Tax & Regulatory Updates – Key Developments of April 2024

DIRECT TAXATION

1. **Delhi High Court (HC) to examine the reassessment proceedings validity for AY 2012-13 in pursuance of Section 149(1) provisos:-** ***Delhi HC in the case of Flowmore Limited v Deputy Commissioner of Income Tax, New Delhi and ANR. (WP (C) 3269/ 2024 & WP (C) 3738/ 2024 & CM APPL.15409/2024)***

   The Delhi HC in the case of Flowmore Limited v Deputy Commissioner of Income Tax issues notice in a writ petition filed by the assessee challenging reassessment proceedings for AY 2012-13 initiated under the new regime. HC takes note of the provisos under Section 149(1) along with Assessee's contention vide WP (C) 3269/ 2024 that, "*since no reassessment notice for Assessment Year 2012-2013 could have been issued in accordance with the time frames as prescribed by Section 149(1)(b) of the Act as it stood immediately before the commencement of Finance Act, 2021, the impugned notice dated 31 March 2023 would be liable to be quashed*". HC also noted vide WP (C) 3738/ 2024 that "*We find merit in the submission addressed by Mr. Lalchandani who draws our attention to the fact that impugned notice would not sustain bearing in mind the First Proviso to Section 149 of the Income Tax Act, 1961*" and remarks that the matter requires consideration.

HC also takes note of the fact that the validity of Explanation 2 which stands placed at the end of Section 148 of the Act forms subject matter of challenge in W.P.(C) 1023 of 2024 (i.e. *Deeksha Holdings*) wherein the constitutional validity of deeming fiction created under Explanation 2 to Section 148 is already under challenge. HC grants time for completion of pleadings and clarifies that the Revenue can proceed further as per the impugned notice but not give effect to any adverse order until the next date of listing i.e. 27 May, 2024.

First proviso to section 149 provide that, "Provided that no notice under Section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if [a notice under Section 148 or Section 153A or Section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section or Section 153A or Section 153C, as the case may be], as they stood immediately before the commencement of the Finance Act, 2021".

It is important to note here that the insertion of new reassessment provisions by Finance Act 2021 has indirectly created a plethora of litigation during recent times. Even after the matter decided by the Hon'ble Supreme Court in the case of *Ashish Agarwal*, the litigation has not been resolved in entirety.

2. Tax department detects HRA fraud with illegal usage of PANs:- *News Report*

The income tax department in New Delhi has uncovered a significant fraud involving the unauthorized use of Permanent Account Numbers (PAN) by individuals to falsely claim House Rent Allowance (HRA) without being tenants. A substantial number of cases, totaling between 8,000 to 10,000, with amounts exceeding Rs 10 lakh each, have been detected. The investigation began when alleged rent receipts totalling around Rs 1 crore were found under an individual's PAN, who upon investigation, denied any knowledge of the transactions. Further inquiry revealed widespread misuse of PANs by unscrupulous individuals to claim tax deductions, including instances where employees from certain companies used the same PAN for this purpose.

Tax authorities stress that most financial transactions are linked to PANs, and with the use of advanced technology and data analytics, detecting fake claims is not challenging. This fraudulent activity can result in not only tax liabilities but also penalties, interest, and potential prosecution in severe cases. Tax experts emphasize the importance of genuine rental transactions, advising that rent should be paid through legitimate channels such as cheques or electronic transfers to demonstrate authenticity. It's noted that the responsibility primarily lies with the employee, and employers are not liable even if multiple individuals use the same PAN for rent payment. However, employers are encouraged to implement reasonable checks and balances to verify proof of rent paid for allowing HRA exemption, with some companies even terminating employees found submitting fake claims.

https://timesofindia.indiatimes.com/business/india-business/tax-department-detects-hra-fraud-with-illegal-usage-of-pans/articleshow/108885147.cms

3. No new tax changes effective from April 1, 2024, CBDT issues clarification on New Tax regime:- *Press Release dated 31st March 2024*

The Central Board of Direct Taxes (CBDT) has clarified that there are no new tax changes coming into effect from April 1, 2024. The new tax regime, introduced in the Finance Act 2023,

remains the default option for taxpayers, with the flexibility to choose between this and the old regime annually. Under this new regime, applicable to individuals other than companies and firms, the tax rates are significantly lower. However, various exemptions and deductions (except for the standard deduction of Rs. 50,000 from salary and Rs. 15,000 from family pension) are not available, unlike the old regime. Taxpayers can still opt out of the new regime and choose the one that best suits their financial situation. This choice can be made annually until the filing of the return for the Assessment Year 2024-25. So, while there are no fresh changes, taxpayers have the freedom to decide which tax path to tread each year.

https://pib.gov.in/PressReleasePage.aspx?PRID=2016754

4. Directorate (Systems) specifies ITR verification timelines failing which ITR shall be invalid:- *CBDT Notification No. 2/2024 dated 31.03.2024*

As per Notification No. 2/2024 dated 31st March 2024, the DGIT (Systems) exercise the powers conferred under Rule 14 of the Centralised Processing of Returns Scheme, 2011, Notification No. 05 of 2022 dated 29.07.2022, specifies the time limit for verification of ITR as 30 days from the date of transmitting the data of ITR electronically. DGIT clarified that (i) Where Return of Income (ROI) is uploaded and e-verification/ITR-V is submitted within 30 days of uploading, then the date of uploading the ROI shall be considered as the date of furnishing the ROI and (ii) Where ROI is uploaded but e-verification/ITR-V is submitted after the time-limit of 30 days of uploading then the date of e-verification/ITR-V submission shall be treated as the date of furnishing the ROI and all consequences of late filing of ROI under the Act shall follow, as applicable.

This notification clarifies that the duly verified ITR-V in prescribed format and in the prescribed manner shall be sent either through ordinary or speed post or in any other mode to the following address only: Centralised Processing Centre, Income Tax Department, Bengaluru – 560500, Karnataka. The Notification also provides that the date on which the duly verified ITR-V is received at CPC shall be considered for the purpose of determination of the 30 days period from the date of uploading of ROI. It is further clarified that where ROI is not verified after uploading within the specified time line as prescribed above then such ITR shall be treated as invalid.

This Notification comes into effect from Apr 1, 2024.

5. Directorate (Systems) issues corrigendum on timeline for treating ITR as invalid for non-verification:- *Corrigendum to Notification No. 2/2024 dated 31.03.2024 on 04.04.2024*

Directorate of Income-tax (Systems) issues corrigendum dated 4th April 2024 to Notification No. 2/2024 dated 31st March 2024 bearing the subject “Time limit for verification of return of income after uploading”, clarified that where the return of income is not verified within 30 days from the date of uploading or till the due date for furnishing the return of income as per the Income-tax Act, 1961 whichever is later then such return shall be treated as invalid due to non-verification.

6. Functionality for Verification of High Risk Refund Cases for TDS charge officers:- *Insight Instruction No.76 dated 02 April 2024*

The Directorate of Income Tax (Systems) has recently issued Insight Instruction No. 76, providing a structured framework for the verification of high-risk refund cases in Tax Deducted at Source (TDS). The directive is to enhance scrutiny and ensure accuracy in the refund processing system. By adhering to the Standard Operating Procedure (SOP) outlined in this instruction, tax authorities can effectively identify, investigate, and address potential discrepancies in high-risk refund cases. This process aims to uphold the integrity of the TDS system and foster taxpayer confidence. Following key points are covered of this insightful directive:

1. **Cluster Identification:** Clusters of high-risk refund Income Tax Returns (ITRs) are identified based on predefined rules using Tax Deduction Account Number (TAN). These clusters are then distributed to the respective Commissionerates of Income Tax (CIT) for further action.

2. **Allocation to Assessing Officers (AOs):** Upon receipt of the clusters, the CIT(TDS) allocates them to Assessing Officers (AOs) such as Deputy Commissioner of Income Tax (DCIT), Assistant Commissioner of Income Tax (ACIT), or Income Tax Officer (ITO) for thorough investigation.

3. **Verification Feedback:** AOs conduct detailed verification of the assigned cases and provide feedback through the Insight Portal. The feedback options include:

   - No Further Risk Assessment required": Indicates that the case has been thoroughly examined, and no further risk assessment is necessary.

   - Further risk assessment required": Suggests that additional scrutiny or investigation is needed to address potential discrepancies.

4. **Guidance and Support:** Detailed SOP's are issued for TDS charges officers for verification of High-Risk Refund (HRR) along with Step-by-step guidance on case view, verification, and feedback in the Insight portal which are attached in the notification as Annexure A and Annexure B.

   Conclusion: Insight Instruction No. 76 establishes a systematic approach to verify high-risk refund cases in TDS, emphasizing transparency, efficiency, and adherence to SOPs. By implementing these guidelines, tax authorities can effectively identify and address potential discrepancies, thereby bolstering the integrity of the TDS system and fostering taxpayer trust.

This directive underscores the commitment of tax authorities to ensure accurate and fair processing of refunds while maintaining robust compliance with tax regulations.

https://itgoawbunit.org/pdf/62254-insight-76.pdf

7. Domestic startups come under income tax glare for their recent funding:- *News report*

The fintech sector in India has recently come under the scrutiny of the Income Tax Department, with several startups being issued notices under Section 68 of the Income Tax Act, 1961. These

notices have linked venture capital investments with the startups' income, leading to significant tax and penalty demands. For example, one startup registered with the Department for Promotion of Industry and Internal Trade (DPIIT) is facing a demand of Rs 37 crore on funding of Rs 40 crore. Section 68 allows for the taxation of unexplained capital alongside earned income, but tax demands can be resolved if satisfactory explanations and documentation are provided. Typically, startups recognized by DPIIT are exempt from such scrutiny. However, the article mentions a fintech startup founder who complied with initial documentation requests but still received a tax demand.

CBDT emphasizes that assessments are conducted anonymously and based on strong risk management, with no specific targeting of Bengaluru-based or fintech startups. The article also discusses the challenges faced by startups and Alternative Investment Funds (AIFs) in providing confidential investor information and the impact of tax demands on the startups' working capital. It concludes by emphasizing the importance of striking a balance between tax compliance and fostering a supportive environment for legitimate entrepreneurship.

8. India strengthens bilateral ties with Mauritius, enters protocol to amend DTAA to make it compliant with BEPS:- *Government of India, Press Release dated 13 March 2024*

On 13 March, 2024, Indian President Droupadi Murmu concluded her state visit to Mauritius, holding talks with Mauritius Prime Minister Pravind Jugnauth. They reaffirmed their commitment to further deepen the long-standing partnership between the two countries. Leaders witnessed the exchange of 4 agreements, including the protocol to amend the India-Mauritius Double Tax Avoidance Agreement (DTAA) to make it compliant with Base Erosion and Profit Shifting (BEPS) Minimum Standards. The other agreements exchanged are as follows:

a) MoU between International Financial Services Centres Authority (GIFT City) and Financial Services Commission, Mauritius;
b) MoU between Public Service Commission, Mauritius and Union Public Service Commission;
c) MoU between the Central Bureau of Investigation, India and the Independent Commission Against Corruption of Mauritius.

9. IT Dept. clarifies India-Mauritius DTAA Protocol not yet ratified, queries 'premature':- *Income Tax Department vide its twitter handle dated 12 April 2024*

The Income Tax Department vide its tweet (post on "X") dated 12 April 2024 brought in a clarity with regards to some concerns it has come across on the India Mauritius DTAA amended recently. The department has clarified that, "*The concerns /queries are premature at the moment since the Protocol is yet to be ratified and notified u/s 90 of the Income-tax Act, 1961. As and when the Protocol comes into force, queries, if any, will be addressed, wherever necessary.*"

India and Mauritius on March 7, 2024, signed an amendment to the DTAA and included a principal purpose test (PPT) in the agreement which aims to curtail tax avoidance by ensuring that treaty benefits are only granted for transactions with a bona fide purpose. There were concerns that foreign portfolio investments coming via Mauritius would face increased scrutiny by tax authorities. Also, there were apprehensions that past investments

could be covered by the amended protocol. Historically, Mauritius has been a preferred jurisdiction for engaging in investments in India due to the non-taxability of capital gains from the sale of shares in Indian companies until 2016. In 2016, India and Mauritius signed a revised tax agreement, which gave India the right to tax capital gains in India on transactions in shares routed through the island nation beginning April 1, 2017. However, investments made before April 2017 were grandfathered. The goal of the amendment to the DTAA between Mauritius and India is to discourage tax evasion. However, its applicability and implementation is yet to be notified.

With the introduction of the PPT test in the India-Mauritius tax treaty, tax authorities in India are expected to "look beyond" the tax residency certificate (TRC) issued by Mauritius authorities and scrutinize transactions more closely on a case to case basis. This may involve assessing the intent and commercial rationale behind structures and investments to determine eligibility for treaty benefits.

https://www.business-standard.com/finance/news/amended-india-mauritius-tax-treaty-protocol-yet-to-be-notified-i-t-dept-124041201058_1.html

https://economictimes.indiatimes.com/news/economy/finance/amended-india-mauritius-tax-treaty-will-not-be-applied-retrospectively-report/articleshow/109248124.cms

10. CBDT releases 'Interim Action Plan FY 2024-25', requires immediate action on grievance redressal & refund approval:- ***CBDT Circular dated 05.04.2024, F. No. 380/01/2024 – IT(B)***

CBDT releases Interim Action Plan for FY 2024-25 prescribing key results areas to be achieved within specified timelines as indicated below:

Immediate Action to be taken on: Disposal of E-nivaran and CPGRAM over 30 days

Immediate Action to be taken latest by 30.04.2024:

- Approval of all pending refunds, withheld u/s 241A, where scrutiny assessments have been completed and necessary orders have been passed
- Approval by JAO/Range Head of all refunds pending, of ITBA e-returns, for all Assessment years.

Action by 15.04.2024:

- Submission of quarterly dossier report above Rs. 500 Cr by the respective Pr. CCsIT/ DGsIT(Inv.) received by 31.03.2024.
- Identification of activities to be undertaken for celebration of Income Tax Day, 2024.
- Sensitisation on consequence of non-filing of ITR.

Action by 30.04.2024:

- JAOs to provide response in ITBA recovery module for demands Rs. 500 Cr and above, for demand verification where submission of AO's responses to outstanding demands as on 01.04.2024, in ITBA Recovery module.
- Passing of orders in cases where the AO disagrees with the demands above Rs. 1 Cr and such demands are rectifiable on account of mismatch of prepaid taxes, duplicate demands, OGE, etc. in cases of demands of Rs. 500 Cr and above.

- 100% submission of information in requests pending as on 31.03.2024 as sharing of information sought by various LEAs (CBI, ED, SEBI, CBIC/DRI, FIU-IND, Police and SFIO, etc.).
- Identification and processing of all cases (search cases, 153C/ 148 cases, Black Money Act cases, FT&TR cases, etc.) which require centralization in the central charges (to be done in ITBA only).
- Processing of returns of income validly filed electronically with refund claims under section 143(1) of the Income-tax Act, 1961 beyond the prescribed time limits in non-scrutiny cases for AY 2021-22.
- Compiling and submission of Quarterly Audit Report Data with respect to Internal and Revenue audit for the period upto Mar 2024.
- Review of Inspection reports in cases of Ward, Circle and Range offices, received by 31.03.2024.
- Allocation of reassessment cases getting time barred on 31.03.2025 to AU by the Directorate of Systems by NaFAC.
- 100% implementation of e-office for SLP work in appellate matters.
- Forwarding of all pending complaints to respective CVOs in cases of Group 'A', Group 'B' and Group 'C' officers/officials.
- Implementation of e-office for communication with CBDT by Pr. CCIT(CCA).
- Cancellation of candidature and returning of dossiers of candidates beyond 6 months by Pr. CCIT(CCA).

Action by 15.05.2024:

- Review of Inspection reports in cases of CIT (Appeals), received by 31.03.2024.
- Creation of complete hierarchy for all field formations of International Taxation and Transfer Pricing in all Systems Modules.
- Holding of all pending DPCs at all grades (Group B & C) by Pr. CCIT(CCA) for HRD related matters.
- Reporting of vacancies in direct recruitment cadres of Group B & C by Pr. CCIT(CCA).
- Finalisation of RFP for HRMS platform.

Action by 31.05.2024:

- JAOs to provide response for demands outstanding as on 01.04.2024, in ITBA Recovery Module between Rs.10 Cr to Rs. 500 Cr and between Rs. 1 Cr to Rs. 10 Cr.
- Passing of orders in cases where the AO disagrees with the demands above Rs. 1 Cr and such demands are rectifiable on account of mismatch of prepaid taxes, duplicate demands, OGE, etc., where demands are between Rs. 10Cr to 500 Cr and between Rs. 1 Cr to 10 Cr.
- Upholding the categorising of demand 'Difficult to recover' and 'demand under dispute' of CAP-I as per the facility/utility available in the demand management module for which FAQ issued in Feb 2020.
- Transfer of PANs to correct jurisdictions both within and out of International Taxation, for International Tax/Transfer Pricing cases.
- 100% filing of Revenue appeals/petitions before High Court and ITAT in e-filing mode.
- Completion of pending deficient APAR (Group B & C) and Cataloguing of Service Litigation by Pr. CCIT(CCA).

- Issue of notification for holding online Departmental Exam for ITO/ITI/MS Exam and registration of eligible candidates, by Directorate of HRD.
- Finalisation of Civil List.
- Completion of pending deficient APAR (Group A).

Action by 15.06.2024: Delayed Rent Revision proposals received from the field offices to be submitted to the Competent Authority.

Action by 30.06.2024:

- Final Settlement of atleast 50% of Major and 75% of Minor Internal as well as Revenue Audit Objections which were received till 31.12.2023.
- Final Settlement of atleast 50% of Internal as well as Revenue Audit Objections brought forward on 01.04.2024.
- Identify all cases where seized assets are due for release as per section 132B and release thereof.
- Completion of processing of cases of prosecution u/s 276CC for defaults in filing of return of income, already identified by Systems Directorate or identified manually.
- Completion of processing of all cases where penalty has been confirmed before ITAT during FY 2023-24, for prosecution u/s 276C(1).
- Completion of processing of all cases of wilful attempt to evade the payment of tax, penalty or interest under Section 276C(2).
- Disposal of all compounding applications pending as on 31.03.2024 by all charges except TDS charge.
- Collection of data for the publishing of the 'Compendium of Audit'.
- Collection of data for the publishing of 'Taxalogue'.
- All pending remand reports to be completed by JAOs.
- Disposal of assessment in atleast 10% of the cases where limitation expires on 31.03.2025.
- Disposal of TPO's order in atleast 90% of the cases where limitation for TPO's order expires on 31.07.2024.
- Verification of atleast 10% of all 15 CA/CB certificates sent to the field in FY 2023-24 and initiation of action u/s 201(1)/(1A) in appropriate cases.
- Completion of consequential actions, viz. verifications/ issuance of order granting registration under Section 80G in pursuance of directions/ orders of Appellate authorities.
- Disposal of penalties in at least 50% of the cases getting time barred on 31.03.2025 including cases where penalties had been kept in abeyance and subsequently the orders of the first appellate authority in quantum appeal have been received during FY 2023-24 and the penalty is imposable as per proviso 2 section 275(1)(a) of the Act.
- Transfer out of cases falling under exceptional categories from AU to JAOs in respect of proceedings getting time barred in FY 2024-25.
- First questionnaire under section 142(1) of the Act in all allocated cases.
- Reduction out of TDS demands as on 01.04.2024 including demand not fallen due by 25% collection out of TDS demands as on 01.04.2024 including demand not fallen due by 10%.
- Examination of top 30 cases of short payment (per Assessing Officer as per MIS report 'SP with unconsumed challans').

