

January 2022

NEWSLETTER

TAX

- Income Tax
- Goods and Services Tax



Lovi Mehrotra & Associates

Chartered Accountants

21-22 IInd Floor Krishna Nagar Safdarjung Enclave
New Delhi 110029

Website : www.lma.co.in • Email : a.kumar@lma.co.in

Income Tax

1. Extension of timelines for filing of Income-tax return and Tax audit report for A.Y. 2021-22.

CBDT

Circular No. 01/2022 dated 11.01.2022

Vide this circular, CBDT has further extended due dates of filing of Income tax return and Tax audit report as below:

Income Tax Return			
Type of Assessee	Section Ref	Earlier date	Extended date
Company or other Assessee requiring Audit under the Income Tax Act, 1961 or any other law.	clause (a) of explanation 2 to section 139(1)	15th Feb'22	15th Mar'22
Assessee required to submit Transfer Pricing Report.	clause (aa) of explanation 2 to section 139(1)	28th Feb'22	15th Mar'22

Tax Audit Report			
Type of Assessee	Section Ref	Earlier date	Extended date
Company or other Assessee requiring Audit under the Income Tax Act, 1961 or any other law.	clause (a) of explanation 2 to section 139(1)	15th Jan'22	15th Feb'22
Assessee required to submit Transfer Pricing Report.	clause (aa) of explanation 2 to section 139(1)	31st Jan'22	15th Feb'22

- **Clarification**- It should be noted that due date of furnishing of return is not extended for the purpose of calculation of interest on delay in filing income tax return as per section 234(A) of the Income Tax Act, 1961 *if the final tax liability after deducting tax paid and relief as specified in clauses (i) to (vi) of section 234A(1) exceeds 1 lakh Rupees.*

[Circular No.1](#)

2. Income Tax (1st Amendment), Rules 2022

CBDT

Notification No. 06/2022 dated 14.01.2022

Vide this notification, CBDT has inserted new rules i.e., **Rule 21AJA and Rule 21AJAA** in the Income Tax Rules 1962:

Rule 21AJA deals with determination of exempt income of specified fund, *attributable to the investment division of an offshore banking unit* for the purpose of section 10(4D) of the Income Tax Act, 1961.

- Section 10(4D) was inserted vide Finance Act, 2019 w.e.f. 1 April 2020 in order to grant exemption to 'specified funds' on income from transfer of capital asset specified under section **47(viia)** of the Income Tax Act, 1961 on a recognized stock exchange of an International Financial Services Centre (IFSC) where consideration is paid/ payable in convertible foreign exchange.
- Section **47(viia)** provides Capital Gain tax exemption to shareholders on transfer of shares in the scheme of Amalgamation subject to conditions specified in the section.
- Now, Rule 21AJA has been inserted to prescribe the method of determination of exempt income of specified fund, *attributable to the investment division of an offshore banking unit*:

➤ **Method of determination of exempt Income as per Rule 21AIA**

- For the purposes of clause (4D) of section 10 of the Income Tax Act 1961, income of specified fund attributable to the investment division of an offshore banking unit shall be computed in accordance with the formula: - $A+B+C+D$, where
- **A** = any income accrued or arisen to or received by the eligible investment division as a result of transfer of a capital asset referred to in clause (viia) of section 47 of the Income Tax Act, 1961 held by it, on a recognized stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in convertible foreign exchange.
- **B**= any income accrued or arisen to or received by the eligible investment division as a result of transfer of securities held by it (other than shares in a company resident in India).
- **C**= any income accrued or arisen to or received by the eligible investment division from securities held by it and issued by a non-resident (not being a permanent establishment of a non-resident in India) and where such income otherwise does not accrue or arise in India.
- **D** = any income accrued or arisen to or received by the eligible investment division from a securitization trust which is chargeable under the head "profits and gains of business or profession". Explanation: Any expenditure incurred for the purposes of making or earning income referred to in items A or B or C or D shall not be allowed as deduction from income from any other activity or source under any provision of the Income Tax Act, 1961, irrespective of the fact that such expenditure has not been allowed as deduction against income referred to in items A or B or C or D, as the case may be.
- Explanation: Any expenditure incurred for the purposes of making or earning income referred to in items A or B or C or D shall not be allowed as deduction from income from any other activity or source under any provision of the Income Tax Act, 1961 irrespective of the fact that such expenditure has not been allowed as deduction against income referred to in items A or B or C or D, as the case may be

