

LOVI MEHROTRA & ASSOCIATES

CHARTERED ACCOUNTANTS

MONTHLY UPDATE FOR SEP 2019

(Circulars/Notifications released in September 2019)

30th September 2019

[Income Tax](#)

[GST](#)

[Customs Duty](#)

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I. INCOME TAX

S.NO.	CIRCULAR/ NOTIFICATION NO.	PARTICULARS	SHORT SUMMARY
1.	CBDT Notification No.60/2019 dated 05.09.2019	Income tax (6th Amendment) Rules, 2019	<p>In view of power given under Section 10(23C)(1) and Section 80G(5)(vi) read with Section 295 of the Income Tax Act 1961, CBDT has amended the Income Tax Rules 1962 with the effective date for such amendments being 05.11.2019.</p> <p>The details of the amendments are as under :</p> <p>a) Rule 2C and 2CA: These rules have been substituted with a new rule 2C . Application for the purpose of grant of approval for exemption under Section 10(23C) shall be made in Form 56 in place of Form 56 & 56D.</p> <p>b) Rule 11AA: Amendment relating to requirements for application for approval of an institution or fund under Section 80G in the amended Form 10G</p> <p>In view of above rules, Forms specified for filling application in section 10(23C) & 80G , have been substituted with new Forms which are to be filed electronically (Earlier these were to be filed manually)</p> <p>Notification No. 60</p>
2.	CBDT Circular No.23/2019 dated 06.09.2019	Exception to monetary limits for filing appeals specified in any Circular issued under Section 268A of the Income-tax Act, 1961.	<p>Vide notification no. 17/2019 dated 08.08.2019, CBDT had enhanced the monetary limit for filing of appeals by the department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court.</p> <p>Subsequently, the Board has received several references internally about the cases of organized tax-evasion scam through bogus Long-Term Capital Gain (LTCG)/Short Term Capital Loss (STCL) on penny stocks which the department is unable to pursue in higher judicial fora on account of enhanced monetary limits.</p> <p>To address the above issue, CBDT has further specified that in such cases of organized tax evasion activity, appeals may be filed on merits as an exception to circular issued earlier in this behalf, (i.e. monetary limit specified for filing of appeals by department before ITAT/HC and SLPs/appeals before Supreme Court shall not apply in such cases of perceived tax evasion activity Circular No. 23</p>

3.	CBDT Circular No.25/2019 dated 09.09.2019	Relaxation in time for filing application of Compounding of Offences under Direct Tax Laws	<p>As per CBDT guidelines for compounding of offences under the Direct Tax Laws, application for compounding should be filed within 12 months from filing of complaint in the court. However, cases have been brought to the notice of CBDT where applicant could not avail the benefit of compounding in view of guidelines issued as the application was filed beyond 12 months.</p> <p>To mitigate the unintended hardship to taxpayers in deserving case, CBDT has relaxed the condition of filing of application within 12 months with certain conditions as specified in the notification as a one- time measure. Application in such cases has to be filed upto 31.12.19</p> <p>Circular No. 25</p>						
4.	CBDT Notification No.61/2019 dated 12.09.2019	E-assessment Scheme, 2019	<p>In exercise of power conferred by Section 143(3A) of the Income Tax Act, 1961, the Central Government has notified the E-assessment Scheme, 2019 which came into force from 12.09.2019.</p> <p>Notification No. 61</p> <p>For the purpose of giving effect to the E-assessment Scheme, 2019, the Central Government has also issued directions vide Notification No. 62 dated 12.09.2019 & Circular No. 27 dated 26.09.2019.</p>						
5.	CBDT Notification No.63/2019 dated 12.09.2019	Notification of Cost Inflation Index for AY 2020-21.	<p>In exercise of power given by clause (v) of Explanation to Section 48 of the Income Tax Act, 1961, the Central Government has notified the Cost Inflation Index for the AY 2020-21 (FY 2019-20) as under:</p> <table><tr><th>Assessment Year</th><th>Cost Inflation Index</th></tr><tr><td>2020-21</td><td>289</td></tr></table> <p>Notification No. 63</p>	Assessment Year	Cost Inflation Index	2020-21	289		
Assessment Year	Cost Inflation Index								
2020-21	289								
6.	CBDT Notification No.64/2019 dated 13.09.2019	Notification of tolerance range in transfer pricing for variation between ARM's Length Price under Section 92C of Income Tax Act, 1961	<p>In exercise of power given by Section 92C(2) of Income Tax Act, 1961 read with proviso to sub rule (7) of rule 10CA of the Income Tax Rules, 1962, Central Government has notified the following tolerance range in transfer pricing for variation between the arm's length price determined under section 92C of the Act and the price at which the international transaction or specified domestic transaction has actually been undertaken:</p> <table><tr><th>Nature of Transaction</th><th>Tolerance Range</th></tr><tr><td>Wholesale Trading</td><td>1%</td></tr><tr><td>Any transaction other than above</td><td>3%</td></tr></table> <p>If variation does not exceed tolerance range as specified above then such international or specified domestic</p>	Nature of Transaction	Tolerance Range	Wholesale Trading	1%	Any transaction other than above	3%
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Wholesale Trading	1%								
Any transaction other than above	3%								