- Reconciliation of brought forward cases (as on 01.04.2024) of TDS reported by AINs with payment through OLTAS by State AGs based on report available on TRACES portal
- Verification of Form No. 27C/15G/15H received during FY 2023-24.
- Seminars/awareness campaigns to be conducted through webinars.
- Passing of order u/s 201 (1)/(1 A) in all cases where TDS survey has been conducted upto 31.03.2024.
- Passing of order u/s 201(1)/201(1A) in all cases where TDS e-verification was approved till 31.12.2023.
- Completion of processing of identified cases for prosecution u/s 276B/BB in accordance with Scheme approved by the Board, and disseminated to CsIT (TDS).
- Identification of potential cases for prosecution as a result of survey or other information or verification or proceedings carried out in FY 2023-24 & earlier years, by CIT (TDS) with Addl. CIT (TDS) and AO (TDS).
- Finalization of Compounding Proposals pending as on 31.03.2024.
- Disposal of atleast 150 (excluding VSV appeals) appeals. Priority should be given to disposal of the appeals filed prior to 01.04.2020, followed by disposal of appeals filed after 01.04.2020.
- CIT(A)s handling appeals under Black Money Act, 2015, shall dispose of appeals filed against penalty orders as minimum of 10 appeals or 10% of total appeals pending, whichever is higher and in case of appeals against 10(3)/10(4) order under Black Money Act, CIT(A) shall dispose of minimum of 5 appeals (Subject to availability of sufficient number of appeals).
- ACIT/ JCIT(Appeals) shall dispose of atleast 150 pending appeals.
- Final Settlement of atleast 50% of Major and 75% of Minor Internal and Revenue Audit Objections which were received till 31.12.2023 under CIT(Audit).
- Final Settlement of atleast 50% of Internal and Revenue Audit Objections brought forward on Apr 1, 2024 under CIT(Audit).
- Annual updation of Asset Register (as on 31.03.2024) and submission of information to Directorate of Infrastructure.
- Recommendation of CIT/DIT in standardized proforma to Member (IT) w.r.t Form 3CF applications received by 31.03.2024.
- Disposal of petitions filed u/s 119 for condonation of delay brought forward from 01.04.2024.
- Submission of field reports by Pr.CCsIT in cases where petitions under section 119(2)(b) are pending before the Board.
- Pending High Court cases with SQsL to be updated on the LIMBS portal.
- To ensure filing of Form 61/ 61A by all non-filer SROs for FY 2022-23
- Specifies outreach activities for SFT/SRA filing to be at least 4 by each DIT including 1 for SRO. (Starting from 15th April), for PAN validation to be at least 2 by each DIT, and for e-Verification Scheme to be at least 2 by each DIT.
- To complete work for peer review as per schedule drawn.
- To carry out verification work as per pendency.
- Closure of all Form 61B matters pending verification.
- Conducting seminars on preventive vigilance-one meeting in each Pr. CCIT region on preventive vigilance issues for sensitization of AOs and DDOs.
- Processing and finalization of 30% of pending complaints received by field formations upto 31.03.2024.

- Conducting one review meeting in every quarter by Zonal ADG(Vig.) with each Pr.CCIT of their charge for monitoring of all pending vigilance cases – Group-C.
- Disposal of DPs by field formations (a) Disposal of 25% DPs brought forward as on Apr1, 2024, (b) providing all relied upon documents to CO along with Charge Memorandum.
- Training/ Interactive Seminars on CCS(CCA) Rules and CCS(Conduct) Rules in every quarter by each Pr.CCIT in association with Zonal ADG (Vig.) and NADT, Regional Campus.
- Training of IOs/ POs/ Vigilance Workforce once in three months in association with Zonal ADG(Vig.).
- Issuing notification of RRs of OS/ITI/PS.
- Reporting of vacancies to SSC after obtaining NOC from Surplus Cell, DoPT.

Action on other matters:

- Disposal of applications u/s 154 filed by the assessees pending as on 01.04.2024 by 30.06.2024 or as per the time limit prescribed under the Act, whichever is earlier.
- Information sought by various LEAs (CBI, ED, SEBI, CBIC/DRI, FIU-IND, Police and SFIO, etc.) in requests received after 01.04.2024, is to be furnished within 15 days of receipt of request from CBDT.
- Uploading actionable information received from LEAs/ any other authority on VRU/CRIU functionality within 15 days of receipt.
- Compiling and submission of Monthly Audit Report Data within 20 days from the end of the month, for internal audit and revenue audit.
- Preparation & submission of Draft Action Taken Notes (ATN) on draft para raised by C&AG, within 30 days from receipt of relevant letter from CIT (A&J).
- Providing inputs on queries raised by C&AG w.r.t. performance within the time stipulated by CIT(A&J).
- Disposal of all pending applications as on 01.04.2024 and fresh applications for nil/lower deduction TDS/TCS certificates under section 195 and 197, within a month of receipt of the same.
- Completion of consequential action by assessing officers in all cases wherein condonation has been allowed by the CIT for delay in filing Form 9A, 10, 10B, 10BB within one month from the end of the month in which condonation order was passed by CIT.
- Issuing centralized communication to assessees in non-responsive cases by NaFAC immediately after timeline for compliance is over as per SOP.
- Disposal of all pending applications as on 01.04.2024 and fresh applications for nil/lower deduction TDS/TCS certificates under Section 197 and 206C (9), within a month of receipt of the same.
- Dispose of VsV appeals for which Form-5 has been received within fifteen days of receipt of the Form-5.
- Pr. CCIT should send the rent related proposals to the CBDT Within 45 days of receipt of proposal. In any case, proposals should be sent 6 months prior to the expiry date of earlier agreement.
- Provide all relied upon documents to IO/PO within 15 days from appointment of IO/PO.
- Provide vigilance clearances in individual cases within 7 working days of receipt of request.

- Provide vigilance clearances in group cases within 15 working days of receipt of request.
- Dispose of appeals filed against penalty orders in case of group B and C officers/officials Within 1 month from the date of receipt.

11. CBDT clarifies 'no special drive' to reopen cases of HRA mismatch:- *Press Release dated 08.04.2024*

CBDT vide press release dated 08th April 2024 clarifying that there is no special drive to reopen cases of mismatch of House Rent Allowance (HRA), states that the media reports alleging large-scale reopening of cases is completely misplaced. The CDBT acknowledges that certain instances of mismatch of information as filed by the taxpayer and as available with the Income Tax Department came to the notice of the Department as part of its routine exercise of verification of data. In such cases, the Department alerted the taxpayers to enable them to take corrective action whereas some posts on social media as well as articles in the media highlighted enquiries initiated by the CBDT in cases where employees have made incorrect claims of HRA and rent paid. It is stated that any apprehensions about retrospective taxation on these matters and reopening of cases on issues pertaining to HRA claims as completely baseless.

Further clarifies that the data analysis for high-value cases of mismatch between the rent paid by the employee and receipt of rent by the recipient was only for FY 2020-21 and that this verification was done in a small number of cases without reopening bulk of cases, especially, since Updated Return for AY 2021-22 could have been filed only till Mar 31, 2024. It is also underlined that the objective of the e-verification was to alert cases of mismatches of information for FY 2020-21 only without affecting the others.

12. Directorate (Systems) mandates e-filing & Rule 131 verification for TRC, MAP applications & other forms:- *CBDT's Notification no. 01/2024 dated 26 February 2024*

The Directorate of Income-tax (Systems) has issued Notification No. 1/2024 dated Feb 26, 2024. This notification mandates that certain forms must be submitted electronically and verified as per the guidelines outlined in Rule 131(1). Rule 131(1) stipulates that the PDGIT (Systems) or DGIT (Systems), with the approval of CBDT, may specify that any of the prescribed forms, returns, statements, reports, orders, etc., shall be furnished electronically. This can be done either under a digital signature, if the return of income is required to be furnished under a digital signature, or through an electronic verification code in cases not covered under the digital signature clause.

The forms specified include:

1. **Form 3CT**: Pertaining to income attributable to assets located in India under Section 9.
2. **Form 10BBA:** An application for notification under Explanation 1(c)(iv) to Section 10(23FE).
3. **Form 10BBC**: A certificate from an accountant regarding compliance with the provisions of Section 10(23FE) by the notified Pension Fund.
4. **Form 10FA**: An application for a Tax Residency Certificate for the purposes of agreements under Sections 90 and 90A.

5. **Form 34F**: An application from an assessee, resident in India, seeking to invoke the mutual agreement procedure provided for in agreements with other countries or specified territories.
6. **Form 3CED:** Application for an Advance Pricing Agreement (APA)
7. **Form 3CEE:** Application for withdrawal of APA request
8. **Form 3CEFA:** Application for Opting for Safe Harbour\
9. **Form 34F:** Form of application for an assessee, resident in India, seeking to invoke mutual agreement procedure provided for in agreements with other countries or specified territories.

This notification shall come into effect from 1st April 2024.

13. Indian Supreme Court (SC) dismisses Assessee's review petition against Checkmate Services judgment due to delay:- *SC order dated 03 April 2024 in Review Petition (Civil) Diary No.15254/2023*

The SC dismisses the review petition preferred by Kerala State Warehousing Corporation against the Checkmate Services judgment due to delay in filing the review petition by the assessee. Apex court noticed that "*There is a delay of 152 days in filing the review petition, which has not been satisfactorily explained. The review petition is, therefore, dismissed on the ground of delay.*" In the judgment sought to be reviewed, SC had held that depositing employees' PF and ESI contribution on or before the due date stipulated in respective statutes to be an essential pre-condition for claiming deduction under Section 36(1)(va) of the Income-tax Act. SC had decided the batch of appeals in favour of the Revenue that also included the appeal of Kerala State Warehousing Corporation against the Kerala HC judgment in the said matter. The brief facts and judgement of Apex court in the checkmate case is produced below for a ready reference:

Facts of Checkmate:

1. The Assessing Officers held that the assessees had belatedly deposited their employees' contribution towards the EPF and ESI, considering the due dates under the relevant acts and regulations. Consequently, the AOs held that by virtue of section 36(1)(va) read with section 2(24)(x), such sums received by the assessee constituted 'income' and those amounts could not have been allowed as deductions under section 36(1)(va).

2. On appeal, the Tribunals upheld the order of the AOs. However, there was a division of opinion on said issue between High Courts, wherein, the High Courts of Bombay, Himachal Pradesh, Calcutta, Guwahati and Delhi favouried the interpretation beneficial to the assesses on the one hand, and the High Courts of Kerala and Gujarat preferring the interpretation in favour of the Revenue on the other.

3. Consequently, Supreme Court granted SLP to appeal in all relevant cases:

Observations & Verdict of the Apex Court:

1. The distinction between an employer's contribution which is its primary liability under law - in terms of section 36(1)(iv), and its liability to deposit amounts received by it or deducted by it (i.e. Section 36(1)(va)) is crucial. The former forms part of the employers' income, and the later retains its character as an income (albeit deemed), by virtue of section 2(24)(x), unless the conditions spelt by Explanation to section 36(1)(va) are

satisfied i.e., depositing such amount received or deducted from the employee on or before the due date. In other words, there is a marked distinction between the nature and character of the two amounts - the employer's liability is to be paid out of its income whereas the second is deemed an income, by definition, since it is the deduction from the employees' income and held in trust by the employer. This marked distinction has to be borne while interpreting the obligation of every assessee under section 43B.

2. The non-obstante clause has to be understood in the context of the entire provision of section 43B which is to ensure timely payment before the returns are filed, of certain liabilities which are to be borne by the assessee in the form of tax, interest payment and other statutory liability. In the case of these liabilities, what constitutes the due date is defined by the statute.

3. Nevertheless, the assessees are given some leeway in that as long as deposits are made beyond the due date, but before the date of filing the return, the deduction is allowed. That, however, cannot apply in the case of amounts which are held in trust, as it is in the case of employees' contributions- which are deducted from their income. They are not part of the assessee employer's income, nor are they heads of deduction per se in the form of statutory pay out. They are others' income, monies, only deemed to be income, with the object of ensuring that they are paid within the due date specified in the particular law. They have to be deposited in terms of such welfare enactments. It is upon deposit, in terms of those enactments and on or before the due dates mandated by such concerned law, that the amount which is otherwise retained, and deemed an income, is treated as a deduction.

4. Thus, it is an essential condition for the deduction that such amounts are deposited on or before the due date. If such interpretation were to be adopted, the non obstante clause under section 43B or anything contained in that provision would not absolve the assessee from its liability to deposit the employee's contribution on or before the due date as a condition for deduction.

14. Traders' Federation challenges the constitutionality of Section 43B(h) before SC for violating Article 14 & 19(1)(g):- *News Report*

The All India Vyapar Mandal Union has filed writ petition before SC that challenges constitutional validity of Section 43B(h). The Petitioner primarily questions Section 43B(h) (inserted by Finance Act, 2023) for violating the fundamental rights of its members across India under Articles 14 and 19(1)(g) of the constitution. The Petitioner prays for interim stay on the implementation and operation of Section 43B(h) and ultimately a writ of mandamus for quashing the provision. The Finance Act, 2023 states that Section 43B(h) comes into effect from Apr 1, 2024 which means that transactions of FY 2024-25 would get affected. However, the Explanatory Notes to the Finance Act, 2023 states that the amendment is effective from AY 2024-25 due to which transactions with micro and small enterprises for FY 2023-24 get impacted by the amendment. This contradiction will affect the assesses at large as their purchases made during FY 2023-24 may get disallowed under Section 43B.

According to Jayendra Tanna, National President of the Federation of All India Vyapar Mandal, the traders seek an interim stay and the quashing of the provision. The traders argue that the newly added Section 43(B)(h), unfairly penalises small enterprises by restricting them from offering credit of more than 45 days to buyers. This restriction, they claim, pushes buyers towards medium-scale units, creating an arbitrary classification that

violates constitutional rights. Experts acknowledge the intention to protect MSME units but express concerns about potential business losses and the loss of a level playing field. What remains to be seen is whether the court gives due breather to the sector or not, or whether it favours the stance of the government. With the ongoing Lok Sabha elections, any decision to recall the provision can come only through the court, as the government cannot amend any provision of the Finance Act. Below are the primary contentions of the petitioner in the writ filed before the SC:

Section 43B(h) is a colourable legislation as clauses (a) to (g) deal with governmental or industrial institutions whereas clause (h) deals with private businesses.
Section 43B(h) infringes upon Article 19(1)(g) of micro and small enterprises from doing business on their own terms by granting the credit of more than 45 days to the buyers.
Section 43B(h) violates right to equality under Article 14 for micro and small enterprises as the same does not cover medium enterprises which also fall under MSMED Act.
Section 43B(h) contradicts the notion of limited governance on the citizens.
Section 43B(h) violates India's commitment before the WTO.
Section 43B(h) affects the allowability of purchases which cannot be termed as mere expenditure as purchases along with sales constitute business which has been mistaken as an expenditure of business.
Section 43B(h) disregards the norm that RBI in export and import allows Letter of Credit for 90 days.
Section 43B(h) also disregards that credit period depends on the product cycle and in other laws acknowledge the credit period of upto 180 days.

https://www.cnbctv18.com/economy/a-small-traders-union-sues-indian-govt-for-loss-of-business-due-to-payment-deadlines-19399453.htm

15. MFN Review Petitions listed before Supreme Court (SC) on April 23:- *News Report*

A review petition has been filed in the Supreme Court (SC) regarding its ruling in case Assessing Officer Circle (International Taxation) vs Nestle SA dated 19th October 2023 related to the most favored nation (MFN) clause in double taxation avoidance agreements (DTAA) by the Supreme Court bench of Justice Sanjiv Khanna & Justice Dipankar Datta.
Background of the case:-

The issue pertains to treaties that India signed with the Netherlands, France, and Switzerland, which contain MFN clauses. These clauses stipulate that if India enters into a treaty with another OECD member country that has lower tax rates, those rates would apply to entities from these three countries as well. However, the Hon'ble SC, in a verdict on 19th October 2023, set aside an April 2021 ruling of the Delhi High Court. The apex court held that a notification under section 90 of the Income Tax Act, 1961, is a mandatory condition to give effect to a DTAA or any other protocol that can alter existing provisions of law. Additionally, the court clarified that a claim under the MFN clause of a treaty with an OECD member country relying on a third OECD member's tax treaty with India is valid only if the third country was an OECD member at the time of entering into its DTAA with India.

This ruling is expected to have far-reaching implications for multinational companies operating in India, particularly those from France, the Netherlands, and Switzerland. The MFN clause not only applies to favorable tax rates but also extends to restrictions on the scope of incomes such as royalty, FTS, and other income. Many taxpayers have benefited

from the lower rate of dividend taxation (5%) provided in the DTAA between India and the respective countries pursuant to the MFN clause.

https://www.businesstoday.in/latest/in-focus/story/mfn-clause-review-petition-filed-against-sc-ruling-406741-2023-11-22

16. Indian Govt. kicks off direct tax code revision:- *News Report*

The existing Union government, if re-elected, would prioritize the long-delayed implementation of the Direct Taxes Code (DTC), aiming to simplify the laws governing direct taxes and align them more closely with global standards. Discussions are already underway within the finance ministry regarding this matter, with the initiation of the law-making process included as part of the agenda for the PM Modi 3.0 government following directives from the Prime Minister. The objective behind this move is to further simplify the laws governing direct taxes and bring them more in line with global standards. The draft prepared by a task force in 2019 will serve as the basis for this overhaul, which includes a recast of the capital gains tax regime and addressing various issues related to tax deducted at source.

Originally proposed by the UPA I government, the DTC was tabled in Parliament in 2010 after revisions by the Standing Committee in 2012 and 2014. Despite several steps taken by the Modi 1.0 and 2.0 governments to ease compliance and reduce exemptions, such as slashing the corporate income tax rate to 22% in September 2019, certain reforms remain pending, particularly in the taxation of capital gains and simplification of tax law provisions. Experts emphasize that the primary goal of the DTC should be simplification, focusing on rationalizing tax rates for capital gains, tax deducted at source (TDS), and streamlining personal income tax regimes.

One area of concern is ensuring alignment between the exemption-free personal income tax introduced in FY20 and reinforced in FY24 with the task force report's proposed different slab structures and reliefs for those earning up to Rs 55 lakh per annum. Although many proposals from earlier DTC drafts have already been implemented through annual amendments to the Income Tax Acts, there is still room for improvement. The PM Modi government's task force recommended radical changes, including stabilizing the tax system without annual rate changes and reducing disputes around taxation rules. Furthermore, analysts suggest simplifying the capital gains tax regime to align tax rates and holding periods across asset classes. The current regime is complex, with various periods, different tax rates, and indexation benefits, leading to complications and disputes.

