

DIRECT TAX CA. Haresh Kenia, CA. Deepak Lala	
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1. 'PRESCRIBED AUTHORITY' For the Purpose of E-VERIFICATION SCHEME, 2021

The Central Board of Direct Taxes, vide CIRCULAR F.NO. 282/04/2022-IT (INV.V), PT. I/136, DATED 20-7- 2022 , in exercise or the powers conferred by Paragraph 2 (1) or clause (l) of the e-Verification Scheme, 2021, hereby authorises the following as "Prescribed Authority" for the purposes of the said Scheme

- Director General of Income-tax,
- Directors of Income-tax,
- Additional Directors of Income-tax,
- Joint Directors of Income-tax,
- Deputy Directors of Income-tax,
- Assistant Directors of Income-tax,
- Income Tax Officers and Inspectors of Income-tax working in the Directorate of Income-tax (Intelligence and Criminal Investigation).

2. Transactions not regards Transfer – Section 47 (viiab) – Transfer of Capital Asset – Notified Securities.

The Central Government , vide Notification no S.O. 3652 (E) [NO. 89/2022/F.NO. 370142/26/2019-TPL-PART (1)] , dated 3-8-2022 , in exercise of the powers conferred by section 47 (viiab)(d) of the Income-tax Act, 1961 , hereby notified "Bullion Depository Receipt with underlying bullion" as securities for the purposes of sub-clause (d) of section 47(viiab) of the Income-tax Act, 1961.

The Department of Economic Affairs (DEA), Ministry of Finance vide its notification number S.O. 2957 (E), published in Gazette of India, Extraordinary, vide number, F.No.3/7/2020-EM dated the 31st August, 2020 defines " Bullion Depository Receipt with underlying bullion" vide Clause (iii) of the Explanation as under ;-

It defines, 'Bullion Depository Receipt with underlying bullion' as such bullion depository receipt listed on the International Bullion Exchange (IBE) operating inside the International Financial Services Centre and is licensed by the Authority under the International Financial Services Centres Authority Act, 2019.

Section 47 deals with certain transactions which are not regarded as transfers for the purpose of capital gains.

Section 47(viiab) exempts capital gains arising from any transfer of a capital asset, being following capital asset made by a non-resident on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency

- (a) bond or Global Depository Receipt referred to in sub-section (1) of section 115AC; or
- (b) rupee denominated bond of an Indian company; or
- (c) derivative; or
- (d) such other securities as may be notified by the Central Government in this behalf,

It makes the amendments in the notification of the Government of India, Ministry of Finance,(Department of Revenue), number 16/2020, dated the 5th March, 2020. The CBDT earlier , vide Notification No. 16/2020 dated 05.03.2020 notified the following securities for the purpose of sub-clause (d) of section 47(viiab) of the Act-

- (i) foreign currency denominated bond;

- (ii) unit of a Mutual Fund;
- (iii) unit of a business trust;
- (iv) foreign currency denominated equity share of a company;
- (v) unit of Alternative Investment Fund,

3. Salaries – Perquisites - Section 17(2) of the Act. – Documents to be Furnished by Employee to avail Covid -19 Tax Exemptions.

The Central Government , vide Notification no - 3703(E) [NO. 90/2022/F.NO. 370142/31/2022-TPL (PART-2)] , dated 5-8-2022, in exercise of the powers conferred by section 17 (2), clause (ii)(c) to first proviso, hereby notifies the following conditions :-

1. The employee is required to submit the following documents to the employer, –
 - (i) the COVID-19 positive report of the employee or family member, or medical report if clinically determined to be COVID-19 positive through investigations, in a hospital or an in-patient facility by a treating physician of a person so admitted;
 - (ii) all necessary documents of medical diagnosis or treatment of the employee or his family member for COVID-19 or illness related to COVID-19 suffered within six months from the date of being determined as COVID19 positive; and
 - (iii) a certification in respect of all expenditure incurred on the treatment of COVID-19 or illness related to COVID-19 of the employee or of any member of his family.
2. This notification shall be deemed to have come into force from the 1st day of April, 2020 and shall apply in relation to the assessment year 2020-2021 and subsequent assessment years.

