

**SEPTEMBER**  
**2021**

# 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](http://www.lma.co.in) • Email : [a.kaushik@lma.co.in](mailto:a.kaushik@lma.co.in)**

## **INCOME TAX**

### **1. Implementation date of certain sub sections/proviso of Income Tax Act, 1961**

CBDT

Notification No. 97/2021 dated 1.09.2021

Vide this Notification CBDT has notified the implementation date of certain sub sections/provisos of Income Tax as **1<sup>st</sup> September, 2021**. The sub sections and provisos are as followed: -

- Second proviso of sub-section (1) of **section 245-O**, which specifies Authority for Advance ruling.
- Sub-section (2) of **section 245-P**, which specifies Vacancies, etc., not to invalidate proceedings.
- Sub-section (4) of **section 245-Q**, which specifies, Application for advance ruling.
- Sub- section (8) of **section 245-R**, which specifies, Procedure on receipt of application.
- Sub-section (3) of **section 245-S**, which specifies, Applicability of advance ruling.
- Sub-section (3) of **section 245-T**, which specifies, Advance ruling to be void in certain circumstances.
- Sub-section (3) of **section 245-U**, which specifies, Powers of the Authority.
- Provision to **section 245-V**, which specifies, Procedure of Authority.

[Notification No.97](#)

### **2. Income-tax (26<sup>th</sup> Amendment) Rules,2021**

CBDT

Notification No. 99/2021 dated 2.09.2021

Vide this notification, CBDT has issued the Income tax (26<sup>th</sup> Amendment) Rules, 2021 to further amend the Income-tax Rules, 1962. Following amendments have been made:

#### **1) Section 26D has been inserted which specifies furnishing of declaration and evidence of claims by specified senior citizen under section 194P, namely:**

- The declaration required to be furnished by the specified senior citizen to the specified bank under sub clause (iii) of clause (b) of explanation to section 194P (Exemption for ITR filing for Senior citizen) shall be in Form no. 12BBA to be furnished in paper form duly verified.
- On furnishing of the declaration in Form No. 12BBA, the specified bank shall, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A, compute the total income of such specified senior citizen for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force.
- The effect to the deduction allowable under Chapter VI-A shall be given based on the evidence furnished by the specified senior citizen during the previous year.
- The declaration referred to in sub-rule (1) and evidence for claiming deduction under Chapter VI-A referred to in sub-rule (3) shall be properly maintained by the Specified Bank and shall be made available to the Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax, as and when required.
- The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall specify procedure for furnishing of particulars of Form No. 12BBA referred to in sub-rule (1) and evidence referred to in sub-rule (3) by the specified banks to the Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax, as and when required."

#### **2) In Rule 31A Statement of deduction of tax, sub-rule 3B has been inserted:**

Specified bank responsible for deduction of tax under section 194P, shall furnish evidence produced by

the specified senior citizen for claiming deduction under chapter VI-A to the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) or to any other person authorised by the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as and when required.

[Notification No.99](#)

**3. Income-tax (27<sup>th</sup> Amendment) Rules,2021**

CBDT  
Notification No. 101/2021 dated 6.09.2021

Vide this notification, CBDT has issued the Income tax (27<sup>th</sup> Amendment) Rules, 2021 to further amend the Income Tax Rules, 1962. Following amendment have been made:

A new **Rule 14C** has been inserted which deals with 'Prescribed manner of authentication of an electronic record under electronic verification code under section 144B(7)(i)(b) which deals with faceless assessment, namely: -

- Where an assessee or any other person submits an electronic record by logging into his registered account in a designated portal of the Income-tax Department, it shall be deemed that the electronic record has been authenticated under electronic verification code.