Similarly, the tax deduction at source (TDS) regime has become cumbersome, with varying rates across different types of payments. Experts propose modest TDS rates with three slabs, which would benefit assesses and reduce the government's interest burden on refunds.Overall, the revamping of direct taxes is part of Modi's directive to all ministries and departments to focus on an action plan for the first 100 days of the Modi 3.0 government, aligning with the country's economic needs to achieve developed nation status by 2047.

https://www.financialexpress.com/policy/economy-govt-kicks-off-direct-tax-code-revision-3461547/

17. Indian Supreme Court (SC) dismisses Assessee's review petition against Checkmate Services judgment due to delay:- *SC order dated 03 April 2024 in Review Petition (Civil) Diary No.15254/2023*

The SC dismisses the review petition preferred by Kerala State Warehousing Corporation against the Checkmate Services judgment due to delay in filing the review petition by the assessee. Apex court noticed that "*There is a delay of 152 days in filing the review petition, which has not been satisfactorily explained. The review petition is, therefore, dismissed on the ground of delay*." In the judgment sought to be reviewed, SC had held that depositing employees' PF and ESI contribution on or before the due date stipulated in respective statutes to be an essential pre-condition for claiming deduction under Section 36(1)(va) of the Income-tax Act. SC had decided the batch of appeals in favour of the Revenue that also included the appeal of Kerala State Warehousing Corporation against the Kerala HC judgment in the said matter. The brief facts and judgement of Apex court in the checkmate case is produced below for a ready reference:

Facts of Checkmate:

1. The Assessing Officers held that the assessees had belatedly deposited their employees' contribution towards the EPF and ESI, considering the due dates under the relevant acts and regulations. Consequently, the AOs held that by virtue of section 36(1)(va) read with section 2(24)(x), such sums received by the assessee constituted 'income' and those amounts could not have been allowed as deductions under section 36(1)(va).
2. On appeal, the Tribunals upheld the order of the AOs. However, there was a division of opinion on said issue between High Courts, wherein, the High Courts of Bombay, Himachal Pradesh, Calcutta, Guwahati and Delhi favouried the interpretation beneficial to the assesses on the one hand, and the High Courts of Kerala and Gujarat preferring the interpretation in favour of the Revenue on the other.
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1. The distinction between an employer's contribution which is its primary liability under law - in terms of section 36(1)(iv), and its liability to deposit amounts received by it or deducted by it (i.e. Section 36(1)(va)) is crucial. The former forms part of the employers' income, and the later retains its character as an income (albeit deemed), by virtue of section 2(24)(x), unless the conditions spelt by Explanation to section 36(1)(va) are satisfied i.e., depositing such amount received or deducted from the employee on or before the due date. In other words, there is a marked distinction between the nature and character of the two amounts - the employer's liability is to be paid out of its income whereas the second is deemed an income, by definition, since it is the deduction from the employees' income and held in trust by the employer. This marked distinction has to be borne while interpreting the obligation of every assessee under section 43B.
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https://www.businesstoday.in/latest/in-focus/story/mfn-clause-review-petition-filed-against-sc-ruling-406741-2023-11-22

20. Indian Govt. kicks off direct tax code revision:- *News Report4*

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prepared by a task force in 2019 will serve as the basis for this overhaul, which includes a recast of the capital gains tax regime and addressing various issues related to tax deducted at source.

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https://www.financialexpress.com/policy/economy-govt-kicks-off-direct-tax-code-revision-3461547/

21. **SC dismisses software taxation review petition of Revenue, cites both delay & merits:-** ***Supreme Court order on Review Petition (Civil) 174660/2023 dated 23rd April 2024 in case of CIT vs GE India Technology Center Pvt. Ltd.***

In a significant legal development, a three-judge bench of the Supreme Court has rendered a decisive ruling by dismissing the review petitions brought forth by the Revenue in the GE Technology Centre Pvt Ltd case. The Court's decision was underscored by its observation of an inordinate delay in the filing of the review petitions, coupled with a determination of the lack of merit in their contentions.

The Supreme Court, in the case of Engineering Analysis Centre of Excellence Pvt. Ltd., held that the license for use of a product under an EULA cannot be construed as a license spoken of in section 30 of the Copyright Act, as such EULA only imposes restrictive conditions upon

the end-user and does not part with any interest relatable to any rights mentioned in section 14(a) and 14(b) of the Copyright Act. Thus, amounts paid by resident Indian end-users/distributors to non-resident computer software manufacturers/suppliers, as consideration for resale/use of computer software through EULAs/distribution agreements, is not payment of royalty for the use of copyright in computer software, and the same does not give rise to any income taxable in India.

Revenue filed a review petition contending that the Court overlooked the provisions of the Income-tax Act and the Copyright Act.

The Supreme Court held that there was an inordinate delay of 515 days in filing the review petitions, which had not been satisfactorily explained. Accordingly, the revenue review petition was to be dismissed on the grounds of delay as well as on merits.

22. CBDT extends due date for filing Form 10A/10AB till June 30:- *CBDT Circular No. 7/2024 dated 25th April 2024*

The Central Board of Direct Taxes (CBDT) has issued Circular No. 7/2024 dated April 25, 2024, extending the due date for submission of Forms 10A and 10AB to June 30, 2024. The extension applies to:

1. **Form No. 10A** applications under clause (i) of the first proviso to Section 10(23C), Section 12A(1)(ac)(i), the first proviso to Section 80G(5), or in case of an intimation under the fifth proviso of Section 35(1).
2. **Form No. 10AB** applications under clause (iii) of the first proviso to Section 10(23C), Section 12A(1)(ac)(iii), or the first proviso to Section 80G(5).

The extension also applies to pending applications under the same clauses. The CBDT clarifies that if such an application is already filed in Form 10AB and the Principal Commissioner of Income Tax (PCIT) or Commissioner of Income Tax (CIT) has not passed an order before the issuance of this Circular, the pending application may be treated as a valid application and if any application has been rejected by PCIT or CIT, on or before the issuance of this Circular, solely because the application was furnished after the due date or that the application has been furnished under the wrong section code, it may furnish a fresh application in Form No. 10AB within the extended time.

Furthermore, the CBDT clarifies that if any existing trust, institution, or fund failed to file Form No. 10A for Assessment Year (AY) 2022-23 within the due date as extended by the CBDT Circular No. 6/2023 dated May 24, 2023 (which was September 30, 2023) and subsequently applied for provisional registration as a new trust, institution, or fund and has received Form No. 10AC, it can avail the option to surrender the said Form and apply for registration for AY 2022-23 as an existing trust, institution, or fund in Form No. 10A within the extended time period that ends on June 30, 2024.

https://incometaxindia.gov.in/communications/circular/circular-7-2024.pdf

23. CBDT extends PAN-Aadhaar linkage deadline to May'24, saves transactions upto Mar'24:- *CBDT Circular no. 6/2024 dated 23rd April 2024*

CBDT has issued Circular No. 6/2024 dated April 23, 2024, which modifies Circular

No.3/2023 dated March 28, 2023. The modification pertains to the consequences of a Permanent Account Number (PAN) becoming inoperative due to the failure to intimate the Aadhaar number as per Section 139AA read with rule 114AAA. The CBDT noted that taxpayers received notices for committing default of short deduction/collection of Tax Deducted at Source (TDS)/Tax Collected at Source (TCS) due to inoperative PANs. In order to address the difficulties faced by the taxpayers, the CBDT has modified the prior Circular by allowing the linking of PAN and Aadhaar on or before May 31, 2024.

Consequently, for transactions entered up to March 31, 2024, there shall be no liability on the taxpayer to deduct/collect tax at a higher rate under Section 206AA/206CC if the PAN becomes operative by May 31, 2024. This Circular supersedes Circular No. 3/2023, wherein it was provided that the consequences of non-intimation of Aadhaar shall apply from July 1, 2023.

https://incometaxindia.gov.in/communications/circular/circular-6-2024.pdf

24. ITAT Special Bench to decide jurisdictional limits of Sec.153A vis-a-vis Sec.153C:- *Bangalore ITAT Special Bench*

T The Vice-President of the Income Tax Appellate Tribunal (ITAT) in Bangalore has referred a dispute concerning the interpretation of jurisdictional requirements under Section 153A vis-à-vis Section 153C of the Income Tax Act to a Special Bench. This referral arises from rulings issued by the Bangalore ITAT in the cases of K.G. Krishna and Anil H. Lad & P. Shyamaraju & Co., and a ruling by the Kolkata ITAT in the case of Krishna Kumar Singhania.

The matter will be heard by the Special Bench of Bangalore ITAT comprising Shri George George K., Vice-President, Smt. Beena Pillai, Judicial Member and Shri Laxmi Prasad Sahu, Accountant Member addressing the following questions:

1. Whether in an assessment framed under section 153A of the Act, materials found and seized in the course of search of some other person can be used, unless provisions of section 153C are invoked and whether the AO could take cognizance of the seized documents and other material found and seized in the course of search conducted in the premises/ case of a third party while framing the orders of assessment under section 153A of the Act in the case the Assessee?
2. Whether, if the AO wanted to take cognizance of the seized materials, he ought to invoke the provisions section 153C of the Act after recording his satisfaction based on material sent by AO of third party who was searched?
3. Whether jurisdictional pre-condition laid down by the legislature of recording of satisfaction for taking action under section 153C of the Act cannot be side-stepped/brushed aside and additions be made in proceedings pending under section 153A of the Act as the scope of assessments framed under sections 153A and 153C of the Act are quite different?

25. New FVUs and Return Preparation Utility for e-TDS/TCS Statements:- Press release .

The following utilities have been released to facilitate the validation and preparation of e-TDS/TCS statements for the relevant fiscal years.

I.File Validation Utility (FVU) Versions:

A.FVU Version 8.6 for quarterly e- TDS/TCS (for FY 2010-11 onwards):
Key Features:
Allows input under "Total deductions under section 16(ia)" for specific deductee records. Applicable for quarterly e-TDS/TCS statements from FY 2010-11 onwards. Effective from April 19, 2024 onwards.

B.FVU Version 2.182 for quarterly e-TDS//TCS Statement (for up to FY 2009-10):
Key Features:
Similar functionality to FVU 8.6, applicable for earlier fiscal years. Effective from April 19, 2024 onwards.

II.Return Preparation Utility (RPU):
RPU version 5.1 for Regular and correction e-TDS/TCS Statement (for FY 2007-08 onwards):
Key Features:
Facilitates the preparation of Regular & Correction Statements.
Allows input under "Total deductions under section 16(ia)" for specific deductee records.
Applicable for statements from FY 2007-08 onwards. Effective from April 19, 2024 onwards.

https://taxguru.in/income-tax/fvus-return-preparation-utility-e-tds-tcs-statements.html

26. Mauritius yet to ratify protocol amending treaty with India:- *News Report*

The Mauritius Revenue Authority (MRA) recently clarified that the protocol amending the Mauritius-India Double Taxation Avoidance Agreement (DTAA) to align with base erosion and profit shifting minimum standards has not yet been ratified. This statement follows a notification by Indian income tax authorities on social media platform X confirming the pending ratification and notification of the protocol under Section 90 of the Income Tax Act. Once ratified and notified by both countries, the protocol will amend the DTAA accordingly. The MRA indicated that the protocol will come into force on the later of the two notifications. Prior to ratification, stakeholders will receive detailed information explaining the amendments to the Mauritius-India DTAA. The amendment, signed by India and Mauritius on March 7, introduces a principal purpose test (PPT) to ensure that treaty benefits apply only to transactions with genuine purposes. However, the application of the PPT to grandfathered investments remains unclear and requires further clarification from tax authorities.

https://www.thehindubusinessline.com/economy/yet-to-ratify-protocol-amending-treaty-with-india-mauritius/article68094295.ece

27. Income Tax Act amendment on cards on tax treatment of MSME dues:- *News Report*

Last year, an amendment was made to the Income Tax Act with the intention of assisting small businesses in receiving payments in a timely manner. Unexpectedly, this change may

have led to a decrease in the number of buyers for their goods and services. Based on information from two anonymous individuals familiar with government discussions, it is anticipated that the Act may be revised once more in the comprehensive budget for FY25 in July. The exact nature of the potential amendment is not yet clear. One of the individuals suggested that there is a strong possibility that clause H of section 43B might be removed. The other individual stated that it is too early to discuss the specific amendments that could be implemented.

Clause H was added to section 43B of the Income Tax Act as part of the Finance Act 2023 to address the liquidity problems of Micro, Small, and Medium Enterprises (MSMEs). This clause stipulates that payments to small businesses that are delayed beyond a certain period can only be claimed as an expenditure (deductible from taxable income) in the financial year in which the payments are actually made, not in the year when the payment obligation was incurred.

https://www.livemint.com/economy/income-tax-act-amendment-on-cards-on-tax-treatment-of-msme-dues-11713790875127.html

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INDIRECT TAXATION

1. **Section 122(1A) of CGST Act cannot be invoked against employee as he is not 'taxable'/'registered person':-** ***Shantanu Sanjay Hundekari v. Union of India - [2024] 161 taxmann.com 27 (Bombay)[28-03-2024]***

   The petitioner, an employee of M/s. Maersk Line India Pvt. Ltd ('MLIPL'), is a Taxation Manager with the company. The petitioner received a Show Cause Notice ('SCN'), requiring an explanation as to why a penalty equivalent to the tax allegedly evaded by MLIPL should not be imposed on him under Section 137 and Section 122(1A) of the CGST Act, 2017.

   The petitioner argued that Section 122(1A) is not applicable since they do not derive any benefit from transactions conducted by MLIPL, and thus invoking Section 122(1A) is unjustified.

   The Court held that Section 122(1A) does not apply to the petitioner as they are not a 'taxable person' or 'registered person' which is a condition of the said provision. Further, as an employee of MLIPL, the petitioner was not legally positioned under the CGST Act to retain benefits from MLIPL transactions.

   Moreover, the Court stated that Section 137 does not apply since the petitioner was not responsible for or in charge of MLIPL's business. Hence, it set aside the impugned SCN.

2. **Madras HC stayed order treating entire salary paid to seconded employees as taxable supply:-** ***Hyundai Motor India.Ltd. v. Additional Commissioner - [2024] 161 taxmann.com 129 (Madras)***

   The petitioner was engaged in business of manufacture and supply of automobiles. It entered into agreements with its parent company and seconded employees to the petitioner for a fixed term. The department issued a show cause notice to the petitioner and alleged that it was liable to pay GST on the salary of seconded employees.

   It submitted that the entire salary paid to seconded employees was subject to income tax and outside the scope of supply under applicable GST enactments. However, the department passed an order and treated entire salary paid to seconded employees as taxable supply. It filed writ petition against the said order.

   The High Court noted that the issue was whether the salary of seconded employees would be treated as consideration for supply of service. The Court noted that the several High Courts granted interim relief and are also examining whether such an arrangement would qualify as a taxable supply or not. Therefore, the Madras High Court held that since prima facie case was made out, an interim stay of further proceedings pursuant to impugned order to be granted until matter was heard next.

3. **CBIC notifies Nil Interest Rate for Late GSTR-3B Filings for specified taxpayers:-** ***Notification No.07/2024-Central Tax dated 08 April 2024***

   The Ministry of Finance, under the Department of Revenue, Central Board of Indirect Taxes and Customs, issued Notification No. 07/2024 dated 8th April 2024, regarding the

imposition of a 'Nil' interest rate for certain registered persons who failed to furnish their returns in FORM GSTR-3B by the due date due to technical glitches on the portal. This notification, issued under the Central Goods and Services Tax Act, 2017, specifies the class of registered persons, their Goods and Services Tax Identification Numbers (GSTINs), the respective months of non-filing, and the period for which the interest rate is considered 'Nil' (covering months from June 2017 to October 2018).

Eligible registered persons must have had sufficient balance in their electronic cash ledger or credit ledger, or have deposited the required amount through challan. The provision aims to address situations where technical issues hindered compliance despite the availability of funds, reflecting the government's commitment to facilitating GST compliance while addressing challenges faced by taxpayers.

https://taxinformation.cbic.gov.in/view-pdf/1010056/ENG/Notifications

4. **GSTN issued advisory on Reset and Re-filing of GSTR-3B of some taxpayers:-** ***GSTN Update dated April 9th, 2024***

The GSTN has issued an advisory to inform about the facility for re-filing of GSTR-3B for some of the taxpayers since there were discrepancies in the returns of some taxpayers during the filing process between the saved data in the GST system and actually filed data in the fields of ITC availment and payment of tax liabilities.

Accordingly, only the affected taxpayers have been communicated on their registered email-ids and the affected returns are visible on their respective dashboards for the purpose of refiling with the correct data. The taxpayers who have received such communication, are requested to visit their dashboard and re-file their GSTR-3B within 15 days of receipt of such communication.

5. **GSTN issued advisory on facility to auto-populate the HSN-wise summary from e-Invoices into Table 12 of GSTR-1:-** ***GSTN Update dated April 9th, 2024***

The GSTN has issued an advisory to inform that a new feature to auto-populates the HSN-wise summary from e-Invoices into Table 12 of GSTR-1 is now available on the GST portal. This allows for direct auto-drafting of HSN data into Table 12 based on e-Invoice data.

Please note that the HSN-wise summary data auto-populated into Table 12 is intended for convenience of taxpayers only and you must reconcile the data with your records before its final submission.

6. **Special procedure and compliance for manufacturers of tobacco, pan masala etc. deferred further till 15-05-2024:-** ***Notification No. 08/2024-Central Tax dated April 10th, 2024***

Based on the recommendations of the 50th GST Council Meeting, the Government had previously prescribed a special procedure for the registered persons engaged in the manufacture of specified items such as Pan Masala, tobacco, and similar items.

Accordingly, the persons engaged in the manufacture of the specified items are required to follow the following special procedure:

a. Furnishing details relating to packing machines.
b. Furnishing of special monthly returns

The aforesaid procedure was required to be followed with effect from 01-04-2024, however, the Government has recently issued another notification and the implementation of the special procedure has been deferred till 15-05-2024.

7. **Madras HC set aside order imposing tax liability on assessee due to mistakenly uploading duplicate invoices in GSTR-1:- *A. Ansari Abu Agencies v. Superintendent of GST and Central Excise - [2024] 161 taxmann.com 234 (Madras)***

The petitioner was a registered person under GST and filed a return in GSTR-1 in relation to outward supplies for period 2017-18. It committed an error by providing details pertaining to the same invoice more than once. Upon receipt of an intimation regarding such discrepancies, the petitioner replied thereto by stating that it was an inadvertent error and that the correct details were contained in the petitioner's GSTR-3B return. However, the tax liability was imposed on the petitioner for an inadvertent error although no revenue loss was suffered on such account. It filed writ petition against the demand order.
The High Court noted that the petitioner had submitted the reply to the notice and also submitted the certificates from the purchasers concerned. In those certificates, the purchasers stated that they had availed of input tax credit (ITC) by excluding the duplicate invoices. Therefore, the Court held that the order imposing tax liability was to be set aside and matter was required to be reconsidered. The Court also directed the department to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of two months from the date of receipt of a copy of this order.

8. **HC set aside order rejecting ITC claim of assessee where supplier wrongly mentioned GSTIN of sister concern:- *Tvl. Hansraj and Company v. Assistant Commissioner (ST) - [2024] 160 taxmann.com 555 (Madras)***

The petitioner received a notice alleging that it had made an excess claim of ITC and this was evident on comparing GSTR-3B return with GSTR-2A return. It submitted that the relevant invoice was issued by the petitioner's supplier but it had wrongly indicated the GSTIN of the sister concern of the petitioner. However, the reply was disregarded and the proposal to impose tax, interest and penalty was confirmed. Therefore, it filed writ petition against the order.

The High Court noted that the documents on record, such as invoice and the GSTR-1 return of supplier, prima facie indicate that the GSTIN of sister concern of petitioner was wrongly mentioned by supplier in the returns and thus, in such scenario, the petitioner would have been unjustly deprived of ITC. Therefore, the Court held that the impugned order was to be quashed and matter was to be remanded to Assessing Officer to provide petitioner with an opportunity to redress grievance.