➤ **Other conditions to be fulfilled by offshore Banking Unit.**

- The eligible investment division of offshore banking unit shall furnish an annual statement of exempt income in **Form No. 10-IK** electronically under digital signature on or before the due date.
- Offshore Banking unit shall maintain separate accounts for the registered investment division reflecting true and fair accounts of all transactions relating to the investment division.
- Offshore Banking unit shall get their accounts audited by an accountant before the specified date and such accountant shall furnish by that date the report of such audit in **Form No. 10-IL** electronically under digital signature, duly verified.
- Offshore Banking unit shall maintain proper documentation in respect of, - (i) inbound remittance for buying and selling the investments; and (ii) the use of inward remittance made to India.
- Offshore Banking unit shall maintain bank statement of all accounts of the registered investment division,
- Offshore Banking unit shall maintain contract notes relating to purchase and sale of securities by the registered investment division.
- Offshore Banking unit shall maintain a statement of securities issued by the custodian

Rule 21AJAA deals with determination of income of a specified fund attributable to the investment division of an offshore banking unit under sub-section (1B) of section 115AD of the Income-tax Act, 1961.

- Section 115AD deals with tax on income of Foreign Institutional Investor arising by way of short-term or long-term capital gains arising from transfer of securities.
- Now, Rule 21AJAA has been inserted to prescribe the method of determination of income of a specified fund attributable *to the investment division of an offshore banking unit*:

➤ **Method of determination of Income as per Rule 21AJAA**

- For the purposes of subsection (1B) of section 115AD of the Income Tax Act, 1961, income of a specified fund, being the investment division of an offshore banking unit shall be computed in accordance with the formula: - $A+B+C+D+E+F$, where
- **A** = income by way of long-term capital gain referred to in clause (b) of sub-section (1) of section 115AD, accrued or arisen to, or received by the eligible investment division, as a result of transfer of a security referred to in section 112A of the Income Tax Act, 1961 and held by such investment division.
- **B** = income by way of long-term capital gain referred to in clause (b) of sub-section (1) of section 115AD, accrued or arisen to, or received by the eligible investment division as a result of transfer of a security, other than that referred to in section 112A, and held by such investment division.
- **C**= income by way of short-term capital gain referred to in clause (b) of sub-section (1) of section 115AD, accrued or arisen to, or received by the eligible investment division as a result of transfer of security referred to in section 111A of the Income Tax Act, 1961 and held by such investment division.
- **D**= income by way of short-term capital gain referred to in clause (b) of sub-section (1) of section 115AD, accrued or arisen to, or received by the eligible investment division as a result of transfer of a security, other than that referred to in section 111A of the Income Tax Act, 1961, and held by such investment division.
- **E**= income from securities referred to in clause (a) of sub-section (1) of section 115AD of the Income Tax Act, 1961, being in the nature of interest referred to in section 194LD of the Income Tax Act, 1961, held by the eligible investment division.
- **F**= income from securities, held by the eligible investment division, as referred to in clause (a) of subsection (1) of section 115AD of the Income Tax Act, 1961 and not included in item E above.
- Explanation: Any expenditure incurred for the purposes of making or earning an income referred to in items A or B or C or D or E or F shall not be allowed as a deduction from income from any other activity or source, irrespective of the fact that such expenditure has been not allowed as a deduction against income referred to in items A or B or C or D or E or F, as the case may be

➤ **Other conditions to be fulfilled by Offshore Banking Unit-**

- The eligible investment division of Offshore Banking Unit shall furnish an annual statement of income in **Form No. 10-IK** electronically under digital signature on or before the due date.