[Notification No.101](#)

**4. Extension of time lines for filing of Income-tax returns and various reports of audit for the Assessment Year 2021-22**

CBDT  
Circular No. 17/2021 dated 9.09.2021

CBDT has provided relaxation in respect of the following compliances: -

Particulars	Provisions/Rule	Existing due date	Extension of due date Vide Circular No. 9/2021	Further Extended Due Date Vide this circular
Filing of Return of Income (Tax Audit not applicable)	Sec 139(1)	31.07.2021	30.09.2021	31.12.2021
Tax Audit	Sec 44AB	30.09.2021	31.10.2021	15.01.2022
Audit Report for International/Specified Transactions	Sec 92E	31.10.2021	30.11.2021	31.01.2022
Filing of Return of Income (Tax Audit applicable)	Sec 139(1)	31.10.2021	30.11.2021	15.02.2022
ITR for International/Specified Transaction	Sec 139(1)	30.11.2021	31.12.2021	28.02.2022
Belated/Revised Due Date	Sec 139(4)/ (5)	31.12.2021	31.01.2022	31.03.2022

[Circular No.17](#)

**5. Income-tax (28<sup>th</sup> Amendment) Rules,2021**

CBDT  
Notification No. 105/2021 dated 10.09.2021

Vide this notification CBDT has issued the Income-tax (28<sup>th</sup> amendment) rules, 2021 to further amend the Income-tax Rules, 1962. Following amendment has been made:

In **Rule 11UAC**, which specifies, Prescribed class of persons for the purpose of section 56(2)(x): Clause (4) has been inserted which states that Equity shares of a public sector company received by a person from the Central Government or any State Government under strategic disinvestment shall not be chargeable as income from other sources under Section 56(2)(x). (List of incomes which are chargeable under the head, income from other

sources).

[Notification No.105](#)

#### 6. Income-tax (29<sup>th</sup> Amendment) Rules,2021

CBDT

Notification No. 109/2021 dated 13.09.2021

Vide this notification, CBDT has issued the Income-tax (29<sup>th</sup> amendment) rules, 2021 to further amend the Income-tax Rules, 1962. Following amendment has been made:

A new **Rule 12F** has been inserted which states that the prescribed income-tax authority shall not be below the rank of Income-Tax Officer for **Issuance of Notice for Inquiry before Assessment of Tax**.

[Notification No.109](#)

#### 7. Relaxation in provisions of TDS u/s 194A

CBDT

Notification No. 110/2021 dated 17.09.2021

Vide this notification, CBDT notifies that no TDS u/s **194A** (TDS on Interest other than interest on securities) will be deducted by 'Scheduled Bank on payment on interest, other than interest on securities to scheduled tribe residing in any specified area subject to following conditions: -

1. The payer satisfies itself that the receiver is a member of Scheduled Tribe residing in any specified area, and the payment as referred above is accruing or arising to the receiver as referred to in section 10(26) (Tax exemptions for north eastern areas), during the previous year relevant for the assessment year in which the payment is made, by obtaining necessary documentary evidences in support of the same.
2. The payer reports the above payment in the statements of deduction of tax as referred to in **section 200(3)** i.e., Forms & time limit for submitting quarterly TDS returns.
3. The payment made or aggregate of payments made during the previous year does not exceed **twenty lakh rupees**.

[Notification No.110](#)

#### 8. Income-tax (30<sup>th</sup> Amendment) Rules,2021

CBDT

Notification No. 117/2021 dated 30.09.2021

Vide this notification, CBDT has notified the Income-tax (30<sup>th</sup> Amendment) Rules,2021. Following amendment has been made:

CBDT has further extended the applicability of provisions under **Rule 10D** (Transfer Pricing Safe Harbour Rules) for assessment years **2020-21** and **2021-22**.

[Notification No.117](#)

## **GOODS AND SERVICES TAX**

### **1. Clarification regarding extension of time limit to apply for revocation of cancellation of registration**

CBIC Circular No.  
158/2021- dated 06.09.2021

CBIC has issued this circular in order to clarify circumstances in which benefit of **Notification No.34/2021 dated 29.08.2021** would be available.

