with the provisions of section 11513AC of the Act.
- If such intimation is not made by the employee, the employer shall make TDS without considering the provision of section 115BAC of the Act.
- intimation so made to the deductor shall be only for the purposes of TDS during the previous year and cannot be modified during that year.
- Intimation would not amount to exercising option in terms of S 115BAC of the Act and the person shall be required to do so alongwith the return to be furnished under sub-section (1) of section 139 of the Act for that previous year.
- **Option at the time of filing of return of income under sub-section (1) of section 139 of the Act could be different from the intimation made by such employee to the employer for that previous year.**

15. Changes in TCS Provisions

206C (1H)

Nature of Transaction	Person liable to collect TCS	When TCS will be collected	Prescribed Limit	Non – Applicability	TCS Rate
Sale of any goods (except goods on which TCS applicable under other provisions like scrap, tendu leaves etc)	Seller of any goods whose turnover in the previous year exceed 10 crore rupees	At the time of receipt of any amount as consideration for the sale of such goods	> 50 Lakh in a FY. In case amount of consideration received is Rs 54 lacs then TCS is applicable on 4 Lacs only.	1. If the buyer is liable to deduct TDS under any other provisions and has deducted such TDS. 2. If buyer is CG, SG, an embassy, a high commission, a legation, a commission, a consulate, the trade representation of a foreign state, a local authority or any other person as notified by CG	0.10% (No PAN/ Aadhar case 1%)

Safeguards

1) Categorisation of buyers into CG (Central Govt), SG (State Govt), local authority, embassy etc would become mandatory as in this cases TCS is not applicable on sale of goods. **It may be noted that exemption from TCS is not applicable for PSUs customers.**

2) No TCS need to be collected at the time of invoicing. Rather the business need to wait for the time of receipt of consideration which may come after a time lag. This is surely going to make the whole accounting and controlling process difficult as business may have to raise separate debit note / invoice for TCS at the time of receipt of payment.

A liberal view of collecting TCS at the time of generation of invoices itself can be taken (unless the amount has been received in advance) as it will make the system of accounting simple and cash outflow on account of TCS would be only 0.10% of invoice value which would not be that substantial amount. However it is expected that Govt may come with a notification providing more practical solution for the same.

3) The proposed provisions provides that TCS @ 0.10% need to be collected on receipt of consideration and such consideration would be inclusive of GST/ other indirect taxes. **So on pure reading of this section it appears that TCS need to be collected on the amount inclusive of indirect taxes which is otherwise not applicable on TCS on other product (such as scrap in which TCS is collected on base value before indirect taxes).**

Even if the intention of law is to collect TCS on base value before tax then even it will be very difficult to bifurcate the total consideration received into base amount and indirect tax amount.

4) Some large organizations exchange product among themselves in different states of the country (India) against tax invoices (to save the logistic cost and attain operational efficiency). In these cases accounts are settled between them on periodic basis and net payable / receivables are settled between them.

Since the Act proposes that the TCS will be applicable on the amount of consideration received, so whether in this case Gross consideration or net consideration has to be taken for the purpose of TCS.

On a conservative basis the organisation may choose to collect TCS on gross consideration. However a clarification on the above aspect will help to avoid litigations.

5) Since TCS need to be paid on the amount of consideration received (rather than at the time of billing), so it may be difficult to **collect the amount of TCS from customers** as they may insist for some invoice or proof of payment of TCS which may be difficult to substantiate on the part of vendor at times.

6) There is always a time lag in receipt of payment from customers and date of billing. Since the TCS provisions are applicable on consideration received w.e.f 01.10.2020, hence **whether the amount received on account of billing done during FY 2019-20 will be liable to TCS.**

S 206(1G)

Nature of Transaction	Person liable to collect TCS	When TCS will be collected	Prescribed Limit	Non – Applicability	TCS Rate
Remittance out of India under the LRS (Liberalised Remittance	An Authorised Dealer	At the time of receipt of the amount, or At the time of debiting the	=> 7 Lacs	1. If the buyer is liable to deduct TDS under any other provisions and has deducted	5% (No PAN/ Aadhar case 10%)

Scheme) of RBI		amount to customer whichever is earlier		such TDS
Overseas tour program package	Seller of the package		NIL	2. If a buyer is CG, SG, an embassy, a high commission, a legation, a consulate, the trade representation of a foreign state, a local authority or any other person as notified by CG

16. Special provision for full value of consideration for transfer of assets other than capital assets in certain cases

S 43CA, S 50C & S 56(2)(x)

Sec 43CA – Earlier, 5% variation in the value of consideration received or accruing as a result of transfer of an asset (other than capital asset) being land or building or both was allowed. Now, this variation rate is increased to 10%. It means, if the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed one hundred and ten per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.

Consequently, even section 50C and section 56(2)(x)(B), are amended on a similar basis, and provides for a ten percent tolerance limit.

The above amendments are effective from AY 2021-2022

17. Audit of accounts of certain persons carrying on business or profession

Sec 44AB

I. A new proviso to section 44AB(a) has been added, whereby the threshold limit for a person carrying on **business** who is required to get his accounts audited, has been **increased from Rs. 1 Cr** as provided in section 44AB(a) to **Rs. 5 Cr**, only in cases where both the below conditions are satisfied:

- aggregate of all receipts including sales, turnover or gross receipts, in cash during the previous year does not exceed **5%** of such receipt; and
- aggregate of all payments made including amount incurred for expenditure, in cash during the previous year does not exceed **5%** of such payment

II. Further, to enable **pre-filing of returns** in case of persons having income from business or profession, it is required that the tax audit report may be furnished by the said assessee at least one month prior to the due date of filing of return of income.

It means, as the due date for furnishing return of income U/s 139(1) is made as 31st

Other Amendments

N No 64/2019 dated 13th Sep.

CBDT notifies tolerance range for wholesale trading & for other cases for AY 19-20 w.r.t. the calculation of arm length price related to **International transaction** determined as per section 92C i.e. 1% in case of wholesale trading and 3% in other cases

For the purposes of this notification, “**wholesale trading**” means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely:-

(i) purchase cost of finished goods is eighty per cent. or more of the total cost pertaining to such trading activities; and

(ii) average monthly closing inventory of such goods is ten per cent. or less of sales pertaining to such trading activities.

Office Memorandum: Sec 197 Certificate for NRIs

Seeks to raise threshold of revenue effect for issue of certificates under section 197/195 needing approval of the CIT (Intl. Taxation) to Rs. 10 Crore. This threshold will be applicable for all stations in respect of all applications of non-resident taxpayers either pending as on date or filed hereafter.