			<p>transaction shall be deemed to be undertaken at arm's length price for the AY 2019-20.</p> <p>"Wholesale trading" means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely</p> <div><div>1)</div><div>purchase cost of finished goods is eighty per cent. or more of the total cost pertaining to such trading activity; and</div></div> <div><div>2)</div><div>average monthly closing inventory of such goods is ten per cent. or less of sales pertaining to such trading activity</div></div> <p>Notification No. 64</p>														
7.	<p>CBDT Notification No.66/2019 dated 16.09.2019</p>	<p>Income tax (7th Amendment) Rules, 2019</p>	<p>CBDT has amended Rule 2F of Income Tax Rule, 1962.</p> <p>Rule 2F provides Guidelines for setting up an Infrastructure Debt Fund for the purpose of exemption under section 10 (47). In this Rule Proviso to sub-rule (5) has been omitted.</p> <p>As a result of this amendment, investment made by a non-resident in bond of Infrastructure debt fund shall not have the lock in period of 3 years anymore.</p> <p>Notification No. 66</p>														
8.	<p>CBDT Notification No.69/2019 dated 20.09.2019</p>	<p>Increase of depreciation rate on certain motor cars, motor buses, motor lorries and motor taxis.</p>	<p>In exercise of power given under Section 32 read with 295 of the Income Tax Act, 1961, CBDT has <i>amended the rate of depreciation of certain motor</i> cars, motor buses, motor lorries and motor taxis</p> <p><i>The amended rate shall apply to such motor vehicles which are acquired after 23.08.2019.</i></p> <p>As a result of this amendment, depreciation rate on motor vehicle shall be as under:</p> <table><tr><th>Block of Assets</th><th>Depreciation rate (% of WDV)</th></tr><tr><td>(i) Motor cars, <i>other than</i> those used in a business of running them on hire, acquired or put to use</td><td></td></tr><tr><td>- on or after the 1st day of April, 1990</td><td>- 15%</td></tr><tr><td>-on or after the 23.08.2019 but before 01.04.2020</td><td>- 30%</td></tr><tr><td>(i) Motor buses, motor lorries and motor taxis <i>used</i> in a business of running them on hire acquired or put to use</td><td></td></tr><tr><td>- before the 23.08.2019</td><td>- 30%</td></tr><tr><td>-on or after the 23.08.2019 but before the 01.04.2020</td><td>- 45%</td></tr></table>	Block of Assets	Depreciation rate (% of WDV)	(i) Motor cars, <i>other than</i> those used in a business of running them on hire, acquired or put to use		- on or after the 1st day of April, 1990	- 15%	-on or after the 23.08.2019 but before 01.04.2020	- 30%	(i) Motor buses, motor lorries and motor taxis <i>used</i> in a business of running them on hire acquired or put to use		- before the 23.08.2019	- 30%	-on or after the 23.08.2019 but before the 01.04.2020	- 45%
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			Notification No. 69
9.	CBDT Circular No.70/2019 dated 26.09.2019	Clarifications in respect of filling-up of return forms for the Assessment Year 2019-20.	<p>CBDT had earlier issued clarifications to address various queries raised by the stakeholders in respect of filling-up of the ITR forms for the AY 2019-20. (Vide notification 18/2019 dated 08.08.2019 & 23/2019 dated 27.08.2019)</p> <p>To address , representation received on certain issues relating to filing of ITR forms ITR-5, ITR-6 and ITR-7 following further clarifications have been issued</p> <p>Circular No. 26</p>
10.	Order: F.No. 225/157/2019/1 TA.II dated 27th Sep 2019	Extension of due date for filing of ITR and Tax audit.	<p>In exercise of power given by Section 119 of the Act, CBDT has <i>extended the due date for filing Income tax returns required to be filed by the assessee covered under Clause 2 of Explanation 2 to Section 139(1) as well as all reports of audit</i> (which are required to be filed by the specified due date) from 30.09.2019 to 31.10.2019.</p> <p>✦ However, Interest under section 234A related to default in furnishing Income tax return <i>shall continue to apply..</i></p> <p>Assessee covered u/s clause a of Explanation 2 to Section 139(1) are as under</p> <ul style="list-style-type: none"> ✦ a company; or ✦ a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or ✦ a working partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force, <p>Order</p>
11.	CBDT Notification No.75/2019 dated 28.09.2019	Extension of due date for linking of PAN with Aadhaar.	<p>Vide notification no. 31/2019 dated 31.03.2019, CBDT had notified that every person who has been allotted a PAN as on 01.07.2017 and who is eligible to obtain Aadhaar number shall be required to link Aadhaar number with PAN by 30.09.2019.</p> <p><i>CBDT has now extended the due date for linking of PAN with Aadhar till 31.12.2019 .</i></p> <p>Notification No. 75</p>