Notification No. 34/2021 dated 29.08.2021 was issued to extend the timelines for filing of application for revocation of cancellation of registration up to **30.09.2021**. However, this extension is applicable when the original due date falls between **1.03.2020** to **31.08.2021**.

CBIC clarified that taxpayers could apply for revocation of cancellation of GST registration due to:

- Violation of provisions of the GST Act or the rules.
- Non-filing of returns for three quarters by a composition dealer.
- Non-filing of returns for six months by a regular taxpayer.

CBIC further clarified that the taxpayer can apply irrespective of the status of such applications, which is explained in the table below:

<b>S.No.</b>	<b>Status of application for revocation of cancellation of GST registration</b>	<b>Action to be taken by the taxpayer</b>
1	Not yet filed by the taxpayer	File application on or before <b>30.09.2021</b>
2	Application filed and pending with officer	No action is needed from the taxpayer's end. The officer shall process the application considering the extended deadline
3	Application filed but rejected by the officer and taxpayer not filed any appeal against the rejection	Can file a fresh application on or before <b>30.09.2021</b>
4	Appeal against rejection of the application by the officer is pending at appellate authority	No action is needed from the taxpayer's end. The appellate authority shall process the appeal considering the extended deadline
5	Application rejected by officer and appeal decision is also against the taxpayer	Can file a fresh application on or before <b>30.09.2021</b>

Usually, the taxpayer has to apply for revocation of cancellation of registration within 30 days from the date of receiving the cancellation order. However, the CBIC has inserted a new provision to extend the time for applying for revocation of cancellation of registration. The Additional/Joint Commissioner can extend the time limit by 30 days, and the Commissioner can extend it by another 30 days. So, in total, a taxpayer gets a time limit of 90 days (initial 30 days + additional 60 days) to apply for revocation. The department clarified as follows:

<b>S.No.</b>	<b>Scenario</b>	<b>Last Date to apply for revocation</b>
1.	When the initial time limit of 30 days falls between 1.03.2020 to 31.12.2020	30.09.2021
2.	When the initial time limit of 30 days has not lapsed as of 1.01.2021 or registration has been cancelled on or after 1.01.2021, and: -	
	a. The entire 90 days time period has elapsed by 31.08.2021	30.09.2021
	b. Only 60 days time period has elapsed by 31.08.2021	30.10.2021 (With the Commissioner's approval after 30.09.2021)
	c. Only the initial 30 days time period has elapsed by 31.08.2021	30.10.2021 (With the Joint/additional Commissioner's approval after 30.09.2021) or 29.11.2021



[Circular No.158](#)

**2. Recommendations made during 45<sup>th</sup> Meeting of the GST Council held on 17<sup>th</sup> September, 2021**

Following are the key highlights of the 43<sup>rd</sup> GST Council Meeting: -

**A. COVID-19 Relief Measures:**

1. Concessional GST rates on specific COVID-19 treatment drugs extended till **31<sup>st</sup> December, 2021** (from 30<sup>th</sup> September, 2021)
2. Reduction in GST rate to 5% on COVID-19 treatment drugs up to **31<sup>st</sup> December, 2021**.

**B. Major GST changes in relation to rates and scope of exemption on Services [w.e.f 1.10.2021 unless otherwise stated]**

S.No.	Description	From	To
1.	Validity of GST exemption on transport of goods by vessel and air from India to outside India is extended upto 30.9.2022	Nil	Nil
2.	Services by way of grant of National Permit to goods carriages on payment of fee	18%	Nil
3.	Skill Training for which Government bears 75% or more of the expenditure [ presently exemption applies only if Govt funds 100%]	18%	Nil
4.	E Commerce Operators are being made liable to pay tax on following services provided through them: - (i) transport of passengers, by any type of motor vehicles through it <b>[w.e.f. 1st January, 2022]</b> (ii) restaurant services provided through it with some exceptions <b>[w.e.f. 1st January, 2022]</b>		
5.	Certain relaxations have been made in conditions relating to IGST exemption relating to import of goods on lease, where GST is paid on the lease amount, so as to allow this exemption even if (i) such goods are transferred to a new lessee in India upon expiry or termination of lease; and (ii) the lessor located in SEZ pays GST under forward charge.		

