

DIRECT TAX – LAW UPDATE

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Extension of time limits under the Income-tax and related Acts

The Central Government vide Notification No.35 -2020 [F. No. 370142-23-2020-TPL] - SO 2033(E) dated 24th June, 2020 and in exercise of the powers conferred by section 3(1) of the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 , grants further relief to the taxpayers for making various compliances. This notification shall come into force from the 30th day of June, 2020

In view of the challenges faced by taxpayers in meeting the statutory and regulatory compliance requirements due to the outbreak of Corona Virus (COVID-19), the Government has brought the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 on 31st March, 2020 which extended various time limits.

The government vide Notification dated 24.06.2020 gives the following further relief.

1. The date of furnishing of declaration under Vivad Se Vishwas Scheme, passing of order etc. under the Scheme stand extended to 31st December, 2020.
2. The date for passing of order or issuance of notice by the authorities and various compliances under various Direct Taxes & Benami Law which are required to be passed/ issued/ made by 31st December, 2020 has been extended to 31st March, 2021. Consequently, the date for linking of Aadhaar with PAN would also be extended to 31st March, 2021
3. In case of government deductor, delivering of statement of deduction of tax at source under section 200(2A) or statement of collection of tax at source under section 206C(3A) for the month of February or March, 2020, or for the quarter ending on the 31st day of March, 2020 has been extended to 15th of July 2020.
4. In case of other than government deductor, the furnishing of the TDS/ TCS statements and issuance of TDS/ TCS certificates being the prerequisite for enabling the taxpayers to prepare their return of income for FY 2019-20, the date for furnishing of TDS/ TCS statements and issuance of TDS/ TCS certificates pertaining to the FY 2019-20 has been extended to 31st July, 2020 and 15th August, 2020 respectively
5. The date for making investment/ construction/ purchase for claiming roll over benefit/ deduction in respect of capital gains under sections 54 to 54GB of the IT Act has also been further extended to 30th September, 2020. Therefore, the investment/ construction/ purchase made up to 30th September, 2020 shall be eligible for claiming deduction from capital gains. The Clause dealing with this section in the notification was inadvertently printed as “section 54 or 54GB “instead of section “54 to 54GB” for which corrigendum was issued clarifying this misprint vide notification no Notification No 39 -2020 [F. No. 370142-23-2020-TPL] - SO 2126(E) dated 29.06.2020.
6. The time for filing of original as well as revised income-tax returns for the FY 2018-19 (AY 2019-20) has been extended to 31st July, 2020.
7. Due date for income tax return for the FY 2019-20 (AY 2020-21) has been extended to 30th November, 2020. Hence, the returns of income which are required to be filed by 31st July, 2020 and 31st October, 2020 can be filed up to 30th November, 2020. Consequently, the date for furnishing tax audit report has also been extended to 31st October, 2020
8. In order to provide relief to small and middle-class taxpayers, the date for payment of self-assessment tax in the case of a taxpayer whose self-assessment tax liability is up to Rs. 1 lakh has also been extended to 30th November, 2020. However, it is clarified that there will be no extension of date for the payment of self-assessment tax for the taxpayers having self-assessment tax liability exceeding Rs. 1 lakh. In this case, the whole of the self-assessment tax shall be payable by the due dates specified in the Income-tax Act, 1961 (IT Act) and delayed payment would attract interest under section 234A of the IT Act.
9. The date for making various investment/ payment for claiming deduction under Chapter-VIA-B of the IT Act which includes section 80C (LIC, PPF, NSC etc.), 80D (Mediclaime), 80G (Donations) etc. has also been further extended to 31st July, 2020. Hence the investment/ payment can be made up to 31st July, 2020 for claiming the deduction under these sections for FY 2019-20

10. The date for commencement of operation for the SEZ units for claiming deduction under section 10AA of the IT Act has also been further extended to 30th September, 2020 for the units which received necessary approval by 31st March, 2020
11. The reduced rate of interest of 9% for delayed payments of taxes, levies etc. specified in the Ordinance shall not be applicable for the payments made after 30th June, 2020

PRESS RELEASE - Extension of various time limits under Direct Tax & Benami laws

In view of Corona Virus (COVID-19), the Government brought the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 [the Ordinance] on 31st March, 2020 which extended various time limits. In order to provide further relief to the taxpayers for making various compliances, the Government has issued a Notification on 24th June, 2020.