12.	Taxation Laws (Amendment) Ordinance, 2019 dated 20.09.2019	Taxation Laws (Amendment) Ordinance, 2019	<p>The Central Government has brought certain amendments in the Income Tax Act, 1961 through promulgation of Ordinance under Article 123 of the Constitution of India approved by the Hon'ble President of India.</p> <p>These amendments would be applicable from the FY 2019-20 (AY 2020-21).</p> <p><u>Ordinance</u></p> <p><u>Highlights of such amendments are given below:</u></p>
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Insertion of New Section 115BAA : Option of paying income tax at reduced rate @22% (Effective from AY 2020-21)

✚ **Eligibility:** Any Domestic Company on exercising an ***irrevocable option*** of paying tax at reduced base rate of **22%** subject to condition that total income of the company shall be computed without availing the following deductions/exemptions:

- ✓ **Deduction under section 10AA** – Profits and Gains from newly established Units in Special Economic Zones (SEZ);
- ✓ **Additional depreciation** on new plant and machinery (Section 32)
- ✓ **Investment allowance** of 15% for setting up undertaking in notified backward areas (Section 32AD)
- ✓ **Deduction for tea/coffee/rubber** development account (Section 33AB)
- ✓ **Deduction for site restoration fund** (Section 33ABA)
- ✓ **Deduction in respect of expenditure on specified business** – natural gas pipeline network, new hotel, new hospital, etc. (Section 35AD)
- ✓ **Deduction for weighted deduction of 150%** on in-house research and contribution to National Laboratory or IIT or University for scientific research purpose (Section 35)
- ✓ **Chapter VIA deduction** (under heading “C. Deductions in respect of certain incomes”) ***other than*** deduction in respect of new employees (Section 80JJAA), which continues to be available. This would lead to exclusion of deduction under Sections – 80IA, 80IB, 80IC, 80IE, etc.
- ✓ **Loss carried forward from earlier assessment years** which is attributable to any of the deductions referred to above. Such loss shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

Revised manner of computation of depreciation : Claiming depreciation u/s 32 as notified (**not yet notified**)

Timelines for exercising the option: Option will have to be exercised ***before due date of furnishing the return of income for assessment year 2019-2020***, i.e., 30 September 2020 or 30 November, as applicable. Once the option has been exercised, it ***cannot be subsequently withdrawn*** for the same or any future previous years.

Surcharge: Income chargeable to tax shall be increased by a **Surcharge at the rate of 10%**.

✚ **Insertion of New Section 115BAB : Option of paying income tax at reduced rate @15% (Effective from AY 2020-21)**

Eligibility: New Domestic Company on exercising an ***irrevocable option*** of paying tax at reduced base rate of **15%** subject to the following condition:

- ✓ It must be set-up and registered on or after ***1st October 2019***;

- ✓ It must be engaged in manufacture or production of an article or thing and the manufacturing must be ***commenced on or before 31st March 2023***;
- ✓ It is not formed by splitting up or reconstruction of business already in existence and ***at least 80 percent*** of its total value of plant and machinery must be new plant and machinery (simply put, it must be a NEW company). Any plant or machinery which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose;
- ✓ It does not use any building previously used as a hotel or a convention Centre;
- ✓ The total income of such companies shall be computed without any deduction or exemption as stated above ***under Section 115BAA***.