This notification needs to be understood with following background.

- Vide Press statement dated 25.06.2021, the Finance Ministry announced that income-tax shall not be charged on the amount received by a taxpayer for medical treatment from the employer or from any person for treatment of COVID-19 during FY 2019-20 and subsequent years.
- The Finance Act 2022 has provided for income-tax exemption of amount received for medical treatment of COVID-19 and on account of death due to COVID-19 by an employee from his employer or from any other person during the financial year 2019-20 and subsequent years. These amendments are retrospectively effective from 1st April 2020 or Assessment Year 2020-21. For this purpose, amendments have been made in Section 17(2) and section 56 [not covered here] of the Act.
- Section 17(2) of the Act which generally defines perquisites. The finance Act 2022 provided by way of proviso to section 17(2) for exemption for the amount received for reimbursement of actual medical expenditure for treatment of self or his family member for COVID-19 in the hands of the employee from his employer. In case of the death of the employee due to COVID-19, the same will be exempt from tax in the hands of the deceased employee as well as a family member.
- It is provided the term 'family' will have same meaning as defined and given in section 10(5) of the Act . The section 10(5) defines family means :-
 - (i) the spouse and children of the individual ; and
 - (ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual
- The first proviso to section 17(2) provides for exemption from perquisite of any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf.

This amendment is inserted in the Statute with retrospective effect from 1st April, 2020 i.e, AY 2020-21.

- The intend of this notification no 90 dated 05.08.2022 is to notify the conditions that the employee has to submit a list of certain documents to the employer for claiming the exemption. In case the employee fails to submit these prescribed documents for treatment of COVID-19, then the amount so received from the employer by the employee shall be chargeable to tax as 'salary' under section 17(2) of the Act.
- From the wording of the notification , it is not clearly specified from whom the certificate should be obtained. It appears that it should be a self – certified document by employee himself.
- It is to be noted that the finance Act 2022 was notified on 31.03.2022 but the notification specifying the conditions is notified on 05.08.2022 which is after the expiry of due date for filing Return of income for AY 2022-23 by salaried class of Individuals. Further these provisions are applicable from AY 2020-21 onwards.

4. Income from other sources – section 56 – Forms to be furnished by an Individual to claim exemption of any amount received towards expenditure incurred for treatment of Covid -19 illness.

Notification no-S.O. 3704(E) [NO. 91/2022/F. NO. 370142/31/2022-TPL (PART-2)],dated 5-8-2022

The Central Government , vide Notification no - 3704(E) [NO. 91/2022/F.NO. 370142/31/2022-TPL (PART-2)] , dated 5-8-2022, in exercise of the powers conferred by section 56 (2) (x) , clause (xii) to first proviso , hereby notifies the following conditions :-

1. The Individual is required to keep a record of the following documents –
 - (i) The COVID-19 positive report of the Individual or his family member, or medical report if clinically determined to be COVID-19 positive through investigations, in a hospital or an in-patient facility by a treating physician of a person so admitted;
 - (ii) All necessary documents of medical diagnosis or treatment of the Individual or his family member due to COVID-19 or illness related to COVID-19 suffered within six months from the date of being determined as COVID-19 positive; and
2. Statement of any amount received for any expenditure actually incurred by an individual for his medical treatment or treatment of any member of his family, for any illness related to COVID-19 for the purposes of clause (XII) of the first proviso to clause (X) of sub-section (2) of section 56 of the Income-tax Act, 1961 shall be verified and furnished in Form No. 1.
3. The details of the amount received in any financial year shall be furnished in Form No. 1 to the Income Tax Department within nine months from the end of such financial year or 31.12.2022, whichever is later.
4. This notification shall be deemed to have come into force from the 1st day of April, 2020 and shall apply in relation to the assessment year 2020-2021 and subsequent assessment years.