The extension of various time limits under Direct Tax & Benami laws for making various compliances are already covered while explaining the relief granted under notification no 35 dated 24.06. 2020. The other clarification issued under this press note are as under

- Deferment of the implementation of new procedure for approval/ registration/ notification of certain entities u/s 10(23C), 12AA, 35 and 80G of the IT Act has already been announced vide Press Release dated 8th May, 2020 from 1st June, 2020 to 1st October, 2020. It is clarified that the old procedure i.e. pre-amended procedure shall continue to apply during the period from 1st June, 2020 to 30th September, 2020. Necessary legislative amendments in this regard shall be moved in due course of time.
- The Finance Minister has already announced reduced rate of TDS for specified non-salaried payments to residents and specified TCS rates by 25% for the period from 14th May, 2020 to 31st March, 2021. The announcement was also followed by the Press Release dated 13th May, 2020. The necessary legislative amendments in this regard shall be moved in due course of time.

Rule -11UAC - Prescribed class of persons for the purpose section 56 (2)(x) proviso clause (XI).

The CBDT vide notification no 40-2020 [F. No.370149-143-2019-TPL] - GSR 421(E) dated June 29, 2020, publishes the Income Tax (14th Amendment) Rules, 2020, to further amend the Income Tax Rules, 1962. These rules shall be implemented from April 1, 2020 and shall be applicable for the Assessment year 2020-21 and subsequent assessment years

It amends Income tax Rules by substituting Rule 11UAC regarding Prescribed class of persons for the purpose of section 56 (2)(x) proviso clause (XI). The New rule 11UAC provides that the provisions of clause (x) of sub-section (2) of section 56 shall not apply to the following.

- (1) any immovable property, being land or building or both, received by a resident of an unauthorized colony in the National Capital Territory of Delhi, where the Central Government by notification in the Official Gazettee, regularized the transactions of such immovable property based on the latest Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration for conferring or recognizing right of ownership or transfer or mortgage in regard to such immovable property in favor of such resident. It defines Resident and unauthorized colony.
- (2) any movable property, being unquoted shares, of a company and its subsidiary and the subsidiary of such subsidiary received by a shareholder, where, —
 - (i) the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013, has suspended the Board of Directors of such company and has appointed new directors nominated by the Central Government under section 242 of the said Act; and
 - (ii) share of company and its subsidiary and the subsidiary of such subsidiary has been received pursuant to a resolution plan approved by the Tribunal under section 242 of the Companies Act, 2013 after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

It defines tribunal and subsidiary of another company.

- (3) any movable property, being equity shares, of the reconstructed bank, received by the investor or the investor bank, as the case may be, where the said share has been allotted by the reconstructed bank under the scheme at a price specified in sub-paragraph (3) of paragraph 3 of the scheme.

It defines investor, investor bank, reconstructed bank and Scheme.

Readers may refer to the notification for further details.

Section 9A - Certain activities not to constitute business connection in India.

The Central Government vide Notification No. 41-2020 [F. No. 142-15-2015-TPL- Part (1)] - SO 2148(E) dated 30.06.2020 and exercise of the powers conferred by the proviso to sub-section (3) of section 9A of the Income-tax Act, hereby notifies that the conditions specified in clauses (e), (f) and (g) of the section 9A (3) shall not apply in case of an investment fund set up by a Category-I foreign portfolio investor registered under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019, made under the Securities and Exchange Board of India Act, 1992.

This notification shall be deemed to have come into force from the 23rd day of September, 2019

Rule 11 UAD - Prescribed class of persons for the purpose of section 50CA

The Central Board of Direct Taxes vide Notification No. 42-2020 [F. No.370149-143-2019-TPL] - GSR 423(E) dated 30.06.2020 and in exercise of the powers conferred by section 50CA read with section 295 of the Income-tax Act, gives the Income-tax (15th Amendment) Rules, 2020 to further amend the Income Tax Rules, 1962. It came into force from the 1st day of April, 2020 and shall be applicable for assessment year 2020-21 and subsequent assessment years. It Inserts new Rule 11UAD regarding Prescribed class of persons for the purpose of section 50CA.

