

SEP, 2023

NEWSLETTER

TAX

- Income Tax
- Goods and Services Tax



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Income Tax

1. Income-tax (Twentieth Amendment) Rules, 2023

CBDT

Notification No. 73/2023 dated 30.08.2023

CBDT has notified **Form 71** required to be furnished for claiming credit of Tax Deduction at Source (TDS) under section 155(20) of the Act.

Details as under:

- Representations have been received that in many instances, tax is deducted by the deductor in the year in which the income is actually paid to the assessee. However, following accrual method, the assessee may have already disclosed this income in earlier years in their return of income. This results in TDS mismatch, since the corresponding income has already been offered to tax by the assessee in earlier years and TDS is deducted much later when actual payment is made. The assessee cannot claim the credit of TDS in the year in which tax is deducted since income is not offered to tax in that year.
- It may also not be possible to revise the return of the earlier year in which the corresponding income was included since time to revise the return of income for that year may have lapsed. This results in difficulty to the assessee in claiming credit of TDS.
- In order to remove this difficulty, it is proposed to insert a new sub-section (20) in section 155 of the Act in Finance Act 2023. This new sub-section applies where any income has been included in the return of income furnished by an assessee under section 139 of the Act for any assessment year and tax has been deducted at source on such income and paid to the credit of the Central Government in accordance with the provisions of Chapter XVII-B in a subsequent financial year. In such a case, the assessee can make application in the prescribed form to the Assessing Officer within two years from the end of the financial year in which such tax was deducted at source. The Assessing Officer shall then amend the order of assessment or any intimation allowing credit of such tax deducted at source in the relevant assessment year.
- Form No. 71, shall be furnished electronically, —
 - (i) Under digital signature, if the return of income is required to be furnished under digital signature.
 - (ii) Through electronic verification code in a case not covered under clause (i).
- These rules shall come into force from the 1st day of October, 2023

Notification No.73

2. Extension of Timelines for Filing Form 10B/10BB and Form ITR-7 for Assessment Year 2023-24

CBDT

Circular No.16/2023 dated 18.09.2023

Vide this notification, CBDT has extended dates of filing Tax Audit Forms (10B/10BB) and Income Tax Return Form (ITR-7) by Trusts, Institutions, Universities or other Educational and Medical Institutions for A.Y. 2023-24

Form	Original Due date	Extended Due date
10B/10BB	30 th September, 2023	31 st October, 2023
ITR7	31 st October, 2023	30 th November, 2023

[Circular No. 16](#)

3. NBFC Categorization for section 43D & 43B of the Income Tax Act

CBDT

Notification No. 79 & 80/2023 dated 22.09.2023

Vide this notification, CBDT has notified new NBFC Categorization for the purpose of Section 43D and section 43B of the Act .

Details as under:

- Section 43D provides that Interest Income in relation to certain categories of bad or doubtful debts received by *deposit-taking Non-Banking Financial Company* and *Systemically Important Non-Deposit taking Non-Banking Financial Company* shall be chargeable to tax in the previous year in which it is credited to its profit and loss account or the year when it is actually received, whichever is earlier.
- Section 43B provides that any sum payable by the assessee as interest on any loan or borrowing from a *Deposit taking Non-Banking Financial Company* and *Systemically Important Non-Deposit taking Non-Banking Financial Company* shall be allowed as deduction on payment basis. It can be allowed on accrual basis if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.
- Section 43B and section 43D of the Act currently use two erstwhile categories of NBFC namely, Deposit taking Non-Banking Financial Company and Systemically Important Non-Deposit taking Non-Banking Financial Company.
- Such classification for non-banking financial companies is no longer followed by the Reserve Bank of India for the purposes of asset classification.
- CBDT has notified three categories of NBFC in line with extant RBI guidelines for the purpose of section 43B & 43D of The Income Tax Act:
 - All NBFCs classified in the Top Layer
 - All NBFCs classified in the Upper Layer
 - All NBFCs classified in the Middle Layer.
- Top Layer, Upper Layer and Middle Layer classification shall be as per RBI Circular DOR.CRE.REC.No.60/03.10.001/2021-22 dated October 22, 2021.

[Notification No. 79 & 80](#)

4. Income-tax (Twenty First Amendment) Rules, 2023

CBDT

Notification No. 81/2023 dated 25.09.2023

Vide this notification, CBDT has amended rule 11UA. The amendments provides enhanced clarity and flexibility in determining the fair market value of unquoted equity shares for taxation purposes.

The Finance Act, 2023, brought in an amendment to bring the consideration received from non-residents for issue of shares by an unlisted company within the ambit of section 56(2)(viib) of the Act , which provides that if such consideration for issue of shares exceeds the Fair Market Value (FMV) thereof it shall be chargeable to income-tax under the head 'Income from other sources'.

Rule 11UA for valuation of shares for the purposes of section 56(2)(viib) of the Act has now been modified.