**C. Key trade facilitation measures:**

1. Relaxation in the requirement of filing of declaration in Form **GST ITC-04** to be filed by a registered manufacturer in case of job work:

Description	Existing	Proposed
Taxpayer whose annual aggregate turnover in preceding financial year		
i) Above Rs 5 Crores	Quarterly	Half-yearly
ii) Upto Rs 5 Crores	Quarterly	Annually

2. In light of the earlier decision to charge interest only on net cash liability, section 50(3) of the CGST Act to be amended retrospectively effective 1<sup>st</sup> July, 2017 to provide interest @ 18% only on 'ineligible ITC availed and utilized' and not merely on 'ineligible ITC availed'.
3. Unutilized balance in CGST and IGST cash ledger allowed to be transferred between distinct persons (entities having same PAN but registered in different states) without going through the refund procedure, subject to certain safeguards.
4. CGST Rules to be amended to provide for procedure & time limit for claiming refund of incorrectly paid tax as per CGST Act & IGST Act.

**D. Measures for streamlining compliances in GST**

1. Aadhaar authentication made mandatory for

- Filing refund claim
  - Filing application for revocation of cancellation of registration
2. Late fee for delayed filing of **Form GSTR-1** to be auto-populated and collected in the next open return in **Form GSTR-3B**.
  3. GST refund to be disbursed in the bank account linked with same PAN on which GST registration has been obtained.
  4. Effective **1<sup>st</sup> January, 2022**, **Form GSTR-1** will not be permitted to be filed in case **Form GSTR-3B** for the preceding month is pending.
  5. Restrict ITC availment only on invoice / debit note furnished by registered person in **Form GSTR-1 / IFF** and communicated to recipient through **Form GSTR-2B**.

#### **E. Other Measures:**

1. Issuance of Circulars on the following aspects recommended to remove ambiguity & legal disputes:
  - i. Clarification on scope of “intermediary services”
  - ii. Interpretation of the term ‘merely establishment of a distinct person’ in the definition of ‘export of services’ in case of separate legal entities incorporated in India and any other country
  - iii. Date of issuance of debit note (and not the date of underlying tax invoice) to be relevant for determining timeline to avail ITC
  - iv. No requirement for carrying physical copy of tax invoice in case of ‘e-invoices’ generated in accordance with Rule 48(4) of the CGST Rules with a valid Invoice Reference Number (IRN)
  - v. Only those goods subjected to export duty will be covered under the restriction imposed under section 54(3) of CGST Act, 2017 from availment of refund of accumulated ITC
2. Pursuant to the discussion on the exhaustion of revenue collections from compensation cess, the Council decided to set up a Group of Ministers (GoM):
  - i. To examine correction of the inverted duty structure for major sectors, rationalize rates and review exemptions from the GST revenue augmentation perspective; and
  - ii. To discuss ways and means of using technology to improve compliance; monitoring through improved e-way bill systems, e-invoices, and FASTag data; strengthening institutional mechanisms for sharing of intelligence; and coordinated enforcement actions by the Centre and the State Governments.

[Press Release - 45th Meeting of GST Council](#)

### **3. Clarification on doubts related to scope of “Intermediary”**

CBIC Circular No.  
159/2021- dated 20.09.2021

Vide this circular CBIC clarifying the doubts related to the scope of the intermediary. In view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the GST Act, CBIC hereby clarifies the issues: -

#### ➤ **Scope of Intermediary Services**

- ‘Intermediary’ has been defined in the section 2(13) of the IGST Act as under–  
 “Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.”
- The concept of ‘intermediary’ was borrowed in GST from the Service Tax Regime. The definition of ‘intermediary’ in the Service Tax law as given in Rule 2(f) of Place of Provision of Services Rules,

2012 issued vide **Notification No. 28/2012-ST**, dated **20-6-2012** was as follows:

“Intermediary” means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of a service (hereinafter called the ‘main’ service) or a supply of goods, between two or more persons, but does not include a person who provides the main service or supplies the goods on his account.”