Revised manner of computation of depreciation : Claiming the depreciation **u/s 32** as notified **(not yet notified)**

Timelines for exercising the option: Option will have to be exercised ***before due date of furnishing the returns of income for assessment year 2019-2020***, i.e., 30 September 2020 or 30 November, as applicable. Once the option has been exercised, it ***cannot be subsequently withdrawn*** for the same or any future previous years.

Further, **Section 92BA related to transfer pricing as “Specified Domestic Transaction”**, has been amended to cover transactions entered into by newly set up domestic company, opting for reduced rate of 15%, with any of its related parties (domestic or otherwise) . This amendment shall be effective from fiscal year 2019-20.

Surcharge: Income chargeable to tax shall be increased by a **Surcharge at the rate of 10%**.

Amendment in Section 115JB : Change in Minimum Alternate Tax Rate (MAT)

Insertion of New Proviso under Section 115JB(1) **(Effective from AY 2020-21)**

- ✓ The base rate for MAT has been ***decreased from 18.50% to 15%***.
- ✓ MAT will not be applicable to companies which have exercised the options of reduced income tax rate of 22 % and 15% in as stated above.

Amendment in Section 115QA : Removal of tax on distributed income to shareholders on buy-back of shares

Insertion of New Proviso under Section 115QA(1) **(Effective from 5th July 2019)**

Currently, companies are required to pay tax @20% on the distributed income on buy-back of shares (differential between the consideration paid by the company on buy-back and the amount which was originally received by the company on issue of such shares).

- ✓ ***The amendment provides that the above tax will not be applicable for buy-back of listed shares, in respect of which public announcement has been made before 5th July 2019.***

Changes in Surcharge Rate

The Finance (No 2) Act 2019, introduced increased surcharge at 25% and 37% of income-tax if the total income exceeds INR 2 crore and INR 5 crore, respectively.

The Ordinance provides relief from the increased Surcharge in case of a Foreign Institutional Investors as referred in section 115AD of the IT Act, in respect of income from capital gains arising on sale of securities.

The revised surcharge rate is tabulated hereunder:

Total Income (INR)	Income other than Capital gains covered under section 111A and section 112A	Capital gains income under section 111A and section 112A
Upto 50 Lakh	NIL	NIL
50 Lakh – 1 crore	10%	10%
1 crore – 2 crore	15%	15%
2 crore – 5 crore	25%	15%
Above 5 crore	37%	15%

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II. GOODS AND SERVICE TAX

S.NO.	CIRCULAR/ NOTIFICATION NO.	PARTICULARS	SHORT SUMMARY
1.	GST Council Press release dated - 20.09.2019	37 th Meeting of the GST Council	Recommendations made during 37 th Meeting of the GST Council held on 20 th September, 2019 are highlighted in <u>Annexure-I</u> to this News Letter.

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III. CUSTOMS DUTY

S.NO.	CIRCULAR/ NOTIFICATION NO.	PARTICULARS	SHORT SUMMARY
1.	CBIC Notification No. 66/2019-Cus (NT) dated 19.09.2019	Rate of Exchange	CBIC has notified the rate of exchange of conversion of foreign currency for import and export of goods for 20 currencies specified in Schedule I & Schedule II effective from 20-09-2019. Notification No. 66

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Annexure-I

Goods & Service Tax

Recommendations made during 37th Meeting of the GST Council held on 20th Sep, 2019

[A] EXEMPTIONS / CHANGES IN GST RATES / ITC ELIGIBILITY CRITERIA:

(a) Rate reduction sector wise:

Hospitality and tourism:

1. To reduce the rate of GST on hotel accommodation service as below: -

Transaction Value per Unit (Rs) per day	GST
Rs 1000 and less	Nil
Rs 1001 to Rs 7500	12%
Rs 7501 and more	18%

2. To reduce rate of GST on outdoor catering services other than in premises having daily tariff of unit of accommodation of Rs 7501 from present 18% with ITC to 5% without ITC. The rate shall be mandatory for all kinds of catering. Catering in premises with daily tariff of unit of accommodation of Rs 7501 and above shall remain at 18% with ITC.