The key highlights of the changes in Rule 11 UA are:

- In addition to the two methods for valuation of shares, namely, Discounted Cash Flow (DCF) and Net Asset Value (NAV) method, available to residents under Rule 11UA, five more valuation methods have been made available for non-resident investors:
 - Comparable Company Multiple Method

- Probability Weighted Expected Return Method
- Option Pricing Method
- Milestone Analysis Method
- Replacement Cost Method.

- Where any consideration is received for issue of shares from any non-resident entity notified by the Central Govt., the price of the equity shares corresponding to such consideration may be taken as the FMV of the equity shares for resident and non-resident investors, subject to the following:
 - (i) To the extent the consideration from such FMV does not exceed the aggregate consideration that is received from the notified entity
 - (ii) The consideration has been received by the company from the notified entity within a period of ninety days before or after the date of issue of shares which are the subject matter of valuation.
- On similar lines, price matching for resident and non-resident investors would be available with reference to investment by Venture Capital Funds or Specified Funds.
- Valuation methods for calculating the FMV of Compulsorily Convertible Preference Shares (CCPS) have also been provided.
- A safe harbor of 10% variation in value has been provided.

[Notification No. 81](#)

5. Income Tax (Twenty Second Amendment), Rules, 2023

CBDT

Notification No. 82/2023 dated 27.09.2023

Vide this notification, CBDT has notified Form of Inventory valuation to be furnished by Cost Accountant under section 142(2A)ii of the Act.

Details as under:

- Section 142 of the Act provides the procedure for conducting inquiry before Assessment by the Assessing Officer.
- Section 142(2A) introduced by Finance Act, 2023 provides that at any stage during the proceedings, the Assessing Officer, having regard to the nature, volume and complexity of the accounts or doubts about the correctness of the accounts can direct the Assessee :
 - To get the Accounts audited by a Chartered Accountant nominated by Principal Commissioner of Income Tax or Chief Commissioner of Income Tax or Commissioner of Income Tax.
 - To get the Inventory valued by a Cost Accountant nominated by Principal Commissioner of Income Tax or Chief Commissioner of Income Tax or Commissioner of Income Tax.
- CBDT has now notified Form No. 6D to be used by Cost Accountants for furnishing Inventory valuation report under section 142(2A)ii of the Act

[Notification No. 82](#)

6. Procedure for Application of Lower Tax deduction Certificate under section 197 of Act.

CBDT

Notification No. 02/2023 dated 27.09.2023

Vide this notification, CBDT has issued procedure for filing application of Lower TDS deduction certificate.

As per 197(i) provides that in case any income of any person or sum payable to any person, income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of various listed TDS sections and if the Assessing Officer is satisfied that the total income of the recipient

justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by the assessee in this behalf, issue such certificate as may be appropriate.

Prescribed Procedure is as following:

- For making an application in Form 13 with Annexure II , the taxpayer/ Deductee shall login into the TRACES website.
- The taxpayer/ deductee who is not registered at TRACES website shall have to first register with TRACES.
- The tax-payer/deductee shall login at TRACES website and submit Form No. 13 along with Annexure II with supporting documents using any of the following:
 - Digital Signature
 - Electronic Verification Code,
 - Aadhar based Authentication,
 - Mobile OTP.
- Applicants accessing TRACES website from outside of India shall login at TRACES website and submit application in Form No. 13 along with supporting documents using Digital Signature only.
- Applicant can track status of application through option 'Track Request for Form 13/ ISC/ ISD' under the tab Statements/Forms'.

[Notification No. 02](#)

GST	
1. Central Goods and Services Tax (Third Amendment) Rules, 2023	
	CBIC No. 45/2023 dated 06.09.2023
<p>Vide this notification, CBIC has defined Value of supply in case of online gaming including online money gaming and Value of supply of actionable claims in case of casino.</p> <p>➤ Value of supply in case of online gaming including online money gaming: The value of supply of online gaming, including supply of actionable claims involved in online money gaming, shall be the total amount paid or payable to or deposited with the supplier by way of money or money's worth, including virtual digital assets, by or on behalf of the player.</p> <p>Provided that any amount returned or refunded by the supplier to the player for any reasons whatsoever, including player not using the amount paid or deposited with the supplier for participating in any event, shall not be deductible from the value of supply of online money gaming.</p> <p>➤ Value of supply of actionable claims in case of casino: The value of supply of actionable claims in casino shall be the total amount paid or payable by or on behalf of the player for –</p> <ul style="list-style-type: none"> • purchase of the tokens, chips, coins or tickets, by whatever name called, for use in casino • participating in any event, including game, scheme, competition or any other activity or process, in the casino in cases where the token, chips, coins or tickets, by whatever name called, are not required: <p>➤ Provided that any amount returned or refunded by the casino to the player on return of token, coins, chips, or tickets, as the case may be, or otherwise, shall not be deductible from the value of the supply of actionable claims in casino.</p> <p>Notification No. 45/2023</p>	

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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