The new Rule 11UAD Provides that the provisions of section 50CA of the Act shall not apply to transfer of any movable property, being unquoted shares, of a company and its subsidiary and the subsidiary of such subsidiary by an assessee, where, —

- (i) the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013, has suspended the Board of Directors of such company and has appointed new directors nominated by the Central Government under section 242 of the said Act; and
- (ii) share of such company and its subsidiary and the subsidiary of such subsidiary has been transferred pursuant to a resolution plan approved by the Tribunal under section 242 of the Companies Act, 2013 after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

Explanation. -For the purposes of this sub-rule, -

- (a) a company shall be a subsidiary of another company, if such other company holds more than half in nominal value of the equity share capital of the company;
- (b) "Tribunal" shall have the same meaning assigned to it in clause (90) of section 2 of the Companies Act, 2013.

Amendment to Rule 31A and Substitution of form 26Q and 27Q

The Central Board of Direct Taxes vide Notification No. 43-2020-F. No. 370142-11-2020-TPL] - GSR 429(E) dated 03.07.2020 and exercise of the powers conferred by sections 194A, 194J, 194K, 194LBA, 194N, 194-O, 197A and 200 read with section 295 of the Income-tax Act,, gives the Income-tax (16th Amendment) Rules, 2020 to further amend the Income Tax Rules, 1962.

It amends rule 31A (4) of Income tax Rules. It also substitutes form 26Q and 27Q. The Finance Act, 2020 has made several changes in the TDS provision and this is now followed by consequential changes in the Rule 31A, Form 26Q & Form 27Q.

- Rule 31(4)(viii) is amended to include tax deducted at lower rate under section 197A(1F).As per existing clause (viii) which requires furnishing of particulars of amount paid or credited on which tax was not deducted as per the notification issued under sub-section (1F) of section 197A. Section 197A(1F) is amended by the Finance Act, 2020 to provide for deduction of tax at a lower rate. In view of this the particulars of deduction of tax at a lower rate is incorporated in Rule 31A(4)(viii).
- A new section 194N was introduced by Finance Act 2019 and further amendment was made in Finance Act 2020 with regard to TDS on large cash withdrawal from banks and post office accounts. It also provided for additional provisions for TDS on cash withdrawals for non-filers of income tax return. Accordingly, clause (ix) of the Rule 31(4) is also substituted providing for furnishing of particulars for TDS on cash withdrawals under section 194N. This clause is substituted from 01.07.2020.
- The following four new clauses are inserted in Rule 31(4) to provide for particulars under the respective sections in view of the amendments made by the Finance Act. 2020-
 - (x) furnish particulars of amount paid or credited on which tax was not deducted or deducted at lower rate in view of the notification issued under sub-section (5) of section 194A.

The Finance Act 2020 inserted section 194A (5) to provide that the Central Government may, by notification provide that the deduction of tax shall not be made or shall be made at lower rate, from the payment to such person or class of persons, as may be specified in the said notification.

(xi) furnish particulars of amount paid or credited on which tax was not deducted under sub-section (2A) of section 194LBA.

The Finance Act 2020 inserted Section 194LBA(2A) to provide that no tax shall be deducted by a business trust from dividend distributed to the unit holders provided the SPV has not exercised the option under section 115BAA.

(xii) furnish particulars of amount paid or credited on which tax was not deducted in view of clause (a) or clause (b) of sub-section (1D) of section 197A.

The Section deals with non-education of TDS by Offshore Banking Unit from the interest payment to a non-resident or a person not ordinarily resident in India.

(xiii) furnish particulars of amount paid or credited on which tax was not deducted in view of the exemption provided to persons referred to in Board Circular No. 3 of 2002 dated 28th June 2002 or Board Circular No. 11 of 2002 dated 22 nd November 2002 or Board Circular No. 18 of 2017 dated 29th May 2017

Board Circular No. 3 of 2002 was issued for grant of exemption from the requirement of deduction of income-tax at source on the payment of incomes under sections 193, 194A and 194K to Ramakrishna Math and Ramakrishna Mission whose income is exempt under section 10(23C) (iv) of the Act.

Board Circular No. 11 of 2002 extended the scope of Circular No. 3 of 2002 to provide that interest on all securities covered under section 193 may be paid to Ramakrishna Math and Ramakrishna Mission without tax deduction at source.