9. Import Exemption for High-Value Medical Equipment:- *Ministry of Finance, Department of Revenue, CBIC, Customs Instructions 08/ 2024 dated 05 April, 2024*

The Central Board of Indirect Taxes (CBIC) issued an Custom Instruction No. 08/2024 dated 05 April 2024 which discussed the exemption for importing high-end and high-value medical equipment, excluding critical care medical equipment, under the Hazardous and Other Wastes (Management and Transboundary Movement) Second Amendment Rules 2022. It references and outlines the permissions and restrictions imposed by the Ministry of Environment, Forest, Climate Change (MOEFCC) and provides a list of critical care medical equipment prohibited for reuse. These Instructions represent a significant change in the legal framework that controls the entry of medical equipment into India. Stakeholders can ensure that environmental and safety requirements are followed during the import process by adhering to import conditions and conforming with MOEFCC regulations. The key highlights of the mentioned instructions are listed below:-

- The MOEFCC categorizes high-end medical equipment, other than critical care devices, under Part 'B' of Schedule III of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. Importation is permissible for actual users, Original Equipment Manufacturers (OEMs), Indian subsidiaries of OEMs, or traders acting on behalf of actual users, subject to approval and conditions stipulated by the MOEFCC.
- The MOEFCC has provided a comprehensive list of 50 high-end and high-value used/refurbished medical equipment, excluding critical care devices, permitted for importation. This list, detailed in previous communications, serves as a guide for stakeholders navigating the import process.
- Used Critical care medical equipment, listed under Basel No. B1110 of Schedule VI of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, remains prohibited for importation for re-use. For reference, MOEFCC vide its office memorandum dated 19 May 2023 provided a list of 14 critical care medical equipment as follows:

    i. High End Ventilators
    ii. Nitric Oxide Generator
    iii. Flexible Bronchoscope
    iv. ABG Machines
    v. Haemodialysis machines
    vi. Continuous Renal Replacement Therapy (CRRT)
    vii. CO,SVR, ScvO2 Monitor viii. Intubating video scope
    viii. ICU dedicated Ultrasound and Echo Machine
    ix. Beside X-ray machine
    x. Extra-Corporeal Membrane Oxygenator (ECMO)
    xi. IABP
    xii. Percutaneous dilatation tracheostomy kit
    xiii. Defibrillator with transcutaneous pacemaker.

10. **Classic Malabar Parota and Whole Wheat Malabar Parota to be classified under HSN 1905 & taxable at 5%:- *Modern Food Enterprises (P.) Ltd. v. Union of India - [2024] 161 taxmann.com 538 (Kerala)***

The petitioner was engaged in manufacture and supply of foods products and filed an application for advance ruling to determine the classification and rate of tax on its products. It was contended that its products would qualify as 'bread' and should be taxable at 5% under GST. However, the AAR held that the products would be taxable at 18% and it filed appeal before the Appellate Authority for Advance Ruling (AAAR). The AAAR also held that the products would be taxable at 18%. It filed writ petition against the order.

The High Court noted that the products are made from the fine flour (Maida) or whole wheat flour (Atta) and thin round sheets of dough are semi-cooked on hot place (Tawa / Skillet) using oil. These are packed and can be consumed after heating them.

The Court also noted that these products are akin / similar to products mentioned in HSN code 1905 of Chapter 19 with heading Preparations of cereals, flour, starch or milk; pastrycooks' products as ingredients used and process applied in their preparations are somewhat similar to products mentioned in Chapter heading HSN Code 1905. Therefore, it was held that the said products manufactured and supplied by petitioner would be liable to be taxed at 5% as per SI. No. 99A of Notification No. 1/2017-Central Tax (Rate).

11. **HC quashed order confirming tax demand as disparity was due to wrong reporting of CGST & SGST instead of IGST:- *Subh Sri Agencies v. Deputy State Tax Officer - [2024] 161 taxmann.com 487 (Madras)***

The petitioner received a show cause notice in respect of disparity between GSTR-1 and GSTR-3B returns. It submitted reply and explained disparity by pointing out that error occurred on account of reflecting amount wrongly towards CGST and SGST instead of IGST. However, in spite of assessee's reply, the tax demand was confirmed. It filed writ petition against the demand order and contended that the demand was not justified.

The High Court noted that the disparity between GSTR-1 and GSTR-3B returns was on account of wrongly specifying higher amounts in GSTR-3B returns as regards output CGST and output SGST. This aspect was not duly taken note of while issuing impugned order. Therefore, it was held that the impugned order was liable to be quashed. The Court also noted that the petitioner had approached Court belatedly and therefore, the matter was remanded subject to condition that the petitioner shall deposit 10% of tax demand.

12. **Classic Malabar Parota and Whole Wheat Malabar Parota to be classified under HSN 1905 & taxable at 5%:- *Modern Food Enterprises (P.) Ltd. v. Union of India - [2024] 161 taxmann.com 538 (Kerala)***

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28. GST tribunal to be set up this year:- *News Report*

The establishment of the Goods and Services Tax (GST) Appellate Tribunal is progressing and is expected to be completed in the latter part of the current financial year. Recent updates from Union Minister of State for Finance, Pankaj Chaudhary, presented in the Lok Sabha, indicate a persistent rise in pending appeals related to central GST, underscoring the pressing need for a dedicated appellate mechanism within the GST framework. As of June 2023, the number of pending appeals has surged to 14,227, marking a three-fold increase from figures reported in 2020-21.

Efforts are underway to address this need, with expectations that the GST Appellate Tribunal will become operational in the latter half of the ongoing financial year. Vivek Jalan, Chairperson of the National Fiscal Affairs and Taxation Committee of the Bengal Chamber of Commerce and Industry, and Partner at Tax Connect Advisory Services LLP, foresees the establishment of two benches in Calcutta to cater to taxpayer appeals in Bengal, Sikkim, and Andaman & Nicobar Islands.

The introduction of the GST Appellate Tribunal is anticipated to offer dual benefits. Firstly, it promises to expedite case resolution, thereby alleviating the burden of prolonged litigation. Secondly, it is expected to contribute to cleaner balance sheets for companies by providing a structured mechanism for resolving disputes with tax authorities.

State GST sources have confirmed progress in this regard, stating that efforts are underway for the appointment of members and the establishment of necessary infrastructure. The groundwork laid by the GST Council, which approved the setting up of appellate tribunals nationwide during its 49th meeting, is now materializing. The establishment of state benches will occur gradually, with a recent notification issued by the revenue department on September 14 indicating the creation of 31 benches across 36 states and Union territories.

The impending operationalization of the GST Appellate Tribunal represents a significant milestone in the GST framework, promising more efficient dispute resolution and greater clarity for businesses navigating the tax landscape.

https://www.telegraphindia.com/business/goods-and-services-tax-tribunal-to-be-set-up-this-year/cid/2015877

29. Bombay HC quashed SCN issued to levy GST on ocean freight on FOB contracts:- ***Agarwal Coal Corporation (P.) Ltd. v. Assistant Commissioner of State Tax - [2024] 161 taxmann.com 1 (Bombay)***

The petitioner was engaged in importing coal from various countries on FOB (Free on Board) and CIF (Cost, Insurance and Freight) basis. A show cause notice was issued by the department primarily relying on Notification No. 8/2017-Integrated Tax (Rate) dated 28-6-2017 levying IGST along with interest and penalty on the ocean trade service on FOB contracts.

It filed writ petition to challenge the show cause notice on the ground that the said notification was struck down by Division Bench of Gujarat High Court in case of Mohit Minerals (P.) Ltd. v. Union of India [2020] 113 taxmann.com 436. The department contended that the said decision needed to be applied only in respect of cases involving contracts on CIF basis and not on FOB contracts.

The High Court noted that the case of Mohit Minerals (P.) Ltd. involved both categories of contract namely CIF and FOB and the said notification itself had been declared ultra vires and the same was also upheld by Supreme Court. Therefore, following the mandate of the settled principle of law, the notification was no manner available to the State Authorities to be applied as it would amount to applying an illegal notification. Thus, the Court held that the impugned notice was to be quashed and striking down of the notification would be applicable on FOB contracts.

30. Interest liability arises automatically on delayed filing of returns even if payment made from credit ledger:- ***Sincon Infrastructure (P.) Ltd. v. Union of India - [2024] 161 taxmann.com 616 (Patna)***

The petitioner received a notice for the recovery of interest on the belated payment of tax. The interest was charged for the tax paid from the Electronic Credit Ledger (ECL) for the financial year 2018-19 and order was passed. Aggrieved by the order, the petitioner filed a writ petition to the High Court of Patna.

The High Court noted that the payment of tax and furnishing of return have to occur simultaneously. The Court further noted that the input tax credit and the resultant payment of tax from the Electronic Credit Ledger occurs only when a return is furnished. If there is a delay in furnishing of returns then obviously there is a delay in the input tax credit coming into the Electronic Credit Ledger and a resultant payment being made to the Government as tax, interest, penalty or other amounts due under the Act.

Therefore, the claim of the petitioner that the proviso of Section 50(1) mandates a levy of interest only when there is a delayed furnishing of return and debit made and payment effected from the Electronic Cash Ledger was rejected. The Court also held that interest shall be payable on the delay occasioned in the payment of tax and as per section 50(1) interest liability would arise automatically on delayed filing of returns, irrespective of whether payment is made from Electronic Credit Ledger or Electronic Cash Ledger.

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REGULATORY

1. NFRA to set up sandbox for supporting innovation in auditing techniques:- *News report dated 13th March 2024*

Ajay Bhushan Pandey, Chairperson of the National Financial Reporting Authority (NFRA), unveiled NFRA's multifaceted approach to fortify audit quality and corporate governance. Pandey revealed NFRA's intention to establish an innovation lab or sandbox aimed at bolstering auditing techniques, with a particular emphasis on fostering the development and widespread accessibility of artificial intelligence (AI) tools for auditing.

During his address at a conference organized by the Confederation of Indian Industry (CII) in Mumbai, Pandey underscored the critical need to bolster trust in both financial and non-financial reporting systems alongside corporate governance practices in India. NFRA is set to engage audit committees and independent directors during inspections, with a view to garnering insights and perspectives to elevate audit quality and corporate governance standards holistically. Pandey articulated NFRA's recognition of the pivotal role of technology in modern auditing practices, especially concerning fraud detection and the identification of related-party transactions (RPTs). Consequently, NFRA is exploring the establishment of an innovation lab or sandbox to serve as a platform for advancing cutting-edge auditing methodologies.

The concept of a sandbox facilitates live testing of innovative products or methodologies under regulatory supervision, enabling experimentation within and outside the regulatory framework without disrupting routine operations. Noteworthy examples of such initiatives include the regulatory sandboxes advocated by the Reserve Bank of India (RBI) and the Insurance Regulatory and Development Authority of India (Irdai). Further, Pandey reiterated the significance of all five lines of defense in financial reporting and corporate governance, comprising management, audit committees, independent directors, auditors, investors, and regulators. He stressed the investor community's expectation for auditors to exercise professional skepticism and advocated for the adoption of risk-based pricing by Indian audit firms. Moreover, Pandey emphasized the imperative for global convergence on reporting standards to ensure the delivery of high-quality financial and non-financial reporting alongside robust corporate governance practices within the corporate sector.

https://www.business-standard.com/finance/news/nfra-to-set-up-a-sandbox-for-supporting-innovation-in-auditing-techniques-124031300898_1.html

2. DGFT Directives regarding submission of digitized ANFs, Appendices etc.:- *DGFT vide Trade Notice No. 01/2024-25 dated 02 April 2024*

The DGFT issued directives regarding submission of digitized ANFs, Appendices etc in adherence to the Directorate General of Foreign Trade's commitment to facilitating exports and imports, emphasizing efficient, transparent, and accountable delivery systems, significant efforts have been directed towards digitising a substantial number of the Aayat Niryat Forms (ANFs) and Appendices pursuant to the Foreign Trade Policy. It has been stated that-

- All applications related to these ANFs and Appendices must be submitted exclusively online via the DGFT Website (https://dgft.gov.in), eliminating the need for physical or soft copies submitted to DGFT (HQ) or its Regional Authorities.

- The Importer-Exporter Code (IEC) details are available online to DGFT (HQ), Regional Authorities (RAs), Export Promotion Councils (EPCs), and other pertinent entities. Likewise, Registration-cum-Membership Certificates (RCMCs) are electronically accessible through DGFT Online Systems. Moreover, Micro, Small, and Medium Enterprises (MSMEs) status as recorded in the MSME UDYAM Registration Portal (https://udyamregistration.gov.in) is similarly accessible through electronic exchanges integrated into DGFT online systems.

- While some ANFs and Appendices may require certification by professionals such as Chartered Accountants, Chartered Engineers, Cost Accountants, Company Secretaries, among others, ongoing efforts are focused on digitizing these forms to enable digital certification directly on the DGFT Website.

- All deficiency letters and correspondences pertaining to online applications must be issued and responded to exclusively online.

- Any difficulty in complying with the above or feedback concerning the same may be communicated via email to DGFT (HQ) at egtf-dgft@gov.in

3. IFSCA releases Expert Committee Report on developing GIFT IFSC as 'Global Finance and Accounting Hub:- *Press Release dated 27.03.2024*

IFSCA releases a Report of the Expert Committee on developing the GIFT IFSC as 'Global Finance and Accounting Hub'. The Committee recommends a comprehensive regulatory regime for undertaking bookkeeping, accounting, taxation and financial crimes compliance services from IFSC in India. Moreover, the committee has proposed various measures to promote and develop GIFT IFSC as a global hub for finance and accounting, including initiatives to enhance workforce skills and competencies. The report also highlights the potential of GIFT IFSC to become a global hub for book-keeping, accounting, taxation and financial crime compliance services, which would create large employment opportunities for the talented workforce. The policy reform aims to develop GIFT IFSC as a full-service global financial centre to meet the increasing demand for knowledge-intensive services. It's driven by a global shortage of skilled workforce and cost competitiveness in emerging markets, aided by advancements in IT and communication.

The key recommendations of the committee are as:-

- proposes a comprehensive and inclusive definition for the mentioned services.
- suggested the certain modifications to align with existing Indian regulations.
- recommended the periodic review and updating of these definitions to match market dynamics and customer needs.
- establish safeguards against businesses being set up by splitting up, reconstruction or reorganization of business already in existence in India.

- specify conditions and criteria for setting up operations in GIFT IFSC for the mentioned services.
- condition should be tested at the end of the first full financial year from the date of commencement of the operations and the subsequent nine financial years.
- IFSCA prescribes that the unit in IFSC should have a principal and a compliance officer and they should possess certain minimum qualifications and experience.
- suggested the appropriate grandfathering of entities which have already been authorised by the IFSCA under the Ancillary Services framework.
- new companies or LLPs required to obtain additional registrations/ authorization under other regulations/ frameworks, if they intend to provide services other than the mentioned services.
- the need for continuous training and development programs for the workforce engaged in these services in GIFT IFSC.
- proposes long-term strategies for education and skill acquisitions.
- outlines some of the strategies that GIFT IFSC can adopt to promote and develop itself and also recommends that GIFT IFSC should leverage its success stories and testimonials, participate in relevant events and platforms, forge strategic partnerships with leading accounting bodies and institutions, and establish a center of excellence for these services.

The report is publicly available on the IFSCA website at https://ifsca.gov.in/ReportPublication/index/aadg9ruDI%20M=.

4. IFSCA clarifies Permissible Activities in Ship Leasing Framework:- *IFSCA's Circular No. F. No 496/ IFSCA/FC/SLF/2024-25/01 dated April 02, 2024*

The International Financial Services Centres Authority (IFSCA) has recently released a circular aimed at providing clarity on permissible activities within the ship leasing framework. Issued on April 2, 2024, this circular is directed towards all finance companies and finance units operating within the International Financial Services Centre (IFSC). It pertains specifically to the IFSCA's Finance Company Regulations of 2021 and the Ship Leasing Framework, initially introduced on August 16, 2022, with subsequent amendments.

As outlined in the Ship Leasing Framework, a lessor holding a Certificate of Registration under the Finance Company Regulations is permitted to engage in activities specified in sub-clauses E and H of clause 3. However, the recent clarification stipulates that a lessor can only partake in activities specified in paragraph (ii) of sub-clause E of clause 3 if they possess absolute or leasehold rights over the ship or ocean vessel. This clarification serves the purpose of ensuring strict compliance and precision in the operations of lessors within IFSCs.

Under the authority granted by the International Financial Services Centres Authority Act of 2019, this circular is issued to enhance regulatory clarity and transparency within IFSCs. It underscores the significance of adhering to prescribed regulations when conducting ship leasing activities. Stakeholders are urged to consult the circular, accessible on the IFSCA website, for a comprehensive understanding and diligent compliance with the regulations.

5. RBI proposes to allow eligible foreign investors in IFSC to invest in 'Sovereign Green Bonds':- *RBI statement on Developmental and Regulatory Policies dated 05 April 2024*

The Reserve Bank of India (RBI) vide its Statement on Developmental and Regulatory Policies dated 05 April 2024 has announced measures to enhance non-resident involvement in Sovereign Green Bonds (SGrBs). Eligible foreign investors operating within the International Financial Services Centre (IFSC) are now granted permission to engage in investments in these bonds. Currently, foreign portfolio investors (FPIs) registered with the Securities and Exchange Board of India (SEBI) already possess the authority to invest in SGrBs under different routes through various established channels for FPI investment in government securities. This Statement by RBI sets out various developmental and regulatory policy measures relating to (i) Financial Markets; (ii) Regulations; and (iii) Payment Systems and FinTech. The key highlights of the same are presented below for a ready reference:

1. RBI Retail Direct Scheme, launched in November 2021, gives access to individual investors to maintain gilt accounts with RBI and invest in government securities. The Scheme enables investors to buy securities in primary auctions as well as buy/sell securities through the NDS-OM platform. To further improve ease of access, a mobile application of the Retail Direct portal is being developed. The app will enable investors to buy and sell instruments on the go, at their convenience. The app will be available for use shortly.
2. Certain modifications to the LCR framework are being proposed towards facilitating better management of liquidity risk by the banks. A draft circular in this regard shall be issued shortly for comments of all stakeholders.
3. It has now been decided to allow Small Finance Banks (SFBs) to deal in permissible rupee interest derivative products in terms of Rupee Interest Rate Derivatives (Reserve Bank) Directions, 2019. A circular in this regard shall be issued shortly.
4. Given the popularity and acceptance of UPI, as also the benefits seen from the availability of UPI for card-less cash withdrawal at ATMs, it is now proposed to facilitate cash deposit facility through use of UPI. Operational instructions will be issued shortly.
5. To provide more flexibility to PPI holders, it is now proposed to permit linking of PPIs through third-party UPI applications. This will enable the PPI holders to make UPI payments like bank account holders. Instructions in this regard will be issued shortly.
6. CBDC pilots in the Retail and Wholesale segments are underway with more use-cases and more participating banks. Continuing with this approach, it is proposed to make CBDC-Retail accessible to a broader segment of users in a sustained manner, by enabling non-bank payment system operators to offer CBDC wallets. Necessary changes will be made to the system to facilitate this.