This notification needs to be understood with following background

- Vide Press statement dated 25.06.2021, the Finance Ministry announced that income-tax shall not be charged on the amount received by a taxpayer for medical treatment from the employer or from any person for treatment of COVID-19 during FY 2019-20 and subsequent years
- The Finance Act 2022 has provided for income-tax exemption of amount received for medical treatment of COVID-19 and on account of death due to COVID-19 by an employee from his employer or from any other person during the financial year 2019-20 and subsequent years. These amendments are retrospectively effective from 1st April 2020 or Assessment Year 2020-21. For this purpose, amendments have been made in Section 17(2) [not covered here] and section 56 of the Act.

The clause (xii) of the first proviso to section 56(2)(x) deals with the receipt of reimbursement of cost by the individual himself for treatment of COVID-19 of self or his family members

- Section 56(2)(x), clause(xii) of first proviso, provides for exemption to any sum of money received by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 subject to such conditions, as the Central Government may, by notification in the Official Gazette, specify in this behalf.
- It is provided the term 'family' will have same meaning as defined and given in section 10(5) of the Act.
- This amendment is inserted in the Statute with retrospective effect from 1st April, 2020 i.e, AY 2020-21.
- This notification no 91/2022 provides/ notifies the conditions which needs to be satisfied in order to claim exemption from any sum received by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 under clause (XII) of the first proviso of clause (x) of sub-section (2) of section 56 of the Act
- The provisions of section 56(2)(x) do not apply in respect of any sum of money received from a relative. Hence, it is to noted that these provisions related to receipt of money in COVID-19 cases and chargeability to tax and exemption thereof shall apply only in cases of receipt of money from a non-relative person.
- This notifications no 91/2022 have been made effective retrospectively from 01.04.2020, hence, Form No. 1 for any amount received and claimed as exempt under clause (xii) of the first proviso to section 56(2)(x) for the FY 2019-20, FY 2020-21 and FY 2021-22 shall be required to be furnished latest by 31.12.2022.
- A new condition is added in the notification that the illness due to COVID-19 must have been suffered within a period a period of six months from the date of being determined as COVID-19 positive.

5. Income from other sources – section 56- Forms to be submitted and conditions to be satisfied for claiming exemption of an amount received due to covid-19 Death.

Notification no S.O. 3705(E) [NO. 92/2022/F.NO. 370142/31/2022-TPL (PART-2)] dated 05.08.2022

The Central Government , vide Notification no - 3705(E) [NO. 92/2022/F.NO. 370142/31/2022-TPL (PART-2)] , dated 5-8-2022, in exercise of the powers conferred by section 56 (2) (x) , clause (xiii) to first proviso , hereby notifies the following conditions :-

1. (i) The death of the individual should be within six months from the date of testing positive or from the date of being clinically determined as a COVID-19 case, for which any sum of money has been received by the member of the family
2. The family member of the individual is required to keep a record of the following documents –
 - (a) The COVID-19 positive report of the Individual or medical report if clinically determined to be COVID-19 positive through investigations, in a hospital or an in-patient facility by a treating physician ;
 - (b) a medical report or death certificate issued by a medical practitioner or a Government civil registration office, in which it is stated that death of the person is related to corona virus disease (COVID-19).; and
3. Statement of any sum of money received by a member of the family of a deceased person from the employer of the deceased person or from any other person or persons, on account of death due to COVID-19 for the purposes of clause (xiii) of the first proviso to clause (x) of sub-section (2) of section 56 of the Income-tax Act, 1961 shall be verified and furnished in Form A
4. The details of the amount received in any financial year shall be furnished in Form A to the Assessing Officer within nine months from the end of such financial year or 31.12.2022 whichever is later.

5. This notification shall be deemed to have come into force from the 1st day of April, 2020 and shall apply in relation to the assessment year 2020-2021 and subsequent assessment years.