- From the perusal of the definition of “intermediary” under IGST Act as well as under Service Tax law, it is evident that there is broadly no change in the scope of intermediary services in the GST regime vis-à-vis the Service Tax regime, except the addition of supply of securities in the definition of intermediary in the GST Law.

➤ **Primary requirements for Intermediary Services**

The concept of intermediary services as defined above requires some pre-requisites, which are discussed below:

- i. Minimum of three parties
- ii. Two distinct supplies, main supply & ancillary supply.
- iii. Intermediary service provider to have the character of an agent, broker, or any other similar person.
- iv. Does not include a person who supplies such goods or services or both or securities on his own account.

[Circular No.159](#)

**4. Clarification in respect of certain GST related issues**

CBIC Circular No.  
160/2021- dated 20.09.2021

CBIC had made amendment through Finance Act, 2020 that debit notes were delinked from the relevant original invoice. To provide further clarity on delinking the date of debit note from the date of relevant original invoice for the purpose of ITC availment on such debit note, the CBIC has issued the following clarifications: -

- The date of debit note will be the relevant date to determine the financial year for the purpose of ITC availment in respect of such debit note.
- For the availment of ITC on the debit note on or after **1<sup>st</sup> January 2021**, then irrespective of whether the debit note is issued prior to or after 1<sup>st</sup> January 2021, the ITC availment would be governed by the provisions of amended GST law (Section 16(4)[Eligibility & conditions for taking ITC] of CGST Act, 2017).
- For the availment of ITC on the debit note before **1<sup>st</sup> January 2021**, the ITC availment would be governed by the old ITC provisions for debit note. It means that in such scenario, the **date of original invoice** would be of relevance for ITC availment.
- It is clarified that there is no need to carry the physical copy of tax invoice in cases where an e-invoice has been generated by the supplier in the manner prescribed under rule 48(4) of the CGST Rules and production of the Quick Response (QR) code having an embedded IRN electronically, for verification by the proper officer.

[Circular No.160](#)

**5. Clarification relating to export of services-condition (v) of section 2(6) of the IGST Act**

CBIC Circular No.  
161/2021- dated 20.09.2021

Vide this circular, CBIC has issued clarification on export of services-condition (v) of section 2(6) of the IGST Act 2017. In view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the law across field formations, it has been clarified that: -

- A company incorporated in India and a body corporate incorporated by or under the laws of a country outside India, are separate persons under CGST Act, and thus are separate legal entities. Accordingly,



these 2 separate persons would not be considered as merely establishments of a distinct person. Therefore, supply of services by a subsidiary/ sister concern/ group concern, etc. of a foreign company, which is incorporated in India to the establishments of the said foreign company located outside India (incorporated outside India), would not be barred by the section 2(6)(v) for being considered as export of services, as it would not be treated as supply between merely establishments of distinct persons.

- Similarly, the supply from a company incorporated in India to its related establishments outside India, which are incorporated under the laws outside India, would not be treated as supply to merely establishments of distinct persons under. Such supplies, therefore, would qualify as 'export of services', subject to fulfillment of other conditions as provided under section 2(6).