6. RBI modifies norms on lenders' investments in Alternative Investment Funds (AIFs):- *RBI circular DOR.STR.REC.85/21.04.048/2023-24 dated 27 March 2024*

The Reserve Bank of India (RBI) has modified norms for Regulated Entities (REs) which includes banks, non-banking financial companies (NBFCs) and other lenders, concerning about their investments in Alternative Investment Funds (AIFs). As per the fresh directive, REs needs to only set aside provisions to the extent of their investment in the AIF scheme which is further invested by the AIFs in a debtor's company and not the entire investment in the AIF scheme. In December of the previous year, the RBI had directed these entities not to

invest in any AIF scheme that has downstream investments in a debtor company. However, the RBI has now clarified that the 100% provision requirement will only be necessary to the extent of investment by the RE in the AIF scheme, which is further invested by the AIF in the debtor company, and not on the entire investment of the RE in the AIF scheme. This would lower the burden on the NBFCs which had done 100 per cent provisioning for the total investments in AIFs after the lapse of the 30-day period given by RBI to liquidate such assets. As some of the entities have already made provision, there could be write back of provision in the current quarter.

Also, the RBI has mentioned that, the proposed deduction from capital shall take place equally from both Tier-1 and Tier-2 capital and reference to investment in subordinated units of AIF Scheme includes all forms of subordinated exposures, including investment in the nature of sponsor units. Furthermore, the RBI has stated that investments by REs in AIFs through intermediaries such as fund of funds or mutual funds are not included in the scope of these norms. These modifications aim to address concerns raised by stakeholders and ensure uniformity in implementation among the REs.

7. SEBI launches SCORES 2.0 to strengthen investor complaint redressal:- *Press Release No. 06/2024 dated 01.04.2024*

SEBI launches the new version of the SEBI Complaint Redress System (SCORES 2.0) states that the new version of SCORES strengthens the investor complaint redress mechanism in the securities market by making the process more efficient through auto-routing, auto-escalation, monitoring by the Designated Bodies and reduction of timelines and has also been made more user friendly. SCORES is an online system where investors in the security market lodge their complaints through web URL and an App.

The salient features of the new version includes:-

(i) reduced and uniform timelines for redressal of investor complaints across the Securities Market i.e. 21 Calendar days from date of receipt of complaint,
(ii) introduction of auto-routing of complaints to the concerned regulated entity so as to eliminate time lapses in the flow of complaints,
(iii) monitoring of the timely redressal of the investors complaint by the Designated Bodies,
(iv) two levels of review will be provided, where the first review will be done by the Designated Body if the investor is dissatisfied with the resolution provided by the concerned regulated entity and second by SEBI if the investor is dissatisfied with the first review,
(v) introduces auto-escalation of complaint to the next level in case of non-adherence to the prescribed timelines by the regulated entity or the Designated Body,
(vi) integration with the KYC Registration Agency database for easy registration of the investor on SCORES.

SEBI clarifies that Investors can lodge complaints only through new version of SCORES i.e. https://scores.sebi.gov.in from April 01, 2024, In the old SCORES i.e. https://scores.gov.in investors would not be able to lodge any new complaint. However, they can check the status of their complaints already lodged and pending in the old SCORES. Further, the disposal of complaints filed in the old SCORES can be viewed at SCORES 2.0.

8. FDI limits further relaxed under Foreign Exchange Management (Non-debt Instruments) (Third Amendment) Rules, 2024:- *Ministry of Finance vide Notification No. S.O. 1722(E) dated 16 April 2024*

The Finance Ministry (Department of Economic Affairs) notified the Foreign Exchange Management (Non-debt Instruments) (Third Amendment) Rules, 2024, prescribing new entry routes for foreign investment in activities under the space sector. An amendment to the Foreign Direct Investment (FDI) Policy in this regard was made vide press release dated 21 February 2024 after the Union Cabinet gave its nod. The same became operative w.e.f. the date of notification of the 2024 Amendment Rules i.e. 16 April 2024.

Changes have been made to Schedule I of the 2019 Rules, liberalizing the entry routes for foreign investment in specified space sector-related activities.

12	**Space Sector**		
12.1	(a) Satellites-Manufacturing and Operation (b) Satellite Data Products (c) Ground Segment and User Segment	100%	Automatic up to 74%. Government route beyond 74%
12.2	(a) Launch Vehicles and associated systems or sub-systems (b) Creation of Spaceports for launching and receiving Spacecraft	100%	Automatic up to 49%. Government route beyond 49%
12.3	Manufacturing of components and systems or sub-systems for satellites, Ground Segment and User Segment	100%	Automatic

The sectoral cap for these activities, however, remains at 100%. It is also specified that the investee entity will be subject to sectoral guidelines as issued by the Department of Space from time to time.

9. MCA seeks comments on review of various rules under IBC:- *MCA notice dated 18 April, 2024*

Institute of Chartered Accountants Of India (ICAI) being the world's largest accounting body and regulator and developer of accountancy profession in India has always partnered in nation building and providing services for economic development of the country.

With the rapidly involving business environment, Introduction of new age companies, Start ups, increase in reporting requirement role of auditor has increased the Audit and Assurance Standard Board (AASB) of ICAI has decided to provide necessary support to members who are in practice with respect to Statutory Audit of entities pertaining to audit aspects with the objective of enhancing quality of audit.

The board has formed an expert panel which will provide technical assistance to the members with respect to their queries on auditing aspects.

The panel will address queries from 16/April/2024 till 30/September/2024. The members can send their queries on auditfaq@icai.in

Panel Convenors

CA. (Dr.) Sanjeev Kumar Singhal, Chairman, AASB and CA. Vishal Doshi, Vice Chairman, AASB

The members are informed that the views expressed by the experts are their personal view not necessarily the views of the Board or ICAI. AASB, ICAI or the Experts do not take any responsibility for the action taken by the querist based on such advice and these views should not be used in any non judicial, quasi judicial or judicial proceedings before any authority.

It is advised to:

- Be brief but provide full information and facts.
- Not to mention the name of the Client or Entity in order to avoid the problem of violation of client confidentiality requirements under the ICAI's Code of Ethics.
- Avoid rejoinders.
- Not to send the same query twice.
- Draft the report on your own.
- Use your own professional judgment.

This decision to establish the expert panel comes at a crucial juncture, as many startups face regulatory scrutiny and investor apprehensions regarding their practices. There's a growing demand for auditors to identify potential issues during statutory audits. Notably, the ICAI's Financial Reporting Review Board (FRRB) has commenced a review of Byju's and may conduct a similar assessment of Paytm Payments Bank, which has faced regulatory action by the Reserve Bank of India.

Moreover, the banking industry's unique characteristics, including diverse customer bases and a wide range of products and services, present challenges for auditors. The ICAI has recognized the complexities involved in conducting audits within specified timelines, such as issues related to identifying Non-Performing Assets (NPAs), analyzing complex data during branch audits, and navigating scenarios where relevant RBI circulars are unavailable.

10. **IFSCA modifies disclosure norms for Fund Management Entities to infuse further ease in doing business:-** ***IFSCA Circular No. F. No. IFSCA-AIF/32/2024-Capital Markets dated 05 April 2024***

The International Financial Services Centres Authority (IFSCA) has made modifications to the disclosure norms for Fund Management Entities (FMEs) in order to infuse further ease in doing business in the fund management ecosystem at the IFSC. IFSCA stated that "for all schemes or funds to be launched under Chapter III (except Part C: Retail Schemes) of the FM Regulations, the Fund Management Entity (FME) shall submit the Private Placement Memorandum (PPM) along with other documents ensuring minimum disclosures and other requirements as outlined in this circular to the Authority." IFSCA further specified that after filing these documents along with the disclosures and complying with other requirements stipulated in this circular FMEs may launch the respective schemes, and that the IFSCA will also, in due course, establish a web portal for filing of scheme documents before offer is made. The reports are to be submitted to the Authority by way of an email, and the Authority will continue to monitor the fund management industry in IFSC and may supplement/update the reporting formats if required. FMEs must make sure that the Private Placement Memorandum (PPM) of every scheme or fund includes the following disclosures:

(i) A detailed illustrative/diagrammatic/graphical representation of the scheme or fund structure,
(ii) Broad details of the target investors and portfolio investments,
(iii) The Governance Structure encompassing:

i. Complete details of the company/limited liability partnership (LLP)/Trust/Trust Company;
ii. Details of the investment manager and their key managerial personnel at IFSC;
iii. Details of the Investment Committee/ advisory board/ limited partner advisory committee (LPAC)/ Investment Advisor.

(iv) Principal terms defining the following:

i. Fund Offering;
ii. Target Investors;
iii. Tenure of the Scheme or Fund;
iv. Details of the contribution by the FME to the scheme including exception sought, if any; Capital Structure of the scheme which shall categorically distinguish different classes of units and their minimum capital commitment/contribution;
v. Closings- Definite timelines for the initial closing/ initial offer period and the final closing, including the details of the subsequent closing (if applicable);
vi. Details of investment period/commitment period (If applicable);
vii. Transfer and transmission of units;
viii. Gating restriction on withdrawal of units (if applicable);
ix. Complete details of the terms of Indemnification;
x. Details of Warehoused Investments including the period and valuation of the investments (if applicable);
xi. Details of Side Letters and its impact on other investors (if applicable);
xii. Details of Co-investment in line with the FM Regulations (if applicable);
xiii. Details of Borrowings along with the maximum limit of leverage (if applicable) in line with the FM Regulations;
xiv. Details of Temporary Deployment of Surplus Funds in line with the FM Regulations;
xv. Comprehensive disclosure of all Fees and Expenses of the scheme as well as the FME including the Setup Fee/expenses, Management Fees, Performance Fees, Exit Fees, Trusteeship fee, Placement Agent fees and its incidence, etc.;
xvi. Details of the distribution to investors;
xvii. Details of Distribution-in-kind/in-specie distributions (if applicable).
xviii. Details of Giveback by the Contributors (if applicable);
xix. Redemption, Compulsory redemption, redemption procedure and details of delay/suspension of redemption including the exit fees, and the redemption price, in line with the FM Regulations;
xx. Valuation and Reporting requirements, in line with the FM Regulations;
xxi. Details of Termination and Winding Up of the Scheme or Fund;
xxii. Details of Removal of the FME;
xxiii. Details of Parallel Vehicles/ Alternative Investment Structures and Successor Funds (if applicable); xxiv. Details of the Custodian appointed, in line with the FM Regulations; xxv. Provision for Grievance Redressal mechanism with the FME as the first level and the IFSCA at subsequent levels of escalation for the investors;
xxiv. Other matters as may be considered necessary for informed decision making by the investors.

(v) Investment Objectives, Strategy and Guidelines should be well-defined with reasonable explanation for the investment strategy including fund of fund structures. The principal strategy of the Master Fund, where applicable, should be included.
(vi) A Section on- Determination of Net Asset Value of the Units.
(vii) A Section on- Conflicts of Interest;
(viii) A Section on- Risk Factors;
(ix) A Section on- Legal, Regulatory and Tax Considerations;
(x) A Section on- Illustration of the Distribution Waterfall;
(xi) A Section on- Illustration of fees and expenses;
(xii) A Section on the disciplinary history of the Trust, Trustee, FME and their respective partners, designated partners and directors;
(xiii) Glossary (if desired);
(xiv) A declaration by authorised person of the FME that all relevant disclosures, material to the Scheme or Fund, have been disclosed in the PPM;
(xv) An IFSCA disclaimer on the cover page of the placement memorandum.

The circular specifies that, in accordance with FM Regulations 19(3) and 31(2), the FME may prolong the placement memorandum's validity beyond six months by submitting the relevant paperwork to the Authority and paying the appropriate fees.

11. IFSCA notifies IFSCA (Payment Services) (Amendment) Regulations, 2024, broadens the definition of 'escrow service':- ***Notification No. IFSCA/GN/2024/002 dated 02.04.2024***

IFSCA in exercise of the powers conferred by section 12(1) read with section 28(1) of the International Financial Services Centres Authority Act, 2019, hereby amends the International Financial Services Centres Authority (Payment Services) Regulations, 2024 as notified by Notification No. IFSCA/GN/2024/002 dated 02.04.2024. These amendments, titled the International Financial Services Centres Authority (Payment Services) (Amendment) Regulations, 2024, come into effect upon publication in the Official Gazette [Notification No. IFSCA/GN/2024/001]. The amendment substitutes clause (l) of sub-regulation (1) in regulation 2 of the Principal Regulations, defining "escrow service" as:-

'(l) "escrow service" means the service provided by a payment service provider, under an agreement, whereby money is held by such payment service provider in an escrow account with an IFSC Banking Unit ('IBU') or an IFSC Banking Company ('IBC') for and on behalf of one or more parties that are in the process of completing a transaction;'

12. SEBI proposes relaxations in disclosure requirements for AIFs:- ***SEBI's Draft Circular No. SEBI/HO/AFD/PoD/CIR/2024 dated 05.04.2024***

SEBI releases Draft Circular dated 05.04.2024 on relaxation in requirement of intimation of changes in the terms of the Private Placement Memorandum (PPM) of AIFs through Merchant Banker along with a due diligence certificate from the merchant banker in a format specified by SEBI and invites public comments by April 26, 2024. The circular proposes relaxation in order to facilitate ease of doing business and rationalise cost of compliance for AIFs. Further Large Value Fund for Accredited Investors (LVFs) be exempted from intimating any changes in the terms of PPM through Merchant Bankers, and that LVFs may directly file any changes in the terms of PPM with SEBI, along with a duly signed and stamped undertaking by CEO of the Manager of the AIF (or person holding equivalent role or position depending on the legal structure of Manager) and the Compliance Officer of its manager, in the specified format.

As per Table 1 of Annexure A, sections of PPM where any change carried out is not required to be filed through Merchant Banker: (i) Write-up on Market Opportunity/ Indian Economy/ Industry Outlook (Section II of the PPM), (ii) Track record of investment manager (Section VI of the PPM), (iii) Risk factors (Section X of the PPM), (iv) Legal regulatory and tax Consideration(Section XI of the PPM).

As per Table 2 of Annexure A, specifies changes in PPM which are not required to be filed through Merchant Banker: (i) change in contact details of the AIF, sponsor, manager, trustee or custodian, (ii) change of auditor, RTA, legal advisor or tax advisor, (iii) change in size of the Fund/Scheme, (iv) change in information related to Affiliates, (v) Change in commitment period, (vi) changes in Key Investment Team of the manager subject to atleast one key personnel fulfilling the requirement mentioned under Regulation 4(g) of SEBI (AIF) Regulations, 2012, (vii) changes in Key Management Personnel of AIF or the Manager (except if changes are due to change in control of manager or sponsor), (viii) change in advisory board/advisory committee/investment committee or any other committee (except if such committees are set up to approve the decisions of the AIF), (ix) reduction in any of the expense or fee or cost charged to fund/investors (including management fee), (x) inclusion of new disclosure or change in existing disclosure pursuant to a regulatory mandate, such as mandate to include investor charter in PPM, updation of investor complaints data for last three financial years, etc., (xi) other factual and routine updates, such as change in designation or qualification of members/directors, operating partners, portfolio company advisor etc.

The comments/suggestions should be submitted latest by April 26, 2024, through the following link:

https://www.sebi.gov.in/sebiweb/publiccommentv2/PublicCommentAction.do?doPublicComments=yes

The provisions of this circular shall come into force with immediate effect.

13. FDI limits further relaxed under Foreign Exchange Management (Non-debt Instruments) (Third Amendment) Rules, 2024:- *Ministry of Finance vide Notification No. S.O. 1722(E) dated 16 April 2024*

The Finance Ministry (Department of Economic Affairs) notified the Foreign Exchange Management (Non-debt Instruments) (Third Amendment) Rules, 2024, prescribing new entry routes for foreign investment in activities under the space sector. An amendment to the Foreign Direct Investment (FDI) Policy in this regard was made vide press release dated 21 February 2024 after the Union Cabinet gave its nod. The same became operative w.e.f. the date of notification of the 2024 Amendment Rules i.e. 16 April 2024.

Changes have been made to Schedule I of the 2019 Rules, liberalizing the entry routes for foreign investment in specified space sector-related activities.\

12	**Space Sector**		
12.1	(a) Satellites-Manufacturing and Operation (b) Satellite Data Products (c) Ground Segment and User Segment	100%	Automatic up to 74%. Government route beyond 74%
12.2	(a) Launch Vehicles and associated systems or sub-systems (b) Creation of Spaceports for launching and receiving Spacecraft	100%	Automatic up to 49%. Government route beyond 49%

12.3	Manufacturing of components and systems or sub-systems for satellites, Ground Segment and User Segment	100%	Automatic

The sectoral cap for these activities, however, remains at 100%. It is also specified that the investee entity will be subject to sectoral guidelines as issued by the Department of Space from time to time.

14. MCA seeks comments on review of various rules under IBC:- *MCA notice dated 18 April, 2024*

The Ministry of Corporate Affairs (MCA) vide its notice dated 18 April 2024 has sought the feedback from stakeholders to revise various regulations within the framework of the Insolvency and Bankruptcy Code (IBC). These proposed changes encompass aspects related to the necessity of a robust corporate governance framework, Ease of doing business and ease of compliance, Legal & Technologies developments taking place across the globe, pronouncement of various Courts/ NCLT /NCLAT, etc. This initiative by the MCA aligns with an announcement made in para 99 & 100 of the Budget Speech (2023- 2024) and with respect to which the MCA has released a policy for pre-legislative consultation and Comprehensive review of existing Rules and Regulations prescribed under various legislations administered by it on its website. Stakeholders are invited to submit their comments within a 30 day period from the date of upload of this notice. The rules on which the suggestions/ comments are invited are listed below:

1. The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016
2. The IBBI (Form of Annual Statement of Accounts) Rules, 2018
3. The IBBI (Annual Report) Rules, 2018
4. The Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019
5. The Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019
6. The Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantor to Corporate Debtor) Rules, 2019
7. The Insolvency and Bankruptcy (Pre-packaged Insolvency Resolution Process) Rules, 2021.

Process to submit comment:

1. Visit MCA's website, www.mca.gov.in; E-consultation Tab or click on the URL: https://www.mca.gov.in/content/mca/global/en/econsultation.html ;
2. Select "Public Comments";
3. From the drop-down menu, select "comments on Rules";
4. Provide your Name, and Email ID;
5. Select the stakeholder category;
6. Select the rules, you wish to make a comment upon, from the drop down menu;
7. Please note that the selected rules can be found by clicking the pdf icon right next to the "select rules" option;
8. Select the kind of comments you wish to make, namely, a. General Comments; or b. Specific Comments;
9. If you have selected "General Comments", please select one of the following options:

   a) Inconsistency, if any, between the provisions within any rules (intra-rules);
   b) Inconsistency, if any, between the provisions in different rules (inter-rules);

c) Inconsistency, if any, between the provisions in any with those in the rules;
d) Inconsistency, if any, between the provisions in any rules with those in the Code;
e) Inconsistency, if any, between the provisions in any rules with those in any other law;
f) Any difficulty in implementation of any of the provisions in any rules;
g) Any provision that should have been provided in any rules, but has not been provided;
h) Any provision that has been provided in any rules, but should not have been provided. and then write comments in the "Write Comment" box.

10. If you have selected "Specific Comments", please select rules number and then sub-rules number, and write comments in the "Write Comment" box, under the selected rules / sub-rules number.
11. You can make comments on more than one rules, or more than one rules / sub rules number, by clicking on more comments and repeating the process outlined above from point 6 onward.
12. Click 'Submit', after entering the image text in the box provided on the portal, if you have no more comments to make.

15. RBI issues draft directions on regulation of Payment Aggregators:- *Draft directions dt. 16 April 2024*

The Reserve Bank of India (RBI) is seeking public feedback on its draft directions for the regulation of Payment Aggregators (PAs) until May 31, 2024. These directions are part of the RBI's "Statement on Developmental and Regulatory Policies" and include the regulation of offline PAs who manage face-to-face payments. The draft directions aim to cover these activities and propose updates to the current directions on PAs, given the significant growth in digital transactions and the crucial role PAs play in this space. The proposed amendments include KYC and due diligence of merchants, operations in Escrow accounts, and other measures intended to strengthen the payment ecosystem.