Board Circular No. 18 of 2017 was issued to grant payment to certain exempt institutions without deduction of income tax. These institutions or funds are Funds set up by LIC, IRDA, CERC, Prasad Bharti, Prime Minister National Relief Fund, Provident Fund, ESI Fund, etc.

The Amendments are also made in Form 26Q and 27Q

- Form 26Q/ 27 Q – There are insertion of new sections 194K, 194-O, 197A to include above-mentioned particulars in the form.
- As per amendment in section 194J by finance Act 2020, the amount will be bifurcated into two parts of different rates of 2% and 5%.
- The changes are made with regard to Validation codes or Flags for reporting

One-time relaxation for Verification of tax-returns for the Assessment years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 which are pending due to non-filing of ITR-V form and processing of such returns

The CBDT vide Circular no 13 of July 13, 2020 permitted One-time relaxation for Verification of tax-returns for the Assessment years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 which are pending due to non-filing of ITR-V form and processing of such returns

- It has been brought to the notice of CBDT that a large number of electronically filed ITRs still remain pending with the Income-tax Department for want of receipt of a valid ITR-V Form at CPC, Bengaluru from the taxpayers. In law, consequences of non-filing the ITR-V within the time allowed is significant as such a return is/can be declared Non-Est in law. Thereafter, all the consequences for non-filing a tax return, as specified in the Act follow.
- In this context, as a one-time measure for resolving the grievances of the taxpayers associated with non-filing of ITR-V for earlier Assessment Years and to regularize such returns which have either become Non-Est or have remained pending due to non-filing/non-receipt of respective ITR-V Form, the CBDT, in exercise of powers under section 119 of the Act, in case of returns for Assessment Years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 which were uploaded electronically by the taxpayer within the time allowed under section 139 of the Act and which have remained incomplete due to non-submission of ITR-V Form for verification, hereby permits verification of such returns either by sending a duly signed physical copy of ITR-V to CPC, Bengaluru through speed post or through EVC/OTP modes. Such verification process must be completed by 30.09.2020.
- However, this relaxation shall not apply in those cases, where during the intervening period, Income-tax Department has already taken recourse to any other measure as specified in the Act for ensuring filing of tax return by the taxpayer concerned after declaring the return as Non-est.

Further, CBDT, also relaxes the time-frame for issuing the intimation as provided in second proviso to sub-section (1) of Section 143 of the Act and directs that such returns shall be processed by 31.12.2020 and intimation of processing of such returns shall be sent to the taxpayer concerned as per the laid down procedure. In refund cases, while determining the interest, provision of section 244A (2) of the Act would apply.

- In case the taxpayer concerned does not get his return regularized by furnishing a valid verification (either ITR-V or EVC/OTP) by 30.09.2020, necessary consequences as provided in law for non-filing the return may follow.

Exemption Claimable on conveyance, travel allowance under New Tax Regime under section 115BAC

The CBDT vide Notification No. 38/2020/F. No.370142/15/2020-TPL, 26 June 2020 and in exercise of the powers conferred by sub-section (2) of section 115BAC, and in exercise of the powers conferred by sub-section (2) of section 115BAC gives the Income-tax (13th Amendment) Rules, 2020. It amends the rule 2BB of income tax rules, 1962. The amended rule shall come into force from April 1, 2021, and shall accordingly apply in relation to the assessment year 2021-22 and subsequent assessment years

It makes following TWO amendments in rules.

A. It inserts new sub-rule (3) in Rule 2BB of Income tax Rules.

B. It also amends Rule 3 by inserting second proviso to Rule 3(7)(iii).

A. - It inserts new sub-rule (3) in Rule 2BB of Income tax Rules as under; -

“(3) Notwithstanding anything contained in sub-rule (1) and (2), an employee, being an assessee, who has exercised option under sub-section (5) of section 115BAC shall be entitled to exemption only in respect of the allowances mentioned in sub-clauses (a) to (c) of sub-rule (1) and at serial no.11 of the Table below sub-rule (2) to the extent and subject to the conditions, if any, specified therein.”;

B It also amends Rule 3 by inserting further proviso to Rule 3(7)(iii).

In rule 3, in sub-rule (7), in clause (iii), after the proviso, the following proviso shall be inserted, namely: –

“Provided further that the exemption provided in the first proviso in respect of free food and non-alcoholic beverage provided by such employer through paid voucher shall not apply to an employee, being an assessee, who has exercised option under sub-section (5) of section 115BAC.”.