3. E- advance rulings Scheme, 2022	
<div style="text-align: right;">CBDT</div> <div style="text-align: right;">Notification No. 7/2022 dated 18.01.2022</div>	
<p>Vide this Notification, CBDT has announced the E-advance ruling scheme.</p> <p>Salient features of the scheme are as below:</p> <ul style="list-style-type: none"> ➤ Assessee can now file Advance ruling applications through e-mails. ➤ All communication between the Assessee and Board for Advance Ruling (Board) for advance ruling shall be through electronic mode and there will be no personal appearance of the Assessee or his /her authorized representative, Appearances will be through Video conferencing or Video telephony. ➤ This scheme shall be applicable to applications of Advance rulings: <ul style="list-style-type: none"> • made to the Board under sub-section (1) of section 245Q of the Income Tax Act, 1961. • Transferred to Board under sub-section (4) of section 245Q of the Income Tax Act, 1961. ➤ An applicant may withdraw the application with in 30 days from the date of application. ➤ Board may at its discretion permit or require the applicant to submit such additional facts as may be necessary. ➤ Board may, with a view to rectifying any mistake apparent from the record, amend any order passed by it before the ruling pronounced by the Board has been given effect to by the Assessing Officer. ➤ An appeal against an order for advance ruling passed by the Board under this Scheme shall lie before the High Court <p>Notification No.7</p>	
4. Income Tax (2nd Amendment), Rules 2022	
<div style="text-align: right;">CBDT</div> <div style="text-align: right;">Notification No. 8/2022 dated 18.01.2022</div>	
<p>CBDT has notified the Income tax (2nd Amendment) Rules, 2022 to further amend the Income-tax Rules, 1962.</p> <p>Rule 8D has been inserted which deals with computation of capital gains for the purposes of sub-section (1B) of section 45-(1).</p> <ul style="list-style-type: none"> ➤ Sub section (1B) of section 45(1) deals with taxation of unit linked insurance policies (ULIPs). ➤ The Finance Act of 2021 carried out amendment in section 10(10D) of the Income-tax Act 1961, following which sum received under ULIPs issued on or after Feb 1, 2021, shall not be exempt if the annual premium payable for any year exceeds ₹2.50 lakh. ➤ This provision was enacted to create level playing field between mutual fund investment and ULIP Investment ➤ Now, the CBDT has inserted rule 8D for determining the capital gain in case of specified ULIPs,; 	

➤ **Method of determination of capital gain as per rule 8D in case of specified ULIPs**

- Where any person receives at any time during any previous year any amount under a specified unit linked insurance policy, including the amount allocated by way of bonus on such policy, then,
 - where the amount is received for the first time under the specified unit linked insurance policy during the previous year, the capital gains arising from receipt of such during the previous year in which such amount is received shall be calculated in accordance with the formula: A-B where,
 - **A**= the amount received for the first time under a specified unit linked insurance policy during the previous year, including the amount allocated by way of bonus on such policy,
 - **B** = the aggregate of the premium paid during the term of the specified unit linked insurance policy till the date of receipt of the amount as referred to in A.
- where the amount is received under the specified unit linked insurance policy during the previous year, at any time after the receipt of the amount as referred to in clause (i), above, the capital gains arising from receipt of such amount during the previous year in which such amount is received shall be calculated in accordance with the formula: C-D where,
 - **C**= the amount received under a specified unit linked insurance policy during the previous year, at any time after the receipt of the amount as referred to in clause (i), including the amount allocated by way of bonus on such policy excluding the amount that has already been considered for calculation of taxable amount under this sub- rule during the earlier previous year or years
 - **D** = the aggregate of the premium paid during the term of the specified unit linked insurance policy till the date of receipt of the amount as referred to in "C" as reduced by the premium that has already been considered for calculation of taxable amount under this sub-rule during the earlier previous year or years.

[Notification No.8](#)

5. Securities Transaction Tax (1st Amendment) Rules, 2022

CBDT

Notification No. 09/2022 dated 18.01.2022

CBDT has notified the Securities Transaction Tax (1st Amendment) Rules, 2022 to amend the Securities Transaction Tax Rules, 2004 in order to include insurance companies under the purview of Security Transaction Tax (STT).

The Finance Act, 2021 has amended the Finance (No 2) Act, 2004 to make STT applicable on maturity or partial withdrawal with respect to a unit-linked insurance policies (ULIPs) issued by the insurance company on or after 01-02-2021. This is applicable to ULIPs where annual premium payable for any year exceeds ₹2.50 lakh.

Consequent to amendment, a new Rule 5A has been inserted and existing Rule 6, 7 and 8 has been amended to include insurance companies under the purview of STT.

Rule	Insertion/Amendment
5A	Managing director or a Whole-time director of an Insurance Company will be the person responsible for collection and payment of STT
6	Applicability of STT extended to insurance companies also.
7	Amended to include Form No. 2A to be furnished by Insurance companies (Return of Taxable Securities Transactions for Insurance Company)

8	Return of STT in Form No. 2A of an Insurance company shall be furnished by the Managing director or a Whole-time director, duly authorized by the Board.	
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[Notification No.9](#)

<u>Goods and services tax</u>
No new circulars/notifications issued in Jan'22.

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



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New Delhi 110029**

Website : www.lma.co.in • Email : a.kumar@lma.co.in