In relation to the draft on Regulation of Payment Aggregators at Physical Point of Sale (PA-P), the RBI has stated that non-bank entities providing PA-P services must inform the RBI of their intention to seek authorisation within 60 days. They can continue their operations until they receive a response from the RBI regarding their application. Furthermore, the RBI has stipulated that non-banks providing PA-P services must have a minimum net worth of Rs. 15 crore when applying for RBI authorisation, and this must increase to Rs. 25 crore by March 31, 2028. Existing non-bank PA-Ps that cannot meet these net worth requirements or do not apply for authorisation within the given timeframe must cease their PA-P activity by July 31, 2025. This move by the RBI is a significant step towards strengthening the payment ecosystem in India.

https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=57713

16. SEBI releases standard reporting format for PPM Audit Report:- *SEBI's Circular no. SEBI/HO/AFD/SEC-1/P/CIR/2024/22 dated 18 April 2024*

SEBI, in compliance with Regulation 28 of the SEBI (AIF) Regulations, 2012 and Clause 2.4 of the SEBI Master Circular issued on July 31, 2023, has mandated Alternative Investment Funds (AIFs) to conduct an annual audit to ensure compliance with the terms outlined in the

Private Placement Memorandum (PPM). Under Clause 2.4.2 of the Master Circular, AIFs are obligated to furnish their Annual PPM Audit Reports to various authorities, including the Trustee, Board of Directors, or Designated Partners of the AIF, as well as the Board of Directors or Designated Partners of the Manager, and SEBI, within 6 months from the conclusion of the Financial Year.

To standardize compliance practices and streamline reporting procedures, SEBI has introduced a standardized reporting format for the PPM Audit Report, applicable to different categories of AIFs. This format has been developed in consultation with the pilot Standard Setting Forum for AIFs (SFA). SEBI further stipulates that the standardized reporting format must be promptly made available on the websites of AIF Associations participating in the SFA. These associations are tasked with aiding AIFs in understanding reporting requirements and resolving any related issues to ensure accurate and timely compliance reporting.

Moreover, AIFs are required to submit their PPM audit reports to SEBI online through the SEBI Intermediary Portal (SI Portal) in accordance with the prescribed format. This reporting obligation applies to PPM audit reports for financial years ending on or after March 31, 2024. SEBI's Circular on the Standardization of the PPM Audit Report underscores the mandatory nature of PPM compliance audits for AIFs and outlines the reporting requirements and procedures aimed at ensuring uniformity and efficiency in compliance reporting.

17. IBBI modifies circular relating to clarification on liquidator's fees:- *IBBI Circular no IBBI/LIQ/70/2024 dated 18 April 2024*

On 28th September, 2023, the Insolvency and Bankruptcy Board of India (IBBI) issued a Circular No. IBBI/LIQ/61/2023 titled '*Clarification w.r.t. Liquidators' fee under clause (b) of sub-regulation (2) of Regulation 4 of IBBI (Liquidation Process) Regulations, 2016*', offering vital clarifications regarding the calculation of liquidators' fees. This circular aimed to address diverse interpretations and concerns raised by stakeholders concerning the computation of fees under clause (b) of sub-regulation (2) of Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016. Further, the Bombay High Court in the case of 'Amit Gupta vs. IBBI & Union of India' (Writ Petition (Lodging) No. 34701 of 2023), in its order dated 4th April, 2024 has struck down paras 2.1 and 2.5 of the said circular, while confirming the validity of remaining paras of the said circular. Para 2.1 which deals with the "amount realised" and para 2.5 which deals with the "period for the calculation of the fee" are now withdrawn.

In accordance with the order passed by the HC, IBBI has issued the circular no IBBI/LIQ/70/2024 titled " Partial modification to the circular no. IBBI/LIQ/61/2023 dated 28th September 2023" to withdraw the para 2.1 and para 2.5 of the said circular dated 28th September 2023. This new circular also clarifies that Insolvency Professionals (IPs) who have not yet adhered to the circular's requirements are now provided with a chance to fulfill the outstanding components of the circular. They are requested to electronically report their compliance status to the Insolvency and Bankruptcy Board of India by 31 May 2024.

18. RBI allows resident entities to hedge their exposures to Gold Price Risk using OTC derivatives in IFSCs:- ***Circular No. RBI/2024-25/17 A. P. (DIR Series) Circular No. 01; Dated: 15.04.2024***

Earlier, resident entities were permitted to hedge their exposure to the price risk of gold on exchanges in the IFSC recognised by the IFSCA. To provide flexibility to resident entities for hedging their gold price risk exposures, the RBI has now decided to permit resident entities to hedge these exposures using OTC derivatives in IFSC, in addition to derivatives traded on exchanges in IFSC. This is subject to certain stipulations set out in master directions on 'Hedging of Commodity Price Risk and Freight Risk in Overseas Markets'. These instructions shall apply with immediate effect.

19. RBI issues Master Directions on 'Asset Reconstruction Companies':- ***RBI Master Circular no. RBI/DOR/2024-25/116 DoR.FIN.REC.16/26.03.001/2024-25, dated 24 April 2024***

ARCs play a critical role in the resolution of stressed financial assets of banks and financial institutions, thereby enhancing the overall health of the financial system. To ensure prudent and efficient functioning of ARCs and to protect the interest of investors, Reserve Bank of India hereby issued the Master Direction – Reserve Bank of India (Asset Reconstruction companies) Directions, 2024 (the Directions), hereinafter specified. These Directions have been issued in exercise of the powers conferred by Sections 3, 9, 10, 12 and 12A of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002). The key highlights of the master directions are:

1. Short Title and Commencement: These guidelines are titled "Master Direction – Reserve Bank of India (Asset Reconstruction Companies) Directions, 2024." The directions will come into effect on the day they are published on the Reserve Bank's website i.e. 24 April 2024.

2. Applicability: The provisions of these Directions shall apply to every asset reconstruction company (ARC) registered with the Reserve Bank under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002.

3. Relevant Key definition:

i. "***Change in management***" means effecting change by the borrower at the instance of ARC in the person who has responsibility for the whole or substantially whole of the management of the business of the borrower and/ or other relevant personnel.
ii. "***Earning value***" means the value of an equity share computed by taking the average of profits after tax as reduced by the preference dividend and adjusted for extra-ordinary and non-recurring items, for the immediately preceding 3 years and further divided by the number of equity shares of the investee company and capitalised at the following rate:

   a. in case of predominantly manufacturing company, 8%;
   b. in case of predominantly trading company, 10%; and
   c. in case of any other company, including non-banking financial company, 12%

Note: If an investee company is a loss-making company, the earning value shall be taken as zero.

iii. "**Non-performing asset (NPA)**" in the books of ARCs means an asset in respect of which:

1. Interest or principal (or instalment thereof) is overdue for a period of 180 days or more from the date of acquisition or the due date as per contract between the borrower and the originator, whichever is later;
2. Interest or principal (or instalment thereof) is overdue for a period of 180 days or more from the date fixed for receipt thereof in the plan formulated for realisation of the assets;
3. interest or principal (or instalment thereof) is overdue on expiry of the planning period, where no plan is formulated for realisation of the assets; or
4. any other receivable, if it is overdue for a period of 180 days or more in the books of the ARC.
   Provided that the Board of Directors of an ARC may, on default by the borrower, classify an asset as an NPA even earlier than the period mentioned above (for facilitating enforcement as provided for in Section 13 of the Act).

iv. "**Takeover of management**" means taking over of the responsibility for the management of the business of the borrower with or without effecting change in management personnel of the borrower by the ARC.

4. Registration:

- Before engaging in securitisation or asset reconstruction activities, an Asset Reconstruction Company (ARC) must apply for registration and obtain a Certificate of Registration (CoR) from the Reserve Bank of India, as stipulated under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).
- The ARC seeking registration should submit a completed application form, along with required annexures and supporting documents, to the Chief General Manager-in-Charge, Department of Regulation, Central Office at the Reserve Bank's central office in Mumbai.
- An ARC shall commence business within six months from the date of grant of CoR by the Reserve Bank. Reserve Bank may grant extension up to twelve months from the date of grant of CoR on receipt of the application from the ARC.
- Provisions of Section 45-IA (Requirement of registration and net owned fund), 45-IB (Maintenance of percentage of assets) and 45-IC (Reserve Fund) of RBI Act, 1934 shall not apply to an ARC registered with the Reserve Bank under Section 3 of the Act.

5. Net owned Funds:

- An Asset Reconstruction Company (ARC) is required to maintain a minimum Net Owned Fund (NOF) of ₹300 crore to commence and continue operations in securitisation or asset reconstruction.

- ARCs existing as of October 11, 2022, are given a transition period (glide path) to achieve the minimum required NOF of ₹300 crore:
  a. Minimum NOF on October 11, 2022: ₹100 crore
  b. Minimum NOF by March 31, 2024: ₹200 crore
  c. Minimum NOF by March 31, 2026: ₹300 crore
- In case of non-compliance at any of the above stages, the non-complying ARC shall be subject to supervisory action, including prohibition on undertaking incremental business till it reaches the required minimum NOF applicable at that time.

6. Activities of ARC:

- An Asset Reconstruction Company (ARC) is only permitted to engage in securitisation and asset reconstruction activities as outlined in Section 10 of the SARFAESI Act wherein ARCs have been permitted to undertake those activities as Resolution Applicants under Insolvency and Bankruptcy Code, 2016 (IBC) which are not specifically allowed under the Act. This permission shall be subject to the following conditions:

1. The ARC has a minimum NOF of ₹1,000 crore.
2. The ARC shall have a Board-approved policy regarding taking up the role of Resolution Applicant which may, inter alia, include the scope of activities, internal limit for sectoral exposures, etc.
3. A committee comprising of a majority of independent directors shall be constituted to take decisions on the proposals of submission of resolution plan under IBC.
4. The ARC shall explore the possibility of preparing a panel of sector-specific management firms/ individuals having expertise in running firms/ companies which may be considered for managing the firms/ companies, if needed.
5. In respect of a specific corporate insolvency resolution process (CIRP), the ARCs shall not retain any significant influence or control over the corporate debtor after five years from the date of approval of the resolution plan by the Adjudicating Authority under IBC. In case of non-compliance with this condition, the ARCs shall not be allowed to submit any fresh resolution plans under IBC either as a Resolution Applicant or a Resolution Co-Applicant.

   - An ARC may, as a sponsor and for the purpose of establishing a joint venture, invest in the equity share capital of another ARC.
   - An ARC may deploy its funds for undertaking restructuring of acquired loan account with the sole purpose of realizing its dues.
   - An ARC may deploy any surplus funds available with it, in terms of a Board-approved policy, in –

     a. <u>Government securities and deposits</u> with scheduled commercial banks, Small Industries Development Bank of India (SIDBI), National Bank for Agriculture and Rural Development (NABARD) or such other entity as may be specified by the Reserve Bank from time to time.
     b. <u>Short-term instruments</u> viz., money market mutual funds, certificates of deposit and corporate bonds/ commercial papers which have a short-term rating equivalent to the long-term rating of AA- or above by an eligible credit rating agency (CRA), subject to a cap of 10% of the NOF of the ARC on maximum investment in such short-term instruments.

- No ARC shall invest in land or building. However, this restriction shall not apply to –
  a. investment by the ARC in land and building for its own use up to 10% of its owned funds; and
  b. land and building acquired by the ARC in satisfaction of claims in ordinary course of its business of reconstruction of assets in accordance with the provisions of the Act. Any land and/ or building acquired by the ARC, in the ordinary course of its business of reconstruction of assets while enforcing its security interest, shall be disposed of within a period of five years from the date of such acquisition or such extended period as may be permitted by the Reserve Bank in the interest of realisation of the dues of the ARC.
- An ARC shall not raise monies by way of deposit.

7. Plan for Asset realisation:

- ARCs are required to formulate a plan within a specified planning period for realising assets, which may involve:
  a. Change in or takeover of borrower management
  b. Sale or lease of borrower's business
  c. Rescheduling of borrower debts
  d. Enforcement of security interest
  e. Settlement of borrower dues
  f. Conversion of debt into equity of a borrower company
- The policy for realisation of financial assets should ensure that the total realisation period does not exceed five years from the date of asset acquisition. The Board of the ARC may increase the period for realisation of financial assets so that the total period for realisation shall not exceed eight years from the date of acquisition of the financial asset concerned.
- In case, the ARC is one of the lenders in an account, where a resolution plan has been finalised and the same extends beyond the maximum resolution period allowed for ARCs, the ARC may accept a resolution period co-terminus with other secured lenders.
- The Board of the ARC shall specify the steps that shall be taken by the ARC to realise the financial assets within the time frame mentioned above as the case may be.

8. Eligibility conditions to exercise power for change in or takeover of management: In case, an ARC shall be entitled to effect change in management or takeover of the management of business of the borrower on any of the specified grounds then,

(i) an ARC may effect change in or takeover of the management of the business of the borrower, where the amount due to it from the borrower is not less than 25% of the total assets owned by the borrower; and
(ii) where the borrower is financed by more than one secured creditor (including ARC), secured creditors (including ARCs) holding not less than 60% of the outstanding SRs agree to such action.

Explanation I: 'Total assets' means total assets as disclosed in its latest audited balance sheet immediately preceding the date of taking action.

9. Procedure for change in or takeover of management

(i) The ARC shall give a notice of sixty days to the borrower indicating its intention to effect change in or takeover of the management of the business of the borrower and calling for objections, if any.
(ii) The objections, if any, submitted by the borrower shall be initially considered by the IAC and thereafter the objections along with the recommendations of the IAC shall be submitted to the Board of the ARC. The Board shall pass a reasoned order within a period of thirty days from the date of expiry of the notice period, indicating the decision of the ARC regarding the change in or takeover of the management of the business of the borrower which shall be communicated to the borrower.

10. Capital Adequacy Ratio: Every ARC must maintain a minimum capital adequacy ratio of 15% on an ongoing basis. The capital for calculating this ratio is defined as Net Owned Fund (NOF). Risk-weighted assets are calculated based on the weighted aggregate of on-balance sheet and off-balance sheet items:

On-balance sheet items	**Risk weight(%)**
Cash and deposits with scheduled commercial banks/ SIDBI/ NABARD	0
Investments in Government securities	0
Shares in other ARCs	0
All other assets	100
Off-balance sheet items	
All contingent liabilities	50

Assets deducted from the owned fund to calculate NOF have a risk weight of 0%.

11. Asset Classification: ARCs must classify assets held on their books into the following categories:

a. *Standard Assets:* Assets that are performing and not classified as Non-Performing Assets (NPAs).

b. *Non-Performing Assets (NPAs):* Assets that exhibit well-defined credit weaknesses or are dependent on collateral security for realisation. NPAs are further classified as:

- *Sub-standard Asset:* An asset remains sub-standard for up to 12 months from the date of classification as NPA.
- *Doubtful Asset:* An asset becomes doubtful if it remains sub-standard for more than 12 months.
- *Loss Asset:* An asset is classified as a loss asset if:

  a. It has been non-performing for more than 36 months.
  b. There is a potential threat of non-recoverability due to erosion in the value of security or non-availability of security.

c. It is identified as a loss asset by the ARC's auditor or is not realized within the specified time frame in the realisation plan.

- Assets acquired by the ARC for asset reconstruction purposes may be treated as standard assets during the planning period, if applicable.
- If an ARC renegotiates or reschedules the terms of an interest or principal agreement (excluding during the planning period), the asset concerned is classified as a sub-standard asset from the date of renegotiation/rescheduling. It can be upgraded to a standard asset only after satisfactory performance for 12 months under the new terms.

12. Provisioning Requirement:

Asset category	Provisioning required	
Sub-standard assets	A general provision of 10% of the outstanding amount	
Doubtful assets	(i)	100% provision to the extent the asset is not covered by the estimated realisable value of security
	(ii)	In addition to item (i) above, 50% of the remaining outstanding amount
Loss assets	The entire asset shall be written off	
	(If, for any reason, the asset is retained in the books, 100% thereof shall be provided for).	

13. Guidelines related to accounting

- ARCs are required to prepare their balance sheet and profit and loss account as of 31st March each year. Liabilities due within one year and assets maturing within one year, along with cash and bank balances, should be classified as 'current liabilities' and 'current assets', respectively.
- The accounting policies adopted by ARCs for financial statement preparation must align with the applicable prudential norms prescribed by the Reserve Bank of India.
- If any accounting policy deviates from the prescribed guidelines, ARCs must disclose the details of such departures, including reasons and financial impact. If the financial impact cannot be determined, the disclosure should mention this with reasons.
- ARCs covered under Rule 4 of the Companies (Indian Accounting Standards) Rules, 2015 must comply with Indian Accounting Standards (Ind AS) for preparing financial statements.
- The Reserve Bank of India has issued regulatory guidance on Ind AS vide circular DOR (NBFC).CC.PD.No.109/ 22.10.106/2019-20 dated March 13, 2020 to ensure high-quality and consistent implementation, facilitating comparison and supervision. This guidance applies to ARCs for financial reporting starting from the financial year 2019-20 onwards.

14. Investment:

- Considering the nature of investment in SRs where underlying cash flows are dependent on realisation from NPAs, it can be classified as available for sale. Hence,

investments in SRs may be aggregated for the purpose of arriving at net depreciation/ appreciation of investments under the category. Net depreciation, if any, shall be provided for. Net appreciation, if any, should be ignored.

- All other investments should be valued at lower of cost or realisable value. Where market rates are available, the market value would be presumed to be the realisable value and in cases, where market rates are not available, the realisable value should be the fair value. However, investments in other ARCs shall be treated as long term investments and valued in accordance with the applicable accounting standards.

15. Disclosures in the balance sheet:

Every ARC shall, in addition to the requirements of Schedule III of the Companies Act, 2013, prepare the following schedules and annex them to its balance sheet:

- The names and addresses of the banks/ financial institutions from whom financial assets were acquired and the value at which such assets were acquired from each such bank/ financial institution
- Segregation of various financial assets industry-wise and sponsor-wise (to be indicated as a percentage of the total assets)
- Details of related parties as per the accounting standards and the amounts due to and from them
- A statement clearly charting therein the migration of financial assets from standard to non-performing
- Value of financial assets acquired during the financial year either on its own books or in the books of the trust
- Value of financial assets realized during the financial year and outstanding for realisation as at the end of the financial year
- Value of SRs redeemed partially and the SRs redeemed fully during the financial year and pending for redemption as at the end of the financial year
- Value of SRs which could not be redeemed as a result of non-realisation of the financial asset as per the policy formulated by the ARC
- Value of land and/ or building acquired in ordinary course of business of reconstruction of assets (year wise)
- The basis of valuation of assets if the acquisition value of the assets is more than the book value of the transferors
- The details of the assets disposed of (either by write off or by realisation) during the year at a discount of more than 20% of valuation as on the previous year end and the reasons therefor
- The details of the assets where the value of the SRs has declined more than 20% below the acquisition value
- Information about outsourced agency, if owned/ controlled by a director of the ARC
- Information about assets acquired under IBC including the type and value of assets acquired, the sector-wise distribution based on business of the corporate debtor
- Implementation status of the resolution plans approved by the Adjudicating Authority on a quarterly basis
- Information on the ageing of the unrealised management fee recognised in their books in the format specified below as part of the Notes to Accounts in the annual financial statements (applicable only to ARCs preparing their financial statements as per Ind AS):

Sr. No.	Parameters	As at the end of current year	As at the end of previous year
A.	Outstanding amount of unrealised management fee		
	Out of the above, amount outstanding for:		
B.	(a) Amounts where the net asset value of the security receipts has fallen below 50% of the face value		
C.	(b) Other amounts unrealised for:		
	(i) More than 180 days but up to 1 year		
	(ii) More than 1 year but up to 3 years		
	(iii) More than 3 years		
D.	Allowances held for unrealised management fee (on B and C)		
E.	Net unrealised management fee (B+C-D)		

16. Display of information - secured assets possessed under the SARFAESI Act, 2002:

ARCs shall display information in respect of the borrowers whose secured assets have been taken into possession by them under the Act. ARCs shall upload this information on their website in the format given below and the list shall be updated on monthly basis:

Information on secured assets possessed under the SARFAESI Act, 2002											
Sl. No	Branch name	State	Borrower name	Guarantor name (wherever applicable)	Registered address of the borrower	Registered address of the guarantor (wherever applicable)	Outstanding amount (in ₹)	Asset classification	Date of asset classification	Details of security possessed	Name of the title holder of the security possessed

17. Submission of returns: ARCs shall follow the instructions on submission of returns contained in Master Direction – Reserve Bank of India (Filing of Supervisory Returns) Directions – 2024 as amended from time to time.