Implications of the above amendments explained here under

A. Insertion of new sub-rule (3) in Rule 2BB of Income tax Rules

Finance Act, 2020 has inserted a new section 115BAC in the Income Tax Act, 1961 to provide for an option of the lower tax regime in line with the options provided to domestic companies under the Taxation Laws (Amendment) Act, 2019. However, the new tax regime as stipulated in section 115BAC does not permit certain exemptions and deductions which includes exemption under section 10(14) of the income tax act. The Rule 2BB of Income tax rules prescribes the allowances for the purpose of section 10(14) of the Act.

Now, in a bid to give further relief to tax payers, the CBDT has amended Rule 2BB, notifying that a salaried employee who opts for the new income tax regime can claim certain exempt allowances. Hence, by exercising the powers given under section 115BAC(2), CBDT vide Notification No. 38/2020 dated 26.06.2020 ,inserted new sub-rule (3) in Rule 2BB to allow the following exemptions to a salaried individual who has exercised option under section 115BAC (5) of the Act.

Exemptions mentioned in Rule 2BB(1)(a), (b) (c) -

- (a) any allowance granted to meet the cost of travel on tour or on transfer;
- (b) any allowance, whether, granted on tour or for the period of journey in connection with transfer, to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty;
- (c) any allowance granted to meet the expenditure incurred on conveyance in performance of duties of an office or employment of profit.

Provided that free conveyance is not provided by the employer.

Exemption mentioned in Rule 2BB (2)-

Transport allowance granted to an employee, who is blind or deaf and dumb or orthopedically handicapped with disability of lower extremities, to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty. This exemption is applicable to the whole of India and is restricted to Rs. 3,200 p.m.

B. Amendment in Rule 3 by inserting second proviso to Rule 3(7)(iii).

A new second proviso is inserted in Rule 3(7)(iii) to disallow the following exemption to a salaried individual who has exercised option under sub-section (5) of section 115BAC

Rule 3 deals with valuation of perquisites. Rule 3(7)(iii) provides for valuation of perquisites for free food and non-alcoholic beverages provided by the employer to an employee. The value of such perquisite shall be the amount of expenditure incurred by such employer and shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

An exception is provided by way of a proviso to exclude the value of free food and non-alcoholic beverages provided by such employer during working hours at office or business premises or through paid vouchers which are not transferable and usable only at eating joints, to the extent the value thereof in either case does not exceed Rs. 50 per meal or to tea or snacks provided during working hours or to free food and non-alcoholic beverages during working hours provided in a remote area or an off-shore installation.

This exception is withdrawn in case the new tax regime is opted. Thus, free food and non-alcoholic beverages provided by the employer even during working hours at office or business premises shall be fully taxable in the hands of those employees who have opted for the new tax regime.

The Central Board of Direct Taxes (CBDT) has clarified that under the new tax regime, employees are allowed to claim income tax exemption on conveyance allowance received from employers. It clarified that such an employee can claim exemption u/s. 10(14) only in respect of Tour/Transfer allowance, Daily travel allowance, conveyance allowance and Transport allowance for handicapped, subject to the conditions.

The new I-T slabs would be for individuals not availing certain specified deductions or exemptions. The CBDT notification considers free meal/beverages provided by an employer to employees during office hours to be a personal benefit and not an expenditure for official purposes. Therefore, similar to other allowances withdrawn under the new tax regime, tax exemption of such free meals/beverages has been withdrawn as well.

The Board has allowed exemption of allowances granted to employees to meet their cost of travel on tour, ordinary daily charges incurred by them due to absence from normal place of duty and expenses incurred by them on conveyance while performing office duties. Further, blind, deaf and dumb or orthopedically handicap employees can also claim ad-hoc exemption of transport allowance of Rs 3,200 per month while computing salaried income.

The CBDT, however, has further clarified that while determining value of perquisites, no exemption shall be available in respect of free food and non-alcoholic beverage provided by the employer through paid vouchers

The amendment indirectly clarifies that except free meals/ beverages/ meal coupons, tax treatment of other perquisites specified under Rule 3, such as rent free accommodation, motor cars, free/ concessional education facility, telephone, concessional loan, gifts, club membership, etc. provided by employer will remain the same, both under old scheme as well as under new scheme.