This notification needs to be understood with following background

- Vide Press statement dated 25.06.2021 by Finance ministry and finance Act 2022 provided for income-tax exemption of amount received for medical treatment of COVID-19 and on account of death due to COVID-19 by an employee from his employer or from any other person during the financial year 2019-20 and subsequent years. This amendments are retrospectively effective from 1st April 2020 or Assessment Year 2020-21. For this purpose, amendments have been made in Section 17(2) [not covered here] and section 56 of the Act.
- Similar to clause (xii), exemption under clause (xiii) of the first proviso of clause (x) of sub-section (2) of section 56 of the Act shall be available if conditions specified in Notification No. 92/2022 are satisfied from any sum received by a member of the family of a deceased person, where the death occurs due to illness related to COVID-19,
 - (i) from the employer of the deceased person, or
 - (ii) from any other person or persons to the extent that such sum or aggregate of such sums does not exceed Rs. 10 lakh,and such sum has been received within 12 months from the date of death.
- The Clause (xiii) of the first proviso to section 56(2)(x) deals with the receipt of exgratia amount by family member of the deceased individual who died due to illness related to COVID-19. It is provided the term 'family' will have same meaning as defined and given in section 10(5) of the Act.
- The exemption under notification 92/2022 is available on furnishing of Form A with the assessing officer within 9 months from the end of the financial year in which such amount is received or 31.12.2022, whichever is later.
- This notifications no 92/2022 have been made effective retrospectively from 01.04.2020, hence Form A for any amount received and claimed as exempt under clause (xiii) of the first proviso to section 56(2)(x) for the FY 2019-20, FY 2020-21 and FY 2021-22 shall be required to be furnished latest by 31.12.2022.
- A new condition is added in the notification that the death of the individual shall be within a period of six months from the date of being determined as COVID-19 positive.

6. Reduction of Time Limit for Verification of ITR form within 120 days to 30 days of Transmitting data of ITR Electronically.

The Central Board of Direct Taxes vide notification no 5 of 2022 dated 29.07.2022 notified the reduction of time limit for verification of Income Tax Return (ITR) from within 120 days to 30 days of transmitting the data of ITR electronically with effect from 1st August 2022.

- It has been decided that in respect of any electronic transmission of return data on or after the date this Notification comes into effect i.e 01.08.2022, the time-limit for e-verification or submission of ITR-V shall now be 30 days from the date of transmitting /uploading the data of return of income electronically.
- It is clarified that where the return data is electronically transmitted before the date on which this Notification comes into effect i.e, 31.07.2022, the earlier time limit of 120 days would continue to apply in respect of such returns.
- In case of verification through ITR-V submission, the duly verified ITR-V shall be required to be sent to CPC Bangalore only by Speed Post. Earlier, posting of duly verified ITR-V by Ordinary Post was also allowed.

- CBDT has also amended the rule for determining the date of filing of return where the return is verified after uploading the return online and it is clarified as under ;-
- ✓ where the ITR is uploaded online on and after 01.08.2022, and the return is e-verified or ITR-V is submitted within 30 days of the filing of return of income, the date of uploading of ITR shall be considered as the date of filing of return.
- ✓ Where the ITR is uploaded online on and after 01.08.2022, and the return is e-verified or ITR-V is submitted after 30 days of the filing of return of income, the date of e-verification/ITR-V submission shall be treated as the date of furnishing the return of income and all consequences of late filing of return under the Act shall follow. It means the return will be marked as a belated return. Accordingly, late fees under section 234F will be levied. Further, carry forward of loss of the current year shall not be allowed.
- ✓ Where ITR is verified by sending duly verified ITR-V to CPC Bangalore by Speed Post, the date of despatch of duly verified ITR-V by speed post shall be considered for computing the time limit of 30 days of verification. In other words, if the ITR-V is despatched by speed post within the time limit of 30 days, then even if the return is verified after 30 days, it will be treated as verified within the time limit of 30 days

7. Procedure of PAN Allotment to Newly Incorporated Limited Liability Partnerships (LLPs) through Form FiLLiP of MCA

The Directorate of Income-tax (Systems) vide Notification No. 4/2022 dated 26.07.2022 notified the procedure of PAN application & allotment through Simplified Proforma for incorporating Limited Liability Partnerships (LLPs) electronically Form FiLLiP of Ministry of Corporate Affairs (MCA).