18. Submission of audited balance sheet: Every ARC shall furnish a copy of its audited balance sheet along with the Directors' Report/ Auditors' Report every year within one month from the date of Annual General Body Meeting, in which the audited accounts are adopted, to the Regional Office of the Department of Supervision of the Reserve Bank under whose jurisdiction it is registered.

19. Reporting of cases involving change in or takeover of the management of the business of the borrower: The ARC shall report all cases, where it has taken action to cause change in or takeover of the management of the business of the borrower for realisation of its dues from the borrower, to the Department of Supervision of the Reserve Bank.

20. Guidelines regarding Credit Information Companies:

- Every ARC shall become a member of at least one credit information company (CIC) which has obtained certificate of registration from the Reserve Bank in terms of Section 5 of the Credit Information Companies (Regulation) Act, 2005 and shall provide them accurate data/ history of the borrowers periodically.
- ARCs should submit the list of wilful defaulters as at end of March, June, September and December every year to the CIC of which it is a member. Every ARC shall place on its website the list of suit-filed accounts of wilful defaulters. For the purpose of this paragraph, the expression 'wilful defaulter' shall have the same meaning as is assigned to that expression in the guidelines issued to the banks.

20. Funds raised through listing of equity shares of Indian Cos. on IE can be kept in foreign currency a/c opened abroad:- *Notification No. FEMA 10R (3)/2024-RB; Dated: 19.04.2024*

Earlier, the Govt. vide. Notification No. S.O. 332(E) dated 24.01.2024 notified the Foreign Exchange Management (Non-debt Instruments) (Amendment) Rules, 2024. A new Rule 34 in Chapter X has been inserted which permits investment by permissible holders in equity shares of public companies incorporated in India and listed on International Exchanges.

Now, the RBI has notified the FEM (Foreign Currency Accounts by a person resident in India) (Amendment) Regulations, 2024. An amendment has been made to Regulation 5(F)(1) of the existing regulations.

As per the amended norms, funds raised via the direct listing of equity shares of companies incorporated in India on International Exchanges, pending their utilisation or repatriation to India can be held in foreign currency accounts with a bank outside India. Currently, Foreign Currency Accounts with a bank outside India could be opened to hold deposits raised through External Commercial Borrowings (ECB), American Depository Receipts (ADRs), or Global Depository Receipts (GDRs), pending their utilisation or repatriation to India.

21. RBI specifies norms for mode of payment and remittance of sale proceeds for equity shares of Indian cos listed on IEs:- *Notification No. FEMA. 395(2) /2024-RB; Dated: 19.04.2024*

Earlier, the Govt. vide. Notification No. S.O. 332(E) dated 24.01.2024 notified the Foreign Exchange Management (Non-debt Instruments) Amendment Rules, 2024, whereby a new Rule 34 in Chapter X has been inserted, which permits the Investment by permissible holders in Equity Shares of Public Companies Incorporated in India and Listed on International Exchanges.

Now, the RBI has amended Regulation 3.1 of the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019. Regulation 3.1 deals with the instructions on the Mode of payment and Remittance of sale proceeds.

A new schedule XI has been added after Schedule X. Schedule XI prescribes the norms regarding the mode of payment and remittance of sale proceeds for the purchase/subscription of equity shares of an Indian company listed on an International Exchange.

Further, regulation 4 has been amended. Regulation 4 deals with the reporting requirement. Now, the Investee Indian Company shall be under an obligation to report (through an Authorised Dealer Category I bank) to the Reserve Bank in Form LEC (FII) the purchase/subscription of equity shares (where such purchase/ subscription is classified as Foreign Portfolio Investment under the rules) by permissible holder, other than transfers between permissible holders, on an International Exchange. The discussion of the amendments is elaborated as follows:

1. Mode of Payment for Purchase or Subscription of Equity Shares of Indian Companies on International Exchanges Scheme by Permissible Holder

The amount of consideration for the purchase/subscription of equity shares of an Indian company listed on an International Exchange shall be paid, -

(a) through banking channels to a foreign currency account of the Indian company held in accordance with the Foreign Exchange Management (Foreign currency accounts by a person resident in India) Regulations, 2015, as amended from time to time or
(b) as inward remittance from abroad through banking channels.

Further, it is to be noted that the proceeds of the purchase/subscription of equity shares of an Indian company listed on an International Exchange shall either be remitted to a bank account in India or deposited in a foreign currency account of the Indian company held in accordance with the Foreign Exchange Management (Foreign currency accounts by a person resident in India) Regulations, 2015, as amended from time to time.

2. Remittance of sale proceeds of Equity Shares of Indian Companies on International Exchanges Scheme by Permissible Holder

The sale proceeds (net of taxes) of the equity shares may be remitted outside India or may be credited to the bank account of the permissible holder maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

3. Obligation on the investee Indian Company to report purchase/subscription of equity shares, classified as FPI in form LEC (FII)

As per the amended regulation 4, the Investee Indian Company shall be under an obligation to report (through an Authorised Dealer Category I bank) to the Reserve Bank in Form LEC (FII) the purchase/subscription of equity shares (where such purchase/ subscription is

classified as Foreign Portfolio Investment under the rules) by permissible holder, other than transfers between permissible holders, on an International Exchange.

22. **RBI allows Small Finance Banks to deal in permissible rupee interest rate derivative products:-** ***Circular No. RBI/2024-25/23 DOR.MRG.REC.15/00.00.018/2024-25; Dated: 23.04.2024***

RBI has decided to permit Small Finance Banks (SFBs) to deal in permissible rupee interest rate derivative products for hedging interest rate risk. This aims to expand the avenues available to the SFBs for hedging interest rate risk in their balance sheets and commercial operations more effectively and to provide them with greater flexibility. Earlier, RBI permits SFBs to use only interest rate futures (IRFs) for the purpose of proprietary hedging. The circular is effective immediately.

23. **RBI issues Master Directions on 'Asset Reconstruction Companies':-** ***Master Direction No. RBI/DOR/2024-25/116 DoR.FIN.REC.16/26.03.001/2024-25; Dated: 24.04.2024***

RBI has issued master directions on Asset Reconstruction Companies (ARCs). These directions shall apply to every ARC registered with RBI u/s 3 of the SARFAESI Act, 2002. They outline norms regarding the registration of ARC, the requirement of having a min. net-owned fund, activities of ARCs, and guidelines on ARCs. Further, ARC must have a board-approved policy regarding a change in or takeover of management. These directions shall come into effect on the day they are placed on the website of RBI.

24. **RBI advises AD Category-I banks to be more vigilant in preventing facilitation of unauthorized forex trading:-** ***Circular No. RBI/2024-25/24 A.P. (DIR Series) Circular No.02; Dated: 24.04.2024***

The RBI has come across instances of unauthorised entities offering foreign exchange (forex) trading facilities to Indian residents with promises of disproportionate/exorbitant returns. Upon investigation, the RBI observed that to facilitate unauthorised forex trading, these entities have resorted to engaging local agents who open accounts at different bank branches to collect money towards the margin, investment, charges, etc.

These accounts are opened in the name of individuals, proprietary concerns, trading firms etc. and the transactions in such accounts are not found to be commensurate with the stated purpose for opening the account in several cases.

Further, RBI observed that these entities are providing residents with options to remit/deposit funds in Rupees to undertake unauthorised forex transactions using domestic payment systems like online transfers, payment gateways, etc. Thus, greater vigilance is needed to prevent the misuse of banking channels to facilitate unauthorised forex trading.

In this regard, RBI has advised AD Category-I banks to be more vigilant and exercise greater caution to prevent the misuse of banking channels in facilitating unauthorised forex trading. Further, as and when AD Category-I banks come across an account being used to facilitate unauthorised forex trading, they are required to report it to the Directorate of Enforcement for further action.

Also, AD Cat-I banks may bring the contents of this circular to the attention of their constituents and customers. They may advise their customers to deal in forex only with 'Authorised Persons' and on 'authorised ETPs' and give wide publicity to the list of 'Authorised Persons' and the list of 'authorised ETPs' available on the RBI website.
AD Cat-I banks are also advised to publicize the 'Alert List' and Press Releases issued by the RBI in this regard.

25. RBI notifies limits for investment in debt and sale of Credit Default Swaps by Foreign Portfolio Investors:- ***Circular No. RBI/2024-25/27 A.P. (DIR Series) Circular No. 03, Dated: 26.04.2024***

The RBI has notified investment Limits for the financial year 2024-25 in debt and sale of Credit Default Swaps by FPIs. The limits for FPI investment in government securities, state government securities and corporate bonds shall remain unchanged at 6 %, 2 % and 15 % respectively, of the outstanding stocks of securities for 2024-25. Further, the aggregate limit of the notional amount of Credit Default Swaps sold by FPIs shall be 5 % of the outstanding stock of corporate bonds.

26. SEBI extends cross-margin benefits for index and stock futures in offsetting positions with different expiry dates:- ***Circular No. SEBI/HO/MRD/TPD-1/P/CIR/2024/24; Dated: 23.04.2024***

SEBI has extended cross-margin benefits on offsetting positions having different expiry dates subject to certain conditions. A spread margin of 40% would be levied in case of offsetting positions in correlated indices having different expiry dates. A spread margin of 30% would continue to be levied in case of the same expiry date (i.e. the existing requirement). Presently, cross-margin benefits are provided if both the correlated indices or an index and its constituents have the same expiry date.

27. SEBI relaxes the requirement of publishing 'fit and proper' text on contract notes to enhance ease of doing business:- ***Circular No. SEBI/HO/MRD/MRD-PoD-2/P/CIR/2024/25; Dated: 24.04.2024***

SEBI received representations from market participants via the Industry Standards Forum (ISF) to relax the requirement outlined in Chapter 6 at Para 2.4.2.2.2 of the Master Circular dated October 16, 2023, regarding the publication of text related to 'fit and proper' on contract notes.
Accordingly, SEBI has now waived the requirement of publishing 'fit and proper' text on contract notes as a step to enhance the ease of doing business. Only a reference to the applicable regulation about 'fit and proper' must be made a part of the contract note.

28. SEBI allows one-time flexibility to AIF schemes whose liquidation period expired to deal with unliquidated investments:- ***Circular No. SEBI/HO/AFD/PoD-I/P/CIR/2024/026; Dated: 26.04.2024***

Earlier, SEBI notified SEBI (Alternative Investment Funds) (Second Amendment) Regulations, 2024, to provide flexibility to AIFs and investors to deal with unliquidated investments of their schemes. SEBI has now allowed one-time flexibility to AIF schemes whose liquidation period has expired to deal with unliquidated investments. Thus, AIF

schemes, whose liquidation period has expired or shall expire on or before July 24, 2024 shall be granted a fresh liquidation period till April 24, 2025.

29. **Investment Advisers/Research analysts applying for registration shall be listed with a recognised body corporate:-** ***Notification No. SEBI/LAD-NRO/GN/2024/169 & 170, Dated: 26.04.2024***

SEBI has amended the Research Analysts and Investment Advisers Regulations. As per the amended norms, SEBI may recognize a body or body corporate for administration and supervision of research analysts and investment advisers on such terms and conditions as may be specified by SEBI. Further, registration with this body corporate will be required as one of the qualifications for obtaining a registration certificate for Investment Advisers and Research Analysts.

30. **SEBI allows recognised stock exchanges to carry out administration and supervision over specified intermediaries:-** ***Notification No. SEBI/LAD-NRO/GN/2024/171; Dated: 26.04.2024***

SEBI has notified the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2024. A new regulation 38A has been inserted to the existing regulations. This regulation states that the activities of administration and supervision over specified intermediaries may be carried out by a recognised stock exchange with the approval of the Board on such terms and conditions as may be specified.

31. **SEBI allows AIFs to create encumbrances on their equity holdings in investee companies engaged in infra sector:-** ***Circular No. SEBI/HO/AFD/PoD1/CIR/2024/027; Dated: 26.04.2024***

SEBI has allowed Category I and Category II AIFs to create encumbrances on their holdings of equity in investee companies, engaged in the business of development, operation or management of projects in any of the infrastructure sub-sectors listed in the Harmonised Master List of Infrastructure issued by the Central Government. This move aims to provide ease of doing business and flexibility to Category I and II AIFs to create encumbrances to facilitate debt raising by such investee companies.

Further, any encumbrances already created by a scheme of Category I or Category II AIF prior to April 25, 2024, on the securities of the investee company for the purpose of borrowing of such investee company, may continue if such encumbrances were created after making an explicit disclosure in the Private Placement Memorandum (PPM) of the scheme.

Also, Category I or Category II AIFs are required to ensure that the borrowings made by the investee company against the equity investments encumbered by the AIFs are utilised only for the purpose of development, operation or management of the investee company and are not utilised for any other purpose, including to invest in another company.

32. **SEBI amends Alternative Investment Funds Regulations, 2012; introduces a new regulation w.r.t 'dissolution period':-** ***Notification No. SEBI/LAD-NRO/GN/2024/168; Dated: 25.04.2024***

SEBI has notified the SEBI (Alternative Investment Funds) (Second Amendment) Regulations, 2024. As per the amended norms, a new regulation 29B relating to the dissolution period has been inserted. It states that a scheme of an Alternative Investment Fund may enter into a dissolution period in the manner and subject to the conditions specified by the Board. Further, SEBI has introduced definitions of 'dissolution period' and 'encumbrance' under Regulation 2 of existing regulations.

33. Rs 10L recovery limit for DRT filings now also applies to applications between 26.09.2018 and 30.06.2019: Finance Ministry:- ***Notification No. S.O. 1796(E)., Dated 25.04.2024***

Earlier, Finance Ministry vide notification dated 11.07.2019, stated that the pecuniary limit of Rs. 10 Lakhs for filing application for recovery of debts in the Debts Recovery Tribunals by such banks and financial institutions shall continue to apply for applications filed prior to 06.09.2018. Now, Ministry has stated that this limits shall also be applicable to applications filed between 26.09.2018 and 30.06.2019.

34. NCLT seeks MCA views on aircraft lessor moratorium exemption in IBC:- ***News Report***

The National Company Law Tribunal (NCLT) has sought clarity from the Ministry of Corporate Affairs (MCA) on whether the exemption from the moratorium for aircraft transactions under the Insolvency and Bankruptcy Code (IBC) holds retrospective implications. This request follows a plea from a lessor involved in the Go First insolvency case, citing the MCA notification of October 3, 2023. Despite the notification's silence on retrospective application, the Directorate General of Civil Aviation (DGCA) asserted in the Delhi High Court that the notification indeed carries retrospective significance, in response to a petition from a Go First lessor. This interpretation, endorsed by the civil aviation ministry, could potentially dissuade airlines facing insolvency while favorably impacting lessors' interests.

This inquiry highlights the pivotal role of legal interpretation in navigating the complexities of aviation-related insolvency cases. The NCLT's request for MCA's perspective underscores the urgency for clarity, with implications extending to the resolution landscape and broader aviation sector dynamics. Stakeholders await a definitive resolution, anticipating its consequences amidst evolving regulatory frameworks and economic challenges.

https://www.business-standard.com/industry/news/nclt-seeks-mca-s-views-on-moratorium-exemption-to-aircraft-lessors-in-ibc-124042300804_1.html.

35. SEBI Floats Consultation Paper on framework for price discovery of Investment Cos. trading infrequently:- ***SEBI's Consultation Paper on Framework for Price Discovery of Shares of listed Investment Companies & listed Investment Holding Companies dated 22 April 2024***

SEBI issues Consultation Paper on framework for price discovery of shares of listed investment companies (ICs) & listed investment holding companies (IHCs), seeks public comments by May 10, 2024.

A. Objective

i. The objective of the consultation paper is to seek comments/views/opinion of the public on the proposal to lay down a price discovery mechanism for listed investment companies (lCS) & listed Investment Holding Companies (lHCs) whose market price is at significant discount to book value.

B. Background

i. Currently, shares of few ICs or IHCs are getting traded infrequently but at a lower price then their book value than disclosed in the audited financial statements. These companies have no operations they hold only investments in different asset classes, including in other listed companies.
ii. The discrepancy in book value and market price is adversely affecting liquidity, fair price discovery and overall intrest of the investors in ICs and IHCs.

C. Existing provision governing price discovery

i. SEBI time to time puts various mechanisms to ensure not only fair and transparent price discovery but also ensure liquidity in share of listed companies.

D. Consultation

i. Deliberations were held with various stock exchanges and ICs and IHCs to ascertain the magnitude of the issue and ways to facilitate effective price discovery.

ii. During deliberations it was observed that there are a total 70 listed ICs and IHSc out of which 28 companies have 25% or more of their assets invested in shares of other listed companies.

E. Need for Review

i. In this regard two prospective are there

   a. Investors prospective, the fair price not being determined due to the price bond.
   b. Company prospective, market price is being determined in the secondary market.

ii. Overall, with a view to protect the interest of investors of ICs and IHCs whose market price are at substantial discount to its book value, it is felt necessary to review the existing framework for price discovery and put in place necessary mechanisms.

F. Proposal

i. A special call auction mechanism without price mechanism may be enabled for the listed ICs and IHCs whose shares are trading beyond a certain discount.
ii. Stock exchanges shall coordinate amongst themselves and provide the special call auction mechanism for such companies.

CROSS BORDER

1. OECD Misses Deadline for Deal on Final Global Tax Treaty:- *News Report*

The OECD initially aimed to implement Pillar 1 through an international treaty by 2023, but ongoing delays persist, as expected. The current timeline seeks to finalize the treaty by the end of March 2024, with a signing ceremony scheduled for June. However, achieving consensus among numerous signatories on this technical document proves challenging, compounded by ongoing opposition from some participants. Notably, the Biden administration has voiced concerns about the latest draft treaty, despite its longstanding support for the process.