[Circular No.161](#)

## 6. CGST (Eighth Amendment) Rules, 2021

CBIC Notification No.  
35/2021- dated 24.09.2021

Vide this notification, CBIC has notified (Eighth Amendment) Rules, 2021. Following are the key changes: -

- With effect from a date to be notified, **Rule 10A** (Furnishing of Bank Account details after registration) has been amended to prescribe that the bank details which is required to be furnished by the registered person after obtaining registration shall be such which is in name of the registered person and obtained on Permanent Account Number of the registered person. It has also been provided that in case of a proprietorship concern, the PAN shall also be linked with the Aadhar number of the proprietor.
- With effect from a date to be notified, **Rule 10B** shall be inserted which prescribes compulsory Aadhaar authentication for registered person in order to be eligible for following purposes:
  - Filing of revocation of application under Rule 23
  - Filing of refund application under Rule 89
  - Refund under Rule 96 in IGST paid exports

It has also been provided that in case Aadhaar number is not provided to any person, such person can furnish following ID proofs along with his/her Aadhar Enrolment ID slip:

- Bank passbook with photograph; or
- Voter ID; or
- Passport; or
- Driving License

Also, such person shall undergo Aadhaar authentication within a period of 30 days of allotment of Aadhaar number.

- **Rule 23** (Revocation of Filing of Registration) has been amended to incorporate mandatory Aadhaar authentication for filing revocation application.
- W.e.f 1<sup>st</sup> Oct, 2021, **Rule 45(3)** (Restrictions on Inputs/Capital goods sent for job work) has been amended to provide that **FORM ITC-04** shall be furnished once in six months by a principal whose aggregate turnover during the immediately preceding financial year exceeds 5 crore rupees and shall be furnished once in a year in all other cases.
- W.e.f 1<sup>st</sup> Jan, 2022, **Rule 59(6)** (Form & Manner of furnishing details of outwards supplies) has been amended to restrict filing of **FORM GSTR-1** in case of those persons who have not filed their **GSTR-3B** for preceding month. Also, clause (c) of the said sub-rule has been omitted which restricted filing of **GSTR-1** in case of those persons who were falling within scope of Rule 86B (Restriction on ITC Utilisation in Electronic Credit Ledger) and had not furnished **GSTR-3B** for preceding month.
- **Rule 89** (Application for Refund Filing) has been amended to incorporate mandatory Aadhaar authentication for filing refund application.  
Sub-rule (1A) has been inserted in Rule 89 to provide that in case of wrong payment of tax under Sec 77 of the CGST Act, refund of the amount paid wrongly by the registered person, can be claimed within 2 years from the date of payment of tax under correct head. Also, if the said correct tax has been paid before issuance of this notification, i.e., 24.09.2021, the time period of 2 years shall be applicable from the date of issuance of this notification.

- **Rule 96** (Refund of IGST on Exported Goods/Services) has been amended to incorporate mandatory Aadhaar authentication for obtaining refund in case of duty paid exports.
- With effect from a date to be notified, **Rule 96C** has been inserted to provide that refund shall be credited in only those bank accounts which are in the name of the registered person and obtained on his PAN. Also, linkage of PAN with Aadhar is mandatory for sole-proprietors.

[Notification No.35](#)

#### **7. Exemption for certain persons from requirement of Aadhar Authentication**

CBIC Notification No.  
36/2021– dated 24.09.2021

Vide this notification, CBIC has amended **Notification No.3/2021** so as to exempt certain registered persons from the requirement of Aadhaar authentication. Following persons were exempted from the requirement of authentication or furnishing proof of possession of Aadhaar number for becoming eligible for grant of registration under **Rule 25(6B)** and **25(6C)**:

- Not a citizen of India; or
- Department or establishment of the Central Government or State Government; or
- Local authority; or
- Statutory Body; or
- Public Sector Undertaking
- A person applying for registration under the provisions of section 25(9).

[Notification No.36](#)

**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



**Lovi Mehrotra & Associates**

**Chartered Accountants**

**21-22 IInd Floor Krishna Nagar Safdarjung Enclave**

**New Delhi 110029**

**Website : [www.lma.co.in](http://www.lma.co.in) • Email : [a.kaushik@lma.co.in](mailto:a.kaushik@lma.co.in)**