- Rule 114(1) of the Income-tax Rules, 1962 prescribes Form No. 49A and Form No. 49AA for making an application for obtaining the Permanent Account Number or PAN in accordance with the provision of section 139A of the Income-tax Act, 1961.
- The proviso to Rule 114(1) prescribes that one can apply for allotment of PAN through a common application form (CAF) to be notified by the Central Government in the Official Gazette and the Principal Director General of Income Tax (Systems) or Director General of Income-tax (Systems) shall specify the classes of persons, forms and format along with the procedure for the safe and secure transmission of such forms and formats in relation to furnishing of Permanent Account Number (PAN). By exercising this power conferred to it by the said proviso, the CBDT has notified the Form-FiLLiP notified by the MCA as the CAF for incorporation of LLPs
- The Director General of Income-tax (Systems) lays down the classes of persons being the newly incorporated LLPs through the Form FiLLiP to whom the PAN will be allotted after the generation of LLP Identification Number by the MCA.

7. CBDT Notifies Maintenance of Books of Accounts and Other Documents for Trust or NGO under new Rule 17AA

The Central Board of Direct Taxes , vide notification no 94/ 2022 - GSR 622 (E) dated 10.08.2022 , in exercise of the powers conferred by section 12A (1)(b)(i) and clause (a) of the tenth proviso section 10 (23C) read with section 295 of Income Tax Act, hereby gives the Income-tax (24th Amendment) Rules, 2022

- It inserts new rule 17AA to Income tax rules 1962.
- It prescribes Books of accounts and a very comprehensive list of other documents to be kept and maintained as per section 12A(1)(b)(i) or under clause (a) of tenth proviso to section 10(23C) by following entities.
 - ✓ a Trust or an NGO registered under section 12AB or

- ✓ any university or other educational institution or
 - ✓ any hospital or other medical institution approved under section 10(23C) of the Income-tax Act, 1961
- It provides that the prescribed books of accounts and other documents may be kept in written form or in electronic form or in digital form or as print-outs of data stored in electronic form or in digital form or any other form of electromagnetic data storage device.
 - Such books of accounts and other documents shall be maintained at the registered office of the Trust or fund or the NGO and other entities and shall be required to be kept and maintained for a period of ten years from the end of the relevant assessment year.

A relaxation is provided from keeping and maintaining the books of accounts and other documents at a place other than the registered office in a case where the management has passed a resolution for keeping the prescribed books of accounts and other documents at any other place in India and shall intimate full address of such other place to the jurisdictional Assessing Officer within 7 days thereof.

The books of accounts and other documents may be required to be kept and maintained for a period of more than 10 years where the assessment is reopened under section 147 of the Act within the prescribed period of 10 years, in that case, the books of account and other documents which were kept and maintained at the time of reopening of the assessment shall continue to be so kept and maintained till the assessment so reopened has become final

- Prior to the finance Act 2022 , there was no specific provision under the Act providing for the books of accounts to be maintained by these trusts or institutions. The Finance Act 2022 has amended the provisions of section 12A of the Act to provide for compulsory maintenance of books of accounts and other documents where the total income of any trust or institution without giving effect to the provisions of section 11 and section 12 of the Act exceeds the maximum amount which is not chargeable to income-tax in any previous year.
- This notification is issued by virtue of powers conferred to the Board under this clause with respect to maintaining books of account and other documents in the prescribed form and manner and at the prescribed place.

The newly inserted rule 17AA provides for following;-

- ✓ Maintenance of Books of accounts by a Trust or NGO as per section 12A or section 10(23C)
- ✓ Maintenance of Other Documents by a Trust or NGO as per section 12A
- ✓ Form and Manner of maintenance of Books of accounts and other documents by a Trust or NGO as per section 12A
- ✓ Place where the Books of accounts and other documents are required to be maintained by the Trust or NGO as per section 12A,
- ✓ Period for which Books of accounts and other documents to be kept and maintained

Readers may refer to complete text of the notification for further details.