Further, even if the treaty were finalized on schedule, US reluctance to sign is probable, potentially influencing other countries to follow suit. This reluctance stems primarily from domestic political considerations, with the Biden administration perceiving little incentive to endorse a treaty opposed by Republicans and poorly understood by voters. The specter of a US-led trade war over digital service taxes (DSTs) may further delay Pillar 1's implementation. If the treaty progresses without US participation, signatory countries might impose DSTs on the US, prompting retaliatory measures. This situation would be suboptimal for most countries, with some postponing their DSTs to avoid potential US tariffs (like Canada and EU Countries). The forecast of President Biden winning a second term augurs well for continued US involvement in the global tax agreement, albeit with probable delays in implementation due to congressional hurdles and ongoing negotiations.

https://www.eiu.com/n/the-oecd-global-tax-deal-still-hangs-in-the-balance/

2. New Zealand ensures the applicability of Pillar 2 GloBE Rules from January 2025: *New Zealand Minister of Revenue vide Taxation (Annual Rates for 2023-24, Multinational Tax, and Remedial Matters) Bill dated 28 March 2024*

The Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill, which received royal assent on March 28, 2024, has been enacted by the New Zealand government. This legislation notably incorporates the OECD's Pillar 2 Global Anti-Base Erosion (GloBE) rules, which establish a minimum tax rate of 15%. These regulations will be applicable to multinational enterprises with consolidated revenue exceeding EUR 750 million in any two of the preceding four years. Under these provisions, such entities will be obligated to remit a multinational top-up tax to the Inland Revenue. This tax will be determined through various mechanisms:

1. The application of an income inclusion rule in instances where a New Zealand-based multinational enterprise has under-taxed income in another jurisdiction.
2. A domestic income inclusion rule will be applicable when a New Zealand-based multinational enterprise demonstrates under-taxed income within New Zealand.
3. An under-taxed profits rule serves as a supplementary measure to ensure that multinational enterprises headquartered in countries not implementing the GloBE rules still contribute through top-up tax.

The income inclusion rule and under-taxed profits rule will be effective from January 1, 2025, while the domestic income inclusion rule will come into force from January 1, 2026.

https://www.taxpolicy.ird.govt.nz/bills/53-multinational-tax-23

3. **Malaysia introduces e-BOS for submitting beneficial ownership information:-** ***Companies Commission of Malayasia vide Guidelines for the Reporting Framework for Beneficial Ownership of Companies dated 01 April 2024***

The Companies Commission of Malaysia on April 1, 2024, announced the launch of the Electronic Beneficial Ownership System (e-BOS). This initiative aligns with the company's responsibility to identify, obtain, record, update, and submit beneficial ownership information to the Registrar, as stipulated in the 'Guideline for the Reporting Framework for Beneficial Ownership of Companies,' effective from the same date. The introduction of e-BOS marks the termination of the transition period established on March 1, 2020, under the 'Guideline for the Reporting Framework for Beneficial Ownership of Legal Persons,' in accordance with the enforcement of the Companies (Amendment) Act 2024 on April 1, 2024.

Further, the issuance of the Guidelines aimed to provide companies with guidance to comprehend and fully adhere to the beneficial ownership reporting requirements following amendments to the Companies Act 2016. The new beneficial ownership reporting framework introduces several enhancements, including:

- Refined definition of 'beneficial owner' as a natural person who ultimately owns or controls a company through shares or effective interest, encompassing individuals exercising ultimate effective control (where an individual holding less than 20% of shares or voting shares in a company is deemed a beneficial owner, if they exercise significant influence or control over the directors or the management of the company) over the company.
- Requirement for companies to maintain a separate register of beneficial owners at their registered office.
- Obligation for beneficial owners to inform companies of their status and any changes to their beneficial ownership information recorded in the register kept by the companies at the registered office.
- In ensuring the accuracy of beneficial ownership information, verification of beneficial ownership information at a company's level or by the Company Secretary must be conducted. The verification shall include the verification of identity of any natural person recorded as a beneficial owner and verification of identification of a natural person as a beneficial owner.

https://www.ssm.com.my/Pages/Legal_Framework/Document/01_Guideline%20BO%20(Post%20T%26P)%20Final%20Uploaded%20Version.pdf?fm=pdf

4. **Norway to impose tax on foreign companies generating income from Norwegian continental shelf:-** ***World Tax News***

The Norway's Ministry of Finance has proposed the imposition of tax obligations on foreign companies and workers earning income from aquaculture activities on the Norwegian

continental shelf. The proposal also extends tax liabilities to foreign workers involved in mineral activities, renewable energy exploitation (offshore wind), and carbon management in the same region. These measures follow the 2024 state budget's introduction of tax duties for foreign companies' business incomes from these sectors. The proposal, aimed at ensuring fair national revenue from foreign entities' value creation in Norwegian territories, is currently under consultation.

Finance Minister Trygve Slagsvold Vedum emphasized the need for these tax adjustments to maintain national control and fairness between Norwegian and foreign entities. The proposed changes, effective from the 2025 income year, will subject affected foreign companies and individuals to the standard income tax rate of 22%. The consultation period for the proposal concludes on June 17, 2024. These initiatives form part of Norway's broader efforts to assert taxation rights over incomes derived from its natural resources.

https://www.regjeringen.no/no/aktuelt/sikrer-like-rammevilkar-for-norske-bedrifter-pa-kontinentalsokkelen/id3031691/

5. **OECD Plans More Guidance On Global Min. Tax, Official Says:-** ***News article dated 11th April 2024***

Tax Authority discussing the OECD's plans to issue further guidance on the global minimum corporate tax. A top official from the organization announced this development on April 11, 2024. These articles address issues such as delayed implementation of Pillar 2 regulations, skepticism over Belgium's green tax break, proposed limitations to the EU disclosure law, and the impact of tax voting procedures on EU expansion. The article also references inquiries into Hungary's retail tax and Norway's carbon tax exemption measures, criticism of the EU VAT draft, and a report praising Dutch efforts to combat tax avoidance.

https://www.law360.com/tax-authority/articles/1824348

6. **Greece passes Global Minimum Tax Law Following EU Crackdown:-** ***News Report dated 9th April 2024***

In accordance with the latest update in its official gazette, Greece has implemented the EU directive for a global minimum tax applicable to large multinational corporations. This law was inscribed into the national gazette on Friday, making Greece one of the nine EU nations that have been delayed in adopting Council Directive (EU) 2022/2523.

This directive, which is in line with the model rules of the Organization for Economic Cooperation and Development, imposes a minimum effective rate of 15% on large corporations with revenues exceeding 750 million euros. The draft law was initially presented to the Greek Parliament in January for approval. It includes a provision for a top-up tax that is applicable under specific circumstances. This legislative move is part of a wider initiative to ensure that large multinational corporations contribute their fair share in taxes and to deter tax evasion.

https://news.bloombergtax.com/financial-accounting/greece-passes-global-minimum-tax-law-following-eu-crackdown

7. UK abolishes 'non-dom' tax regime; new arrivals in UK pay tax on global income after expiry of 4 years:- *News report*

In the Spring Budget, the Chancellor announced the abolition of the current remittance basis of taxation for UK resident non-domiciled individuals, to be replaced by a four-year foreign income and gains (FIG) regime starting April 6, 2025. Under the new regime, individuals becoming UK tax residents after ten years of non-UK residence can enjoy a tax exemption on FIG during their first four years in the UK. This significant change aims to simplify the tax framework, promote fairness, and maintain the UK's attractiveness for international investors.

Transitional provisions have been outlined to facilitate the transition smoothly. They include measures for individuals residing in the UK for less than four years on April 6, 2025, and temporary repatriation facilities for those previously taxed on the remittance basis. Additionally, changes to trusts and a transition to a residence-based regime for inheritance tax are planned, pending consultation. These reforms are designed to ensure that the UK tax system remains competitive and responsive to global economic shifts while upholding principles of equity and efficiency.

Spring Budget 2024 - GOV.UK (www.gov.uk)

8. Sri Lanka publishes guidance for taxpayers to obtain Tax Residence Certificate (TRC):- *Sri Lanka Inland Revenue Department vide Notice no. PN/TRC/2024-01 dated 01 April 2024*

The Sri Lanka Inland Revenue Department has issued guidelines outlining the process for obtaining Tax Residency Certificates (TRC), which are as follows:

(a) Request for a TRC should be submitted to the Commissioner (International Tax Affairs) via email.
(b) The following information must be provided:

- Name of the Applicant.
- Type of Person– Individual / Company / Partnership
- Taxpayer Identification Number (TIN)
- Current Address.
- Contact Number and Official Email Address.
- Business Activity of the Person
- Copy of Business Registration Certificate.
- Reason for seeking TRC.
- If a TRC has been issued for a previous year, it should be included as a scanned attachment.
- For individuals, the following additional information is required: (a) Scanned copies of National Identity Card, Front page of the Passport including all Visa-issued pages

and pages showing arrival and departure date stamps. and (b) List of countries for which TRC is required.

These steps ensure compliance with the requirements set forth by the Sri Lanka Inland Revenue Department for the acquisition of TRCs.

9. A US introduces Corporate Tax Dodging Prevention Bill to ensure fair corporate tax payments:- *Press Release by Bernie Sanders*

US Senator Bernie Sanders and Congresswoman Jan Schakowsky introduced a bill designed to eliminate tax loopholes utilized by corporations, halt tax incentives for businesses relocating jobs overseas, and prevent companies from concealing profits in offshore tax havens. Additionally, this legislation proposes reverting the corporate tax rate reduction and reinstating the top rate to 35 percent, which is projected to yield at least an additional $1.3 trillion over the span of 10 years.In particular, this legislation would overhaul the tax code by:

(a) Restoration of progressive corporate tax rate of 35%.

(b) Ending the rule allowing American corporations to pay a lower or zero percent tax rate on offshore earnings compared to domestic income.

(c) Closing loopholes allowing American corporations to shift income between foreign countries to avoid US taxes.

(d) Eliminating the Interest-Free Deferral of Repatriation Tax Payments.

(e) Repealing the "check-the-box" and "CFC Look-Thru" offshore loopholes.

(f) Preventing multinational corporations from stripping earnings out of the US by manipulating debt expenses.

(g) Preventing American corporations from avoiding US taxes by inverting.

(h) Reforming and tightening the Based Erosion and Anti-Abuse Tax.

(i) Preventing extractive and gambling companies from disguising royalty tax payments to foreign governments as foreign income taxes.

(j) Preventing American corporations from claiming to be foreign by using a tax haven post office box as their address.

(k) Preventing the abuse of tax treaty benefits.

(l) Repeal the Tax Break for Foreign Derived Intangible Income.

These measures collectively aim to ensure that corporations pay their fair share of taxes, prevent the erosion of the US tax base, and promote a more equitable tax system.

https://www.sanders.senate.gov/press-releases/news-sanders-introduces-legislation-to-ensure-corporations-finally-pay-their-fair-share-in-taxes/

10. OECD Canada to start taxing Tech Giants in 2024 Despite US Complaints:- *News Report*

Canada is poised to implement a proposed digital services tax targeting major technology corporations, despite opposition from American lawmakers who have threatened trade reprisals. The legislation is currently under review by Canada's Parliament, with implementation scheduled for the 2024 calendar year, retroactively covering revenues since January 1, 2022. The tax, set at 3%, will apply to digital services revenue exceeding C$20 million from Canadian users, affecting companies with global revenues exceeding approximately C$1.1 billion. Canada joins several other nations, including the UK, France, Italy, and Spain, in adopting similar taxes. The Canadian parliamentary budget officer estimates the tax will generate around C$7.2 billion over five fiscal years. Finance Minister Chrystia Freeland has emphasized Canada's willingness to forego the tax pending the ratification of a global tax treaty by the Organization for Economic Co-operation and Development, which remains pending due to delays in US ratification.

US lawmakers perceive the tax as prejudicial to American firms and have threatened retaliatory measures. The US ambassador to Canada, David Cohen, highlighted this tension, warning of potential discord if not resolved diplomatically. Last October, leaders of the US Senate finance committee urged the Biden administration to signal immediate consequences to Canada if the digital tax is enacted. Business interests on both sides of the border have appealed to Freeland to reconsider the tax.

https://financialpost.com/pmn/business-pmn/canada-to-start-taxing-tech-giants-in-2024-despite-us-complaints

11. Australia releases Reportable Tax Position Schedule for 2024:- *World Tax News*

The Australian Taxation Office (ATO) has issued the reportable tax position (RTP) schedule for 2024, along with accompanying guidance. This guidance includes information on how to obtain the RTP schedule for 2024, how to use the RTP instructions, and what positions need to be disclosed. Entities are required to complete the schedule if they are lodging a company tax return for the full year (12 months or more) and have a total business income of either AUD 250 million or more in the current year, or AUD 25 million or more in the current year and are part of an economic group with a total business income of AUD 250 million or more in the current year. Entities that meet these criteria must lodge the RTP schedule 2024, even if they have no disclosures to make.

However, entities are not required to lodge the schedule if they are not required to lodge a company tax return for the income year (as the RTP schedule is a schedule to the company tax return), or if they have an income tax annual compliance arrangement (ACA) for the relevant income year and have agreed to provide full and true disclosure and ongoing dialogue of all material tax matters, including positions within any RTP category.

How to get the reportable tax position schedule 2024 | Australian Taxation Office (ato.gov.au)

12. OECD releases "Consolidated Commentary on the GloBE Rules" with intended outcomes & illustrations:- *OECD's Consolidated Commentary on the GloBE Rules dated 25 April 2024*

The OECD/G20 Inclusive Framework on BEPS recently released the consolidated commentary for Pillar Two global minimum tax rules on April 25, 2024. This comprehensive document integrates previously approved guidance until December 2023. With 140 member jurisdictions onboard, the Pillar Two rules are now in the process of implementation, scheduled to be enforced from January 2024. The updated commentary amalgamates original and subsequent releases, covering diverse topics such as currency conversion, rebasing monetary thresholds, and other technical intricacies.

The consolidated commentary offers detailed insights into various aspects of the Pillar Two rules. It elucidates the scope, charging provisions, computation of Pillar Two income, adjusted covered taxes, effective tax rate, corporate restructurings, and administrative procedures. Furthermore, it outlines four safe harbors, including transitional CbC reporting, permanent, QDMTT, and transitional UTPR, providing clarity and guidance for multinational groups navigating the complex tax landscape.

Looking ahead, the OECD plans to issue further guidance in the near future, ensuring ongoing clarity and alignment with evolving tax regulations. As more guidance is anticipated, the consolidated commentary will continue to be updated to reflect the latest developments, facilitating smoother compliance and implementation for jurisdictions and multinational enterprises alike.

13. World's billionaires should pay minimum 2% wealth tax, say G20 ministers: *News Report*

Ministers from prominent economies, including Brazil, Germany, South Africa, and Spain, propose the implementation of a minimum 2% tax on the burgeoning wealth of the world's 3,000 billionaires. This measure aims to generate approximately £250 billion annually to address pressing global issues such as poverty, inequality, and climate change. The ministers assert that amidst the economic upheavals caused by the pandemic, climate crisis, and regional conflicts, such a tax would not only mitigate inequality but also replenish public coffers. They advocate for broader international support, highlighting that the yearly proceeds could offset the financial repercussions of extreme weather events experienced in recent times. In a joint statement, the ministers stress the significance of equitable taxation policies in fostering societal equality and financing essential public goods like social protection, education, and environmental conservation. They emphasize the principle of progressive taxation, wherein individuals contribute to the common good commensurate with their financial capacity.

Further, under Brazil's leadership in the G20, discussions have been initiated regarding the implementation of a billionaire tax, with support from France and constructive engagement from the United States. Economist Gabriel Zucman is spearheading the technical framework for this initiative, aiming to address disparities in tax burdens and ensure fair contributions from the wealthiest strata of society. Despite the substantial wealth accumulation among billionaires during the pandemic, concurrent studies have highlighted stagnation in poverty alleviation efforts. The ministers argue that a levy on the super-rich constitutes a crucial

component alongside ongoing discussions on digital taxation and the recent establishment of a minimum corporate tax rate. The proposed tax framework would encompass measures to prevent tax evasion through offshore havens, ensuring that individuals cannot circumvent their fiscal responsibilities. International collaboration and consensus-building, akin to recent efforts in regulating multinational tax practices, are deemed essential for the effectiveness of such taxation reforms.

Although public opinion largely favors this proposal, the ministers anticipate resistance from vested interests among the super-rich, who may deploy lobbying and media influence to thwart implementation. Nonetheless, they underscore the importance of prioritizing the broader societal good over narrow individual interests, advocating for robust international cooperation to address wealth inequality through equitable taxation policies.

https://www.theguardian.com/inequality/2024/apr/25/billionaires-should-pay-minimum-two-per-cent-wealth-tax-say-g20-ministers

14. UAE releases public consultation on R&D tax incentives:- *Public consultation on R&D Tax Incentives*

The UAE Government, recognizing the importance of the wider benefits created by Research and Development ('R&D') in driving innovation and growing its knowledge base as part of creating a vibrant and diverse economy, is therefore considering possible mechanisms to achieve this objective and a support system with a broad reach across the economy through a potential R&D Tax Incentive under the Corporate Tax Law.

The Ministry of Finance is seeking inputs from stakeholders into the design process of the potential R&D Tax Incentive, and their views will help to develop the final design of the potential R&D Tax Incentive.

The consultation paper is split into the following documents and sections:

(a) Consultation questionnaire:

This includes a range of questions to understand more about how R&D is currently and/or anticipated to be conducted in your business, what the potential R&D Tax Incentive should cover and how the potential R&D Tax Incentive should be delivered and administered.

(b) Guidance Paper

A separate Guidance Paper has been prepared alongside the consultation questionnaire, which provides details on the internationally recognized definition of R&D as provided in the Organisation for Economic Co-operation and Development's ('OECD') Frascati Manual. The information provided in this consultation paper does not constitute tax, legal or any other professional advice as it does not represent the final policy position of the Ministry of Finance or the UAE Government.

The comments on this consultation are welcomed by 14 May 2024.

15. UAE releases corporate tax guide on 'Business Restructuring Relief':- *Corporate Tax Guide on Business Restructuring Relief*

UAE Federal Tax Authority has released Corporate Tax Guide on Business Restructuring Relief. The guide is designed to provide general guidance on the Business Restructuring Relief available under Article 27 of the UAE Corporate Tax Law.

The guide provides the readers with an overview of the following with respect to the Business Restructuring Relief:

(a) transactions covered within the scope of the relief,

(b) conditions to be eligible for the relief,

(c) consequences of electing for the relief,

(d) circumstances when the relief will be clawed back and the consequences of clawback of the relief,

(e) compliance requirements, and

(f) interaction with other provisions of the UAE Corporate Tax Law.

The guide is helpful for any Taxable Person intending to transfer his entire Business or part of an independent Business to another Taxable Person or who will become a Taxable Person as a result of the transfer.

This guidance is not a legally binding document but is intended to assist in understanding the tax implications for Business Restructuring Relief relating to the Corporate Tax Law.

16. Austrian lawmakers considering bill for public country-by-country reporting:- *Parliament Site*

The Austrian National Council is considering proposing a law to introduce public Country-by-Country (CbC) reporting. The proposed law set a public reporting threshold of EUR 750 million in annual consolidated revenue for the last two consecutive financial years.

Entities required to report may consist of parent companies of qualifying groups or unaffiliated companies reaching the revenue threshold and having operations such as subsidiaries, branches, fixed business establishments, or permanent activities in at least one other country.

Reporting entities may encompass Austrian branches or subsidiaries if the parent company is not governed by the laws of an EU Member State or contracting EEA Member State, unless the parent has already published a free, publicly available CbC report on its website within 12 months after the fiscal year-end, in at least one official language of the European Union.

CbC report needs to be filed in the commercial register within 12 months after the fiscal year ends. Normally, it should be in German, but English is permissible if submitted by a branch or subsidiary.

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