Job work service:

1. To reduce rate of GST from 5% to 1.5% on supply of job work services in relation to diamonds.
2. To reduce rate of GST from 18% to 12% on supply of machine job work such as in engineering industry, except supply of job work in relation to bus body building which would remain at 18%.

(b) Exemption sector wise:

Warehousing:

To exempt prospectively services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea.

Transportation:

To increase the validity of conditional exemption of GST on export freight by air or sea by another year, i.e. till 30.09.2020.

Export promotion:

1. To exempt services provided by an intermediary to a supplier of goods or recipient of goods when both the supplier and recipient are located outside the taxable territory.
2. To issue a notification under Section 13(13) of IGST Act notifying the place of supply of specified R&D services (such as Integrated discovery and development, Evaluation of the efficacy of new chemical/ biological entities in animal models of disease, Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays, Drug metabolism and pharmacokinetics of new chemical entities, Safety Assessment/ Toxicology, Stability Studies, Bio Equivalence and Bio Availability Studies, Clinical trials, Bio analytical studies) provided by Indian pharma companies to foreign service recipients, as the place of effective use and enjoyment of a service i.e. location of the service recipient.

3. To clarify that the place of supply of chip design software R&D services provided by Indian companies to foreign clients by using sample test kits in India is the location of the service recipient and section 13(3)(a) of IGST Act, 2017 is not applicable for determining the place of supply in such cases.

Miscellaneous

1. To allow registered authors an option to pay GST on royalty charged from publishers under forward charge. 2. To notify grant of liquor licence by State Governments against payment of license fee as a “no supply” to remove implementational ambiguity on the subject.

(B) RATIONALIZATION/ TRADE FACILITATION MEASURES:

1. To allow payment of GST on securities lending service under reverse charge mechanism (RCM) at the merit rate of 18% and to clarify that GST on securities lending service for period prior to RCM period shall be paid on forward charge basis. IGST shall be payable on supply of these services and in cases where CGST/SGST/UTGST have been paid, such taxpayers will not be required to pay tax again.

2. Services rendered by suppliers being a registered person other than LLP, proprietorship to body corporate entities on renting vehicles, can avail 5% GST under reverse charge mechanism..

(D) Law & Procedure related changes:

1. Relaxation in filing of annual returns for MSMEs for FY 2017-18 and FY 2018-19 as under:

a. waiver of the requirement of filing FORM GSTR-9A for Composition Taxpayers for the said tax periods; and
b. filing of FORM GSTR-9 for those taxpayers who (are required to file the said return but) have aggregate turnover up to Rs. 2 crores made optional for the said tax periods.

2. In order to nudge taxpayers to timely file their statement of outward supplies, imposition of restrictions on availment of input tax credit by the recipients in cases where details of outward supplies are not furnished by the suppliers in the statement under section 37 of the CGST Act, 2017.

3. New return system now to be introduced from April, 2020 (earlier proposed from October, 2019), in order to give ample opportunity to taxpayers as well as the system to adapt and accordingly specifying the due date for furnishing of return in FORM GSTR-3B and details of outward supplies in FORM GSTR-1 for the period October, 2019 - March, 2020.

4. Issuance of circulars for uniformity in application of law across all jurisdictions:

a. procedure to claim refund in FORM GST RFD-01A subsequent to favourable order in appeal or any other forum;

b. eligibility to file a refund application in FORM GST RFD-01A for a period and category under which a NIL refund application has already been filed; and

c. clarification regarding supply of Information Technology enabled Services (ITeS services) (in supersession of Circular No. 107/26/2019-GST dated 18.07.2019) being made on own account or as intermediary.

5. Rescinding of Circular No.105/24/2019-GST dated 28.06.2019, ab-initio, which was issued in respect of post-sales discount.

6. Suitable amendments in CGST Act, UTGST Act, and the corresponding SGST Acts in view of creation of UTs of Jammu & Kashmir and Ladakh.

7. Integrated refund system with disbursal by single authority to be introduced from 24th September, 2019.

8. In principle decision to link Aadhar with registration of taxpayers under GST and to examine the possibility of making Aadhar mandatory for claiming refunds.

9. In order to tackle the menace of fake invoices and fraudulent refunds, in principle decision to prescribe reasonable restrictions on passing of credit by risky taxpayers including risky new taxpayers.

Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month.

Instead it is only a listing of some of the circulars/notifications that we considered important

